



Rep. Lindsey LaPointe

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10200HB3850ham002

LRB102 16552 KMF 24000 a

1 AMENDMENT TO HOUSE BILL 3850

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3850 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Drug Court Treatment Act is amended by  
5 changing Sections 5, 10, 25, 30, 35, 45, and 50 as follows:

6 (730 ILCS 166/5)

7 Sec. 5. Purposes. The General Assembly recognizes that  
8 individuals struggling with drug and alcohol dependency or  
9 addiction and substance use disorders may come into contact  
10 with the criminal justice system and be charged with felony or  
11 misdemeanor offenses. The General Assembly also recognizes  
12 that substance use disorders and mental illness co-occur in a  
13 substantial percentage of criminal defendants. ~~the use and~~  
14 ~~abuse of drugs has a dramatic effect on the criminal justice~~  
15 ~~system in the State of Illinois.~~ There is a critical need for  
16 the criminal justice system to recognize individuals

1 struggling with these issues, provide alternatives to  
2 incarceration to address incidences ~~a criminal justice system~~  
3 ~~program that will reduce the incidence of drug use,~~ drug  
4 addiction, and provide appropriate access to treatment and  
5 support to persons with substance use disorders. ~~crimes~~  
6 ~~committed as a result of drug use and drug addiction.~~ It is the  
7 intent of the General Assembly to create specialized drug  
8 courts, in accordance with national best practices, for  
9 addressing addiction and co-occurring disorders with the  
10 necessary flexibility to meet the needs for an array of  
11 services and supports among participants in drug court  
12 programs ~~problems~~ in the State of Illinois.

13 (Source: P.A. 92-58, eff. 1-1-02.)

14 (730 ILCS 166/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Drug court", "drug court program", or "program" means an  
17 immediate and highly structured judicial intervention process  
18 for substance use ~~abuse~~ treatment of eligible defendants that  
19 brings together substance use ~~abuse~~ professionals, local  
20 social programs, and intensive judicial monitoring in  
21 accordance with the nationally recommended 10 key components  
22 of drug courts.

23 "Drug court professional" means a member of the drug court  
24 team, including but not limited to a judge, prosecutor,  
25 defense attorney, probation officer, coordinator, licensed

1 treatment provider, or peer recovery coach.

2 "Pre-adjudicatory drug court program" means a program that  
3 allows the defendant, with the consent of the prosecution, to  
4 expedite the defendant's criminal case before conviction or  
5 before filing of a criminal case and requires successful  
6 completion of the drug court program as part of the agreement.

7 "Post-adjudicatory drug court program" means a program in  
8 which the defendant has admitted guilt or has been found  
9 guilty and agrees, along with the prosecution, to enter a drug  
10 court program as part of the defendant's sentence.

11 "Combination drug court program" means a drug court  
12 program that includes a pre-adjudicatory drug court program  
13 and a post-adjudicatory drug court program.

14 "Clinical treatment plan" means an evidence-based,  
15 comprehensive, and individualized plan that defines the scope  
16 of treatment services to be delivered by a court treatment  
17 provider.

18 "Validated clinical assessment" may include assessment  
19 tools required by public or private insurance.

20 "Peer recovery coach" means a mentor assigned to a  
21 defendant during participation in a drug treatment court  
22 program who has been trained by the court, a service provider  
23 utilized by the court for substance use or mental health  
24 treatment, or be a recovery support specialist certified by  
25 the State of Illinois. Peer recovery coaches should be  
26 individuals with lived experience and shall guide and mentor

1 the participant to successfully complete the assigned  
2 requirements and work to help facilitate participants'  
3 independence for continued success once the supports of the  
4 court are no longer available to them.

5 (Source: P.A. 97-946, eff. 8-13-12.)

6 (730 ILCS 166/25)

7 Sec. 25. Procedure.

8 (a) The court shall order an eligibility screening and an  
9 assessment of the defendant by an agent designated by the  
10 State of Illinois to provide assessment services for the  
11 Illinois Courts. The assessment shall include a validated  
12 clinical assessment. The clinical assessment shall include,  
13 but not be limited to, assessments of substance use, mental  
14 and behavioral health needs. The clinical assessment shall be  
15 administered by a qualified clinician and used to inform any  
16 clinical treatment plans. Clinical treatment plans shall be  
17 developed, in part, upon the known availability of treatment  
18 resources available. An assessment need not be ordered if the  
19 court finds a valid assessment related to the present charge  
20 pending against the defendant has been completed within the  
21 previous 60 days.

22 (b) The judge shall inform the defendant that if the  
23 defendant fails to meet the conditions of the drug court  
24 program, eligibility to participate in the program may be  
25 revoked and the defendant may be sentenced or the prosecution

1 continued as provided in the Unified Code of Corrections for  
2 the crime charged.

3 (c) The defendant shall execute a written agreement as to  
4 his or her participation in the program and shall agree to all  
5 of the terms and conditions of the program, including but not  
6 limited to the possibility of sanctions or incarceration for  
7 failing to abide or comply with the terms of the program.

