

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, 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 a criminal justice system to recognize  
17 individuals struggling with these issues, provide alternatives  
18 to incarceration to address substance use disorders when  
19 possible, and provide appropriate access to treatment and  
20 support to such individuals ~~program that will reduce the~~  
21 ~~incidence of drug use, drug addiction, and crimes committed as~~  
22 ~~a result of drug use and drug addiction.~~ It is the intent of  
23 the General Assembly to create specialized drug courts, in

1 accordance with evidence-based practices and the Illinois  
2 Supreme Court Problem-Solving Court Standards for addressing  
3 substance use and co-occurring disorders, with the necessary  
4 flexibility to meet the needs for an array of services and  
5 supports among participants in certified drug court programs  
6 ~~the drug problems~~ in the State of Illinois.

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

8 (730 ILCS 166/10)

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

10 "Certification" means the process by which a  
11 problem-solving court obtains approval from the Supreme Court  
12 to operate in accordance with the Problem-Solving Court  
13 Standards.

14 "Clinical treatment plan" means an evidence-based,  
15 comprehensive, and individualized plan that: (i) is developed  
16 by a qualified professional in accordance with the Department  
17 of Human Services substance use prevention and recovery rules  
18 under 77 Ill. Adm. Code 2060 or an equivalent standard in any  
19 state where treatment may take place; and (ii) defines the  
20 scope of treatment services to be delivered by a court  
21 treatment provider.

22 "Combination drug court program" means a type of  
23 problem-solving court that allows an individual to enter a  
24 problem-solving court before a plea, conviction, or  
25 disposition while also permitting an individual who has

1 admitted guilt, or been found guilty, to enter a  
2 problem-solving court as a part of the individual's sentence  
3 or disposition.

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

8 "Community mental health center" means an entity:

9 (1) licensed by the Department of Public Health as a  
10 community mental health center in accordance with the  
11 conditions of participation for community mental health  
12 centers established by the Centers for Medicare and  
13 Medicaid Services; and

14 (2) that provides outpatient services, including  
15 specialized outpatient services, for individuals who are  
16 chronically mental ill.

17 "Co-occurring mental health and substance use disorders  
18 court program" means a program that includes an individual  
19 with co-occurring mental illness and substance use disorder  
20 diagnoses and professionals with training and experience in  
21 treating individuals with diagnoses of substance use disorder  
22 and mental illness.

23 "Drug court", "drug court program", "court", or "program"  
24 means a specially designated court, court calendar, or docket  
25 facilitating intensive therapeutic treatment to monitor and  
26 assist participants with substance use disorders in making

1 positive lifestyle changes and reducing the rate of  
2 recidivism. Drug court programs are nonadversarial in nature  
3 and bring together substance use disorder professionals, local  
4 social programs, and monitoring in accordance with the  
5 nationally recommended 10 key components of drug courts and  
6 the Problem-Solving Court Standards. Common features of a drug  
7 court program 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,  
13 and therapeutic adjustments to address behavior; frequent  
14 judicial interaction with participants; less formal court  
15 process and procedures; voluntary participation; and a low  
16 treatment staff-to-client ratio. ~~an immediate and highly~~  
17 ~~structured judicial intervention process for substance abuse~~  
18 ~~treatment of eligible defendants that brings together~~  
19 ~~substance abuse professionals, local social programs, and~~  
20 ~~intensive judicial monitoring in accordance with the~~  
21 ~~nationally recommended 10 key components of drug courts.~~

22 "Drug court professional" means a member of the drug court  
23 team, including but not limited to a judge, prosecutor,  
24 defense attorney, probation officer, coordinator, or treatment  
25 provider, ~~or peer recovery coach.~~

26 "Peer recovery coach" means a mentor assigned to a

1 defendant during participation in a drug treatment court  
2 program who has been trained by the court, a service provider  
3 used by the court for substance use disorder or mental health  
4 treatment, a local service provider with an established peer  
5 recovery coach or mentor program not otherwise used by the  
6 court for treatment, or a Certified Recovery Support  
7 Specialist certified by the Illinois Certification Board.  
8 "Peer recovery coach" includes individuals with lived  
9 experiences of the issues the problem-solving court seeks to  
10 address, including, but not limited to, substance use  
11 disorder, mental illness, and co-occurring disorders or  
12 involvement with the criminal justice system. "Peer recovery  
13 coach" includes individuals required to guide and mentor the  
14 participant to successfully complete assigned requirements and  
15 to facilitate participants' independence for continued success  
16 once the supports of the court are no longer available to them.

17 "Post-adjudicatory drug court program" means a program  
18 that allows an individual who has admitted guilt or has been  
19 found guilty, with the defendant's consent, and the approval  
20 of the court, to enter a drug court program as part of the  
21 defendant's sentence or disposition.

22 "Pre-adjudicatory drug court program" means a program that  
23 allows the defendant, with the defendant's consent and the  
24 approval of the court, to enter the drug court program before  
25 plea, conviction, or disposition and requires successful  
26 completion of the drug court program as part of the agreement.

1       "Problem-Solving Court Standards" means the statewide  
2 standards adopted by the Supreme Court that set forth the  
3 minimum requirements for the planning, establishment,  
4 certification, operation, and evaluation of all  
5 problem-solving courts in this State.

6       "Validated clinical assessment" means a validated  
7 assessment tool administered by a qualified clinician to  
8 determine the treatment needs of participants. "Validated  
9 clinical assessment" includes assessment tools required by  
10 public or private insurance.

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

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

20       ~~"Combination drug court program" means a drug court~~  
21 ~~program that includes a pre-adjudicatory drug court program~~  
22 ~~and a post-adjudicatory drug court program.~~

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

24       (730 ILCS 166/15)

25       Sec. 15. Authorization.

1           (a) The Chief Judge of each judicial circuit ~~may~~ must  
2 establish a drug court program in compliance with the  
3 Problem-Solving Court Standards. At the discretion of the  
4 Chief Judge, the drug court program may be operated in one or  
5 more counties of the circuit and allow defendants from all  
6 counties within the circuit to participate. Drug court  
7 programs must be certified by the Illinois Supreme Court  
8 ~~including the format under which it operates under this Act.~~

9           (b) Whenever the county boards of 2 or more counties  
10 within the same judicial circuit ~~shall~~ determine that a single  
11 drug court program would best serve those counties, the county  
12 board of each such county may ~~shall~~ adopt a resolution to the  
13 effect that there shall be a single drug court program serving  
14 those counties, and shall provide a copy of the resolution to  
15 the Chief Judge of the judicial circuit. Upon receipt of such a  
16 resolution, those resolutions, the Chief Judge may ~~shall~~  
17 establish or, in the case of an existing drug court program,  
18 reorganize ~~re-organize~~ a single drug court program to serve  
19 those counties.

20           (c) (Blank). ~~Upon petition of the county board by the~~  
21 ~~State's Attorney, the court may, for good cause shown of~~  
22 ~~financial hardship or lack of necessary resources, enter an~~  
23 ~~order delaying the implementation of the requirements of~~  
24 ~~subsection (a) of this Section for an individual county, for a~~  
25 ~~period not to exceed 2 years.~~

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

1 (730 ILCS 166/20)

2 Sec. 20. Eligibility.

3 (a) A defendant may be admitted into a drug court program  
4 only upon the consent ~~agreement~~ of the defendant and with the  
5 approval of the court. A defendant agrees to be admitted when a  
6 written consent to participate is provided to the court in  
7 open court and the defendant acknowledges understanding its  
8 contents.

9 (a-5) Each drug court shall have a target population  
10 defined in its written policies and procedures. The policies  
11 and procedures shall define that court's eligibility and  
12 exclusionary criteria.

13 (b) A defendant shall be excluded from a drug court  
14 program if any ~~of~~ one of the following applies ~~apply~~:

15 (1) The crime is a crime of violence as set forth in  
16 paragraph ~~clause~~ (4) of this subsection (b).

