



Rep. Lindsey LaPointe

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10200HB3850ham003

LRB102 16552 KMF 25638 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, 15, 20, 25, 30, 35, 40, 45, and 50 as
6 follows:

7 (730 ILCS 166/5)

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

1 individuals struggling with these issues, provide alternatives
2 to incarceration to address substance use disorders ~~a criminal~~
3 ~~justice system program that will reduce the incidence of drug~~
4 ~~use, drug addiction,~~ and provide appropriate access to
5 treatment and support to such persons. ~~crimes committed as a~~
6 ~~result of drug use and drug addiction.~~ It is the intent of the
7 General Assembly to create specialized drug courts, in
8 accordance with evidence-based practices, and Illinois Supreme
9 Court Standards for addressing substance use and co-occurring
10 disorders with the necessary flexibility to meet the needs for
11 an array of services and supports among participants in drug
12 court 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", "court", or "program"
17 means a specially designated court, court calendar or docket
18 facilitating intensive therapeutic treatment to monitor and
19 assist participants with ~~an immediate and highly structured~~
20 ~~judicial intervention process for~~ substance use disorder. Drug
21 court programs are nonadversarial in nature and bring ~~abuse~~
22 ~~treatment of eligible defendants that brings~~ together
23 substance use disorder ~~abuse~~ professionals, and local social
24 programs, ~~and intensive judicial~~ monitoring in accordance with
25 the nationally recommended 10 key components of drug courts

1 and Illinois Supreme Court Problem-Solving Court Standards.
2 Common features of drug court programs include, but are not
3 limited to, a designated judge and staff; specialized intake
4 and screening procedures; coordinated treatment procedures
5 administered by a trained, multidisciplinary professional
6 team; close evaluation of participants, including continued
7 assessments and modification of the court requirements and use
8 of sanctions, incentives and therapeutic adjustments to
9 address behavior; frequent judicial interaction with
10 participants; less formal court process and procedures;
11 voluntary participation; and a low treatment staff-to-client
12 ratio.

13 "Drug court professional" means a member of the drug court
14 team, including but not limited to a judge, prosecutor,
15 defense attorney, probation officer, coordinator, treatment
16 provider, or an equivalent standard in any other state where
17 treatment may take place, or peer recovery coach.

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

25 "Post-adjudicatory drug court program" means a program
26 that allows an individual who ~~in which the defendant~~ has

1 admitted guilt or has been found guilty and agrees, along with
2 the prosecution, to enter a drug court program as part of the
3 defendant's sentence.

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

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

13 "Problem-Solving Courts (PSC) Standards" means the
14 statewide Standards Adopted by the Illinois Supreme Court
15 which set forth the minimum requirements for the planning,
16 establishment, certification, operation and evaluation of all
17 problem-solving courts in Illinois.

18 "Certification" means the process by which a
19 problem-solving court obtains approval from the Supreme Court
20 to operate in accordance with the Problem-Solving Court
21 Standards.

22 "Clinical treatment plan" means an evidence-based,
23 comprehensive, and individualized plan that is developed by a
24 qualified professional in accordance with IDHS/SUPR
25 regulations contained in Part 2060 of Title 77 of the Illinois
26 Administrative Code or an equivalent standard in any other

1 state where treatment may take place. The clinical treatment
2 plan shall define the scope of treatment services to be
3 delivered by a court treatment provider.

4 "Validated clinical assessment" may include assessment
5 tools required by public or private insurance.

6 "Peer recovery coach" means a mentor assigned to a
7 defendant during participation in a drug treatment court
8 program who has been trained by the court, a service provider
9 used by the court for substance use disorder or mental health
10 treatment, a local service provider with established peer
11 recovery coach or mentor programs not otherwise used by the
12 court for treatment, or be a Certified Recovery Support
13 Specialist (CRSS) certified by the Illinois Certification
14 Board. Peer recovery coaches should be individuals with lived
15 experiences of the issues problem solving courts seek to
16 address, including but not limited to substance use disorders,
17 mental health and co-occurring disorders, and involvement with
18 the criminal justice system. Peer recovery coaches shall guide
19 and mentor the participant to successfully complete assigned
20 requirements and work to help facilitate participants'
21 independence for continued success once the supports of the
22 court are no longer available to them.

23 "Community mental health center" means an entity: (1)
24 licensed by the Illinois Department of Public Health as a
25 community mental health center in accordance with the
26 conditions of participation for community mental health

1 centers established by the Centers for Medicare and Medicaid
2 Services; and (2) that provides outpatient services, including
3 specialized outpatient services, for individuals who are
4 chronically mentally ill.

5 "Community behavioral health center" means a physical site
6 where behavioral healthcare services are provided in
7 accordance with the Community Behavioral Health Center
8 Infrastructure Act.

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

10 (730 ILCS 166/15)

11 Sec. 15. Authorization.

12 (a) The Chief Judge of each judicial circuit may ~~must~~
13 establish a drug court program in compliance with the
14 Problem-Solving Court Standards. At the discretion of the
15 Chief Judge, the drug court program may be operated in one or
16 more counties of the circuit and allow the defendants from all
17 counties within the circuit to participate. Drug court
18 programs must be certified by the Supreme Court ~~including the~~
19 ~~format under which it operates under this Act.~~

20 (b) Whenever the county boards of 2 or more counties
21 within the same judicial circuit shall determine that a single
22 drug court program would best serve those counties, the county
23 board of each such county shall adopt a resolution to the
24 effect that there shall be a single drug court program serving
25 those counties, and shall provide a copy of the resolution to

1 the Chief Judge of the judicial circuit. Upon receipt of those
2 resolutions, the Chief Judge shall establish or, in the case
3 of an existing drug court program, re-organize a single drug
4 court program to serve those counties.

5 (c) (Blank). ~~Upon petition of the county board by the~~
6 ~~State's Attorney, the court may, for good cause shown of~~
7 ~~financial hardship or lack of necessary resources, enter an~~
8 ~~order delaying the implementation of the requirements of~~
9 ~~subsection (a) of this Section for an individual county, for a~~
10 ~~period not to exceed 2 years.~~

11 (Source: P.A. 96-776, eff. 1-1-10.)

12 (730 ILCS 166/20)

13 Sec. 20. Eligibility.

14 (a) A defendant may be admitted into a drug court program
15 only upon the agreement of the defendant and with the approval
16 of the court. A defendant agrees to be admitted when a Written
17 Consent to Participate is provided to the Court in open court
18 and the defendant acknowledges understanding its contents.

19 (a-5) Each drug court shall have a target population
20 defined in its written Policies and Procedures. The Policies
21 and Procedures shall define that court's eligibility and
22 exclusionary criteria.

23 (b) A defendant shall be excluded from a drug court
24 program if any of one of the following apply:

25 (1) The crime is a crime of violence as set forth in

1 clause (4) of this subsection (b).

2 (2) The defendant denies his or her use of or
3 addiction to drugs.

4 (3) The defendant does not demonstrate a willingness
5 to participate in a treatment program.

6 (4) The defendant has been convicted of a crime of
7 violence within the past 5 ~~10~~ years excluding
8 incarceration time. As used in this Section, "crime of
9 violence" means: first degree murder, second degree
10 murder, predatory criminal sexual assault of a child,
11 aggravated criminal sexual assault, criminal sexual
12 assault, armed robbery, aggravated arson, arson,
13 aggravated kidnaping, kidnaping, aggravated battery
14 resulting in great bodily harm or permanent disability,
15 aggravated domestic battery resulting in great bodily harm
16 or permanent disability, aggravated criminal sexual abuse
17 by a person in a position of trust or authority over a
18 child, stalking, or aggravated stalking, ~~or any offense~~
19 ~~involving the discharge of a firearm.~~

20 (5) The crime for which the defendant has been
21 convicted is nonprobationable.