8 (d) In addition to any conditions authorized under the  
9 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
10 Corrections, the court may order the defendant to complete  
11 substance use ~~abuse~~ treatment in an outpatient, inpatient,  
12 residential, or jail-based custodial treatment program, order  
13 the defendant to complete mental health counseling in an  
14 inpatient or outpatient basis, comply with physicians'  
15 recommendation regarding medications and all follow up  
16 treatment for any mental health diagnosis made by the  
17 provider. Substance use treatment programs must be licensed by  
18 the State of Illinois as a Substance Use Prevention and  
19 Recovery (SUPR) provider and utilize evidence-based treatment.  
20 When referring participants to mental health treatment  
21 programs, the court shall prioritize providers certified as  
22 community mental health or behavioral health centers as  
23 possible. The court shall prioritize the least restrictive  
24 treatment option when ordering mental health or substance use  
25 treatment for participants. The court may order jail-based  
26 custodial treatment if it finds that jail-based treatment is

1 the least restrictive alternative based on evidence that  
2 efforts were made to locate less restrictive alternatives to  
3 secure confinement and the reasons why efforts were  
4 unsuccessful in locating a less restrictive alternative to  
5 jail-based custodial treatment. Any period of time a defendant  
6 shall serve in a jail-based treatment program may not be  
7 reduced by the accumulation of good time or other credits and  
8 may be for a period of up to 120 days.

9 (e) The drug court program shall include a regimen of  
10 graduated requirements and rewards and sanctions, including  
11 but not limited to: ~~fines, fees, costs,~~ restitution,  
12 incarceration of up to 180 days, individual and group therapy,  
13 drug analysis testing, close monitoring by the court at a  
14 minimum of once every 30 days and supervision of progress,  
15 educational or vocational counseling as appropriate, and other  
16 requirements necessary to fulfill the drug court program. If  
17 the defendant needs treatment for opioid use ~~abuse~~ or  
18 dependence, the court may not prohibit the defendant from  
19 participating in and receiving medication assisted treatment  
20 under the care of a physician licensed in this State to  
21 practice medicine in all of its branches. Drug court  
22 participants may not be required to refrain from using  
23 medication assisted treatment as a term or condition of  
24 successful completion of the drug court program.

25 (f) Recognizing that individuals struggling with mental  
26 health, addiction, and related co-occurring disorders have

1 often experienced trauma, drug court programs may include  
2 specialized service programs specifically designed to address  
3 trauma. These specialized services may be offered to  
4 defendants admitted to the drug court program. Judicial  
5 circuits establishing these specialized programs shall partner  
6 with advocates, survivors, and service providers in the  
7 development of the programs. Trauma-informed services and  
8 programming should be operated in accordance with best  
9 practices outlined by the Substance Abuse and Mental Health  
10 Service Administration's National Center for Trauma Informed  
11 Care (SAMHSA).

12 (g) The Court may establish a mentorship program that  
13 provides access and support to program participants by peer  
14 recovery coaches. Courts shall be responsible to administer  
15 the mentorship program with the support of mentors and local  
16 mental health and substance use treatment organizations. Peer  
17 recovery coaches shall be trained by the court, a service  
18 provider utilized by the court for substance use or mental  
19 health treatment, or be a recovery support specialist  
20 certified by the State of Illinois. Peer recovery coaches  
21 shall be approved by the Court and complete orientation with  
22 the court team prior to being assigned to participants in the  
23 program.

24 (Source: P.A. 99-554, eff. 1-1-17.)

1           Sec. 30. Mental health and substance use ~~Substance abuse~~  
2 treatment.

3           (a) The drug court program shall maintain a network of  
4 substance use ~~abuse~~ treatment programs representing a  
5 continuum of graduated substance use ~~abuse~~ treatment options  
6 commensurate with the needs of defendants.

7           (b) Any substance use ~~abuse~~ treatment program to which  
8 defendants are referred must be licensed by the State of  
9 Illinois as SUPR providers and utilize evidence-based  
10 treatment, meet all of the rules and governing programs in  
11 Parts 2030 and 2060 of Title 77 of the Illinois Administrative  
12 Code.

13           (c) The drug court program may, at its discretion, employ  
14 additional services or interventions, as it deems necessary on  
15 a case by case basis.

16           (d) The drug court program may maintain or collaborate  
17 with a network of mental health treatment programs  
18 representing a continuum of treatment options commensurate  
19 with the needs of the defendant and available resources  
20 including programs with the State of Illinois and  
21 community-based programs supported and sanctioned by the State  
22 of Illinois. Partnerships with providers certified as  
23 community mental health or behavioral health centers shall be  
24 prioritized when possible.

25           (Source: P.A. 92-58, eff. 1-1-02.)



1 (730 ILCS 166/35)

2 Sec. 35. Violation; termination; discharge.

3 (a) If the court finds from the evidence presented  
4 including but not limited to the reports or proffers of proof  
5 from the drug court professionals that:

6 (1) the defendant is not performing satisfactorily in  
7 the assigned program;

8 (2) the defendant is not benefitting from education,  
9 treatment, or rehabilitation;

10 (3) the defendant has engaged in criminal conduct  
11 rendering him or her unsuitable for the program; or

12 (4) the defendant has otherwise violated the terms and  
13 conditions of the program or his or her sentence or is for  
14 any reason unable to participate;

15 the court may impose reasonable sanctions under prior written  
16 agreement of the defendant, including but not limited to  
17 imprisonment or dismissal of the defendant from the program  
18 and the court may reinstate criminal proceedings against him  
19 or her or proceed under Section 5-6-4 of the Unified Code of  
20 Corrections for a violation of probation, conditional  
21 discharge, or supervision hearing.