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

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

21 (4) The defendant has been convicted of a crime of  
22 violence within the past 5 ~~10~~ years excluding  
23 incarceration time, parole, and periods of mandatory  
24 supervised release. As used in this paragraph ~~Section~~,  
25 "crime of violence" means: first degree murder, second

1 degree murder, predatory criminal sexual assault of a  
2 child, aggravated criminal sexual assault, criminal sexual  
3 assault, armed robbery, aggravated arson, arson,  
4 aggravated kidnaping, kidnapping ~~kidnaping~~, aggravated  
5 battery resulting in great bodily harm or permanent  
6 disability, aggravated domestic battery resulting in great  
7 bodily harm or permanent disability, aggravated criminal  
8 sexual abuse by a person in a position of trust or  
9 authority over a child, stalking, aggravated stalking,  
10 home invasion, aggravated vehicular hijacking, or any  
11 offense involving the discharge of a firearm.

12 (5) The defendant is charged with a violation of  
13 subparagraph (F) of paragraph (1) of subsection (d) of  
14 Section 11-501 of the Illinois Vehicle Code in which an  
15 individual is charged with aggravated driving under the  
16 influence that resulted in the death of another person or  
17 when the violation was a proximate cause of the death,  
18 unless, pursuant to subparagraph (G) of paragraph (1) of  
19 subsection (d) of Section 11-501 of the Illinois Vehicle  
20 Code, the court determines that extraordinary  
21 circumstances exist and require 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 the defendant is charged with a Class 2 or  
25 greater felony violation of:

26 (1) Section 401, 401.1, 405, or 405.2 of the Illinois

1 Controlled Substances Act;

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

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

7 ~~the defendant is charged with a Class 2 or greater felony~~  
8 ~~violation of:~~

9 ~~(A) Section 401, 401.1, 405, or 405.2 of the~~  
10 ~~Illinois Controlled Substances Act;~~

11 ~~(B) Section 5, 5.1, or 5.2 of the Cannabis Control~~  
12 ~~Act;~~

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

16 ~~(2) the defendant has previously, on 3 or more~~  
17 ~~occasions, either completed a drug court program, been~~  
18 ~~discharged from a drug court program, or been terminated~~  
19 ~~from a drug court program.~~

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

21 (730 ILCS 166/25)

22 Sec. 25. Procedure.

23 (a) A ~~The court shall order an eligibility~~ screening and  
24 clinical needs ~~an~~ assessment and risk assessment of the  
25 defendant shall be performed as required by the court's

1 policies and procedures prior to the defendant's admission  
2 into a drug court. The clinical needs assessment shall be  
3 conducted in accordance with the Department of Human Services  
4 substance use prevention and recovery rules under 77 Ill. Adm.  
5 Code 2060. The assessment shall include, but is not limited  
6 to, assessments of substance use and mental and behavioral  
7 health needs. The assessment shall be administered by  
8 individuals approved under the Department of Human Services  
9 substance use prevention and recovery rules for professional  
10 staff under 77 Ill. Adm. Code 2060 and used to inform any  
11 clinical treatment plans. Clinical treatment plans shall be  
12 developed in accordance with the Problem-Solving Court  
13 Standards and in part upon the known availability of treatment  
14 resources.

15 Any risk assessment shall be performed using an assessment  
16 tool approved by the Administrative Office of the Illinois  
17 Courts and as required by the court's policies and procedures.  
18 ~~by an agent designated by the State of Illinois to provide~~  
19 ~~assessment services for the Illinois Courts.~~

20 An assessment need not be ordered if the court finds a  
21 valid assessment related to the present charge pending against  
22 the defendant has been completed within the previous 60 days.

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

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

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

8 (d) In addition to any conditions authorized under the  
9 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
10 Corrections, the court may order the participant to complete  
11 mental health counseling or substance use disorder treatment  
12 in an outpatient or residential treatment program and may  
13 order the participant to comply with physicians'  
14 recommendations regarding medications and all follow-up  
15 treatment for any mental health diagnosis made by the  
16 provider. Substance use disorder treatment programs must be  
17 licensed by the Department of Human Services in accordance  
18 with the Department of Human Services substance use prevention  
19 and recovery rules, or an equivalent standard in any other  
20 state where the treatment may take place, and use  
21 evidence-based treatment. When referring participants to  
22 mental health treatment programs, the court shall prioritize  
23 providers certified as community mental health or behavioral  
24 health centers if possible. The court shall consider the least  
25 restrictive treatment option when ordering mental health or  
26 substance use disorder treatment for participants and the

1 results of clinical and risk assessments in accordance with  
2 the Problem-Solving Court Standards. ~~defendant to complete~~  
3 ~~substance abuse treatment in an outpatient, inpatient,~~  
4 ~~residential, or jail-based custodial treatment program. Any~~  
5 ~~period of time a defendant shall serve in a jail based~~  
6 ~~treatment program may not be reduced by the accumulation of~~  
7 ~~good time or other credits and may be for a period of up to 120~~  
8 ~~days.~~

9 (e) The drug court program shall include a regimen of  
10 graduated requirements, including ~~and rewards and sanctions,~~  
11 ~~including but not limited to:~~ fines, fees, costs, restitution,  
12 ~~incarceration of up to 180 days,~~ individual and group therapy,  
13 substance drug analysis testing, close monitoring by the  
14 court, restitution, ~~at a minimum of once every 30 days and~~  
15 ~~supervision of progress,~~ educational or vocational counseling  
16 as appropriate, and other requirements necessary to fulfill  
17 the drug court program. Program phases, therapeutic  
18 adjustments, incentives, and sanctions, including the use of  
19 jail sanctions, shall be administered in accordance with  
20 evidence-based practices and the Problem-Solving Court  
21 Standards. A participant's failure to pay program fines or  
22 fees shall not prevent the participant from advancing phases  
23 or successfully completing the program. If the participant  
24 ~~defendant~~ needs treatment for an opioid use disorder ~~abuse~~ or  
25 dependence, the court may not prohibit the participant  
26 ~~defendant~~ from ~~participating in~~ and receiving

1 ~~medication-assisted~~ ~~medication-assisted~~ treatment under the  
2 care of a physician licensed in this State to practice  
3 medicine in all of its branches. Drug court participants may  
4 not be required to refrain from using medication-assisted  
5 ~~medication-assisted~~ treatment as a term or condition of  
6 successful completion of the drug court program.

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

20 (g) The court may establish a mentorship program that  
21 provides access and support to program participants by peer  
22 recovery coaches. Courts shall be responsible to administer  
23 the mentorship program with the support of mentors and local  
24 mental health and substance use disorder treatment  
25 organizations.

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

1 (730 ILCS 166/30)

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

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

9 (b) Any substance use disorder ~~abuse~~ treatment program to  
10 which participants ~~defendants~~ are referred must hold a valid  
11 license from the Department of Human Services Division of  
12 Substance Use Prevention and Recovery, use evidence-based  
13 treatment, and deliver all services in accordance with 77 Ill.  
14 Adm. Code 2060, including services available through the  
15 United States Department of Veterans Affairs, the Illinois  
16 Department of Veterans' Affairs, or Veterans Assistance  
17 Commission, or an equivalent standard in any other state where  
18 treatment may take place ~~meet all of the rules and governing~~  
19 ~~programs in Parts 2030 and 2060 of Title 77 of the Illinois~~  
20 ~~Administrative Code.~~

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

24 (d) The drug court program may maintain or collaborate  
25 with a network of mental health treatment programs

1 representing a continuum of treatment options commensurate  
2 with the needs of the participant and available resources,  
3 including programs with the State and community-based programs  
4 supported and sanctioned by the State. Partnerships with  
5 providers certified as mental health or behavioral health  
6 centers shall be prioritized when possible.

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

8 (730 ILCS 166/35)

9 Sec. 35. Violation; termination; dismissal from program  
10 discharge.

11 (a) If the court finds from the evidence presented,  
12 including, but not limited to, the reports or proffers of  
13 proof from the drug court professionals, that: (1) the  
14 participant is not complying with the requirements of the  
15 treatment program; or (2) the participant has otherwise  
16 violated the terms and conditions of the program, the court  
17 may impose reasonable sanctions under the prior written  
18 agreement of the participant, including, but not limited to,  
19 imprisonment or dismissal of the participant from the program,  
20 and the court may reinstate criminal proceedings against the  
21 participant or proceed under Section 5-6-4 of the Unified Code  
22 of Corrections for a violation of probation, conditional  
23 discharge, or supervision hearing. ~~If the court finds from the~~  
24 ~~evidence presented including but not limited to the reports or~~  
25 ~~proffers of proof from the drug court professionals that:~~

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

3 ~~(2) the defendant is not benefitting 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.~~

17 (a-5) Based on the evidence presented, the court shall  
18 determine whether the participant has violated the conditions  
19 of the program and whether the participant should be dismissed  
20 from the program or whether, pursuant to the court's policies  
21 and procedures, some other alternative may be appropriate in  
22 the interests of the participant and the public.