22 (6) The sentence imposed on the defendant, whether the
23 result of a plea or a finding of guilt, renders the
24 defendant ineligible for probation.

25 (c) Notwithstanding subsection (a), the defendant may be
26 admitted into a drug court program only upon the agreement of

1 the prosecutor if:

2 (1) the defendant is charged with a Class 2 or greater
3 felony violation of:

4 (A) Section 401, 401.1, 405, or 405.2 of the
5 Illinois Controlled Substances Act;

6 (B) Section 5, 5.1, or 5.2 of the Cannabis Control
7 Act; or

8 (C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,
9 or 65 of the Methamphetamine Control and Community
10 Protection Act. ~~;~~ ~~or~~

11 ~~(2) the defendant has previously, on 3 or more~~
12 ~~occasions, either completed a drug court program, been~~
13 ~~discharged from a drug court program, or been terminated~~
14 ~~from a drug court program.~~

15 (Source: P.A. 99-480, eff. 9-9-15.)

16 (730 ILCS 166/25)

17 Sec. 25. Procedure.

18 (a) A ~~The court shall order an eligibility~~ screening and
19 needs ~~an~~ assessment of the defendant shall be performed as
20 required by the Court's Policies and Procedures ~~by an agent~~
21 ~~designated by the State of Illinois to provide assessment~~
22 ~~services for the Illinois Courts.~~ The assessment shall be
23 conducted in accordance with IDHS/SUPR regulations contained
24 in Part 2060 of Title 77 of the Illinois Administrative Code.
25 The assessment shall include, but not be limited to,

1 assessments of substance use, mental and behavioral health
2 needs. The assessment shall be administered by individuals who
3 meet the IDHS/SUPR regulations for professional staff
4 contained in Part 2060 of Title 77 of the Illinois
5 Administrative Code and used to inform any Clinical Treatment
6 Plans. Clinical Treatment Plans shall be developed in
7 accordance with Illinois PSC Standards and, in part, upon the
8 known availability of treatment resources. An assessment need
9 not be ordered if the court finds a valid assessment related to
10 the 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 conditions of the drug court
14 program, eligibility to participate in the program may be
15 revoked and the defendant may be sentenced or the prosecution
16 continued as provided in the Unified Code of Corrections for
17 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 substance use disorder ~~abuse~~ treatment in an outpatient,

1 inpatient, residential, or jail-based custodial treatment
2 program, order the defendant to complete mental health
3 counseling in an inpatient or outpatient basis, comply with
4 physicians' recommendation regarding medications and all
5 follow up treatment for any mental health diagnosis made by
6 the provider. Substance use disorder treatment programs must
7 be licensed by IDHS/SUPR, or equivalent standards in any state
8 where treatment may be provided, and use evidence-based
9 treatment. When referring participants to mental health
10 treatment programs, the court shall prioritize providers
11 certified as community mental health or behavioral health
12 centers as possible. The court shall prioritize the least
13 restrictive treatment option when ordering mental health or
14 substance use disorder treatment for participants. The court
15 may 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 drug court program shall include a regimen of
25 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 substance drug analysis testing, close monitoring by the
3 court, restitution at a minimum of once every 30 days and
4 ~~supervision of progress,~~ educational or vocational counseling
5 as appropriate, and other requirements necessary to fulfill
6 the drug court program. Program phases, therapeutic
7 adjustments, incentives, and sanctions, including the use of
8 jail sanctions, shall be administered in accordance with
9 evidence-based practices and the Illinois PSC Standards. If
10 the defendant needs treatment for an opioid use disorder ~~abuse~~
11 or dependence, the court may not prohibit the defendant from
12 participating in and receiving medication assisted treatment
13 under the care of a physician licensed in this State to
14 practice medicine in all of its branches. Drug court
15 participants may not be required to refrain from using
16 medication assisted treatment as a term or condition of
17 successful completion of the drug court program.

18 (f) Recognizing that individuals struggling with mental
19 health, substance use, and related co-occurring disorders have
20 often experienced trauma, drug court programs may include
21 specialized service programs specifically designed to address
22 trauma. These specialized services may be offered to
23 defendants admitted to the drug court program. Judicial
24 circuits establishing these specialized programs shall partner
25 with advocates, survivors, and service providers in the
26 development of the programs. Trauma-informed services and

1 programming should be operated in accordance with
2 evidence-based practices as outlined by the Substance Abuse
3 and Mental Health Service Administration's National Center for
4 Trauma Informed Care (SAMHSA).

5 (g) The Court may establish a mentorship program that
6 provides access and support to program participants by peer
7 recovery coaches. Courts shall be responsible to administer
8 the mentorship program with the support of mentors and local
9 mental health and substance use disorder treatment
10 organizations.

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

12 (730 ILCS 166/30)

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

15 (a) The drug court program shall maintain a network of
16 substance use disorder ~~abuse~~ treatment programs representing a
17 continuum of graduated substance use disorder ~~abuse~~ treatment
18 options commensurate with the needs of defendants.

19 (b) Any substance use disorder ~~abuse~~ treatment program to
20 which defendants are referred must be licensed by IDHS/SUPR,
21 use evidence-based treatment, and deliver all services in
22 accordance with the regulations contained in Part ~~meet all of~~
23 ~~the rules and governing programs in Parts 2030 and 2060 of~~
24 Title 77 of the Illinois Administrative Code.

25 (c) The drug court program may, at its discretion, employ

1 additional services or interventions, as it deems necessary on
2 a case by case basis.

3 (d) The drug court program may maintain or collaborate
4 with a network of mental health treatment programs
5 representing a continuum of treatment options commensurate
6 with the needs of the defendant and available resources
7 including programs with the State of Illinois and
8 community-based programs supported and sanctioned by the State
9 of Illinois. Partnerships with providers certified as
10 community mental health or behavioral health centers shall be
11 prioritized when possible.

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

13 (730 ILCS 166/35)

14 Sec. 35. Violation; termination; discharge.

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

18 (1) the defendant is not complying with the
19 requirements of the treatment ~~performing satisfactorily in~~
20 ~~the assigned~~ program;

21 (2) (blank); ~~the defendant is not benefitting from~~
22 ~~education, treatment, or rehabilitation;~~

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

25 (4) the defendant has otherwise violated the terms and

1 conditions of the program ~~or his or her sentence or is for~~
2 ~~any reason unable to participate;~~
3 the court may impose reasonable sanctions under prior written
4 agreement of the defendant, including but not limited to
5 imprisonment or dismissal of the defendant from the program
6 and the court may reinstate criminal proceedings against the
7 defendant ~~him or her~~ or proceed under Section 5-6-4 of the
8 Unified Code of Corrections for a violation of probation,
9 conditional discharge, or supervision hearing. Based on the
10 evidence presented, the court shall determine whether the
11 defendant has violated the conditions of the program and
12 whether the defendant should be dismissed from the program or
13 whether, pursuant to the court's Policies and Procedures, some
14 other alternative may be appropriate in the interests of the
15 defendant and the public.