22 (a-5) A defendant who is assigned to a substance use ~~abuse~~  
23 treatment program under this Act for opioid use ~~abuse~~ or  
24 dependence is not in violation of the terms or conditions of  
25 the program on the basis of his or her participation in  
26 medication assisted treatment under the care of a physician

1 licensed in this State to practice medicine in all of its  
2 branches.

3 (b) Upon successful completion of the terms and conditions  
4 of the program, the court may dismiss the original charges  
5 against the defendant or successfully terminate the  
6 defendant's sentence or otherwise discharge him or her from  
7 any further proceedings against the defendant ~~him or her~~ in  
8 the original prosecution.

9 (c) Upon successful completion of the terms and conditions  
10 of the program, any State's Attorney in the county of  
11 conviction may move to vacate convictions held by the  
12 defendant that are eligible for sealing under the Criminal  
13 Identification Act. Participants may immediately file  
14 petitions to expunge vacated convictions and the associated  
15 underlying records per the Criminal Identification Act. In  
16 cases where the State's Attorney moves to vacate a conviction,  
17 they may not object to expungement of that conviction or the  
18 underlying record.

19 (d) The drug court program may maintain or collaborate  
20 with a network of legal aid organizations that specialize in  
21 conviction relief to support participants navigating the  
22 expungement and sealing process.

23 (Source: P.A. 99-554, eff. 1-1-17.)

24 (730 ILCS 166/45)

25 Sec. 45. Education seminars for drug court prosecutors.

1 Subject to appropriation, the Office of the State's Attorneys  
2 Appellate Prosecutor shall conduct mandatory education  
3 seminars on the subjects of substance use disorder ~~abuse~~ and  
4 addiction for all drug court prosecutors throughout the State.  
5 (Source: P.A. 99-480, eff. 9-9-15.)

6 (730 ILCS 166/50)

7 Sec. 50. Education seminars for public defenders. Subject  
8 to appropriation, the Office of the State Appellate Defender  
9 shall conduct mandatory education seminars on the subjects of  
10 substance use disorder ~~abuse~~ and addiction for all public  
11 defenders and assistant public defenders practicing in drug  
12 courts throughout the State.  
13 (Source: P.A. 99-480, eff. 9-9-15.)

14 Section 10. The Veterans and Servicemembers Court  
15 Treatment Act is amended by changing Sections 5, 10, 20, 25,  
16 30, and 35 and by adding Sections 40, 45, and 50 as follows:

17 (730 ILCS 167/5)

18 Sec. 5. Purposes. The General Assembly recognizes that  
19 veterans and active, Reserve and National Guard servicemembers  
20 have provided or are currently providing an invaluable service  
21 to our country. In so doing, some may suffer the effects of,  
22 including but not limited to, post traumatic stress disorder,  
23 traumatic brain injury, depression and may also suffer drug

1 and alcohol dependency or addiction and co-occurring mental  
2 illness and substance use disorders ~~abuse problems~~. As a  
3 result of this, some veterans or active duty servicemembers  
4 come into contact with the criminal justice system and are  
5 charged with felony or misdemeanor offenses. There is a  
6 critical need for the criminal justice system to recognize  
7 these veterans, provide accountability for their wrongdoing,  
8 provide for the safety of the public and provide for the  
9 treatment of our veterans. It is the intent of the General  
10 Assembly to create specialized veteran and servicemember  
11 courts or programs with the necessary flexibility to meet the  
12 specialized needs ~~problems~~ faced by these veteran and  
13 servicemember defendants.

14 (Source: P.A. 96-924, eff. 6-14-10.)

15 (730 ILCS 167/10)

16 Sec. 10. Definitions. In this Act:

17 "Combination Veterans and Servicemembers Court program"  
18 means a court program that includes a pre-adjudicatory and a  
19 post-adjudicatory Veterans and Servicemembers court program.

20 "Court" means Veterans and Servicemembers Court.

21 "IDVA" means the Illinois Department of Veterans' Affairs.

22 "Peer recovery coach" means a ~~volunteer~~ veteran mentor  
23 assigned to a veteran or servicemember during participation in  
24 a veteran treatment court program who has been trained and  
25 certified by the court, a service provider utilized by the

1 court for substance use or mental health treatment, or be a  
2 recovery support specialist certified by the State of  
3 Illinois. Peer recovery coaches should be individuals with  
4 lived experience and shall ~~to~~ guide and mentor the participant  
5 to successfully complete ~~the~~ assigned requirements and work to  
6 help facilitate participants' independence for continued  
7 success once the supports of the court are no longer available  
8 to them.

9 "Post-adjudicatory Veterans and Servicemembers Court  
10 Program" means a program in which the defendant has admitted  
11 guilt or has been found guilty and agrees, along with the  
12 prosecution, to enter a Veterans and Servicemembers Court  
13 program as part of the defendant's sentence.

14 "Pre-adjudicatory Veterans and Servicemembers Court  
15 Program" means a program that allows the defendant with the  
16 consent of the prosecution, to expedite the defendant's  
17 criminal case before conviction or before filing of a criminal  
18 case and requires successful completion of the Veterans and  
19 Servicemembers Court programs as part of the agreement.