23 (a-10) A participant ~~defendant~~ who is assigned to a  
24 substance use disorder ~~abuse~~ treatment program under this Act  
25 for an opioid use disorder ~~abuse or dependence~~ is not in  
26 violation of the terms or conditions of the program on the

1 basis of ~~his or her~~ participation in medication-assisted  
2 ~~medication-assisted~~ treatment under the care of a physician  
3 licensed in this State to practice medicine in all of its  
4 branches.

5 (a-15) A participant may voluntarily withdraw from the  
6 drug court program in accordance with the drug court program's  
7 policies and procedures. Prior to allowing the participant to  
8 withdraw, the judge shall:

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

11 (2) determine in open court that the withdrawal is  
12 made voluntarily and knowingly; and

13 (3) admonish the participant in open court as to the  
14 consequences, actual or potential, which can result from  
15 withdrawal.

16 Upon withdrawal, the criminal proceedings may be  
17 reinstated against the participant or proceedings may be  
18 initiated 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-20) No participant may be dismissed from the program  
22 unless, prior to dismissal, the participant is informed in  
23 writing:

24 (1) of the reason or reasons for the dismissal;

25 (2) the evidentiary basis supporting the reason or  
26 reasons for the dismissal; and

1           (3) that the participant has a right to a hearing at  
2           which the participant may present evidence supporting the  
3           participant's continuation in the program.

4           (a-25) A participant who has not violated the conditions  
5           of the program in such a way as to warrant unsuccessful  
6           dismissal, but who is unable to complete program requirements  
7           to qualify for a successful discharge, may be terminated from  
8           the program as a neutral discharge.

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

16          (c) Upon successful completion of the terms and conditions  
17          of the program, any State's Attorney in the county of  
18          conviction, participant, or defense attorney may move to  
19          vacate any convictions that are eligible for sealing under the  
20          Criminal Identification Act. A participant may immediately  
21          file a petition to expunge vacated convictions and the  
22          associated underlying records per the Criminal Identification  
23          Act. If the State's Attorney moves to vacate a conviction, the  
24          State's Attorney may not object to expungement of that  
25          conviction or the underlying record.

26          (d) The drug court program may maintain or collaborate

1 with a network of legal aid organizations that specialize in  
2 conviction relief to support participants navigating the  
3 expungement and sealing process.

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

5 (730 ILCS 166/40)

6 Sec. 40. Education ~~seminars~~ for judges. A judge assigned  
7 to preside over a drug treatment court shall have experience,  
8 training, and continuing education in topics including, but  
9 not limited to:

10 (1) criminal law;

11 (2) behavioral health;

12 (3) confidentiality;

13 (4) ethics;

14 (5) evidence-based practices;

15 (6) substance use disorders;

16 (7) mental illness;

17 (8) co-occurring disorders; and

18 (9) presiding over various types of problem-solving  
19 courts. ~~The Administrative Office of the Illinois Courts shall~~  
20 ~~conduct education seminars for judges throughout the State on~~  
21 ~~how to operate drug court programs with a specific emphasis on~~  
22 ~~eases involving the illegal possession of methamphetamine.~~

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

24 (730 ILCS 166/45)

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

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

15                 (730 ILCS 166/50)

16           Sec. 50. Education seminars for drug court public  
17           defenders. Subject to appropriation, the Office of the State  
18           Appellate Defender shall conduct mandatory education seminars  
19           ~~on the subjects of substance abuse and addiction~~ for all drug  
20           court public defenders and assistant public defenders  
21           practicing in drug courts throughout the State to ensure that  
22           the problem-solving court maintains fidelity to the  
23           problem-solving court model. Topics include, but are not  
24           limited to, evidence-based screening, assessment and treatment  
25           practices, target population, substance use disorders, mental

1 illness, disability, co-occurring disorders, trauma,  
2 confidentiality, criminogenic risks and needs, incentives and  
3 sanctions, court processes, limited English proficiency, and  
4 team dynamics.

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

6 Section 10. The Veterans and Servicemembers Court  
7 Treatment Act is amended by changing Sections 5, 10, 15, 20,  
8 25, 30, and 35 and by adding Sections 40, 45, and 50 as  
9 follows:

10 (730 ILCS 167/5)

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

1 accountability for their wrongdoing, provide for the safety of  
2 the public, and provide for the treatment of such ~~our~~  
3 veterans. It is the intent of the General Assembly to create  
4 specialized veteran and servicemember courts in accordance  
5 with evidence-based practices and Problem-Solving Court  
6 Standards for addressing substance use, mental health, and  
7 co-occurring disorders ~~or programs~~ with the necessary  
8 flexibility to meet the specialized needs for an array of  
9 services and supports among participants in certified veteran  
10 and servicemember court programs in the State ~~problems faced~~  
11 ~~by these veteran and servicemember defendants.~~

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

13 (730 ILCS 167/10)

14 Sec. 10. Definitions. In this Act:

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

19 "Clinical treatment plan" means an evidence-based,  
20 comprehensive, and individualized plan that: (i) is developed  
21 by a qualified professional in accordance with the Department  
22 of Human Services substance use prevention and recovery rules  
23 under 77 Ill. Adm. Code 2060 or an equivalent standard in any  
24 state where treatment may take place; and (ii) defines the  
25 scope of treatment services to be delivered by a court

1 treatment provider.

2 "Combination Veterans and Servicemembers court program"  
3 means a type of problem-solving court that allows an  
4 individual to enter a problem-solving court before a plea,  
5 conviction, or disposition while also permitting an individual  
6 who has admitted guilt, or been found guilty, to enter a  
7 problem-solving court as a part of the individual's sentence  
8 or disposition. ~~"Combination Veterans and Servicemembers Court~~  
9 ~~program"~~ means a court program that includes a  
10 ~~pre adjudicatory and a post adjudicatory Veterans and~~  
11 ~~Servicemembers court program.~~

12 "Community behavioral health center" means a physical site  
13 where behavioral healthcare services are provided in  
14 accordance with the Community Behavioral Health Center  
15 Infrastructure Act.

16 "Community mental health center" means an entity:

17 (1) licensed by the Department of Public Health as a  
18 community mental health center in accordance with the  
19 conditions of participation for community mental health  
20 centers established by the Centers for Medicare and  
21 Medicaid Services; and

22 (2) that provides outpatient services, including  
23 specialized outpatient services, for individuals who are  
24 chronically mental ill.

25 "Co-occurring mental health and substance use disorders  
26 court program" means a program that includes an individual

1 with co-occurring mental illness and substance use disorder  
2 diagnoses and professionals with training and experience in  
3 treating individuals with diagnoses of substance use disorder  
4 and mental illness.

5 "Court" means veterans and servicemembers court ~~Veterans~~  
6 ~~and Servicemembers Court.~~

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

8 "Peer recovery coach" means a ~~volunteer~~ veteran mentor as  
9 defined nationally by Justice for Vets and assigned to a  
10 veteran or servicemember during participation in a veteran  
11 treatment court program who has been approved by the court,  
12 and trained according to curriculum recommended by Justice for  
13 Vets, a service provider used by the court for substance use  
14 disorder or mental health treatment, a local service provider  
15 with an established peer recovery coach or mentor program not  
16 otherwise used by the court for treatment, or a Certified  
17 Recovery Support Specialist certified by the Illinois  
18 Certification Board. "Peer recovery coach" includes  
19 individuals with lived experiences of the issues the  
20 problem-solving court seeks to address, including, but not  
21 limited to, substance use disorder, mental illness, and  
22 co-occurring disorders or involvement with the criminal  
23 justice system. "Peer recovery coach" includes individuals  
24 required to guide and mentor the participant to successfully  
25 complete assigned requirements and to facilitate participants'  
26 independence for continued success once the supports of the

1 ~~court are no longer available to them. and certified by the~~  
2 ~~court to guide and mentor the participant to successfully~~  
3 ~~complete the assigned requirements.~~

4 "Post-adjudicatory veterans and servicemembers court  
5 program Veterans and Servicemembers Court Program" means a  
6 program that allows a defendant who in which the defendant has  
7 admitted guilt or has been found guilty and agrees, with the  
8 defendant's consent, and the approval of the court, along with  
9 ~~the prosecution,~~ to enter a veterans and servicemembers court  
10 ~~Veterans and Servicemembers Court~~ program as part of the  
11 defendant's sentence or disposition.