16 (a-5) A defendant who is assigned to a substance use
17 disorder ~~abuse~~ treatment program under this Act for an opioid
18 use disorder ~~abuse or dependence~~ is not in violation of the
19 terms or conditions of the program on the basis of his or her
20 participation in medication assisted treatment under the care
21 of a physician licensed in this State to practice medicine in
22 all of its branches.

23 (a-10) A defendant may voluntarily withdraw from the drug
24 court Program in accordance with the drug court program's
25 policies and procedures. Prior to allowing the participant to
26 withdraw, the judge shall:

1 (i) ensure that the participant has the right to
2 consult with counsel prior to withdrawal;

3 (ii) determine in open court that the withdrawal is
4 made voluntarily and knowingly; and

5 (iii) admonish the participant in open court as to the
6 consequences, actual or potential, which can result from
7 withdrawal.

8 Upon withdrawal, the criminal proceedings may be
9 reinstated against the defendant or proceedings under Section
10 5-6-4 of the Unified Code of Corrections for a violation of
11 probation, conditional discharge, or supervision hearing may
12 be initiated.

13 (a-15) No defendant may be dismissed from the program
14 unless, prior to such dismissal, the defendant is informed in
15 writing:

16 (i) of the reason or reasons for the dismissal;

17 (ii) the evidentiary basis supporting the reason or
18 reasons for the dismissal;

19 (iii) that the defendant has a right to a hearing at
20 which he or she may present evidence supporting his or her
21 continuation in the program.

22 (b) Upon successful completion of the terms and conditions
23 of the program, the court may dismiss the original charges
24 against the defendant or successfully terminate the
25 defendant's sentence or otherwise discharge him or her from
26 any further proceedings against the defendant ~~him or her~~ in

1 the original prosecution.

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

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

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

17 (730 ILCS 166/40)

18 Sec. 40. Education ~~seminars~~ for judges. A judge assigned
19 to preside over a PSC should have experience and training and
20 continuing education in topics including, but not limited to:
21 (1) criminal law; (2) behavioral health; (3) confidentiality;
22 (4) ethics; (5) evidence-based practices; (6) substance use
23 disorders; (7) mental illness; (8) co-occurring disorders; and
24 (9) presiding over various types of PSCs. ~~The Administrative~~
25 Office of the Illinois Courts shall conduct education seminars

1 ~~for judges throughout the State on how to operate drug court~~
2 ~~programs with a specific emphasis on cases involving the~~
3 ~~illegal possession of methamphetamine.~~

4 (Source: P.A. 94-552, eff. 8-12-05.)

5 (730 ILCS 166/45)

6 Sec. 45. Education seminars for drug court prosecutors.
7 Subject to appropriation, the Office of the State's Attorneys
8 Appellate Prosecutor shall conduct mandatory education
9 seminars ~~on the subjects of substance abuse and addiction~~ for
10 all drug court prosecutors throughout the State to ensure that
11 the PSC maintains fidelity to the PSC model. Topics include,
12 but are not limited to, evidence-based screening, assessment
13 and treatment practices, target population, substance use
14 disorders, mental illness, disability, co-occurring disorders,
15 trauma, confidentiality, criminogenic risks and needs,
16 incentives and sanctions, court processes, limited English
17 proficiency and team dynamics.

18 (Source: P.A. 99-480, eff. 9-9-15.)

19 (730 ILCS 166/50)

20 Sec. 50. Education seminars for Mental Health Court public
21 defenders. Subject to appropriation, the Office of the State
22 Appellate Defender shall conduct mandatory education seminars
23 ~~on the subjects of substance abuse and addiction~~ for all
24 public defenders and assistant public defenders practicing in

1 drug courts throughout the State to ensure that the PSC
2 maintains fidelity to the PSC model. Topics include, but are
3 not limited to, evidence-based screening, assessment and
4 treatment practices, target population, substance use
5 disorders, mental illness, disability, co- occurring
6 disorders, trauma, confidentiality, criminogenic risks and
7 needs, incentives and sanctions, court processes, limited
8 English proficiency and team dynamics.

9 (Source: P.A. 99-480, eff. 9-9-15.)

10 Section 10. The Veterans and Servicemembers Court
11 Treatment Act is amended by changing Sections 5, 10, 15, 20,
12 25, 30, 35, and by adding Sections 40, 45, and 50 as follows:

13 (730 ILCS 167/5)

14 Sec. 5. Purposes. The General Assembly recognizes that
15 veterans and active servicemembers, including Reserve and
16 National Guard servicemembers have provided or are currently
17 providing an invaluable service to our country. Some veterans
18 and active duty servicemembers ~~In so doing, some~~ may suffer
19 from the effects of their service, including but not limited
20 to, post traumatic stress disorder, traumatic brain injury,
21 depression and may also suffer ~~drug and alcohol dependency or~~
22 ~~addiction and~~ co-occurring mental illness and substance use
23 disorders ~~abuse problems~~. As a result ~~of this~~, some veterans
24 or active duty servicemembers come into contact with the

1 criminal justice system and are charged with felony or
2 misdemeanor offenses. There is a critical need for the
3 criminal justice system to recognize ~~these~~ veterans struggling
4 with these issues, provide accountability for their
5 wrongdoing, provide for the safety of the public and provide
6 for the treatment of such ~~our~~ veterans. It is the intent of the
7 General Assembly to create specialized veteran and
8 servicemember courts, in accordance with evidence-based
9 practices, and Illinois Supreme Court Standards for addressing
10 substance use, mental health and co-occurring disorders ~~or~~
11 ~~programs~~ with the necessary flexibility to meet the
12 specialized needs for an array of services and supports among
13 participants in problems faced by these veteran and
14 servicemember court programs in the State of Illinois
15 ~~defendants.~~

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

17 (730 ILCS 167/10)

18 Sec. 10. Definitions. In this Act:

19 "Certification" means the process by which a
20 problem-solving court obtains approval from the Supreme Court
21 to operate in accordance with the Problem-Solving Court
22 Standards.

23 "Clinical Treatment Plan" means an evidence-based,
24 comprehensive, and individualized plan developed by a
25 qualified professional in accordance with IDHS/SUPR

1 regulations contained in Part 2060 of Title 77 of the Illinois
2 Administrative Code, or an equivalent standard in any other
3 state where treatment may take place. The clinical treatment
4 plan shall define the scope of treatment services to be
5 delivered by a treatment provider.

6 "Combination Veterans and Servicemembers Court program"
7 means a court program that includes a pre-adjudicatory and a
8 post-adjudicatory Veterans and Servicemembers court program.

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

10 "Peer recovery coach" means a veteran mentor assigned to a
11 veteran or servicemember during participation in a veteran
12 treatment court program who has been trained by the court, a
13 service provider used by the court for substance use or mental
14 health treatment, a local service provider with established
15 peer recovery coach or mentor programs not otherwise used by
16 the court for treatment, or be a Certified Recovery Support
17 Specialist (CRSS) certified by the Illinois Certification
18 Board. Peer recovery coaches should be individuals with lived
19 experiences of the issues problem solving courts seek to
20 address, including, but not limited to, substance use
21 disorders, mental health and co-occurring disorders and
22 involvement with the criminal justice system. Peer recovery
23 coaches shall guide and mentor the participant to successfully
24 complete assigned requirements and work to help facilitate
25 participants' independence for continued success once the
26 supports of the court are no longer available to them.