20 "Servicemember" means a person who is currently serving in  
21 the Army, Air Force, Marines, Navy, or Coast Guard on active  
22 duty, reserve status or in the National Guard.

23 "VA" means the United States Department of Veterans'  
24 Affairs.

25 "VAC" means a veterans assistance commission.

26 "Veteran" means a person who served in the active

1 military, naval, or air service and who was discharged or  
2 released therefrom under conditions other than dishonorable.

3 "Veterans and Servicemembers Court professional" means a  
4 member of the Veterans and Servicemembers Court team,  
5 including but not limited to a judge, prosecutor, defense  
6 attorney, probation officer, coordinator, treatment provider,  
7 or peer recovery coach.

8 "Veterans and Servicemembers Court" means a court or  
9 program with an immediate and highly structured judicial  
10 intervention process for substance use ~~abuse~~ treatment, mental  
11 health, or other assessed treatment needs of eligible veteran  
12 and servicemember defendants that brings together substance  
13 use ~~abuse~~ professionals, mental health professionals, VA  
14 professionals, local social programs and intensive judicial  
15 monitoring in accordance with the nationally recommended 10  
16 key components of drug courts.

17 "Clinical treatment plan" means an evidence-based,  
18 comprehensive, and individualized plan that defines the scope  
19 of treatment services to be delivered by a treatment provider.

20 "Validated clinical assessment" may include assessment  
21 tools required by public or private insurance.

22 (Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

23 (730 ILCS 167/25)

24 Sec. 25. Procedure.

25 (a) The Court shall order the defendant to submit to an

1 eligibility screening and an assessment through the VA, VAC,  
2 and/or the IDVA to provide information on the defendant's  
3 veteran or servicemember status.

4 (b) The Court shall order the defendant to submit to an  
5 eligibility screening and mental health and drug/alcohol  
6 screening and assessment of the defendant by the VA, VAC, or by  
7 the IDVA to provide assessment services for Illinois Courts.  
8 The assessment shall include a validated clinical assessment.  
9 The clinical assessment shall include, but not be limited to,  
10 assessments of substance use, mental and behavioral health  
11 needs. The clinical assessment shall be administered by a  
12 qualified clinician and used to inform any clinical treatment  
13 plans. Clinical treatment plans shall be developed ~~risks~~  
14 ~~assessment and be based~~, in part, upon the known availability  
15 of treatment resources available to the Veterans and  
16 Servicemembers Court. The assessment shall also include  
17 recommendations for treatment of the conditions which are  
18 indicating a need for treatment under the monitoring of the  
19 Court and be reflective of a level of risk assessed for the  
20 individual seeking admission. An assessment need not be  
21 ordered if the Court finds a valid screening and/or assessment  
22 related to the present charge pending against the defendant  
23 has been completed within the previous 60 days.

24 (c) The judge shall inform the defendant that if the  
25 defendant fails to meet the conditions of the Veterans and  
26 Servicemembers Court program, eligibility to participate in

1 the program may be revoked and the defendant may be sentenced  
2 or the prosecution continued as provided in the Unified Code  
3 of Corrections for the crime charged.

4 (d) The defendant shall execute a written agreement with  
5 the Court as to his or her participation in the program and  
6 shall agree to all of the terms and conditions of the program,  
7 including but not limited to the possibility of sanctions or  
8 incarceration for failing to abide or comply with the terms of  
9 the program.

10 (e) In addition to any conditions authorized under the  
11 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
12 Corrections, the Court may order the defendant to complete  
13 substance use ~~abuse~~ treatment in an outpatient, inpatient,  
14 residential, or jail-based custodial treatment program, order  
15 the defendant to complete mental health counseling in an  
16 inpatient or outpatient basis, comply with physicians'  
17 recommendation regarding medications and all follow up  
18 treatment for any mental health diagnosis made by the  
19 provider. Substance use treatment programs must be licensed by  
20 the State of Illinois as a Substance Use Prevention and  
21 Recovery (SUPR) provider and utilize evidence-based treatment.  
22 When referring participants to mental health treatment  
23 programs, the court shall prioritize providers certified as  
24 community mental health or behavioral health centers as  
25 possible. The court shall prioritize the least restrictive  
26 treatment option when ordering mental health or substance use



1 treatment for participants. The court may order jail-based  
2 custodial treatment if it finds that jail-based treatment is  
3 the least restrictive alternative based on evidence that  
4 efforts were made to locate less restrictive alternatives to  
5 secure confinement and the reasons why efforts were  
6 unsuccessful in locating a less restrictive alternative to  
7 jail-based custodial treatment. This treatment may include but  
8 is not limited to post traumatic stress disorder, traumatic  
9 brain injury and depression.

10 (e-5) Recognizing that individuals struggling with mental  
11 health, addiction and related co-occurring disorders have  
12 often experienced trauma, veterans and servicemembers court  
13 programs may include specialized service programs specifically  
14 designed to address trauma. These specialized services may be  
15 offered to defendants admitted to the mental health court  
16 program. Judicial circuits establishing these specialized  
17 programs shall partner with advocates, survivors, and service  
18 providers in the development of the programs. Trauma-informed  
19 services and programming should be operated in accordance with  
20 best practices outlined by the Substance Abuse and Mental  
21 Health Service Administration's National Center for Trauma  
22 Informed Care (SAMHSA).