12 "Pre-adjudicatory veterans and servicemembers court  
13 program Veterans and Servicemembers Court Program" means a  
14 program that allows the defendant, with the defendant's  
15 consent and the approval of the court, to enter the Veterans  
16 and Servicemembers Court program before plea, conviction, or  
17 disposition with the consent of the prosecution, to expedite  
18 ~~the defendant's criminal case before conviction or before~~  
19 ~~filing of a criminal case~~ and requires successful completion  
20 of the Veterans and Servicemembers Court programs as part of  
21 the agreement.

22 "Problem-Solving Court Standards" means the statewide  
23 standards adopted by the Supreme Court that set forth the  
24 minimum requirements for the planning, establishment,  
25 certification, operation, and evaluation of all  
26 problem-solving courts in this State.

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 "Validated clinical assessment" means a validated  
8 assessment tool administered by a qualified clinician to  
9 determine the treatment needs of participants. "Validated  
10 clinical assessment" includes assessment tools required by  
11 public or private insurance.

12 "Veteran" means a person who previously served as an in  
13 the active servicemember military, naval, or air service and  
14 who was discharged or released therefrom under conditions  
15 other than dishonorable.

16 "Veterans and servicemembers court ~~Servicemembers Court~~  
17 professional" means a member of the veterans and  
18 servicemembers court ~~Veterans and Servicemembers Court~~ team,  
19 including, but not limited to, a judge, prosecutor, defense  
20 attorney, probation officer, coordinator, treatment provider,  
21 ~~or peer recovery coach.~~

22 "Veterans and servicemembers court", "veterans and  
23 servicemembers court program", "court", or "program" means a  
24 specially designated court, court calendar, or docket  
25 facilitating intensive therapeutic treatment to monitor and  
26 assist veteran or servicemember participants with substance

1 use disorder, mental illness, co-occurring disorders, or other  
2 assessed treatment needs of eligible veteran and servicemember  
3 participants and in making positive lifestyle changes and  
4 reducing the rate of recidivism. Veterans and servicemembers  
5 court programs are nonadversarial in nature and bring  
6 ~~Servicemembers Court" means a court or program with an~~  
7 ~~immediate and highly structured judicial intervention process~~  
8 ~~for substance abuse treatment, mental health, or other~~  
9 ~~assessed treatment needs of eligible veteran and servicemember~~  
10 ~~defendants that brings~~ together substance use disorder ~~abuse~~  
11 professionals, mental health professionals, VA professionals,  
12 local social programs, and intensive judicial monitoring in  
13 accordance with the nationally recommended 10 key components  
14 of veterans treatment courts and the Problem-Solving Court  
15 Standards. Common features of a veterans and servicemembers  
16 court program include, but are not limited to, a designated  
17 judge and staff; specialized intake and screening procedures;  
18 coordinated treatment procedures administered by a trained,  
19 multidisciplinary professional team; close evaluation of  
20 participants, including continued assessments and modification  
21 of the court requirements and use of sanctions, incentives,  
22 and therapeutic adjustments to address behavior; frequent  
23 judicial interaction with participants; less formal court  
24 process and procedures; voluntary participation; and a low  
25 treatment staff-to-client ratio ~~drug courts.~~

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

1 (730 ILCS 167/15)

2 Sec. 15. Authorization.

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

18 (b) Whenever the county boards of 2 or more counties  
19 within the same judicial circuit determine that a single  
20 veteran and servicemembers court program would best serve  
21 those counties, the county board of each such county may adopt  
22 a resolution to the effect that there shall be a single veteran  
23 and servicemembers court program serving those counties, and  
24 shall provide a copy of the resolution to the Chief Judge of  
25 the judicial circuit. Upon receipt of those resolutions, the

1 Chief Judge may establish or, in the case of an existing  
2 veteran and servicemembers court program, reorganize a single  
3 program to serve those counties.

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

5 (730 ILCS 167/20)

6 Sec. 20. Eligibility. Veterans and servicemembers  
7 ~~Servicemembers~~ are eligible for veterans ~~Veterans~~ and  
8 servicemembers courts ~~Servicemembers Courts~~, provided the  
9 following:

10 (a) ~~A defendant, who is eligible for probation based on~~  
11 ~~the nature of the crime convicted of and in consideration of~~  
12 ~~his or her criminal background, if any, may be admitted into a~~  
13 ~~Veterans and Servicemembers Court program before adjudication~~  
14 ~~only upon the agreement of the defendant and with the approval~~  
15 ~~of the Court.~~ A defendant may be admitted into a veterans  
16 ~~Veterans~~ and servicemembers court ~~Servicemembers Court~~ program  
17 ~~post adjudication~~ only upon the consent of the defendant and  
18 with the approval of the court. A defendant agrees to be  
19 admitted when a written consent to participate is provided to  
20 the court in open court and the defendant acknowledges  
21 understanding of its contents.

22 (a-5) Each veterans and servicemembers court shall have a  
23 target population defined in its written policies and  
24 procedures. The policies and procedures shall define that  
25 court's eligibility and exclusionary criteria.

1 (b) A defendant shall be excluded from Veterans and  
2 Servicemembers Court program if any of one of the following  
3 applies:

4 (1) The crime is a crime of violence as set forth in  
5 paragraph ~~clause~~ (3) of this subsection (b).

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

8 (3) The defendant has been convicted of a crime of  
9 violence within the past 5 ~~10~~ years excluding  
10 incarceration time, parole, and periods of mandatory  
11 supervised release. As used in this paragraph, "crime of  
12 violence" means: ~~, including~~ first degree murder, second  
13 degree murder, predatory criminal sexual assault of a  
14 child, aggravated criminal sexual assault, criminal sexual  
15 assault, armed robbery, aggravated arson, arson,  
16 aggravated kidnapping and kidnapping, aggravated battery  
17 resulting in great bodily harm or permanent disability,  
18 aggravated domestic battery resulting in great bodily harm  
19 or permanent disability, aggravated criminal sexual abuse  
20 by a person in a position of trust or authority over a  
21 child, stalking, aggravated stalking, home invasion,  
22 aggravated vehicular hijacking, or any offense involving  
23 the discharge of a firearm.

24 (4) The defendant is charged with a violation of  
25 subparagraph (F) of paragraph (1) of subsection (d) of  
26 Section 11-501 of the Illinois Vehicle Code in which an

1 individual is charged with aggravated driving under the  
2 influence that resulted in the death of another person or  
3 when the violation was a proximate cause of the death,  
4 unless, pursuant to subparagraph (G) of paragraph (1) of  
5 subsection (d) of Section 11-501 of the Illinois Vehicle  
6 Code, the court determines that extraordinary  
7 circumstances exist and require probation. (Blank).

8 (5) (Blank).

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

12 (c) Notwithstanding subsection (a), the defendant may be  
13 admitted into a veterans and servicemembers court program only  
14 upon the agreement of the prosecutor if the defendant is  
15 charged with a Class 2 or greater felony violation of:

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

18 (2) Section 5, 5.1, or 5.2 of the Cannabis Control  
19 Act; or

20 (3) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,  
21 or 65 of the Methamphetamine Control and Community  
22 Protection Act.

23 (Source: P.A. 100-426, eff. 1-1-18; 101-652, eff. 7-1-21.)

24 (730 ILCS 167/25)

25 Sec. 25. Procedure.

1           (a) ~~A The Court shall order the defendant to submit to an~~  
2 ~~eligibility screening and clinical needs and an assessment and~~  
3 ~~risk assessment of the defendant shall be performed as~~  
4 ~~required by the court's policies and procedures prior to the~~  
5 ~~defendant's admission into a veteran and servicemembers court.~~  
6 ~~The assessment shall be conducted~~ through the VA, VAC, and/or  
7 the IDVA to provide information on the defendant's veteran or  
8 servicemember status.

9           Any risk assessment shall be performed using an assessment  
10 tool approved by the Administrative Office of the Illinois  
11 Courts and as required by the court's policies and procedures.

