



Rep. Lindsey LaPointe

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10200SB2565ham001

LRB102 16553 RLC 37423 a

1 AMENDMENT TO SENATE BILL 2565

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2565 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Drug Court Treatment Act is amended by  
5 changing Sections 5, 10, 15, 20, 25, 30, 35, 40, 45, and 50 as  
6 follows:

7 (730 ILCS 166/5)

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

1 individuals struggling with these issues, provide alternatives  
2 to incarceration to address substance use disorders when  
3 possible, and provide appropriate access to treatment and  
4 support to such individuals ~~program that will reduce the~~  
5 ~~incidence of drug use, drug addiction, and crimes committed as~~  
6 ~~a result of drug use and drug addiction.~~ It is the intent of  
7 the General Assembly to create specialized drug courts, in  
8 accordance with evidence-based practices and the Illinois  
9 Supreme Court Problem-Solving Court Standards for addressing  
10 substance use and co-occurring disorders, with the necessary  
11 flexibility to meet the needs for an array of services and  
12 supports among participants in certified drug court programs  
13 ~~the drug problems~~ in the State of Illinois.

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

15 (730 ILCS 166/10)

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

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

21 "Clinical treatment plan" means an evidence-based,  
22 comprehensive, and individualized plan that: (i) is developed  
23 by a qualified professional in accordance with the Department  
24 of Human Services substance use prevention and recovery rules  
25 under 77 Ill. Adm. Code 2060 or an equivalent standard in any

1 state where treatment may take place; and (ii) defines the  
2 scope of treatment services to be delivered by a court  
3 treatment provider.

4 "Combination drug court program" means a type of  
5 problem-solving court that allows an individual to enter a  
6 problem-solving court before a plea, conviction, or  
7 disposition while also permitting an individual who has  
8 admitted guilt, or been found guilty, to enter a  
9 problem-solving court as a part of the individual's sentence  
10 or disposition.

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

15 "Community mental health center" means an entity:

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

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

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

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

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

1 ~~intensive judicial monitoring in accordance with the~~  
2 ~~nationally recommended 10 key components of drug courts.~~

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

7 "Peer recovery coach" means a mentor assigned to a  
8 defendant during participation in a drug treatment court  
9 program who has been trained by the court, a service provider  
10 used by the court for substance use disorder or mental health  
11 treatment, a local service provider with an established peer  
12 recovery coach or mentor program not otherwise used by the  
13 court for treatment, or a Certified Recovery Support  
14 Specialist certified by the Illinois Certification Board.

15 "Peer recovery coach" includes individuals with lived  
16 experiences of the issues the problem-solving court seeks to  
17 address, including, but not limited to, substance use  
18 disorder, mental illness, and co-occurring disorders or  
19 involvement with the criminal justice system. "Peer recovery  
20 coach" includes individuals required to guide and mentor the  
21 participant to successfully complete assigned requirements and  
22 to facilitate participants' independence for continued success  
23 once the supports of the court are no longer available to them.

24 "Post-adjudicatory drug court program" means a program  
25 that allows an individual who has admitted guilt or has been  
26 found guilty, with the defendant's consent, and the approval

1 of the court, to enter a drug court program as part of the  
2 defendant's sentence or disposition.

3 "Pre-adjudicatory drug court program" means a program that  
4 allows the defendant, with the defendant's consent and the  
5 approval of the court, to enter the drug court program before  
6 plea, conviction, or disposition and requires successful  
7 completion of the drug court program as part of the agreement.

8 "Problem-Solving Court Standards" means the statewide  
9 standards adopted by the Supreme Court that set forth the  
10 minimum requirements for the planning, establishment,  
11 certification, operation, and evaluation of all  
12 problem-solving courts in this State.

13 "Validated clinical assessment" means a validated  
14 assessment tool administered by a qualified clinician to  
15 determine the treatment needs of participants. "Validated  
16 clinical assessment" includes assessment tools required by  
17 public or private insurance.

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

23 ~~"Post adjudicatory drug court program" means a program in~~  
24 ~~which the defendant has admitted guilt or has been found~~  
25 ~~guilty and agrees, along with the prosecution, to enter a drug~~  
26 ~~court program as part of the defendant's sentence.~~

1       ~~"Combination drug court program" means a drug court~~  
2 ~~program that includes a pre-adjudicatory drug court program~~  
3 ~~and a post-adjudicatory drug court program.~~

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

5               (730 ILCS 166/15)

6               Sec. 15. Authorization.

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

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

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

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

8           (730 ILCS 166/20)

9           Sec. 20. Eligibility.

10           (a) A defendant may be admitted into a drug court program  
11 only upon the consent ~~agreement~~ of the defendant and with the  
12 approval of the court. A defendant agrees to be admitted when a  
13 written consent to participate is provided to the court in  
14 open court and the defendant acknowledges understanding its  
15 contents.