23 (f) The Court may establish a mentorship program that  
24 provides access and support to program participants by peer  
25 recovery coaches. Courts shall be responsible to administer  
26 the mentorship program with the support of volunteer veterans

1 and local veteran service organizations, including a VAC. Peer  
2 recovery coaches shall be trained ~~and certified~~ by the Court,  
3 a service provider utilized by the court for substance use or  
4 mental health treatment, or be a recovery support specialist  
5 certified by the State of Illinois. Peer recovery coaches  
6 shall be approved by the Court and complete orientation with  
7 the court team prior to being assigned to participants in the  
8 program.

9 (Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

10 (730 ILCS 167/30)

11 Sec. 30. Mental health and substance use ~~abuse~~ treatment.

12 (a) The Veterans and Servicemembers Court program may  
13 maintain a network of substance use ~~abuse~~ treatment programs  
14 representing a continuum of graduated substance use ~~abuse~~  
15 treatment options commensurate with the needs of defendants;  
16 these shall include programs with the VA, IDVA, a VAC, the  
17 State of Illinois and community-based programs supported and  
18 sanctioned by either or both.

19 (b) Any substance use ~~abuse~~ treatment program to which  
20 defendants are referred must be licensed by the State of  
21 Illinois as SUPR providers and utilize best practices,  
22 recognized by the Substance Abuse and Mental Health Services  
23 Administration or other equivalent state or federal agencies,  
24 meet all of the rules and governing programs in Parts 2030 and  
25 2060 of Title 77 of the Illinois Administrative Code.

1 (c) The Veterans and Servicemembers Court program may, in  
2 its discretion, employ additional services or interventions,  
3 as it deems necessary on a case by case basis.

4 (d) The Veterans and Servicemembers Court program may  
5 maintain or collaborate with a network of mental health  
6 treatment programs and, if it is a co-occurring mental health  
7 and substance use ~~abuse~~ court program, a network of substance  
8 use ~~abuse~~ treatment programs representing a continuum of  
9 treatment options commensurate with the needs of the defendant  
10 and available resources including programs with the VA, the  
11 IDVA, a VAC, and the State of Illinois. When not utilizing  
12 mental health treatment or services available through the VA,  
13 IDVA or VAC, partnerships with providers certified as  
14 community mental health or behavioral health centers shall be  
15 prioritized as possible.

16 (Source: P.A. 99-819, eff. 8-15-16.)

17 (730 ILCS 167/35)

18 Sec. 35. Violation; termination; discharge.

19 (a) If the Court finds from the evidence presented  
20 including but not limited to the reports or proffers of proof  
21 from the Veterans and Servicemembers Court professionals that:

22 (1) the defendant is not performing satisfactorily in  
23 the assigned program;

24 (2) the defendant is not benefitting from education,  
25 treatment, or rehabilitation;

1           (3) the defendant has engaged in criminal conduct  
2 rendering him or her unsuitable for the program; or

3           (4) the defendant has otherwise violated the terms and  
4 conditions of the program or his or her sentence or is for  
5 any reason unable to participate; the Court may impose  
6 reasonable sanctions under prior written agreement of the  
7 defendant, including but not limited to imprisonment or  
8 dismissal of the defendant from the program and the Court  
9 may reinstate criminal proceedings against him or her or  
10 proceed under Section 5-6-4 of the Unified Code of  
11 Corrections for a violation of probation, conditional  
12 discharge, or supervision hearing.

13           (b) Upon successful completion of the terms and conditions  
14 of the program, the Court may dismiss the original charges  
15 against the defendant or successfully terminate the  
16 defendant's sentence or otherwise discharge him or her from  
17 any further proceedings against him or her in the original  
18 prosecution.

19           (c) Upon successful completion of the terms and conditions  
20 of the program, any State's Attorney in the county of  
21 conviction may move to vacate any convictions eligible for  
22 sealing under the Criminal Identification Act. Defendants may  
23 immediately file petitions to expunge vacated convictions and  
24 the associated underlying records per the Criminal  
25 Identification Act. In cases where the State's Attorney moves  
26 to vacate a conviction, they may not object to expungement of

1 that conviction or the underlying record.

2 (d) Veterans and servicemembers court programs may  
3 maintain or collaborate with a network of legal aid  
4 organizations that specialize in conviction relief to support  
5 participants navigating the expungement and sealing process.

6 (Source: P.A. 96-924, eff. 6-14-10.)

7 (730 ILCS 167/40 new)

8 Sec. 40. Education seminars for judges. The Administrative  
9 Office of the Illinois Courts shall conduct education seminars  
10 for judges throughout the State on how to operate Veterans and  
11 Servicemembers Court Programs.

12 (730 ILCS 167/45 new)

13 Sec. 45. Education seminars for Veterans and  
14 Servicemembers Court prosecutors. Subject to appropriation,  
15 the Office of the State's Attorneys Appellate Prosecutor shall  
16 conduct mandatory education seminars on the subjects of  
17 substance use, addiction, and mental health, for all Veterans  
18 and Servicemembers Court prosecutors throughout the State.