12           (b) ~~A The Court shall order the defendant to submit to an~~  
13 ~~eligibility screening and~~ mental health and substance use  
14 disorder ~~drug/alcohol~~ screening and assessment of the  
15 defendant shall be performed by the VA, VAC, or by the IDVA, or  
16 as otherwise outlined and as required by the court's policies  
17 and procedures ~~to provide assessment services for Illinois~~  
18 ~~Courts.~~ The assessment shall include, but is not limited to,  
19 assessments of substance use and mental and behavioral health  
20 needs. The clinical needs assessment shall be administered by  
21 a qualified professional of the VA, VAC, or IDVA, or  
22 individuals who meet the Department of Human Services  
23 substance use prevention and recovery rules for professional  
24 staff under 77 Ill. Adm. Code 2060, or an equivalent standard  
25 in any other state where treatment may take place, and used to  
26 inform any clinical treatment plans. Clinical treatment plans

1 shall be developed, in accordance with the Problem-Solving  
2 Court Standards and ~~a risks assessment and~~ be based, in part,  
3 upon the known availability of treatment resources available  
4 to the veterans ~~Veterans~~ and servicemembers ~~court~~  
5 ~~Service members~~ Court. ~~The assessment shall also include~~  
6 ~~recommendations for treatment of the conditions which are~~  
7 ~~indicating a need for treatment under the monitoring of the~~  
8 ~~Court and be reflective of a level of risk assessed for the~~  
9 ~~individual seeking admission.~~ An assessment need not be  
10 ordered if the court ~~Court~~ finds a valid screening or ~~and/or~~  
11 assessment related to the present charge pending against the  
12 defendant has been completed within the previous 60 days.

13 (c) The judge shall inform the defendant that if the  
14 defendant fails to meet the conditions of the veterans  
15 ~~Veterans~~ and servicemembers ~~court~~ ~~Service members~~ Court  
16 program, eligibility to participate in the program may be  
17 revoked and the defendant may be sentenced or the prosecution  
18 continued as provided in the Unified Code of Corrections for  
19 the crime charged.

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

26 (e) In addition to any conditions authorized under the

1 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
2 Corrections, the court ~~Court~~ may order the participant to  
3 complete mental health counseling or substance use disorder  
4 treatment in an outpatient or residential treatment program  
5 and may order the participant to comply with physicians'  
6 recommendations regarding medications and all follow-up  
7 treatment for any mental health diagnosis made by the  
8 provider. Substance use disorder treatment programs must be  
9 licensed by the Department of Human Services in accordance  
10 with the Department of Human Services substance use prevention  
11 and recovery rules, or an equivalent standard in any other  
12 state where the treatment may take place, and use  
13 evidence-based treatment. When referring participants to  
14 mental health treatment programs, the court shall prioritize  
15 providers certified as community mental health or behavioral  
16 health centers if possible. The court shall consider the least  
17 restrictive treatment option when ordering mental health or  
18 substance use disorder treatment for participants and the  
19 results of clinical and risk assessments in accordance with  
20 the Problem-Solving Court Standards. ~~defendant to complete~~  
21 ~~substance abuse treatment in an outpatient, inpatient,~~  
22 ~~residential, or jail-based custodial treatment program, order~~  
23 ~~the defendant to complete mental health counseling in an~~  
24 ~~inpatient or outpatient basis, comply with physicians'~~  
25 ~~recommendation regarding medications and all follow up~~  
26 ~~treatment. This treatment may include but is not limited to~~

1 ~~post-traumatic stress disorder, traumatic brain injury and~~  
2 ~~depression.~~

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

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

1 offered to individuals admitted to the veterans and  
2 servicemembers court program. Judicial circuits establishing  
3 these specialized programs shall partner with advocates,  
4 survivors, and service providers in the development of the  
5 programs. Trauma-informed services and programming shall be  
6 operated in accordance with evidence-based best practices as  
7 outlined by the Substance Abuse and Mental Health Service  
8 Administration's National Center for Trauma-Informed Care  
9 (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 ~~Veterans~~ and servicemembers court  
22 ~~Servicemembers—Court~~ program may maintain a network of  
23 substance use disorder ~~abuse~~ treatment programs representing a  
24 continuum of graduated substance use disorder ~~abuse~~ treatment  
25 options commensurate with the needs of participants

1 ~~defendants~~; these shall include programs with the VA, IDVA, a  
2 VAC, the State, ~~of Illinois~~ and community-based programs  
3 supported and sanctioned by either or both.

4 (b) Any substance use disorder ~~abuse~~ treatment program to  
5 which participants ~~defendants~~ are referred must hold a valid  
6 license from the Department of Human Services Division of  
7 Substance Use Prevention and Recovery, use evidence-based  
8 treatment, and deliver all services in accordance with 77 Ill.  
9 Adm. code 2060, including services available through the VA,  
10 IDVA or VAC, or an equivalent standard in any other state where  
11 treatment may take place ~~meet all of the rules and governing~~  
12 ~~programs in Parts 2030 and 2060 of Title 77 of the Illinois~~  
13 ~~Administrative Code.~~

14 (c) The veterans ~~Veterans~~ and servicemembers court  
15 ~~Servicemembers Court~~ program may, in its discretion, employ  
16 additional services or interventions, as it deems necessary on  
17 a case by case basis.

18 (d) The veterans ~~Veterans~~ and servicemembers court  
19 ~~Servicemembers Court~~ program may maintain or collaborate with  
20 a network of mental health treatment programs and, if it is a  
21 co-occurring mental health and substance use disorders ~~abuse~~  
22 court program, a network of substance use disorder ~~abuse~~  
23 treatment programs representing a continuum of treatment  
24 options commensurate with the needs of the participant  
25 ~~defendant~~ and available resources including programs with the  
26 VA, the IDVA, a VAC, and the State of Illinois. When not using

1 mental health treatment or services available through the VA,  
2 IDVA, or VAC, partnerships with providers certified as  
3 community mental health or behavioral health centers shall be  
4 prioritized, as possible.

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

6 (730 ILCS 167/35)

7 Sec. 35. Violation; termination; dismissal from the  
8 program discharge.

9 (a) If the court finds from the evidence presented,  
10 including, but not limited to, the reports or proffers of  
11 proof from the veterans and servicemembers court  
12 professionals, that: (1) the participant is not complying with  
13 the requirements of the treatment program; or (2) the  
14 participant has otherwise violated the terms and conditions of  
15 the program, the court may impose reasonable sanctions under  
16 the prior written agreement of the participant, including, but  
17 not limited to, imprisonment or dismissal of the participant  
18 from the program and the court may reinstate criminal  
19 proceedings against the participant or proceed under Section  
20 5-6-4 of the Unified Code of Corrections for a violation of  
21 probation, conditional discharge, or supervision hearing. ~~If~~  
22 the Court finds from the evidence presented including but not  
23 limited to the reports or proffers of proof from the Veterans  
24 and Servicemembers Court professionals that:

25 ~~(1) the defendant is not performing satisfactorily in~~

1 ~~the assigned program;~~

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

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

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

16 (a-5) Based on the evidence presented, the court shall  
17 determine whether the participant has violated the conditions  
18 of the program and whether the participant should be dismissed  
19 from the program or whether, pursuant to the court's policies  
20 and procedures, some other alternative may be appropriate in  
21 the interests of the participant and the public.

22 (a-10) A participant who is assigned to a substance use  
23 disorder treatment program under this Act for an opioid use  
24 disorder is not in violation of the terms or conditions of the  
25 program on the basis of participation in medication-assisted  
26 treatment under the care of a physician licensed in this State

1 to practice medicine in all of its branches.

2 (a-15) A participant may voluntarily withdraw from the  
3 veterans and servicemembers court program in accordance with  
4 the program's policies and procedures. Prior to allowing the  
5 participant to withdraw, the judge shall:

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

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

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

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

18 (a-20) A participant who has not violated the conditions  
19 of the program in such a way as to warrant unsuccessful  
20 dismissal, but who is unable to complete program requirements  
21 to qualify for a successful discharge, may be terminated from  
22 the program as a neutral discharge.

23 (b) Upon successful completion of the terms and conditions  
24 of the program, the court ~~Court~~ may dismiss the original  
25 charges against the participant ~~defendant~~ or successfully  
26 terminate the participant's ~~defendant's~~ sentence or otherwise

1 discharge the participant ~~him or her~~ from any further  
2 proceedings against the participant ~~him or her~~ in the original  
3 prosecution.

