

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, 35, 45, and 50 as follows:

6 (730 ILCS 166/5)

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

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

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

25 "Post-adjudicatory drug court program" means a program in

1 which the defendant has admitted guilt or has been found  
2 guilty and agrees, along with the prosecution, to enter a drug  
3 court program as part of the 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 "Clinical treatment plan" means an evidence-based,  
8 comprehensive, and individualized plan that defines the scope  
9 of treatment services to be delivered by a court treatment  
10 provider.

11 "Validated clinical assessment" may include assessment  
12 tools required by public or private insurance.

13 "Peer recovery coach" means a mentor assigned to a  
14 defendant during participation in a drug treatment court  
15 program who has been trained by the court, a service provider  
16 utilized by the court for substance use or mental health  
17 treatment, or be a recovery support specialist certified by  
18 the State of Illinois. Peer recovery coaches should be  
19 individuals with lived experience and shall guide and mentor  
20 the participant to successfully complete the assigned  
21 requirements and work to help facilitate participants'  
22 independence for continued success once the supports of the  
23 court are no longer available to them.

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

25 (730 ILCS 166/25)

1           Sec. 25. Procedure.

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

16           (b) The judge shall inform the defendant that if the  
17 defendant fails to meet the conditions of the drug court  
18 program, eligibility to participate in the program may be  
19 revoked and the defendant may be sentenced or the prosecution  
20 continued as provided in the Unified Code of Corrections for  
21 the crime charged.

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

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

1 may be for a period of up to 120 days.

2 (e) The drug court program shall include a regimen of  
3 graduated requirements and rewards and sanctions, including  
4 but not limited to: ~~finances, fees, costs,~~ restitution,  
5 incarceration of up to 180 days, individual and group therapy,  
6 drug analysis testing, close monitoring by the court at a  
7 minimum of once every 30 days and supervision of progress,  
8 educational or vocational counseling as appropriate, and other  
9 requirements necessary to fulfill the drug court program. If  
10 the defendant needs treatment for opioid use ~~abuse~~ or  
11 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, addiction, 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 best  
2 practices outlined by the Substance Abuse and Mental Health  
3 Service Administration's National Center for Trauma Informed  
4 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 treatment organizations. Peer  
10 recovery coaches shall be trained by the court, a service  
11 provider utilized by the court for substance use or mental  
12 health treatment, or be a recovery support specialist  
13 certified by the State of Illinois. Peer recovery coaches  
14 shall be approved by the Court and complete orientation with  
15 the court team prior to being assigned to participants in the  
16 program.

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

18 (730 ILCS 166/30)

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

21 (a) The drug court program shall maintain a network of  
22 substance use ~~abuse~~ treatment programs representing a  
23 continuum of graduated substance use ~~abuse~~ treatment options  
24 commensurate with the needs of defendants.

25 (b) Any substance use ~~abuse~~ treatment program to which

1 defendants are referred must be licensed by the State of  
2 Illinois as SUPR providers and utilize evidence-based  
3 treatment, meet all of the rules and governing programs in  
4 Parts 2030 and 2060 of Title 77 of the Illinois Administrative  
5 Code.

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

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

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

19 (730 ILCS 166/35)

20 Sec. 35. Violation; termination; discharge.

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

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



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

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

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

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

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

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 166/45)

18 Sec. 45. Education seminars for drug court prosecutors.  
19 Subject to appropriation, the Office of the State's Attorneys  
20 Appellate Prosecutor shall conduct mandatory education  
21 seminars on the subjects of substance use disorder ~~abuse~~ and  
22 addiction for all drug court prosecutors throughout the State.

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

24 (730 ILCS 166/50)

1           Sec. 50. Education seminars for public defenders. Subject  
2 to appropriation, the Office of the State Appellate Defender  
3 shall conduct mandatory education seminars on the subjects of  
4 substance use disorder ~~abuse~~ and addiction for all public  
5 defenders and assistant public defenders practicing in drug  
6 courts throughout the State.

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

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

11           (730 ILCS 167/5)

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

1 provide for the safety of the public and provide for the  
2 treatment of our veterans. It is the intent of the General  
3 Assembly to create specialized veteran and servicemember  
4 courts or programs with the necessary flexibility to meet the  
5 specialized needs ~~problems~~ faced by these veteran and  
6 servicemember defendants.

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

8 (730 ILCS 167/10)

9 Sec. 10. Definitions. In this Act:

10 "Combination Veterans and Servicemembers Court program"  
11 means a court program that includes a pre-adjudicatory and a  
12 post-adjudicatory Veterans and Servicemembers court program.