19 (730 ILCS 167/50 new)

20 Sec. 50. Education seminars for public defenders. Subject  
21 to appropriation, the Office of the State Appellate Defender  
22 shall conduct mandatory education seminars on the subjects of  
23 substance use, addiction, and mental health, for all public

1 defenders and assistant public defenders practicing in  
2 Veterans and Servicemembers Courts throughout the State.

3 Section 15. The Mental Health Court Treatment Act is  
4 amended by changing Sections 5, 10, 20, 25, 30, and 35 and by  
5 adding Sections 45, 50, and 55 as follows:

6 (730 ILCS 168/5)

7 Sec. 5. Purposes. The General Assembly recognizes that a  
8 large percentage of criminal defendants have a diagnosable  
9 mental illness and that mental illnesses have a dramatic  
10 effect on the criminal justice system in the State of  
11 Illinois. The General Assembly also recognizes that mental  
12 illness and substance use disorders ~~abuse problems~~ co-occur in  
13 a substantial percentage of criminal defendants. There is a  
14 critical need for a criminal justice system program that will  
15 reduce the number of persons with mental illnesses and with  
16 co-occurring mental illness and substance use disorders ~~abuse~~  
17 ~~problems~~ in the criminal justice system, reduce recidivism  
18 among persons with mental illness and with co-occurring mental  
19 illness and substance use disorders ~~abuse problems~~, provide  
20 appropriate treatment to persons with mental illnesses and  
21 co-occurring mental illness and substance use disorders ~~abuse~~  
22 ~~problems~~ and reduce the incidence of crimes committed as a  
23 result of mental illnesses or co-occurring mental illness and  
24 substance use disorders ~~abuse problems~~. It is the intent of

1 the General Assembly to create specialized mental health  
2 courts with the necessary flexibility to meet the needs  
3 ~~problems~~ of criminal defendants with mental illnesses and  
4 co-occurring mental illness and substance use disorders ~~abuse~~  
5 ~~problems~~ in the State of Illinois.

6 (Source: P.A. 95-606, eff. 6-1-08.)

7 (730 ILCS 168/10)

8 Sec. 10. Definitions. As used in this Act:

9 "Mental health court", "mental health court program", or  
10 "program" means a structured judicial intervention process for  
11 mental health treatment of eligible defendants that brings  
12 together mental health professionals, local social programs,  
13 and intensive judicial monitoring.

14 "Mental health court professional" means a member of the  
15 mental health court team, including but not limited to a  
16 judge, prosecutor, defense attorney, probation officer,  
17 coordinator, treatment provider, or peer recovery coach.

18 "Pre-adjudicatory mental health court program" means a  
19 program that allows the defendant, with the consent of the  
20 prosecution, to expedite the defendant's criminal case before  
21 conviction or before filing of a criminal case and requires  
22 successful completion of the mental health court program as  
23 part of the agreement.

24 "Post-adjudicatory mental health court program" means a  
25 program in which the defendant has admitted guilt or has been

1 found guilty and agrees, along with the prosecution, to enter  
2 a mental health court program as part of the defendant's  
3 sentence.

4 "Combination mental health court program" means a mental  
5 health court program that includes a pre-adjudicatory mental  
6 health court program and a post-adjudicatory mental health  
7 court program.

8 "Co-occurring mental health and substance use ~~abuse~~ court  
9 program" means a program that includes persons with  
10 co-occurring mental illness and substance use disorders ~~abuse~~  
11 ~~problems~~. Such programs shall include professionals with  
12 training and experience in treating persons with substance use  
13 disorders ~~abuse problems~~ and mental illness.

14 "Clinical treatment plan" means an evidence-based,  
15 comprehensive, and individualized plan that defines the scope  
16 of treatment services to be delivered by a treatment provider.

17 "Validated clinical assessment" may include assessment  
18 tools required by public or private insurance.

19 "Peer recovery coach" means a mentor assigned to a  
20 defendant during participation in a mental health treatment  
21 court program who has been trained by the court, a service  
22 provider utilized by the court for substance use or mental  
23 health treatment, or be a recovery support specialist  
24 certified by the State of Illinois. Peer recovery coaches  
25 should be individuals with lived experience and shall guide  
26 and mentor the participant to successfully complete the



1 assigned requirements and work to help facilitate  
2 participants' independence for continued success once the  
3 supports of the court are no longer available to them.

4 (Source: P.A. 97-946, eff. 8-13-12.)

5 (730 ILCS 168/20)

6 Sec. 20. Eligibility.

7 (a) A defendant, who is eligible for probation based on  
8 the nature of the crime convicted of and in consideration of  
9 his or her criminal background, if any, may be admitted into a  
10 mental health court program only upon the agreement of the  
11 defendant and with the approval of the court.

12 (b) A defendant shall be excluded from a mental health  
13 court program if any one of the following applies:

14 (1) The crime is a crime of violence as set forth in  
15 clause (3) of this subsection (b).

16 (2) The defendant does not demonstrate a willingness  
17 to participate in a treatment program.