4 (c) Upon successful completion of the terms and conditions  
5 of the program, any State's Attorney in the county of  
6 conviction, a participant, or defense attorney may move to  
7 vacate any convictions that are eligible for sealing under the  
8 Criminal Identification Act. A participant may immediately  
9 file a petition to expunge vacated convictions and the  
10 associated underlying records per the Criminal Identification  
11 Act. If the State's Attorney moves to vacate a conviction, the  
12 State's Attorney may not object to expungement of that  
13 conviction or the underlying record.

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

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

19 (730 ILCS 167/40 new)

20 Sec. 40. Education for judges. A judge assigned to preside  
21 over a veteran and servicemembers court shall have experience,  
22 training, and continuing education in topics including, but  
23 not limited to:

24 (1) criminal law;

25 (2) behavioral health;

- 1           (3) confidentially;  
2           (4) ethics;  
3           (5) evidence-based practices;  
4           (6) substance use disorders;  
5           (7) mental illness;  
6           (8) co-occurring disorders; and  
7           (9) presiding over various types of problem-solving  
8           courts.

9           (730 ILCS 167/45 new)

10          Sec. 45. Education seminars for veterans and  
11          servicemembers court prosecutors. Subject to appropriation,  
12          the Office of the State's Attorneys Appellate Prosecutor shall  
13          conduct mandatory education seminars for all prosecutors  
14          serving in veterans and servicemembers courts throughout the  
15          State to ensure that the problem-solving court maintains  
16          fidelity to the problem-solving court model. Topics include,  
17          but are not limited to, evidence-based screening, assessment  
18          and treatment practices, target population, substance use  
19          disorders, mental illness, disability, co-occurring disorders,  
20          trauma, confidentiality, criminogenic risks and needs,  
21          incentives and sanctions, court processes, limited English  
22          proficiency, military culture and language, and team dynamics.

23          (730 ILCS 167/50 new)

24          Sec. 50. Education seminars for veteran and servicemembers

1 court public defenders. Subject to appropriation, the Office  
2 of the State Appellate Defender shall conduct mandatory  
3 education seminars for all public defenders and assistant  
4 public defenders practicing in veterans and servicemembers  
5 courts throughout the State to ensure that the problem-solving  
6 court maintains fidelity to the problem-solving court model.  
7 Topics include, but are not limited to, evidence-based  
8 screening, assessment and training practices, target  
9 population, substance use disorders, mental illness,  
10 disability, co-occurring disorders, trauma, confidentiality,  
11 criminogenic risks and needs, incentives and sanctions, court  
12 processes, limited English proficiency, military culture and  
13 language, and team dynamics.

14 Section 15. The Mental Health Court Treatment Act is  
15 amended by changing Sections 5, 10, 15, 20, 25, 30, and 35 and  
16 by adding Sections 41, 45, and 50 as follows:

17 (730 ILCS 168/5)

18 Sec. 5. Purposes. The General Assembly recognizes that  
19 individuals with diagnosable mental illness may come into  
20 contact with the criminal justice system and be charged with  
21 felony or misdemeanor offenses ~~a large percentage of criminal~~  
22 ~~defendants have a diagnosable mental illness and that mental~~  
23 ~~illnesses have a dramatic effect on the criminal justice~~  
24 ~~system in the State of Illinois.~~ The General Assembly also

1 recognizes that mental illness and substance use disorders  
2 ~~abuse problems~~ co-occur in a substantial percentage of  
3 criminal defendants. There is a critical need for the a  
4 criminal justice system to recognize individuals struggling  
5 with these issues, provide alternatives to incarceration to  
6 address mental illness, and provide appropriate access to  
7 treatment and support to such individuals. ~~program that will~~  
8 ~~reduce the number of persons with mental illnesses and with~~  
9 ~~co-occurring mental illness and substance abuse problems in~~  
10 ~~the criminal justice system, reduce recidivism among persons~~  
11 ~~with mental illness and with co-occurring mental illness and~~  
12 ~~substance abuse problems, provide appropriate treatment to~~  
13 ~~persons with mental illnesses and co-occurring mental illness~~  
14 ~~and substance abuse problems and reduce the incidence of~~  
15 ~~crimes committed as a result of mental illnesses or~~  
16 ~~co-occurring mental illness and substance abuse problems.~~ It  
17 is the intent of the General Assembly to create specialized  
18 mental health courts in accordance with evidence-based  
19 practices and Problem-Solving Court Standards for addressing  
20 substance use and co-occurring disorders with the necessary  
21 flexibility to meet the needs for an array of services and  
22 supports among participants in certified mental health court  
23 programs ~~problems of criminal defendants with mental illnesses~~  
24 ~~and co-occurring mental illness and substance abuse problems~~  
25 in the State of Illinois.

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

1 (730 ILCS 168/10)

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

3 "Certification" means the process by which a  
4 problem-solving court obtains approval from the Supreme Court  
5 to operate in accordance with the Problem-Solving Court  
6 Standards.

7 "Clinical treatment plan" means an evidence-based,  
8 comprehensive, and individualized plan that: (i) is developed  
9 by a qualified professional in accordance with Department of  
10 Human Services substance use prevention and recovery rules  
11 under 77 Ill. Adm. Code 2060 or an equivalent standard in any  
12 state where treatment may take place; and (ii) defines the  
13 scope of treatment services to be delivered by a court  
14 treatment provider.

15 "Combination mental health court program" means a type of  
16 problem-solving court that allows an individual to enter a  
17 problem-solving court before a plea, conviction, or  
18 disposition while also permitting an individual who has  
19 admitted guilt, or been found guilty, to enter a  
20 problem-solving court as a part of the individual's sentence  
21 or disposition.

22 "Community behavioral health center" means a physical site  
23 where behavioral healthcare services are provided in  
24 accordance with the Community Behavioral Health Center  
25 Infrastructure Act.

1 "Community mental health center" means an entity:

2 (1) licensed by the Department of Public Health as a  
3 community mental health center in accordance with the  
4 conditions of participation for community mental health  
5 centers established by the Centers for Medicare and  
6 Medicaid Services; and

7 (2) that provides outpatient services, including  
8 specialized outpatient services, for individuals who are  
9 chronically mental ill.

10 "Co-occurring mental health and substance use disorders  
11 court program" means a program that includes an individual  
12 with co-occurring mental illness and substance use disorder  
13 diagnoses and professionals with training and experience in  
14 treating individuals with diagnoses of substance use disorder  
15 and mental illness.

16 "Mental health court", "mental health court program",  
17 "court", or "program" means a specially designated court,  
18 court calendar, or docket facilitating intensive therapeutic  
19 treatment to monitor and assist participants with mental  
20 illness in making positive lifestyle changes and reducing the  
21 rate of recidivism. Mental health court programs are  
22 nonadversarial in nature and bring together mental health  
23 professionals and local social programs in accordance with the  
24 Bureau of Justice Assistance and Council of State Governments  
25 Justice Center's Essential Elements of a Mental Health Court  
26 and the Problem-Solving Court Standards. Common features of a

1 mental health court program include, but are not limited to, a  
2 designated judge and staff; specialized intake and screening  
3 procedures; coordinated treatment procedures administered by a  
4 trained, multidisciplinary professional team; close evaluation  
5 of participants, including continued assessments and  
6 modification of the court requirements and use of sanctions,  
7 incentives, and therapeutic adjustments to address behavior;  
8 frequent judicial interaction with participants; less formal  
9 court process and procedures; voluntary participation; and a  
10 low treatment staff-to-client ratio. ~~structured judicial~~  
11 ~~intervention process for mental health treatment of eligible~~  
12 ~~defendants that brings together mental health professionals,~~  
13 ~~local social programs, and intensive judicial monitoring.~~

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

18 "Peer recovery coach" means a mentor assigned to a  
19 defendant during participation in a mental health treatment  
20 court program who has been trained by the court, a service  
21 provider used by the court for substance use disorder or  
22 mental health treatment, a local service provider with an  
23 established peer recovery coach or mentor program not  
24 otherwise used by the court for treatment, or a Certified  
25 Recovery Support Specialist certified by the Illinois  
26 Certification Board. "Peer recovery coach" includes

1 individuals with lived experiences of the issues the  
2 problem-solving court seeks to address, including, but not  
3 limited to, substance use disorder, mental illness, and  
4 co-occurring disorders or involvement with the criminal  
5 justice system. "Peer recovery coach" includes individuals  
6 required to guide and mentor the participant to successfully  
7 complete assigned requirements and to facilitate participants'  
8 independence for continued success once the supports of the  
9 court are no longer available to them.