1 "Pre-adjudicatory Veterans and Servicemembers Court
2 Program" means a program that allows the defendant, who agrees
3 and with the consent of the prosecution, to enter the drug
4 court program before plea, conviction, or disposition, and
5 requires successful completion of the Veterans and
6 Servicemembers Court programs as part of the agreement.

7 "Post-adjudicatory Veterans and Servicemembers Court
8 Program" means a program that allows an individual who has
9 admitted guilt or has been found guilty and agrees, along with
10 the prosecution, to enter a Veterans and Servicemembers Court
11 program as part of the defendant's sentence.

12 "Problem-Solving Court Standards" means the statewide
13 Standards adopted by the Illinois Supreme Court which set
14 forth the minimum requirements for the planning,
15 establishment, certification, operation and evaluation of all
16 problem-solving courts in Illinois.

17 ~~"Court" means Veterans and Servicemembers Court.~~

18 ~~"IDVA" means the Illinois Department of Veterans' Affairs.~~

19 ~~"Peer recovery coach" means a volunteer veteran mentor~~
20 ~~assigned to a veteran or servicemember during participation in~~
21 ~~a veteran treatment court program who has been trained and~~
22 ~~certified by the court to guide and mentor the participant to~~
23 ~~successfully complete the assigned requirements.~~

24 ~~"Post adjudicatory Veterans and Servicemembers Court~~
25 ~~Program"~~ means a program in which the defendant has admitted
26 ~~guilt or has been found guilty and agrees, along with the~~

1 ~~prosecution, to enter a Veterans and Servicemembers Court~~
2 ~~program as part of the defendant's sentence.~~

3 ~~"Pre-adjudicatory Veterans and Servicemembers Court~~
4 ~~Program" means a program that allows the defendant with the~~
5 ~~consent of the prosecution, to expedite the defendant's~~
6 ~~criminal case before conviction or before filing of a criminal~~
7 ~~case and requires successful completion of the Veterans and~~
8 ~~Servicemembers Court programs as part of the agreement.~~

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

12 "VA" means the United States Department of Veterans'
13 Affairs.

14 "VAC" means a veterans assistance commission.

15 "Validated Clinical Assessment" may include assessment
16 tools required by public or private insurance.

17 "Veteran" means a person who served in the active
18 military, naval, or air service and who was discharged or
19 released therefrom under conditions other than dishonorable.

20 ~~"Veterans and Servicemembers Court professional" means a~~
21 ~~member of the Veterans and Servicemembers Court team,~~
22 ~~including but not limited to a judge, prosecutor, defense~~
23 ~~attorney, probation officer, coordinator, treatment provider,~~
24 ~~or peer recovery coach.~~

25 ~~"Veterans and Servicemembers Court" means a court or~~
26 ~~program with an immediate and highly structured judicial~~

1 ~~intervention process for substance abuse treatment, mental~~
2 ~~health, or other assessed treatment needs of eligible veteran~~
3 ~~and servicemember defendants that brings together substance~~
4 ~~abuse professionals, mental health professionals, VA~~
5 ~~professionals, local social programs and intensive judicial~~
6 ~~monitoring in accordance with the nationally recommended 10~~
7 ~~key components of drug courts.~~

8 "Veterans and Servicemembers Court" "Veterans and
9 Servicemembers Court program", "court", or "program" for the
10 purposes of this Act means a specially designated court, court
11 calendar or docket facilitating intensive therapeutic
12 treatment to monitor or assist veteran or servicemember
13 participants with substance use disorders, mental health,
14 co-occurring disorders or other assessed treatment needs of
15 eligible veteran and servicemember participants. Veterans and
16 servicemember court programs are nonadversarial in nature and
17 bring together substance use disorder professionals, mental
18 health professionals, VA professionals, and local social
19 programs in accordance with the nationally recommended 10 key
20 components of drug courts and Illinois Supreme Court
21 Problem-Solving Court Standards. Common features of drug court
22 programs include, but are not limited to, a designated judge
23 and staff; specialized intake and screening procedures;
24 coordinated treatment procedures administered by a trained,
25 multidisciplinary professional team; close evaluation of
26 participants, including continued assessments and modification

1 of the court requirements and use of sanctions, incentives and
2 therapeutic adjustments to address behavior; frequent judicial
3 interaction with participants; less formal court process and
4 procedures; voluntary participation; and a low treatment
5 staff-to- client ratio.

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

11 "Community Mental Health Center" means an entity licensed
12 by the Illinois Department of Public Health as a Community
13 Mental Health Center in accordance with the conditions of
14 participation for Community Mental Health Centers established
15 by the Center for Medicare & Medicaid Services. Community
16 Mental Health Centers means an entity that provides outpatient
17 services, including specialized outpatient services for
18 individuals who are chronically mentally ill.

19 "Community Behavioral Health Center" means a physical site
20 where behavioral healthcare services are provided in
21 accordance with the Community Behavioral Health Center
22 Infrastructure Act.

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

24 (730 ILCS 167/15)

25 Sec. 15. Authorization.

1 (a) The Chief Judge of each judicial circuit ~~may shall~~
2 establish a Veterans and Servicemembers Court program in
3 compliance with the Problem-Solving Court Standards ~~including~~
4 ~~a format under which it operates under this Act.~~ The Veterans
5 and Servicemembers Court may, at the discretion of the Chief
6 Judge, be a separate court or a program of a problem-solving
7 court, including, but not limited to, a drug court, ~~or~~ mental
8 health court, or operate for defendants with either substance
9 use, mental health or co-occurring disorders. At the
10 discretion of the Chief Judge, the Veterans and Servicemembers
11 Court program may be operated in one or more counties in the
12 Circuit, and allow veteran and servicemember defendants from
13 all counties within the Circuit to participate.

14 (b) Whenever the county boards of 2 or more counties
15 within the same judicial circuit shall determine that a single
16 veterans and servicemembers court program would best serve
17 those counties, the county board of each such county shall
18 adopt a resolution to the effect that there shall be a single
19 veterans and servicemembers court program serving those
20 counties, and shall provide a copy of the resolution to the
21 Chief Judge of the judicial circuit. Upon receipt of those
22 resolutions, the Chief Judge shall establish, or, in the case
23 of an existing veterans and servicemembers court program,
24 re-organize a single veterans and servicemembers court program
25 to serve those counties.

26 (Source: P.A. 99-807, eff. 1-1-18; 100-88, eff. 1-1-18.)

1 (730 ILCS 167/20)

2 Sec. 20. Eligibility. Veterans and Servicemembers are
3 eligible for Veterans and Servicemembers Courts, provided the
4 following:

5 (a) A defendant may be admitted to a Veterans and
6 Servicemembers Court certified by the Illinois Supreme Court,
7 ~~who is eligible for probation based on the nature of the crime~~
8 ~~convicted of and in consideration of his or her criminal~~
9 ~~background, if any, may be admitted into a Veterans and~~
10 ~~Servicemembers Court program before adjudication~~ only upon the
11 agreement of the defendant and with the approval of the Court.
12 Defendants agree to be admitted when a Written Consent to
13 Participate is provided to the Court in open court and the
14 defendant acknowledges understanding its contents ~~A defendant~~
15 ~~may be admitted into a Veterans and Servicemembers Court~~
16 ~~program post adjudication only with the approval of the court.~~

17 (b) Each Veterans and Servicemembers Court shall have a
18 targeted population defined in its written Policies and
19 Procedures. The Policies and Procedures shall define that
20 court's eligibility and exclusionary criteria. A defendant
21 shall be excluded from Veterans and Servicemembers Court
22 program if any of one of the following applies:

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

25 (2) The defendant does not demonstrate a willingness

1 to participate in a treatment program.