13 "Court" means Veterans and Servicemembers Court.

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

15 "Peer recovery coach" means a ~~volunteer~~ veteran mentor  
16 assigned to a veteran or servicemember during participation in  
17 a veteran treatment court program who has been trained and  
18 certified by the court, a service provider utilized by the  
19 court for substance use or mental health treatment, or be a  
20 recovery support specialist certified by the State of  
21 Illinois. Peer recovery coaches should be individuals with  
22 lived experience and shall ~~to~~ guide and mentor the participant  
23 to successfully complete ~~the~~ assigned requirements and work to  
24 help facilitate participants' independence for continued  
25 success once the supports of the court are no longer available

1 to them.

2 "Post-adjudicatory Veterans and Servicemembers Court  
3 Program" means a program in which the defendant has admitted  
4 guilt or has been found guilty and agrees, along with the  
5 prosecution, to enter a Veterans and Servicemembers Court  
6 program as part of the defendant's sentence.

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

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

16 "VA" means the United States Department of Veterans'  
17 Affairs.

18 "VAC" means a veterans assistance commission.

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

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

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

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

13 "Validated clinical assessment" may include assessment  
14 tools required by public or private insurance.

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

16 (730 ILCS 167/25)

17 Sec. 25. Procedure.

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

22 (b) The Court shall order the defendant to submit to an  
23 eligibility screening and mental health and drug/alcohol  
24 screening and assessment of the defendant by the VA, VAC, or by  
25 the IDVA to provide assessment services for Illinois Courts.

1 The assessment shall include a validated clinical assessment.  
2 The clinical assessment shall include, but not be limited to,  
3 assessments of substance use, mental and behavioral health  
4 needs. The clinical assessment shall be administered by a  
5 qualified clinician and used to inform any clinical treatment  
6 plans. Clinical treatment plans shall be developed ~~risks~~  
7 ~~assessment and be based,~~ in part, upon the known availability  
8 of treatment resources available to the Veterans and  
9 Servicemembers Court. The assessment shall also include  
10 recommendations for treatment of the conditions which are  
11 indicating a need for treatment under the monitoring of the  
12 Court and be reflective of a level of risk assessed for the  
13 individual seeking admission. An assessment need not be  
14 ordered if the Court finds a valid screening and/or assessment  
15 related to the present charge pending against the defendant  
16 has been completed within the previous 60 days.

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

23 (d) The defendant shall execute a written agreement with  
24 the Court as to his or her participation in the program and  
25 shall agree to all of the terms and conditions of the program,  
26 including but not limited to the possibility of sanctions or

1 incarceration for failing to abide or comply with the terms of  
2 the program.

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



1 ~~is not limited to post-traumatic stress disorder, traumatic~~  
2 ~~brain injury and depression.~~

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

16 (f) 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 volunteer veterans  
20 and local veteran service organizations, including a VAC. Peer  
21 recovery coaches shall be trained ~~and certified~~ by the Court,  
22 a service provider utilized by the court for substance use or  
23 mental health treatment, or be a recovery support specialist  
24 certified by the State of Illinois. Peer recovery coaches  
25 shall be approved by the Court and complete orientation with  
26 the court team prior to being assigned to participants in the

1 program.

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

3 (730 ILCS 167/30)

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

5 (a) The Veterans and Servicemembers Court program may  
6 maintain a network of substance use ~~abuse~~ treatment programs  
7 representing a continuum of graduated substance use ~~abuse~~  
8 treatment options commensurate with the needs of defendants;  
9 these shall include programs with the VA, IDVA, a VAC, the  
10 State of Illinois and community-based programs supported and  
11 sanctioned by either or both.

12 (b) Any substance use ~~abuse~~ treatment program to which  
13 defendants are referred must be licensed by the State of  
14 Illinois as SUPR providers and utilize best practices,  
15 recognized by the Substance Abuse and Mental Health Services  
16 Administration or other equivalent state or federal agencies,  
17 meet all of the rules and governing programs in Parts 2030 and  
18 2060 of Title 77 of the Illinois Administrative Code.

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

22 (d) The Veterans and Servicemembers Court program may  
23 maintain or collaborate with a network of mental health  
24 treatment programs and, if it is a co-occurring mental health  
25 and substance use ~~abuse~~ court program, a network of substance

1 ~~use abuse~~ treatment programs representing a continuum of  
2 treatment options commensurate with the needs of the defendant  
3 and available resources including programs with the VA, the  
4 IDVA, a VAC, and the State of Illinois. When not utilizing  
5 mental health treatment or services available through the VA,  
6 IDVA or VAC, partnerships with providers certified as  
7 community mental health or behavioral health centers shall be  
8 prioritized as possible.