10 "Post-adjudicatory mental health court program" means a  
11 program that allows an individual who has admitted guilt or  
12 has been found guilty, with the defendant's consent, and the  
13 approval of the court, to enter a mental health court program  
14 as part of the defendant's sentence or disposition.

15 "Pre-adjudicatory mental health court program" means a  
16 program that allows the defendant, with the defendant's  
17 consent and the approval of the court, to enter the mental  
18 health court program before plea, conviction, or disposition  
19 and requires successful completion of the mental health court  
20 program as part of the agreement.

21 "Problem-Solving Court Standards" means the statewide  
22 standards adopted by the Supreme Court that set forth the  
23 minimum requirements for the planning, establishment,  
24 certification, operation, and evaluation of all  
25 problem-solving courts in this State.

26 "Validated clinical assessment" means a validated

1 assessment tool administered by a qualified clinician to  
2 determine the treatment needs of participants. "Validated  
3 clinical assessment" includes assessment tools required by  
4 public or private insurance.

5 ~~"Pre adjudicatory mental health court program" means a~~  
6 ~~program that allows the defendant, with the consent of the~~  
7 ~~prosecution, to expedite the defendant's criminal case before~~  
8 ~~conviction or before filing of a criminal case and requires~~  
9 ~~successful completion of the mental health court program as~~  
10 ~~part of the agreement.~~

11 ~~"Post adjudicatory mental health court program" means a~~  
12 ~~program in which the defendant has admitted guilt or has been~~  
13 ~~found guilty and agrees, along with the prosecution, to enter~~  
14 ~~a mental health court program as part of the defendant's~~  
15 ~~sentence.~~

16 ~~"Combination mental health court program" means a mental~~  
17 ~~health court program that includes a pre adjudicatory mental~~  
18 ~~health court program and a post adjudicatory mental health~~  
19 ~~court program.~~

20 ~~"Co-occurring mental health and substance abuse court~~  
21 ~~program" means a program that includes persons with~~  
22 ~~co-occurring mental illness and substance abuse problems. Such~~  
23 ~~programs shall include professionals with training and~~  
24 ~~experience in treating persons with substance abuse problems~~  
25 ~~and mental illness.~~

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

1 (730 ILCS 168/15)

2 Sec. 15. Authorization.

3 (a) The Chief Judge of each judicial circuit may establish  
4 a mental health court program, in compliance with the  
5 Problem-Solving Court Standards. At the discretion of the  
6 Chief Judge, the mental health court program may be operated  
7 in one or more counties of the circuit and allow defendants  
8 from all counties within the circuit to participate. Mental  
9 health court programs must be certified by the Supreme Court  
10 including the format under which it operates under this Act.

11 (b) Whenever the county boards of 2 or more counties  
12 within the same judicial circuit determine that a single  
13 mental health court program would best serve those counties,  
14 the county board of each such county may adopt a resolution to  
15 the effect that there shall be a single mental health court  
16 program serving those counties, and shall provide a copy of  
17 the resolution to the Chief Judge of the judicial circuit.  
18 Upon receipt of such a resolution, the Chief Judge may  
19 establish or, in the case of an existing mental health court  
20 program, reorganize a single mental health court program to  
21 serve these counties.

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

23 (730 ILCS 168/20)

24 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 consent ~~agreement~~ of  
5 the defendant and with the approval of the court. A defendant  
6 agrees to be admitted when a written consent to participate is  
7 provided to the court in open court and the defendant  
8 acknowledges understanding its contents.

9 (a-5) Each mental health court shall have a target  
10 population defined in its written policies and procedures. The  
11 policies and procedures shall define that court's eligibility  
12 and exclusionary criteria.

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

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

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

19 (3) The defendant has been convicted of a crime of  
20 violence within the past 5 ~~10~~ years excluding  
21 incarceration time, parole, and periods of mandatory  
22 supervised release. As used in this paragraph (3), "crime  
23 of violence" means: first degree murder, second degree  
24 murder, predatory criminal sexual assault of a child,  
25 aggravated criminal sexual assault, criminal sexual  
26 assault, armed robbery, aggravated arson, arson,

1 aggravated kidnapping, kidnapping, aggravated battery  
2 resulting in great bodily harm or permanent disability,  
3 aggravated domestic battery resulting in great bodily harm  
4 or permanent disability, aggravated criminal sexual abuse  
5 by a person in a position of trust or authority over a  
6 child, stalking, aggravated stalking, home invasion,  
7 aggravated vehicular hijacking, or any offense involving  
8 the discharge of a firearm.

9 (4) The defendant is charged with a violation of  
10 subparagraph (F) of paragraph (1) of subsection (d) of  
11 Section 11-501 of the Illinois Vehicle Code in which an  
12 individual is charged with aggravated driving under the  
13 influence that resulted in the death of another person or  
14 when the violation was a proximate cause of the death,  
15 unless, pursuant to subparagraph (G) of paragraph (1) of  
16 subsection (d) of Section 11-501 of the Illinois Vehicle  
17 Code, the court determines that extraordinary  
18 circumstances exist and require probation. (Blank).

19 (5) (Blank).

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

23 (c) Notwithstanding subsection (a), the defendant may be  
24 admitted into a mental health court program only upon the  
25 agreement of the prosecutor if the defendant is charged with a  
26 Class 2 or greater felony violation of:

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

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

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

8           ~~A defendant charged with prostitution under Section 11-14~~  
9           ~~of the Criminal Code of 2012 may be admitted into a mental~~  
10           ~~health court program, if available in the jurisdiction and~~  
11           ~~provided 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; 101-652, eff. 7-1-21.)

21           (730 ILCS 168/25)

22           Sec. 25. Procedure.

23           (a) ~~An~~ The court shall require an eligibility screening  
24           and 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 is not limited to,  
3 assessments of substance use and mental and behavioral health  
4 needs. The clinical assessment shall be administered by a  
5 qualified professional 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 Department of Human Services  
10 substance use prevention and recovery rules contained in 77  
11 Ill. Adm. Code 2060 or an equivalent standard in any other  
12 state where treatment may take place, and conducted by  
13 individuals who meet the Department of Human Services  
14 substance use prevention and recovery rules for professional  
15 staff also contained within that Code, or an equivalent  
16 standard in any other state where treatment may take place.  
17 The assessments shall be used to inform any clinical treatment  
18 plans. Clinical treatment plans shall be developed in  
19 accordance with Problem-Solving Court Standards and, in part,  
20 upon the known availability of treatment resources. An  
21 assessment need not be ordered if the court finds a valid  
22 assessment related to the present charge pending against the  
23 defendant has been completed within the previous 60 days.

24 (b) The judge shall inform the defendant that if the  
25 defendant fails to meet the conditions ~~requirements~~ of the  
26 mental health court program, eligibility to participate in the

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

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

9 (d) In addition to any conditions authorized under the  
10 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
11 Corrections, the court may order the participant to complete  
12 mental health counseling or substance use disorder treatment  
13 in an outpatient or residential treatment program and may  
14 order the participant to comply with physicians'  
15 recommendations regarding medications and all follow-up  
16 treatment for any mental health diagnosis made by the  
17 provider. Substance use disorder treatment programs must be  
18 licensed by the Department of Human Services in accordance  
19 with the Department of Human Services substance use prevention  
20 and recovery rules, or an equivalent standard in any other  
21 state where the 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 if possible. The court shall consider the least  
26 restrictive treatment option when ordering mental health or

1 substance use disorder treatment for participants and the  
2 results of clinical and risk assessments in accordance with  
3 the Problem-Solving Court Standards. ~~defendant to complete~~  
4 ~~mental health or substance abuse treatment in an outpatient,~~  
5 ~~inpatient, residential, or jail based custodial treatment~~  
6 ~~program. Any period of time a defendant shall serve in a~~  
7 ~~jail based treatment program may not be reduced by the~~  
8 ~~accumulation of good time or other credits and may be for a~~  
9 ~~period of up to 120 days.~~

10 (e) The mental health court program shall ~~may~~ include a  
11 regimen of graduated requirements, including ~~and rewards and~~  
12 ~~sanctions, including but not limited to:~~ fines, fees, costs,  
13 restitution, ~~incarceration of up to 180 days,~~ individual and  
14 group therapy, medication, substance ~~drug~~ analysis testing,  
15 close monitoring by the court, ~~and~~ supervision of progress,  
16 restitution, educational or vocational counseling as  
17 appropriate, ~~and~~ other requirements necessary to fulfill the  
18 mental health court program. Program phases, therapeutic  
19 adjustments, incentives, and sanctions, including the use of  
20 jail sanctions, shall be administered in accordance with  
21 evidence-based practices and the Problem-Solving Court  
22 Standards. A participant's failure to pay program fines or  
23 fees shall not prevent the participant from advancing phases  
24 or successfully completing the program. If the participant  
25 needs treatment for an opioid use disorder or dependence, the  
26 court may not prohibit the participant from receiving

1 medication-assisted treatment under the care of a physician  
2 licensed in this State to practice medicine in all of its  
3 branches. Mental health court participants may not be required  
4 to refrain from using medication-assisted treatment as a term  
5 or condition of successful completion of the mental health  
6 court program.