2 (3) The defendant has been convicted of a crime of
3 violence within the past 5 ~~10~~ years excluding
4 incarceration time. As used in this Section, "crime of
5 violence" means: ~~, including~~ first degree murder, second
6 degree murder, predatory criminal sexual assault of a
7 child, aggravated criminal sexual assault, criminal sexual
8 assault, armed robbery, aggravated arson, arson,
9 aggravated kidnapping and kidnapping, aggravated battery
10 resulting in great bodily harm or permanent disability,
11 aggravated domestic battery resulting in greater bodily
12 harm or permanent disability, aggravated criminal sexual
13 abuse by a person in a position of trust or authority over
14 a child, stalking, or aggravated stalking, ~~or any offense~~
15 involving the discharge of a firearm.

16 (4) (Blank).

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

19 (6) The sentence imposed on the defendant, whether the
20 result of a plea or a finding of guilt, renders the
21 defendant ineligible for probation.

22 (c) Notwithstanding subsection (a), the defendant may be
23 admitted into a drug court program only upon the agreement of
24 the prosecutor if:

25 (1) the defendant is charged with a Class 2 or greater
26 felony violation of:

1 (A) Section 401, 401.1, 405, or 405.2 of the
2 Illinois Controlled Substances Act;

3 (B) Section 5, 5.1, or 5.2 of the Cannabis Control
4 Act; or

5 (C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,
6 or 65 of the Methamphetamine Control and Community
7 Protection Act.

8 (Source: P.A. 99-480, eff. 9-9-15; 100-426, eff. 1-1-18.)

9 (730 ILCS 167/25)

10 Sec. 25. Procedure.

11 (a) ~~A The Court shall order the defendant to submit to an~~
12 ~~eligibility~~ screening and ~~an~~ assessment of the defendant shall
13 be performed as required by the Court's Policies and
14 Procedures. The assessment shall be conducted through the VA,
15 VAC, and/or the IDVA to provide information on the defendant's
16 veteran or servicemember status.

17 (b) ~~A The Court shall order the defendant to submit to an~~
18 ~~eligibility screening and~~ mental health and substance use
19 disorder ~~drug/alcohol~~ screening and assessment of the
20 defendant by the VA, VAC, or by the IDVA shall be performed as
21 required by the Court's Policies and Procedures ~~to provide~~
22 ~~assessment services for Illinois Courts.~~ The assessment shall
23 include, but is not limited to a validated clinical
24 assessment. The assessment shall include, but not be limited
25 to, assessments of substance use, mental and behavioral health

1 needs. The assessment shall be administered by a qualified
2 clinician of the VA, VAC, or IDVA, or individuals who meet the
3 IDHS/SUPR regulations for professional staff contained in Part
4 2060 of Title 77 of the Illinois Administrative Code, or an
5 equivalent Standard in any other state where treatment may
6 take place, and used to inform any clinical treatment plans.
7 Clinical treatment plans shall be developed, in accordance
8 with Illinois PSC Standards and ~~risks assessment and be based,~~
9 in part, upon the known availability of treatment resources
10 available to the Veterans and Servicemembers Court. ~~The~~
11 ~~assessment shall also include recommendations for treatment of~~
12 ~~the conditions which are indicating a need for treatment under~~
13 ~~the monitoring of the Court and be reflective of a level of~~
14 ~~risk assessed for the individual seeking admission.~~ An
15 assessment need not be ordered if the Court finds a valid
16 screening and/or assessment related to the present charge
17 pending against the defendant has been completed within the
18 previous 60 days.

19 (c) The judge shall inform the defendant that if the
20 defendant fails to meet the conditions of the Veterans and
21 Servicemembers Court program, eligibility to participate in
22 the program may be revoked and the defendant may be sentenced
23 or the prosecution continued as provided in the Unified Code
24 of Corrections for the crime charged.

25 (d) The defendant shall execute a written agreement with
26 the Court as to his or her participation in the program and

1 shall agree to all of the terms and conditions of the program,
2 including but not limited to the possibility of sanctions or
3 incarceration for failing to abide or comply with the terms of
4 the program.

5 (e) In addition to any conditions authorized under the
6 Pretrial Services Act and Section 5-6-3 of the Unified Code of
7 Corrections, the Court may order the defendant to complete
8 substance use disorder ~~abuse~~ treatment in an outpatient,
9 inpatient, residential, or jail-based custodial treatment
10 program, order the defendant to complete mental health
11 counseling in an inpatient or outpatient basis, comply with
12 physicians' recommendation regarding medications and all
13 follow up treatment for any mental health diagnosis made by
14 the provider. Substance use treatment programs must be
15 licensed by IDPH/SUPR, or an equivalent standard in any other
16 state where treatment may take place, and use evidence-based
17 treatment. When referring participants to mental health
18 treatment programs, the court shall prioritize providers
19 certified as community mental health or behavioral health
20 centers as possible. The court shall prioritize the least
21 restrictive treatment option when ordering mental health or
22 substance use treatment for participants. The court may order
23 jail-based custodial treatment if it finds that jail-based
24 treatment is the least restrictive alternative based on
25 evidence that efforts were made to locate less restrictive
26 alternatives to secure confinement and the reasons why efforts

1 were unsuccessful in locating a less restrictive alternative
2 to jail-based custodial treatment. This treatment may include
3 but is not limited to post-traumatic stress disorder,
4 traumatic brain injury and depression.

5 (e-5) The veterans and servicemembers treatment court
6 shall include a regimen of graduated requirements, individual
7 and group therapy substance analysis testing, close monitoring
8 by the court, supervision of progress, restitution,
9 educational or vocational counseling as appropriate, and other
10 requirements necessary to fulfill the drug court program.
11 Program phases, therapeutic adjustments, incentives, and
12 sanctions, including the use of jail sanctions, shall be
13 administered in accordance with evidence-based practices and
14 the Illinois PSC Standards. If the defendant needs treatment
15 for an opioid use disorder or dependence, the court may not
16 prohibit the defendant from participating in and receiving
17 medication assisted treatment under the care of a physician
18 licensed in this State to practice medicine in all of its
19 branches. Veteran and servicemembers court participants may
20 not be required to refrain from using medication assisted
21 treatment as a term or condition of successful completion of
22 the drug court program.

23 (e-10) Recognizing that individuals struggling with mental
24 health, substance use and related co-occurring disorders have
25 often experienced trauma, veterans and servicemembers court
26 programs may include specialized service programs specifically

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

10 (f) The Court may establish a mentorship program that
11 provides access and support to program participants by peer
12 recovery coaches. Courts shall be responsible to administer
13 the mentorship program with the support of volunteer veterans
14 and local veteran service organizations, including a VAC. ~~Peer~~
15 ~~recovery coaches shall be trained and certified by the Court~~
16 ~~prior to being assigned to participants in the program.~~

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

18 (730 ILCS 167/30)

19 Sec. 30. Mental health and substance use disorder ~~abuse~~
20 treatment.

21 (a) The Veterans and Servicemembers Court program may
22 maintain a network of substance use disorder ~~abuse~~ treatment
23 programs representing a continuum of graduated substance use
24 disorder ~~abuse~~ treatment options commensurate with the needs
25 of defendants; these shall include programs with the VA, IDVA,

1 a VAC, the State of Illinois and community-based programs
2 supported and sanctioned by either or both.