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

10 (730 ILCS 167/35)

11 Sec. 35. Violation; termination; discharge.

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

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

17 (2) the defendant is not benefitting from education,  
18 treatment, or rehabilitation;

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

21 (4) the defendant has otherwise violated the terms and  
22 conditions of the program or his or her sentence or is for  
23 any reason unable to participate; the Court may impose  
24 reasonable sanctions under prior written agreement of the  
25 defendant, including but not limited to imprisonment or

1 dismissal of the defendant from the program and the Court  
2 may reinstate criminal proceedings against him or her or  
3 proceed under Section 5-6-4 of the Unified Code of  
4 Corrections for a violation of probation, conditional  
5 discharge, or supervision hearing.

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

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

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

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

1 (730 ILCS 167/40 new)

2 Sec. 40. Education seminars for judges. The Administrative  
3 Office of the Illinois Courts shall conduct education seminars  
4 for judges throughout the State on how to operate Veterans and  
5 Servicemembers Court Programs.

6 (730 ILCS 167/45 new)

7 Sec. 45. Education seminars for Veterans and  
8 Servicemembers Court prosecutors. Subject to appropriation,  
9 the Office of the State's Attorneys Appellate Prosecutor shall  
10 conduct mandatory education seminars on the subjects of  
11 substance use, addiction, and mental health, for all Veterans  
12 and Servicemembers Court prosecutors throughout the State.

13 (730 ILCS 167/50 new)

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

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

1 (730 ILCS 168/5)

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

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

1 (730 ILCS 168/10)

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

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

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

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

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

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

1           "Co-occurring mental health and substance use ~~abuse~~ court  
2 program" means a program that includes persons with  
3 co-occurring mental illness and substance use disorders ~~abuse~~  
4 ~~problems~~. Such programs shall include professionals with  
5 training and experience in treating persons with substance use  
6 disorders ~~abuse problems~~ and mental illness.

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

10           "Validated clinical assessment" may include assessment  
11 tools required by public or private insurance.

12           "Peer recovery coach" means a mentor assigned to a  
13 defendant during participation in a mental health treatment  
14 court program who has been trained by the court, a service  
15 provider utilized by the court for substance use or mental  
16 health treatment, or be a recovery support specialist  
17 certified by the State of Illinois. Peer recovery coaches  
18 should be individuals with lived experience and shall guide  
19 and mentor the participant to successfully complete the  
20 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 (Source: P.A. 97-946, eff. 8-13-12.)

24 (730 ILCS 168/20)

25 Sec. 20. Eligibility.



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

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

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

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

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

23           (4) (Blank).

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

26           (6) The sentence imposed on the defendant, whether the

1 result of a plea or a finding of guilt, renders the  
2 defendant ineligible for probation.

3 ~~(c) A defendant charged with prostitution under Section  
4 11-14 of the Criminal Code of 2012 may be admitted into a  
5 mental health court program, if available in the jurisdiction  
6 and provided that the requirements in subsections (a) and (b)  
7 are satisfied. Mental health court programs may include  
8 specialized service programs specifically designed to address  
9 the trauma associated with prostitution and human trafficking,  
10 and may offer those specialized services to defendants  
11 admitted to the mental health court program. Judicial circuits  
12 establishing these specialized programs shall partner with  
13 prostitution and human trafficking advocates, survivors, and  
14 service providers in the development of the programs.~~

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

16 (730 ILCS 168/25)

17 Sec. 25. Procedure.

18 (a) The court shall require an eligibility screening and  
19 an assessment of the defendant. The assessment shall include a  
20 validated clinical assessment. The clinical assessment shall  
21 include, but not be limited to, assessments of substance use,  
22 mental and behavioral health needs. The clinical assessment  
23 shall be administered by a qualified clinician and used to  
24 inform any clinical treatment plans. Clinical treatment plans  
25 shall be developed, in part, upon the known availability of

1 treatment resources available. An assessment need not be  
2 ordered if the court finds a valid assessment related to the  
3 present charge pending against the defendant has been  
4 completed within the previous 60 days.

5 (b) The judge shall inform the defendant that if the  
6 defendant fails to meet the requirements of the mental health  
7 court program, eligibility to participate in the program may  
8 be revoked and the defendant may be sentenced or the  
9 prosecution continued, as provided in the Unified Code of  
10 Corrections, for the crime charged.

