



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2565

Introduced 2/26/2021, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

730 ILCS 166/5
730 ILCS 166/10
730 ILCS 166/25
730 ILCS 166/30
730 ILCS 166/35
730 ILCS 167/10
730 ILCS 167/20
730 ILCS 167/25
730 ILCS 167/35
730 ILCS 167/40 new
730 ILCS 167/45 new
730 ILCS 167/50 new
730 ILCS 168/10
730 ILCS 168/20
730 ILCS 168/25
730 ILCS 168/35
730 ILCS 168/45 new
730 ILCS 168/50 new

Amends the Drug Court Treatment Act. Defines "clinical treatment plan" and "peer recovery coach". Provides that the assessment of the defendant shall include a validated clinical assessment. The clinical assessment shall include, but not be limited to, assessments of substance use and mental and behavioral health needs. The clinical assessment shall be administered by a qualified clinician and used to inform any Clinical Treatment Plans. Provides that the court may establish a mentorship program that provides access and support to program participants by peer recovery coaches. Amends the Veterans and Servicemembers Court Treatment Act. Provides that peer recovery coaches shall work to help facilitate participants' independence for continued success once the supports of the court are no longer available to them. Provides for education seminars for Veterans and Servicemembers, court prosecutors, judges, and public defenders. Amends the Mental Health Court Treatment Act. Provides that the court may establish a mentorship program that provides access and support to program participants by peer recovery coaches. Makes other changes.

LRB102 16553 KMF 21949 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Drug Court Treatment Act is amended by
5 changing Sections 5, 10, 25, 30, and 35 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 abuse problems 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 abuse issues 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
17 struggling with these issues, provide alternatives to
18 incarceration to address incidences ~~a criminal justice system~~
19 ~~program that will reduce the incidence of drug use, drug~~
20 ~~addiction, and~~ provide appropriate access to treatment and
21 support to persons with substance abuse issues ~~crimes~~
22 ~~committed as a result of drug use and drug addiction.~~ It is the
23 intent of the General Assembly to create specialized drug

1 courts, in accordance with national best practices, for
2 addressing addiction and co-occurring disorders with the
3 necessary flexibility to meet the needs for an array of
4 services and supports among participants in drug court
5 programs ~~problems~~ in the State of Illinois.

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

7 (730 ILCS 166/10)

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

9 "Drug court", "drug court program", or "program" means an
10 immediate and highly structured judicial intervention process
11 for substance abuse treatment of eligible defendants that
12 brings together substance abuse professionals, local social
13 programs, and intensive judicial monitoring in accordance with
14 the nationally recommended 10 key components of drug courts.

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

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

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

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

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

6 "Clinical Treatment Plan" means an evidence-based,
7 comprehensive, and individualized plan that defines the scope
8 of treatment services to be delivered by a PSC treatment
9 provider.

10 "Peer recovery coach" means a mentor assigned to a
11 defendant during participation in a drug treatment court
12 program who has been trained and certified by the court to
13 guide and mentor the participant to successfully complete the
14 assigned requirements. Peer recovery coaches should be
15 individuals with lived experience and work to help facilitate
16 participants' independence for continued success once the
17 supports of the court are no longer available to them.

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

19 (730 ILCS 166/25)

20 Sec. 25. Procedure.

21 (a) The court shall order an eligibility screening and an
22 assessment of the defendant by an agent designated by the
23 State of Illinois to provide assessment services for the
24 Illinois Courts. The assessment shall include a validated
25 clinical assessment. The clinical assessment shall include,

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

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

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

21 (d) In addition to any conditions authorized under the
22 Pretrial Services Act and Section 5-6-3 of the Unified Code of
23 Corrections, the court may order the defendant to complete
24 substance abuse treatment in an outpatient, inpatient,
25 residential, or jail-based custodial treatment program.
26 Substance abuse treatment programs must be licensed by the

1 State of Illinois as a Substance Use Prevention and Recovery
2 (SUPR) provider. The court may also order the defendant to
3 complete mental health counseling in an inpatient or
4 outpatient basis, in accordance with a physician's
5 recommendation and comply with physicians' recommendations
6 regarding medications and all follow up treatment. This
7 treatment may be for conditions including but not limited to
8 trauma, post-traumatic stress disorder, traumatic brain injury
9 and depression. Any period of time a defendant shall serve in a
10 jail-based treatment program may not be reduced by the
11 accumulation of good time or other credits and may be for a
12 period of up to 120 days.

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

1 or condition of successful completion of the drug court
2 program.

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

16 (g) The court may establish a mentorship program that
17 provides access and support to program participants by peer
18 recovery coaches. Courts shall be responsible to administer
19 the mentorship program with the support of mentors and local
20 mental health and substance abuse treatment organizations,
21 recovery coaches shall be trained and licensed by the court
22 prior to being assigned to participants in the program.