16           (a-5) Each drug court shall have a target population  
17 defined in its written policies and procedures. The policies  
18 and procedures shall define that court's eligibility and  
19 exclusionary criteria.

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

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

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



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

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

18           (5) The defendant is charged with a violation of  
19 subparagraph (F) of paragraph (1) of subsection (d) of  
20 Section 11-501 of the Illinois Vehicle Code in which an  
21 individual is charged with aggravated driving under the  
22 influence that resulted in the death of another person or  
23 when the violation was a proximate cause of the death,  
24 unless, pursuant to subparagraph (G) of paragraph (1) of  
25 subsection (d) of Section 11-501 of the Illinois Vehicle  
26 Code, the court determines that extraordinary

1 circumstances exist and require probation.

2 (c) Notwithstanding subsection (a), the defendant may be  
3 admitted into a drug court program only upon the agreement of  
4 the prosecutor if the defendant is charged with a Class 2 or  
5 greater felony violation of:

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

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

10 (3) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or  
11 65 of the Methamphetamine Control and Community Protection  
12 Act.

13 ~~the defendant is charged with a Class 2 or greater felony~~  
14 ~~violation of:~~

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

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

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

22 ~~(2) the defendant has previously, on 3 or more~~  
23 ~~occasions, either completed a drug court program, been~~  
24 ~~discharged from a drug court program, or been terminated~~  
25 ~~from a drug court program.~~

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

1 (730 ILCS 166/25)

2 Sec. 25. Procedure.

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

20 Any risk assessment shall be performed using an assessment  
21 tool approved by the Administrative Office of the Illinois  
22 Courts and as required by the court's policies and procedures.  
23 ~~by an agent designated by the State of Illinois to provide~~  
24 ~~assessment services for the Illinois Courts.~~

25 An assessment need not be ordered if the court finds a

1 valid assessment related to the present charge pending against  
2 the defendant has been completed within the previous 60 days.

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

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

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

1 evidence-based treatment. When referring participants to  
2 mental health treatment programs, the court shall prioritize  
3 providers certified as community mental health or behavioral  
4 health centers if possible. The court shall consider the least  
5 restrictive treatment option when ordering mental health or  
6 substance use disorder treatment for participants and the  
7 results of clinical and risk assessments in accordance with  
8 the Problem-Solving Court Standards. ~~defendant to complete~~  
9 ~~substance abuse treatment in an outpatient, inpatient,~~  
10 ~~residential, or jail-based custodial treatment program. Any~~  
11 ~~period of time a defendant shall serve in a jail-based~~  
12 ~~treatment program may not be reduced by the accumulation of~~  
13 ~~good time or other credits and may be for a period of up to 120~~  
14 ~~days.~~

15 (e) The drug court program shall include a regimen of  
16 graduated requirements, including ~~and rewards and sanctions,~~  
17 ~~including but not limited to: fines, fees, costs, restitution,~~  
18 ~~incarceration of up to 180 days,~~ individual and group therapy,  
19 substance drug analysis testing, close monitoring by the  
20 court, restitution, ~~at a minimum of once every 30 days and~~  
21 ~~supervision of progress,~~ educational or vocational counseling  
22 as appropriate, and other requirements necessary to fulfill  
23 the drug court program. Program phases, therapeutic  
24 adjustments, incentives, and sanctions, including the use of  
25 jail sanctions, shall be administered in accordance with  
26 evidence-based practices and the Problem-Solving Court

1 Standards. If the participant defendant needs treatment for an  
2 opioid use disorder ~~abuse~~ or dependence, the court may not  
3 prohibit the participant defendant from ~~participating in and~~  
4 receiving medication-assisted ~~medication-assisted~~ treatment  
5 under the care of a physician licensed in this State to  
6 practice medicine in all of its branches. Drug court  
7 participants may not be required to refrain from using  
8 medication-assisted ~~medication-assisted~~ treatment as a term or  
9 condition of successful completion of the drug court program.

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

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

1 mental health and substance use disorder treatment  
2 organizations.

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

4 (730 ILCS 166/30)

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

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

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

24 (c) The drug court program may, at its discretion, employ  
25 additional services or interventions, as it deems necessary on

1 a case by case basis.