18 (3) The defendant has been convicted of a crime of  
19 violence within the past 10 years excluding incarceration  
20 time. As used in this paragraph (3), "crime of violence"  
21 means: first degree murder, second degree murder,  
22 predatory criminal sexual assault of a child, aggravated  
23 criminal sexual assault, criminal sexual assault, armed  
24 robbery, aggravated arson, arson, aggravated kidnapping,  
25 kidnapping, aggravated battery resulting in great bodily

1 harm or permanent disability, stalking, aggravated  
2 stalking, or any offense involving the discharge of a  
3 firearm.

4 (4) (Blank).

5 (5) The crime for which the defendant has been  
6 convicted is non-probationable.

7 (6) The sentence imposed on the defendant, whether the  
8 result of a plea or a finding of guilt, renders the  
9 defendant ineligible for probation.

10 ~~(c) A defendant charged with prostitution under Section~~  
11 ~~11-14 of the Criminal Code of 2012 may be admitted into a~~  
12 ~~mental health court program, if available in the jurisdiction~~  
13 ~~and provided that the requirements in subsections (a) and (b)~~  
14 ~~are satisfied. Mental health court programs may include~~  
15 ~~specialized service programs specifically designed to address~~  
16 ~~the trauma associated with prostitution and human trafficking,~~  
17 ~~and may offer those specialized services to defendants~~  
18 ~~admitted to the mental health court program. Judicial circuits~~  
19 ~~establishing these specialized programs shall partner with~~  
20 ~~prostitution and human trafficking advocates, survivors, and~~  
21 ~~service providers in the development of the programs.~~

22 (Source: P.A. 100-426, eff. 1-1-18.)

23 (730 ILCS 168/25)

24 Sec. 25. Procedure.

25 (a) The court shall require an eligibility screening and

1 an assessment of the defendant. The assessment shall include a  
2 validated clinical assessment. The clinical assessment shall  
3 include, but not be limited to, assessments of substance use,  
4 mental and behavioral health needs. The clinical assessment  
5 shall be administered by a qualified clinician and used to  
6 inform any clinical treatment plans. Clinical treatment plans  
7 shall be developed, in part, upon the known availability of  
8 treatment resources available. An assessment need not be  
9 ordered if the court finds a valid assessment related to the  
10 present charge pending against the defendant has been  
11 completed within the previous 60 days.

12 (b) The judge shall inform the defendant that if the  
13 defendant fails to meet the requirements of the mental health  
14 court program, eligibility to participate in the program may  
15 be revoked and the defendant may be sentenced or the  
16 prosecution continued, as provided in the Unified Code of  
17 Corrections, for the crime charged.

18 (c) The defendant shall execute a written agreement as to  
19 his or her participation in the program and shall agree to all  
20 of the terms and conditions of the program, including but not  
21 limited to the possibility of sanctions or incarceration for  
22 failing to abide or comply with the terms of the program.

23 (d) In addition to any conditions authorized under the  
24 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
25 Corrections, the court may order the defendant to complete  
26 mental health or substance use ~~abuse~~ treatment in an

1 outpatient, inpatient, residential, or jail-based custodial  
2 treatment program, order the defendant to complete mental  
3 health counseling in an inpatient or outpatient basis, comply  
4 with physicians' recommendation regarding medications and all  
5 follow up treatment for any mental health diagnosis made by  
6 the provider. Substance abuse treatment programs must be  
7 licensed by the State of Illinois as a Substance Use  
8 Prevention and Recovery (SUPR) provider and utilize  
9 evidence-based treatment. When referring participants to  
10 mental health treatment programs, the court shall prioritize  
11 providers certified as community mental health or behavioral  
12 health centers as possible. The court shall prioritize the  
13 least restrictive treatment option when ordering mental health  
14 or substance use treatment for participants. The court may  
15 order jail-based custodial treatment if it finds that  
16 jail-based treatment is the least restrictive alternative  
17 based on evidence that efforts were made to locate less  
18 restrictive alternatives to secure confinement and the reasons  
19 why efforts were unsuccessful in locating a less restrictive  
20 alternative to jail-based custodial treatment. Any period of  
21 time a defendant shall serve in a jail-based treatment program  
22 may not be reduced by the accumulation of good time or other  
23 credits and may be for a period of up to 120 days.

24 (e) The mental health court program may include a regimen  
25 of graduated requirements and rewards and sanctions, including  
26 but not limited to: ~~fines, fees, costs,~~ restitution,

1 incarceration of up to 180 days, individual and group therapy,  
2 medication, drug analysis testing, close monitoring by the  
3 court and supervision of progress, educational or vocational  
4 counseling as appropriate and other requirements necessary to  
5 fulfill the mental health court program.

6 (f) The Mental Health Court program may maintain or  
7 collaborate with a network of mental health treatment programs  
8 and, if it is a co-occurring mental health and substance use  
9 court program, a network of substance use treatment programs  
10 representing a continuum of treatment options commensurate  
11 with the needs of the defendant and available resources  
12 including programs with the State of Illinois.

13 (g) Recognizing that individuals struggling with mental  
14 health, addiction and related co-occurring disorders have  
15 often experienced trauma, mental health court programs may  
16 include specialized service programs specifically designed to  
17 address trauma. These specialized services may be offered to  
18 defendants admitted to the mental health court program.  
19 Judicial circuits establishing these specialized programs  
20 shall partner with service providers in the development of the  
21 programs. Trauma-informed services and programming should be  
22 operated in Accordance with best practices outlined by the  
23 Substance Abuse and Mental Health Service Administration's  
24 National Center for Trauma Informed Care (SAMHSA).