7 (f) 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 disorders court program, a network of substance use disorder  
11 treatment programs representing a continuum of treatment  
12 options commensurate with the needs of the participant and  
13 available resources, including programs of this State.

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

1        (h) The court may establish a mentorship program that  
2 provides access and support to program participants by peer  
3 recovery coaches. Courts shall be responsible to administer  
4 the mentorship program with the support of mentors and local  
5 mental health and substance use disorder treatment  
6 organizations.

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

8            (730 ILCS 168/30)

9        Sec. 30. Mental health and substance use disorder ~~abuse~~  
10 treatment.

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

18        (b) Any substance use disorder ~~abuse~~ treatment program to  
19 which participants ~~defendants~~ are referred must hold a valid  
20 license from the Department of Human Services Division of  
21 Substance Use Prevention and Recovery, use evidence-based  
22 treatment, and deliver all services in accordance with 77 Ill.  
23 Adm. Code 2060, including services available through the  
24 United States Department of Veterans Affairs, the Illinois  
25 Department of Veterans Affairs, or the Veterans Assistance

1 Commission, or an equivalent standard in any other state where  
2 treatment may take place ~~meet all of the rules and governing~~  
3 ~~programs in Parts 2030 and 2060 of Title 77 of the Illinois~~  
4 ~~Administrative Code.~~

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

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

9 (730 ILCS 168/35)

10 Sec. 35. Violation; termination; dismissal from program  
11 discharge.

12 (a) If the court finds from the evidence presented,  
13 including, but not limited to, the reports or proffers of  
14 proof from the mental health court professionals, that: (1)  
15 the participant is not complying with the requirements of the  
16 treatment program; or (2) the participant has otherwise  
17 violated the terms and conditions of the program, the court  
18 may impose reasonable sanctions under the prior written  
19 agreement of the participant, including, but not limited to,  
20 imprisonment or dismissal of the defendant from the program  
21 and the court may reinstate criminal proceedings against the  
22 participant or proceed under Section 5-6-4 of the Unified Code  
23 of Corrections for a violation of probation, conditional  
24 discharge, or supervision hearing. ~~If the court finds from the~~  
25 ~~evidence presented, including but not limited to the reports~~

1 ~~er proffers of proof from the mental health court~~  
2 ~~professionals that:~~

3 ~~(1) the defendant is not performing satisfactorily in~~  
4 ~~the assigned program;~~

5 ~~(2) the defendant is not benefiting from education,~~  
6 ~~treatment, or rehabilitation;~~

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

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

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

19 (a-5) Based on the evidence presented, the court shall  
20 determine whether the participant has violated the conditions  
21 of the program and whether the participant should be dismissed  
22 from the program or whether, pursuant to the court's policies  
23 and procedures, some other alternative may be appropriate in  
24 the interests of the participant and the public.

25 (a-10) A participant may voluntarily withdraw from the  
26 mental health court program in accordance with the mental

1 health court program's policies and procedures. Prior to  
2 allowing the participant to withdraw, the judge shall:

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

5 (2) determine in open court that the withdrawal is  
6 made voluntarily and knowingly; and

7 (3) admonish the participant in open court, as to  
8 the consequences, actual or potential, which can  
9 result from withdrawal.

10 Upon withdrawal, the criminal proceedings may be  
11 reinstated against the participant or proceedings may be  
12 initiated 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-15) No participant ~~defendant~~ may be dismissed from the  
16 program unless, prior to such dismissal, the participant  
17 ~~defendant~~ is informed in writing: (i) of the reason or reasons  
18 for the dismissal; (ii) the evidentiary basis supporting the  
19 reason or reasons for the dismissal; (iii) that the  
20 participant ~~defendant~~ has a right to a hearing at which he or  
21 she may present evidence supporting his or her continuation in  
22 the program. ~~Based upon the evidence presented, the court~~  
23 ~~shall determine whether the defendant has violated the~~  
24 ~~conditions of the program and whether the defendant should be~~  
25 ~~dismissed from the program or whether some other alternative~~  
26 ~~may be appropriate in the interests of the defendant and the~~

1 ~~public.~~

2 (a-20) A participant who has not violated the conditions  
3 of the program in such a way as to warrant unsuccessful  
4 dismissal, but who is unable to complete program requirements  
5 to qualify for a successful discharge, may be terminated from  
6 the program as a neutral discharge.

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

14 (c) Upon successful completion of the terms and conditions  
15 of the program, any State's Attorney in the county of  
16 conviction, a participant, or defense attorney may move to  
17 vacate any convictions that are eligible for sealing under the  
18 Criminal Identification Act. A participant may immediately  
19 file a petition to expunge vacated convictions and the  
20 associated underlying records per the Criminal Identification  
21 Act. If the State's Attorney moves to vacate a conviction, the  
22 State's Attorney may not object to expungement of that  
23 conviction or the underlying record.

24 (d) The mental health court program may maintain or  
25 collaborate with a network of legal aid organizations that  
26 specialize in conviction relief to support participants

1 navigating the expungement and sealing process.

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

3 (730 ILCS 168/41 new)

4 Sec. 41. Education seminars for judges. A judge assigned  
5 to preside over a mental health court shall have experience,  
6 training, and continuing education in topics including, but  
7 not limited to:

8 (1) criminal law;

9 (2) behavioral health;

10 (3) confidentially;

11 (4) ethics;

12 (5) evidence-based practices;

13 (6) substance use disorders;

14 (7) mental illness;

15 (8) co-occurring disorders; and

16 (9) presiding over various types of problem-solving  
17 courts.

18 (730 ILCS 168/45 new)

19 Sec. 45. Education seminars for mental health court  
20 prosecutors. Subject to appropriation, the Office of the  
21 State's Attorneys Appellate Prosecutor shall conduct mandatory  
22 education seminars for all prosecutors serving in mental  
23 health courts throughout the State to ensure that the  
24 problem-solving court maintains fidelity to the

1 problem-solving court model. Topics include, but are not  
2 limited to, evidence-based screening, assessment and treatment  
3 practices, target population, substance use disorders, mental  
4 illness, disability, co-occurring disorders, trauma,  
5 confidentiality, criminogenic risks and needs, incentives and  
6 sanctions, court processes, limited English proficiency, and  
7 team dynamics.

8 (730 ILCS 168/50 new)

9 Sec. 50. Education seminars for mental health court public  
10 defenders. Subject to appropriation, the Office of the State  
11 Appellate Defender shall conduct mandatory education seminars  
12 for all public defenders and assistant public defenders  
13 practicing in mental health courts throughout the State to  
14 ensure that the problem-solving court maintains fidelity to  
15 the problem-solving court model. Topics include, but are not  
16 limited to, evidence-based screening, assessment and treatment  
17 practices, target population, substance use disorders, mental  
18 illness, disability, co-occurring disorders, trauma,  
19 confidentiality, criminogenic risks and needs, incentives and  
20 sanctions, court processes, limited English proficiency, and  
21 team dynamics.

22 (730 ILCS 168/40 rep.)

23 Section 20. The Mental Health Court Treatment Act is  
24 amended by repealing Section 40.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.