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

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

11 (730 ILCS 166/35)

12 Sec. 35. Violation; termination; dismissal from program  
13 discharge.

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



1 ~~discharge, or supervision hearing. If the court finds from the~~  
2 ~~evidence presented including but not limited to the reports or~~  
3 ~~proffers of proof from the drug court professionals that:~~

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

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

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

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

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

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

26 (a-10) A participant defendant who is assigned to a

1 substance use disorder ~~abuse~~ treatment program under this Act  
2 for an opioid use disorder ~~abuse or dependence~~ is not in  
3 violation of the terms or conditions of the program on the  
4 basis of ~~his or her~~ participation in medication-assisted  
5 ~~medication-assisted~~ treatment under the care of a physician  
6 licensed in this State to practice medicine in all of its  
7 branches.

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

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

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

16 (3) admonish the participant in open court as to the  
17 consequences, actual or potential, which can result from  
18 withdrawal.

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

24 (a-20) No participant may be dismissed from the program  
25 unless, prior to dismissal, the participant is informed in  
26 writing:

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

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

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

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

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

19           (c) Upon successful completion of the terms and conditions  
20           of the program, any State's Attorney in the county of  
21           conviction, participant, or defense attorney may move to  
22           vacate any convictions that are eligible for sealing under the  
23           Criminal Identification Act. A participant may immediately  
24           file a petition to expunge vacated convictions and the  
25           associated underlying records per the Criminal Identification  
26           Act. If the State's Attorney moves to vacate a conviction, the

1 State's Attorney may not object to expungement of that  
2 conviction or the underlying record.

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

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

8 (730 ILCS 166/40)

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

13 (1) criminal law;

14 (2) behavioral health;

15 (3) confidentiality;

16 (4) ethics;

17 (5) evidence-based practices;

18 (6) substance use disorders;

19 (7) mental illness;

20 (8) co-occurring disorders; and

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

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

2 (730 ILCS 166/45)

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

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

17 (730 ILCS 166/50)

18 Sec. 50. Education seminars for drug court public  
19 defenders. Subject to appropriation, the Office of the State  
20 Appellate Defender shall conduct mandatory education seminars  
21 ~~on the subjects of substance abuse and addiction~~ for all drug  
22 court public defenders and assistant public defenders  
23 practicing in drug courts throughout the State to ensure that  
24 the 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 (Source: P.A. 99-480, eff. 9-9-15.)

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

13 (730 ILCS 167/5)

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

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

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

16 (730 ILCS 167/10)

17 Sec. 10. Definitions. In this Act:

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

22 "Clinical treatment plan" means an evidence-based,  
23 comprehensive, and individualized plan that: (i) is developed  
24 by a qualified professional in accordance with the Department  
25 of Human Services substance use prevention and recovery rules

1 under 77 Ill. Adm. Code 2060 or an equivalent standard in any  
2 state where treatment may take place; and (ii) defines the  
3 scope of treatment services to be delivered by a court  
4 treatment provider.

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

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

19 "Community mental health center" means an entity:

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

25 (2) that provides outpatient services, including  
26 specialized outpatient services, for individuals who are



1 chronically mental ill.

2 "Co-occurring mental health and substance use disorders  
3 court program" means a program that includes an individual  
4 with co-occurring mental illness and substance use disorder  
5 diagnoses and professionals with training and experience in  
6 treating individuals with diagnoses of substance use disorder  
7 and mental illness.

8 "Court" means veterans and servicemembers court ~~Veterans~~  
9 ~~and Servicemembers Court.~~

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

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

1 required to guide and mentor the participant to successfully  
2 complete assigned requirements and to facilitate participants'  
3 independence for continued success once the supports of the  
4 court are no longer available to them. ~~and certified by the~~  
5 ~~court to guide and mentor the participant to successfully~~  
6 ~~complete the assigned requirements.~~

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

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

25 "Problem-Solving Court Standards" means the statewide  
26 standards adopted by the Supreme Court that set forth the

1 minimum requirements for the planning, establishment,  
2 certification, operation, and evaluation of all  
3 problem-solving courts in this State.

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

7 "VA" means the United States Department of Veterans'  
8 Affairs.

9 "VAC" means a veterans assistance commission.

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

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

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

25 "Veterans and servicemembers court", "veterans and  
26 servicemembers court program", "court", or "program" means a

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

1 process and procedures; voluntary participation; and a low  
2 treatment staff-to-client ratio ~~drug courts.~~

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

4 (730 ILCS 167/15)

5 Sec. 15. Authorization.

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

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

1 and servicemembers court program serving those counties, and  
2 shall provide a copy of the resolution to the Chief Judge of  
3 the judicial circuit. Upon receipt of those resolutions, the  
4 Chief Judge may establish or, in the case of an existing  
5 veteran and servicemembers court program, reorganize a single  
6 program to serve those counties.