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

24 (730 ILCS 166/30)

25 Sec. 30. Mental health and substance ~~Substance~~ abuse

1 treatment.

2 (a) The drug court program shall maintain a network of
3 substance abuse treatment programs representing a continuum of
4 graduated substance abuse treatment options commensurate with
5 the needs of defendants; these shall include programs with the
6 State of Illinois and community-based programs supported,
7 sanctioned, and licensed as SUPR providers by the State of
8 Illinois.

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

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

17 (d) The Drug Court program may maintain or collaborate
18 with a network of mental health treatment programs
19 representing a continuum of treatment options commensurate
20 with the needs of the defendant and available resources
21 including programs with the State of Illinois and
22 community-based programs supported and sanctioned by the State
23 of Illinois.

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

25 (730 ILCS 166/35)

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 drug court professionals that:

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

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

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

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

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

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

1 branches.

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

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

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

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

22 Section 10. The Veterans and Servicemembers Court
23 Treatment Act is amended by changing Section 10, 20, 25, and 35
24 and by adding Sections 40, 45, and 50 as follows:

1 (730 ILCS 167/10)

2 Sec. 10. Definitions. In this Act:

3 "Combination Veterans and Servicemembers Court program"
4 means a court program that includes a pre-adjudicatory and a
5 post-adjudicatory Veterans and Servicemembers court program.

6 "Court" means Veterans and Servicemembers Court.

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

8 "Peer recovery coach" means a volunteer veteran mentor
9 assigned to a veteran or servicemember during participation in
10 a veteran treatment court program who has been trained and
11 certified by the court to guide and mentor the participant to
12 successfully complete the assigned requirements. Peer recovery
13 coaches shall work to help facilitate participants'
14 independence for continued success once the supports of the
15 court are no longer available to them.

16 "Post-adjudicatory Veterans and Servicemembers Court
17 Program" means a program in which the defendant has admitted
18 guilt or has been found guilty and agrees, along with the
19 prosecution, to enter a Veterans and Servicemembers Court
20 program as part of the defendant's sentence.

21 "Pre-adjudicatory Veterans and Servicemembers Court
22 Program" means a program that allows the defendant with the
23 consent of the prosecution, to expedite the defendant's
24 criminal case before conviction or before filing of a criminal
25 case and requires successful completion of the Veterans and
26 Servicemembers Court programs as part of the agreement.

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

4 "VA" means the United States Department of Veterans'
5 Affairs.

6 "VAC" means a veterans assistance commission.

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

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

15 "Veterans and Servicemembers Court" means a court or
16 program with an immediate and highly structured judicial
17 intervention process for substance abuse treatment, mental
18 health, or other assessed treatment needs of eligible veteran
19 and servicemember defendants that brings together substance
20 abuse professionals, mental health professionals, VA
21 professionals, local social programs and intensive judicial
22 monitoring in accordance with the nationally recommended 10
23 key components of drug courts.

24 "Clinical Treatment Plan" means an evidence-based,
25 comprehensive, and individualized plan that defines the scope
26 of treatment services to be delivered by a PSC treatment

1 provider.

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

3 (730 ILCS 167/20)

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

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 Veterans and Servicemembers Court program before adjudication
11 only upon the agreement of the defendant and with the approval
12 of the Court. A defendant may be admitted into a Veterans and
13 Servicemembers Court program post-adjudication only with the
14 approval of the court.

15 (b) A defendant shall be excluded from Veterans and
16 Servicemembers Court program if any of one of the following
17 applies:

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

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

22 (3) The defendant has been convicted of a crime of
23 violence within the past 10 years excluding incarceration
24 time, including first degree murder, second degree murder,
25 predatory criminal sexual assault of a child, aggravated

1 criminal sexual assault, criminal sexual assault, armed
2 robbery, aggravated arson, arson, aggravated kidnapping
3 and kidnapping, aggravated battery resulting in great
4 bodily harm or permanent disability, stalking, aggravated
5 stalking, or any offense involving the discharge of a
6 firearm.

7 (4) (Blank).

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

10 (6) The sentence imposed on the defendant, whether the
11 result of a plea or a finding of guilt, renders the
12 defendant ineligible for probation.

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

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

1 (730 ILCS 167/25)

2 Sec. 25. Procedure.

3 (a) The Court shall order the defendant to submit to an
4 eligibility screening and an assessment through the VA, VAC,
5 and/or the IDVA to provide information on the defendant's
6 veteran or servicemember status.

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

1 has been completed within the previous 60 days.