3 (b) Any substance use ~~abuse~~ treatment program to which
4 defendants are referred must be licensed by IDHS/SUPR, or an
5 equivalent standard in any other state where treatment may
6 take place, use evidence-based treatment, and deliver all
7 services in accordance with the regulations contained ~~meet all~~
8 ~~of the rules and governing programs~~ in Parts 2030 and 2060 of
9 Title 77 of the Illinois Administrative Code, or an equivalent
10 standard in any other state where treatment may take place.

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

14 (d) The Veterans and Servicemembers Court program may
15 maintain or collaborate with a network of mental health
16 treatment programs and, if it is a co-occurring mental health
17 and substance use disorder ~~abuse~~ court program, a network of
18 substance use disorder ~~abuse~~ treatment programs representing a
19 continuum of treatment options commensurate with the needs of
20 the defendant and available resources including programs with
21 the VA, the IDVA, a VAC, and the State of Illinois. When not
22 using mental health treatment or services available through
23 the VA, IDVA or VAC, partnerships with providers certified as
24 community mental health or behavioral health centers shall be
25 prioritized as possible.

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

1 (730 ILCS 167/35)

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 Veterans and Servicemembers Court professionals that:

6 (1) the defendant is not complying with the
7 requirements of the treatment program performing
8 satisfactorily in the assigned program;

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

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

13 (4) the defendant has otherwise violated the terms and
14 conditions of the program ~~or his or her sentence or is for~~
15 ~~any reason unable to participate;~~ the Court may impose
16 reasonable sanctions under prior written agreement of the
17 defendant, including but not limited to imprisonment or
18 dismissal of the defendant from the program and the Court
19 may reinstate criminal proceedings against him or her or
20 proceed under Section 5-6-4 of the Unified Code of
21 Corrections for a violation of probation, conditional
22 discharge, or supervision hearing. Based on the evidence
23 presented, the court shall determine whether the defendant
24 has violated the conditions of the program and whether the
25 defendant should be dismissed from the program, or

1 whether, pursuant to the court's Policies and Procedures,
2 some other alternative may be appropriate in the interests
3 of the defendant and the public.

4 (a-5) A defendant who is assigned to a substance use
5 disorder treatment program under this Act for an opioid use
6 disorder is not in violation of the terms or conditions of the
7 program on the basis of his or her participation in medication
8 assisted treatment under the care of a physician licensed to
9 practice medicine in all of its branches.

10 (a-10) A defendant may voluntarily withdraw from the drug
11 court program In accordance with the drug court program's
12 policies and procedures. Prior to allowing the participant to
13 withdraw, the judge shall:

14 (i) ensure that the participant has the right to
15 consult with counsel prior to withdrawal;

16 (ii) determine in open court that the withdrawal is
17 made voluntarily and knowingly; and

18 (iii) admonish the participant in open court as to the
19 consequences, actual or potential, which can result from
20 withdrawal.

21 Upon withdrawal, the criminal proceedings may be
22 reinstated against the defendant or proceedings under Section
23 5-6-4 of the Unified Code of Corrections for a violation of
24 probation, conditional discharge, or supervision hearing may
25 be initiated.

26 (b) Upon successful completion of the terms and conditions

1 of the program, the Court may dismiss the original charges
2 against the defendant or successfully terminate the
3 defendant's sentence or otherwise discharge him or her from
4 any further proceedings against the defendant ~~him or her~~ in
5 the original prosecution.

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

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

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

20 (730 ILCS 167/40 new)

21 Sec. 40. Education for judges. A judge assigned to preside
22 over a PSC should have experience and training and continuing
23 education in topics, including, but not limited to: (1)
24 criminal law; (2) behavioral health; (3) confidentiality; (4)
25 ethics; (5) evidence-based practices; (6) substance use

1 Disorders; (7) mental illness; (8) co-occurring disorders; and
2 (9) presiding over various types of PSCs.

3 (730 ILCS 167/45 new)

4 Sec. 45. Education seminars for Veterans and
5 Servicemembers Court prosecutors. Subject to appropriation,
6 the Office of the State's Attorneys Appellate Prosecutor shall
7 conduct mandatory education seminars on the subjects of
8 substance use disorders, addiction and mental health, for all
9 Veterans and Servicemembers Court prosecutors throughout the
10 State to ensure that the PSC maintains fidelity to the PSC
11 model. Topics include, but are not limited to, evidence-based
12 screening, assessment and treatment practices, target
13 population, substance use disorders, mental illness,
14 disability, co-occurring disorders, trauma, confidentiality,
15 criminogenic risks and needs, incentives and sanctions, court
16 processes, limited English proficiency and team dynamics.

17 (730 ILCS 167/50 new)

18 Sec. 50. Education seminars for public defenders. Subject
19 to appropriation, the Office of the State Appellate Defender
20 shall conduct mandatory education seminars for all public
21 defenders and assistant public defenders practicing in
22 Veterans and Servicemembers Court courts throughout the State,
23 to ensure that the PSC maintains fidelity to the PSC model.
24 Topics include, but are not limited to, evidence-based

1 screening, assessment and training practices, target
2 population, substance use disorders, mental illness,
3 disability, co-occurring disorders, trauma, confidentiality,
4 criminogenic risks and needs, incentives and sanctions, court
5 processes, limited English proficiency and team dynamics.

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

9 (730 ILCS 168/5)

10 Sec. 5. Purposes. The General Assembly recognizes that
11 individuals with diagnosable mental illness may come into
12 contact with the criminal justice system and be charged with
13 felony or misdemeanor offenses. ~~a large percentage of criminal~~
14 ~~defendants have a diagnosable mental illness and that mental~~
15 ~~illnesses have a dramatic effect on the criminal justice~~
16 ~~system in the State of Illinois.~~ The General Assembly also
17 recognizes that mental illness and substance use disorders
18 ~~abuse problems~~ co-occur in a substantial percentage of
19 criminal defendants. There is a critical need for the a
20 criminal justice system to recognize individuals struggling
21 with these issues, provide alternatives to incarceration to
22 address mental illness, and provide appropriate access to
23 treatment and support to such persons. ~~program that will~~
24 ~~reduce the number of persons with mental illnesses and with~~

1 ~~co-occurring mental illness and substance abuse problems in~~
2 ~~the criminal justice system, reduce recidivism among persons~~
3 ~~with mental illness and with co-occurring mental illness and~~
4 ~~substance abuse problems, provide appropriate treatment to~~
5 ~~persons with mental illnesses and co-occurring mental illness~~
6 ~~and substance abuse problems and reduce the incidence of~~
7 ~~crimes committed as a result of mental illnesses or~~
8 ~~co-occurring mental illness and substance abuse problems. It~~
9 is the intent of the General Assembly to create specialized
10 mental health courts, in accordance with evidence-based
11 practices and Illinois Supreme Court Standards for addressing
12 substance use and co-occurring disorders with the necessary
13 flexibility to meet the needs for an array of services and
14 supports among participants in mental health court programs
15 ~~problems of criminal defendants with mental illnesses and~~
16 ~~co-occurring mental illness and substance abuse problems in~~
17 the State of Illinois.