25 (h) The Court may establish a mentorship program that  
26 provides access and support to program participants by peer

1 recovery coaches. Courts shall be responsible to administer  
2 the mentorship program with the support of mentors and local  
3 mental health and substance use treatment organizations. Peer  
4 recovery coaches shall be trained and licensed by the court, a  
5 service provider utilized by the court for substance use or  
6 mental health treatment, or be a recovery support specialist  
7 certified by the State of Illinois. Peer recovery coaches  
8 shall be approved by the Court and complete orientation with  
9 the court team prior to being assigned to participants in the  
10 program.

11 (Source: P.A. 95-606, eff. 6-1-08.)

12 (730 ILCS 168/30)

13 Sec. 30. Mental health and substance use ~~abuse~~ treatment.

14 (a) The mental health court program may maintain or  
15 collaborate with a network of mental health treatment programs  
16 and, if it is a co-occurring mental health and substance use  
17 ~~abuse~~ court program, a network of substance use ~~abuse~~  
18 treatment programs representing a continuum of treatment  
19 options commensurate with the needs of defendants and  
20 available resources.

21 (b) Any substance use ~~abuse~~ treatment program to which  
22 defendants are referred must be licensed by the State of  
23 Illinois as SUPR providers and utilize evidence-based  
24 treatment, meet all of the rules and governing programs in  
25 Parts 2030 and 2060 of Title 77 of the Illinois Administrative

1 Code.

2 (c) The mental health court program may, at its  
3 discretion, employ additional services or interventions, as it  
4 deems necessary on a case by case basis.

5 (Source: P.A. 95-606, eff. 6-1-08.)

6 (730 ILCS 168/35)

7 Sec. 35. Violation; termination; discharge.

8 (a) If the court finds from the evidence presented,  
9 including but not limited to the reports or proffers of proof  
10 from the mental health court professionals that:

11 (1) the defendant is not performing satisfactorily in  
12 the assigned program;

13 (2) the defendant is not benefiting from education,  
14 treatment, or rehabilitation;

15 (3) the defendant has engaged in criminal conduct  
16 rendering him or her unsuitable for the program; or

17 (4) the defendant has otherwise violated the terms and  
18 conditions of the program or his or her sentence or is for  
19 any reason unable to participate;

20 the court may impose reasonable sanctions under prior written  
21 agreement of the defendant, including but not limited to  
22 imprisonment or dismissal of the defendant from the program;  
23 and the court may reinstate criminal proceedings against him  
24 or her or proceed under Section 5-6-4 of the Unified Code of  
25 Corrections for a violation of probation, conditional

1 discharge, or supervision hearing. No defendant may be  
2 dismissed from the program unless, prior to such dismissal,  
3 the defendant is informed in writing: (i) of the reason or  
4 reasons for the dismissal; (ii) the evidentiary basis  
5 supporting the reason or reasons for the dismissal; (iii) that  
6 the defendant has a right to a hearing at which he or she may  
7 present evidence supporting his or her continuation in the  
8 program. Based upon the evidence presented, the court shall  
9 determine whether the defendant has violated the conditions of  
10 the program and whether the defendant should be dismissed from  
11 the program or whether some other alternative may be  
12 appropriate in the interests of the defendant and the public.

13 (b) Upon successful completion of the terms and conditions  
14 of the program, the court may dismiss the original charges  
15 against the defendant or successfully terminate the  
16 defendant's sentence or otherwise discharge him or her from  
17 the program or from any further proceedings against him or her  
18 in the original prosecution.

19 (c) Upon successful completion of the terms and conditions  
20 of the program, any State's Attorney in the county of  
21 conviction may move to vacate any convictions eligible for  
22 sealing under the Criminal Identification Act. Defendants may  
23 immediately file petitions to expunge vacated convictions and  
24 the associated underlying records per the Criminal  
25 Identification Act. In cases where the State's Attorney moves  
26 to vacate a conviction, they may not object to expungement of



1 that conviction or the underlying record.

2 (d) The mental health court program may maintain or  
3 collaborate with a network of legal aid organizations that  
4 specialize in conviction relief to support participants  
5 navigating the expungement and sealing process.

6 (Source: P.A. 95-606, eff. 6-1-08.)

7 (730 ILCS 168/45 new)

8 Sec. 45. Education seminars for judges. The Administrative  
9 Office of the Illinois Courts shall conduct education seminars  
10 for judges throughout the State on how to operate Mental  
11 Health Court programs.

12 (730 ILCS 168/50 new)

13 Sec. 50. Education seminars for Mental Health Court  
14 prosecutors. Subject to appropriation, the Office of the  
15 State's Attorneys Appellate Prosecutor shall conduct mandatory  
16 education seminars on the subjects of substance use, addiction  
17 and mental health, for all prosecutors serving in Mental  
18 Health courts throughout the State.

19 (730 ILCS 168/55 new)

20 Sec. 55. Education seminars for public defenders. Subject  
21 to appropriation, the Office of the State Appellate Defender  
22 shall conduct mandatory education seminars on the subjects of  
23 substance use, addiction, and mental health, for all public

1 defenders and assistant public defenders practicing in Mental  
2 Health courts throughout the State."