2 (c) The judge shall inform the defendant that if the
3 defendant fails to meet the conditions of the Veterans and
4 Servicemembers Court program, eligibility to participate in
5 the program may be revoked and the defendant may be sentenced
6 or the prosecution continued as provided in the Unified Code
7 of Corrections for the crime charged.

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

14 (e) In addition to any conditions authorized under the
15 Pretrial Services Act and Section 5-6-3 of the Unified Code of
16 Corrections, the Court may order the defendant to complete
17 substance abuse treatment in an outpatient, inpatient,
18 residential, or jail-based custodial treatment program, order
19 the defendant to complete mental health counseling in an
20 inpatient or outpatient basis, comply with physicians'
21 recommendation regarding medications and all follow up
22 treatment. This treatment may include but is not limited to
23 post-traumatic stress disorder, traumatic brain injury and
24 depression.

25 (f) 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 volunteer veterans
3 and local veteran service organizations, including a VAC. Peer
4 recovery coaches shall be trained and certified by the Court
5 prior to being assigned to participants in the program.

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

7 (730 ILCS 167/35)

8 Sec. 35. Violation; termination; discharge.

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

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

14 (2) the defendant is not benefitting from education,
15 treatment, or rehabilitation;

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

18 (4) the defendant has otherwise violated the terms and
19 conditions of the program or his or her sentence or is for
20 any reason unable to participate; the Court may impose
21 reasonable sanctions under prior written agreement of the
22 defendant, including but not limited to imprisonment or
23 dismissal of the defendant from the program and the Court
24 may reinstate criminal proceedings against him or her or
25 proceed under Section 5-6-4 of the Unified Code of

1 Corrections for a violation of probation, conditional
2 discharge, or supervision hearing.

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 him or her in the original
8 prosecution.

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

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

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

23 (730 ILCS 167/40 new)

24 Sec. 40. Education seminars for judges. The Administrative
25 Office of the Illinois Courts shall conduct education seminars

1 for judges throughout the State on how to operate Veterans and
2 Servicemembers Court Programs.

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 abuse, addiction, and mental health, for all
9 Veterans and Servicemembers Court prosecutors throughout the
10 State.

11 (730 ILCS 167/50 new)

12 Sec. 50. Education seminars for public defenders. Subject
13 to appropriation, the Office of the State Appellate Defender
14 shall conduct mandatory education seminars on the subjects of
15 substance abuse, addiction, and mental health, for all public
16 defenders and assistant public defenders practicing in
17 Veterans and Servicemembers Courts throughout the State.

18 Section 15. The Mental Health Court Treatment Act is
19 amended by changing Sections 10, 20, 25, and 35 and by adding
20 Sections 45 and 50 as follows:

21 (730 ILCS 168/10)

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

1 "Mental health court", "mental health court program", or
2 "program" means a structured judicial intervention process for
3 mental health treatment of eligible defendants that brings
4 together mental health professionals, local social programs,
5 and intensive judicial monitoring.

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

10 "Pre-adjudicatory mental health court program" means a
11 program that allows the defendant, with the consent of the
12 prosecution, to expedite the defendant's criminal case before
13 conviction or before filing of a criminal case and requires
14 successful completion of the mental health court program as
15 part of the agreement.

16 "Post-adjudicatory mental health court program" means a
17 program in which the defendant has admitted guilt or has been
18 found guilty and agrees, along with the prosecution, to enter
19 a mental health court program as part of the defendant's
20 sentence.

21 "Combination mental health court program" means a mental
22 health court program that includes a pre-adjudicatory mental
23 health court program and a post-adjudicatory mental health
24 court program.

25 "Co-occurring mental health and substance abuse court
26 program" means a program that includes persons with

1 co-occurring mental illness and substance abuse problems. Such
2 programs shall include professionals with training and
3 experience in treating persons with substance abuse problems
4 and mental illness.

5 "Clinical Treatment Plan" means an evidence-based,
6 comprehensive, and individualized plan that defines the scope
7 of treatment services to be delivered by a PSC treatment
8 provider.

9 "Peer recovery coach" means a mentor assigned to a
10 defendant during participation in a drug treatment court
11 program who has been trained and certified by the court to
12 guide and mentor the participant to successfully complete the
13 assigned requirements. Peer recovery coaches should be
14 individuals with lived experience and work to help facilitate
15 participants' independence for continued success once the
16 supports of the court are no longer available to them.

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

18 (730 ILCS 168/20)

19 Sec. 20. Eligibility.

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

25 (b) A defendant shall be excluded from a mental health

1 court program if any one of the following applies:

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

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

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

17 (4) (Blank).