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

19 (730 ILCS 168/10)

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

21 "Mental health court", "mental health court program",
22 "court", or "program" means a specially designated court,
23 court calendar, or docket facilitating intensive therapeutic
24 treatment to monitor and assist participants with structured
25 ~~judicial intervention process for~~ mental illness. Mental

1 health court programs are non-adversarial in nature and bring
2 ~~health treatment of eligible defendants that brings~~ together
3 mental health professionals, local social programs in
4 accordance with the nationally recommended essential elements
5 of a mental health court and Illinois Supreme Court
6 Problem-Solving Standards. Common features of mental health
7 court programs include, but are not limited to, a designated
8 judge and staff; specialized intake and screening procedures;
9 coordinated treatment procedures administered by a trained,
10 multidisciplinary professional team; close evaluation of
11 participants, including continued assessments and modification
12 of the court requirements and use of sanctions, incentives and
13 therapeutic adjustments to address behavior; frequent judicial
14 interaction with participants; less formal court process and
15 procedures; voluntary participation; and a low treatment
16 staff- to-client ratio, and intensive judicial monitoring.

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

21 "Pre-adjudicatory mental health court program" means a
22 program that allows the defendant, with their agreement and
23 the consent of the prosecution, to enter the drug court
24 program before plea, conviction, or disposition ~~expedite the~~
25 ~~defendant's criminal case before conviction or before filing~~
26 ~~of a criminal case~~ and requires successful completion of the

1 mental health court program as part of the agreement.

2 "Post-adjudicatory mental health court program" means a
3 program that allows an individual who ~~in which the defendant~~
4 has admitted guilt or has been found guilty and agrees, along
5 with the prosecution, to enter a mental health court program
6 as part of the defendant's sentence.

7 "Combination mental health court program" means a mental
8 health court program that includes a pre-adjudicatory mental
9 health court program and a post-adjudicatory mental health
10 court program.

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

17 "Problem-Solving Courts (PSC) Standards" means the
18 statewide standards adopted by the Illinois Supreme Court
19 which set forth the minimum requirements for the planning,
20 establishment, certification, operation and evaluation of all
21 problem-solving courts in Illinois.

22 "Certification" means the process by which a
23 problem-solving court obtains approval from the Supreme Court
24 to operate in accordance with the Problem-Solving Court
25 Standards.

26 "Clinical treatment plan" means an evidence-based,

1 comprehensive, and individualized plan that is developed by a
2 qualified professional and defines the scope of treatment
3 services to be delivered by a treatment provider.

4 "Validated clinical assessment" may include assessment
5 tools required by public or private insurance.

6 "Peer recovery coach" means a mentor assigned to a
7 defendant during participation in a mental health treatment
8 court program who has been trained by the court, a service
9 provider used by the court for substance use or mental health
10 treatment, a local service provider with established peer
11 recovery coach or mentor programs not otherwise used by the
12 court for treatment, or be a Certified Recovery Support
13 Specialist (CRSS) certified by the Illinois Certification
14 Board. Peer recovery coaches should be individuals with lived
15 experience of the issues problem solving courts seek to
16 address, including, but not limited to, substance use
17 disorders, mental health, and co-occurring disorders, and
18 involvement with the criminal justice system. Peer recovery
19 coaches shall guide and mentor the participant to successfully
20 complete assigned requirements and work to help facilitate
21 participants' independence for continued success once the
22 supports of the court are no longer available to them.

23 "Community Mental Health Center" means an entity licensed
24 by the Illinois Department of Public Health as a Community
25 Mental Health Center in accordance with the conditions of
26 participation for Community Mental Health Centers established

1 by the Center for Medicare & Medicaid Services. Community
2 Mental Health Centers means an entity that provides outpatient
3 services, including specialized outpatient services for
4 individuals who are chronically mentally ill.

5 "Community Behavioral Health Center" means a physical site
6 where behavioral healthcare services are provided in
7 accordance with the Community Behavioral Health Center
8 Infrastructure Act.

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

10 (730 ILCS 168/15)

11 Sec. 15. Authorization. The Chief Judge of each judicial
12 circuit may establish a mental health court program in
13 compliance with the Problem-Solving Court Standards. At the
14 discretion of the Chief Judge, the mental health court program
15 may be operated in one or more counties of the circuit and
16 allow the defendants from all counties within the circuit to
17 participate. Mental Health Court programs must be certified by
18 the Supreme Court., ~~including the format under which it~~
19 ~~operates under this Act.~~

20 (b)Whenever the county boards of 2 or more counties within
21 the same judicial circuit shall determine that a single mental
22 health court program would best serve those counties, the
23 county board of each such county shall adopt a resolution to
24 the effect that there shall be a single mental health court
25 program serving those counties, and shall provide a copy of

1 the resolution to the Chief Judge of the judicial circuit.
2 Upon receipt of those resolutions, the Chief Judge shall
3 establish or, in the case of an existing mental health court
4 program, re-organize a single mental health court program to
5 serve these counties.

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

7 (730 ILCS 168/20)

8 Sec. 20. Eligibility.

9 (a) A defendant, ~~who is eligible for probation based on~~
10 ~~the nature of the crime convicted of and in consideration of~~
11 ~~his or her criminal background, if any,~~ may be admitted into a
12 mental health court program only upon the agreement of the
13 defendant and with the approval of the court. A defendant
14 agrees to be admitted when a Written Consent to Participate is
15 provided to the Court in open court and the defendant
16 acknowledges understanding its contents.

17 (a-5) Each mental health court shall have a target
18 population defined in its written Policies and Procedures. The
19 Policies and Procedures shall define that court's eligibility
20 and exclusionary criteria.

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

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

25 (2) The defendant does not demonstrate a willingness

1 to participate in a treatment program.

2 (3) The defendant has been convicted of a crime of
3 violence within the past 5 ~~10~~ years excluding
4 incarceration time. As used in this paragraph (3), "crime
5 of violence" means: first degree murder, second degree
6 murder, predatory criminal sexual assault of a child,
7 aggravated criminal sexual assault, criminal sexual
8 assault, armed robbery, aggravated arson, arson,
9 aggravated kidnapping, kidnapping, aggravated battery
10 resulting in great bodily harm or permanent disability,
11 aggravated domestic battery resulting in great bodily harm
12 or permanent disability, aggravated criminal sexual abuse
13 by a person in a position of trust or authority over a
14 child, stalking, or aggravated stalking, or any offense
15 involving the discharge of a firearm.

16 (4) (Blank).

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

19 (6) The sentence imposed on the defendant, whether the
20 result of a plea or a finding of guilt, renders the
21 defendant ineligible for probation.

22 (c) Notwithstanding subsection (a), the defendant may be
23 admitted into a mental health court program only upon
24 agreement of the prosecutor if:

25 (1) the defendant is charged with a Class 2 or greater
26 felony violation of:

1 (A) Section 401, 401.1, 405, or 405.2 of the
2 Illinois Controlled Substances Act;

3 (B) Section 5, 5.1, or 5.2 of the Cannabis Control
4 Act; or

5 (C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,
6 or 65 of the Methamphetamine Control and Community
7 Protection Act.