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

16 (d) In addition to any conditions authorized under the  
17 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
18 Corrections, the court may order the defendant to complete  
19 mental health or substance use ~~abuse~~ treatment in an  
20 outpatient, inpatient, residential, or jail-based custodial  
21 treatment program, order the defendant to complete mental  
22 health counseling in an inpatient or outpatient basis, comply  
23 with physicians' recommendation regarding medications and all  
24 follow up treatment for any mental health diagnosis made by  
25 the provider. Substance abuse treatment programs must be  
26 licensed by the State of Illinois as a Substance Use

1 Prevention and Recovery (SUPR) provider and utilize  
2 evidence-based treatment. When referring participants to  
3 mental health treatment programs, the court shall prioritize  
4 providers certified as community mental health or behavioral  
5 health centers as possible. The court shall prioritize the  
6 least restrictive treatment option when ordering mental health  
7 or substance use treatment for participants. The court may  
8 order jail-based custodial treatment if it finds that  
9 jail-based treatment is the least restrictive alternative  
10 based on evidence that efforts were made to locate less  
11 restrictive alternatives to secure confinement and the reasons  
12 why efforts were unsuccessful in locating a less restrictive  
13 alternative to jail-based custodial treatment. Any period of  
14 time a defendant shall serve in a jail-based treatment program  
15 may not be reduced by the accumulation of good time or other  
16 credits and may be for a period of up to 120 days.

17 (e) The mental health court program may include a regimen  
18 of graduated requirements and rewards and sanctions, including  
19 but not limited to: ~~fines, fees, costs,~~ restitution,  
20 incarceration of up to 180 days, individual and group therapy,  
21 medication, drug analysis testing, close monitoring by the  
22 court and supervision of progress, educational or vocational  
23 counseling as appropriate and other requirements necessary to  
24 fulfill the mental health court program.

25 (f) The Mental Health Court program may maintain or  
26 collaborate with a network of mental health treatment programs

1 and, if it is a co-occurring mental health and substance use  
2 court program, a network of substance use treatment programs  
3 representing a continuum of treatment options commensurate  
4 with the needs of the defendant and available resources  
5 including programs with the State of Illinois.

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

18 (h) The Court may establish a mentorship program that  
19 provides access and support to program participants by peer  
20 recovery coaches. Courts shall be responsible to administer  
21 the mentorship program with the support of mentors and local  
22 mental health and substance use treatment organizations. Peer  
23 recovery coaches shall be trained and licensed by the court, a  
24 service provider utilized by the court for substance use or  
25 mental health treatment, or be a recovery support specialist  
26 certified by the State of Illinois. Peer recovery coaches

1 shall be approved by the Court and complete orientation with  
2 the court team prior to being assigned to participants in the  
3 program.

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

5 (730 ILCS 168/30)

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

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

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

7                 (2) the defendant is not benefiting 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. No defendant may be  
21 dismissed from the program unless, prior to such dismissal,  
22 the defendant is informed in writing: (i) of the reason or  
23 reasons for the dismissal; (ii) the evidentiary basis  
24 supporting the reason or reasons for the dismissal; (iii) that  
25 the defendant has a right to a hearing at which he or she may  
26 present evidence supporting his or her continuation in the

1 program. Based upon the evidence presented, the court shall  
2 determine whether the defendant has violated the conditions of  
3 the program and whether the defendant should be dismissed from  
4 the program or whether some other alternative may be  
5 appropriate in the interests of the defendant and the public.

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

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

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

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



1 (730 ILCS 168/45 new)

2 Sec. 45. Education seminars for judges. The Administrative  
3 Office of the Illinois Courts shall conduct education seminars  
4 for judges throughout the State on how to operate Mental  
5 Health Court programs.

6 (730 ILCS 168/50 new)

7 Sec. 50. Education seminars for Mental Health Court  
8 prosecutors. Subject to appropriation, the Office of the  
9 State's Attorneys Appellate Prosecutor shall conduct mandatory  
10 education seminars on the subjects of substance use, addiction  
11 and mental health, for all prosecutors serving in Mental  
12 Health courts throughout the State.

13 (730 ILCS 168/55 new)

14 Sec. 55. Education seminars for public defenders. Subject  
15 to appropriation, the Office of the State Appellate Defender  
16 shall conduct mandatory education seminars on the subjects of  
17 substance use, addiction, and mental health, for all public  
18 defenders and assistant public defenders practicing in Mental  
19 Health courts throughout the State.