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

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

23 (c) Recognizing that individuals struggling with mental
24 health, addiction and related co-occurring disorders have
25 often experienced trauma, mental ~~A defendant charged with~~
26 ~~prostitution under Section 11 14 of the Criminal Code of 2012~~

1 ~~may be admitted into a mental health court program, if~~
2 ~~available in the jurisdiction and provided that the~~
3 ~~requirements in subsections (a) and (b) are satisfied. Mental~~
4 health court programs may include specialized service programs
5 specifically designed to address ~~the~~ trauma. These specialized
6 services may be offered to defendants admitted to the mental
7 health court program. Judicial circuits establishing these
8 specialized programs shall partner with prostitution and human
9 trafficking advocates, survivors, and service providers in the
10 development of the programs. Trauma-informed services and
11 programming should be operated in accordance with best
12 practices outlined by the Substance Abuse and Mental Health
13 Service Administration's National Center for Trauma Informed
14 Care (SAMHSA). ~~associated with prostitution and human~~
15 ~~trafficking, and may offer those specialized services to~~
16 ~~defendants admitted to the mental health court program.~~
17 ~~Judicial circuits establishing these specialized programs~~
18 ~~shall partner with prostitution and human trafficking~~
19 ~~advocates, survivors, and service providers in the development~~
20 ~~of the programs.~~

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

22 (730 ILCS 168/25)

23 Sec. 25. Procedure.

24 (a) The court shall require an eligibility screening and
25 an assessment of the defendant. The assessment shall include a

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

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

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

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

1 program. Any period of time a defendant shall serve in a
2 jail-based treatment program may not be reduced by the
3 accumulation of good time or other credits and may be for a
4 period of up to 120 days.

5 (d-5) 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 abuse treatment in an outpatient, inpatient,
9 residential, or jail-based custodial treatment program.
10 Substance abuse treatment programs must be licensed by the
11 State of Illinois as a Substance Use Prevention and Recovery
12 (SUPR) provider. The court may also order the defendant to
13 complete mental health counseling in an inpatient or
14 outpatient basis, in accordance with a physician's
15 recommendation, comply with physicians' recommendations
16 regarding medications and all follow up treatment. This
17 treatment may include but is not limited to trauma,
18 post-traumatic stress disorder, traumatic brain injury and
19 depression. Any period of time a defendant shall serve in a
20 jail-based treatment program may not be reduced by the
21 accumulation of good time or other credits and may be for a
22 period of up to 120 days.

23 (e) The mental health court program may include a regimen
24 of graduated requirements and rewards and sanctions, including
25 but not limited to: ~~fines, fees, costs,~~ restitution,
26 incarceration of up to 180 days, individual and group therapy,

1 medication, drug analysis testing, close monitoring by the
2 court and supervision of progress, educational or vocational
3 counseling as appropriate and other requirements necessary to
4 fulfill the mental health 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 abuse
8 court program, a network of substance abuse 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) 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 SUPR licensed substance abuse treatment
17 organizations. Recovery coaches shall be trained and licensed
18 by the Court prior to being assigned to participants in the
19 program.

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

21 (730 ILCS 168/35)

22 Sec. 35. Violation; termination; discharge.

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

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

3 (2) the defendant is not benefiting from education,
4 treatment, or rehabilitation;

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

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

10 the court may impose reasonable sanctions under prior written
11 agreement of the defendant, including but not limited to
12 imprisonment or dismissal of the defendant from the program;
13 and the court may reinstate criminal proceedings against him
14 or her or proceed under Section 5-6-4 of the Unified Code of
15 Corrections for a violation of probation, conditional
16 discharge, or supervision hearing. No defendant may be
17 dismissed from the program unless, prior to such dismissal,
18 the defendant is informed in writing: (i) of the reason or
19 reasons for the dismissal; (ii) the evidentiary basis
20 supporting the reason or reasons for the dismissal; (iii) that
21 the defendant has a right to a hearing at which he or she may
22 present evidence supporting his or her continuation in the
23 program. Based upon the evidence presented, the court shall
24 determine whether the defendant has violated the conditions of
25 the program and whether the defendant should be dismissed from
26 the program or whether some other alternative may be

1 appropriate in the interests of the defendant and the public.

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

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

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

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

22 (730 ILCS 168/45 new)

23 Sec. 45. Education seminars for judges. The Administrative
24 Office of the Illinois Courts shall conduct education seminars
25 for judges throughout the State on how to operate Mental

1 Health Court programs.

2 (730 ILCS 168/50 new)

3 Sec. 50. Education seminars for public defenders. Subject
4 to appropriation, the Office of the State Appellate Defender
5 shall conduct mandatory education seminars on the subjects of
6 substance abuse, addiction, and mental health, for all public
7 defenders and assistant public defenders practicing in Mental
8 Health courts throughout the State.