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

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

21 (730 ILCS 168/25)

22 Sec. 25. Procedure.

23 (a) ~~A~~ The court shall require an eligibility screening and
24 needs an assessment of the defendant shall be performed as
25 required by the Court's Policies and Procedures. The

1 assessment shall include a validated clinical assessment. The
2 clinical assessment shall include, but not be limited to,
3 assessments of substance use disorder, mental and behavioral
4 health needs. The clinical assessment shall be administered by
5 a qualified clinician and used to inform any clinical
6 treatment plans. Clinical treatment plans shall be developed,
7 in part, upon the known availability of treatment resources
8 available. Assessments for substance use disorder shall be
9 conducted in accordance with the Illinois Department of Human
10 Services/Division of Substance Use Prevention and Recovery
11 (IDHS/SUPR) regulations contained in Part 2060 of Title 77 of
12 the Illinois Administrative Code or an equivalent standard in
13 any other state where treatment may take place, and conducted
14 by individuals who meet the IDHS/SUPR regulations for
15 professional staff also contained within that Code, or an
16 equivalent standard in any other state where treatment may
17 take place. The assessments shall be used to inform any
18 Clinical Treatment Plans. Clinical Treatment Plans shall be
19 developed in accordance with Illinois PSC Standards and, in
20 part, upon the known availability of treatment resources
21 available. An assessment need not be ordered if the court
22 finds a valid assessment related to the present charge pending
23 against the defendant has been completed within the previous
24 60 days.

25 (b) The judge shall inform the defendant that if the
26 defendant fails to meet the requirements of the mental health

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

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

10 (d) 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 mental health or substance use disorder ~~abuse~~ treatment in an
14 outpatient, inpatient, residential, or jail-based custodial
15 treatment program, order the defendant to complete mental
16 health counseling in an inpatient or outpatient basis, comply
17 with physicians' recommendation regarding medications and all
18 follow up treatment for any mental health diagnosis made by
19 the provider. Substance use disorder treatment programs must
20 be licensed by IDHS/SUPR, or an equivalent standard in any
21 other state where treatment may take place and use
22 evidence-based treatment. When referring participants to
23 mental health treatment programs, the court shall prioritize
24 providers certified as community mental health or behavioral
25 health centers as possible. The court shall prioritize the
26 least restrictive treatment option when ordering mental health

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

11 (e) The mental health court program may include a regimen
12 of graduated requirements including ~~and rewards and sanctions,~~
13 ~~including but not limited to: fines, fees, costs, restitution,~~
14 ~~incarceration of up to 180 days,~~ individual and group therapy,
15 medication, substance ~~drug~~ analysis testing, close monitoring
16 by the court, ~~and~~ supervision of progress, restitution,
17 educational or vocational counseling as appropriate and other
18 requirements necessary to fulfill the mental health court
19 program. Program phases, therapeutic adjustments, incentives,
20 and sanctions, including the use of jail sanctions, shall be
21 administered in accordance with evidence-based practices and
22 the Illinois PSC Standards. If the defendant needs treatment
23 for an opioid use disorder or dependence, the court may not
24 prohibit the defendant from participating in and receiving
25 medication assisted treatment under the care of a physician
26 licensed in this State to practice medicine in all of its

1 branches. Mental health court participants may not be required
2 to refrain from using medication assisted treatment as a term
3 or condition of successful completion of the mental health
4 court program.

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

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

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

6 (730 ILCS 168/30)

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

8 (a) The mental health court program may maintain or
9 collaborate with a network of mental health treatment programs
10 and, if it is a co-occurring mental health and substance use
11 disorder ~~abuse~~ court program, a network of substance use ~~abuse~~
12 treatment programs representing a continuum of treatment
13 options commensurate with the needs of defendants and
14 available resources.

15 (b) Any substance use disorder ~~abuse~~ treatment program to
16 which defendants are referred must be licensed by the State of
17 Illinois as SUPR providers, use evidence-based treatment, and
18 meet all of the rules and governing programs in Parts 2030 and
19 2060 of Title 77 of the Illinois Administrative Code.

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

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

24 (730 ILCS 168/35)

1 Sec. 35. Violation; termination; discharge.

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

5 (1) the defendant is not complying with the
6 requirements of the treatment program performing
7 ~~satisfactorily in the assigned program;~~

8 (2) (blank); ~~the defendant is not benefiting from~~
9 ~~education, 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 the
19 defendant ~~him or her~~ or proceed under Section 5-6-4 of the
20 Unified Code of Corrections for a violation of probation,
21 conditional discharge, or supervision hearing. Based on the
22 evidence presented, the court shall determine whether the
23 defendant has violated the conditions of the program and
24 whether the defendant should be dismissed from the program or
25 whether, pursuant to the court's Policies and Procedures, some
26 other alternative may be appropriate in the interests of the

1 defendant and the public.

2 (a-5) A defendant may voluntarily withdraw from the mental
3 health court program in accordance with the mental health
4 court program's Policies and Procedures. Prior to allowing the
5 participant to withdraw, the judge shall:

6 (i) ensure that the participant has the right to
7 consult with counsel prior to withdrawal;

8 (ii) determine in open court that the withdrawal is
9 made voluntarily and knowingly; and

10 (iii) admonish the participant in open court as to the
11 consequences, actual or potential, which can result from
12 withdrawal.

13 Upon withdrawal, the criminal proceedings may be
14 reinstated against the defendant or proceedings under Section
15 5-6-4 of the Unified Code of Corrections for a violation of
16 probation, conditional discharge, or supervision hearing may
17 be initiated.

18 (a-10) No defendant may be dismissed from the program
19 unless, prior to such dismissal, the defendant is informed in
20 writing: (i) of the reason or reasons for the dismissal; (ii)
21 the evidentiary basis supporting the reason or reasons for the
22 dismissal; (iii) that the defendant has a right to a hearing at
23 which he or she may present evidence supporting his or her
24 continuation in the program. ~~Based upon the evidence~~
25 ~~presented, the court shall determine whether the defendant has~~
26 ~~violated the conditions of the program and whether the~~

1 ~~defendant should be dismissed from the program or whether some~~
2 ~~other alternative may be appropriate in the interests of the~~
3 ~~defendant and the public.~~

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

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

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

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

24 (730 ILCS 168/45 new)

25 Sec. 45. Education seminars for judges. A judge assigned

1 to preside over a PSC should have experience and training and
2 continuing education in topics including, but not limited to:
3 (1) criminal law; (2) behavioral health; (3) confidentiality;
4 (4) ethics; (5) evidence-based practices; (6) co-occurring
5 disorders; (7) mental illness; (8) co-occurring disorders; and
6 (9) presiding over various types of PSCs.

7 (730 ILCS 168/50 new)

8 Sec. 50. Education seminars for Mental Health Court
9 prosecutors. Subject to appropriation, the Office of the
10 State's Attorneys Appellate Prosecutor shall conduct mandatory
11 education seminars for all prosecutors serving in Mental
12 Health courts throughout the State to ensure that the PSC
13 maintains fidelity to the PSC model. Topics include, but are
14 not limited to, evidence-based screening, assessment and
15 treatment practices, target population, substance use
16 disorders, mental illness, disability, co-occurring
17 disorders, trauma, confidentiality, criminogenic risks and
18 needs, incentives and sanctions, court processes, limited
19 English proficiency and team dynamics.

20 (730 ILCS 168/55 new)

21 Sec. 55. Education seminars for Mental Health Court public
22 defenders. Subject to appropriation, the Office of the State
23 Appellate Defender shall conduct mandatory education seminars
24 on the subjects of substance use disorder, addiction, and

1 mental health, for all public defenders and assistant public
2 defenders practicing in Mental Health courts throughout the
3 State to ensure that the PSC maintains fidelity to the PSC
4 model. Topics include, but are not limited to, evidence-based
5 screening, assessment and treatment practices, target
6 population, substance use disorders, mental illness,
7 disability, co-occurring disorders, trauma, confidentiality,
8 criminogenic risks and needs, incentives and sanctions, court
9 processes, limited English proficiency and team dynamics."