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

8 (730 ILCS 167/20)

9 Sec. 20. Eligibility. Veterans and servicemembers  
10 ~~Servicemembers~~ are eligible for veterans ~~Veterans~~ and  
11 servicemembers courts ~~Servicemembers Courts~~, provided the  
12 following:

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

25 (a-5) Each veterans and servicemembers court shall have a

1 target population defined in its written policies and  
2 procedures. The policies and procedures shall define that  
3 court's eligibility and exclusionary criteria.

4 (b) A defendant shall be excluded from Veterans and  
5 Servicemembers Court program if any of one of the following  
6 applies:

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

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

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

26 (4) The defendant is charged with a violation of

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

10           (5) (Blank).

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

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

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

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

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

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



1 (730 ILCS 167/25)

2 Sec. 25. Procedure.

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

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

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

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

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

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

1 or comply with the terms of the program.

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

1 ~~recommendation regarding medications and all follow up~~  
2 ~~treatment. This treatment may include but is not limited to~~  
3 ~~post-traumatic stress disorder, traumatic brain injury and~~  
4 ~~depression.~~

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

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

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

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

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

20 (730 ILCS 167/30)

21 Sec. 30. Mental health and substance use disorder ~~abuse~~  
22 treatment.

23 (a) The veterans ~~Veterans~~ and servicemembers court  
24 ~~Servicemembers—Court~~ program may maintain a network of  
25 substance use disorder ~~abuse~~ treatment programs representing a

1 continuum of graduated substance use disorder ~~abuse~~ treatment  
2 options commensurate with the needs of participants  
3 ~~defendants~~; these shall include programs with the VA, IDVA, a  
4 VAC, the State, ~~of Illinois~~ and community-based programs  
5 supported and sanctioned by either or both.

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

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

20 (d) The veterans ~~Veterans~~ and servicemembers court  
21 ~~Servicemembers Court~~ program may maintain or collaborate with  
22 a network of mental health treatment programs and, if it is a  
23 co-occurring mental health and substance use disorders ~~abuse~~  
24 court program, a network of substance use disorder ~~abuse~~  
25 treatment programs representing a continuum of treatment  
26 options commensurate with the needs of the participant

1 ~~defendant~~ and available resources including programs with the  
2 VA, the IDVA, a VAC, and the State of Illinois. When not using  
3 mental health treatment or services available through the VA,  
4 IDVA, or VAC, partnerships with providers certified as  
5 community mental health or behavioral health centers shall be  
6 prioritized, as possible.

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

8 (730 ILCS 167/35)

9 Sec. 35. Violation; termination; dismissal from the  
10 program 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 veterans and servicemembers court  
14 professionals, that: (1) the participant is not complying with  
15 the requirements of the treatment program; or (2) the  
16 participant has otherwise violated the terms and conditions of  
17 the program, the court may impose reasonable sanctions under  
18 the prior written agreement of the participant, including, but  
19 not limited to, imprisonment or dismissal of the participant  
20 from the program and the court may reinstate criminal  
21 proceedings against the participant or proceed under Section  
22 5-6-4 of the Unified Code of Corrections for a violation of  
23 probation, conditional discharge, or supervision hearing. ~~If~~  
24 the Court finds from the evidence presented including but not  
25 limited to the reports or proffers of proof from the Veterans

1 ~~and Servicemembers Court professionals that:~~

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

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

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

8 ~~(4) the defendant has otherwise violated the terms and~~  
9 ~~conditions of the program or his or her sentence or is for~~  
10 ~~any reason unable to participate; the Court may impose~~  
11 ~~reasonable sanctions under prior written agreement of the~~  
12 ~~defendant, including but not limited to imprisonment or~~  
13 ~~dismissal of the defendant from the program and the Court~~  
14 ~~may reinstate criminal proceedings against him or her or~~  
15 ~~proceed 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-5) Based on the evidence presented, the court shall  
19 determine whether the participant has violated the conditions  
20 of the program and whether the participant should be dismissed  
21 from the program or whether, pursuant to the court's policies  
22 and procedures, some other alternative may be appropriate in  
23 the interests of the participant and the public.

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



1 program on the basis of participation in medication-assisted  
2 treatment under the care of a physician licensed in this State  
3 to practice medicine in all of its branches.

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

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

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

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

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

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

25 (b) Upon successful completion of the terms and conditions  
26 of the program, the court ~~Court~~ may dismiss the original

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

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

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

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

21 (730 ILCS 167/40 new)

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

1           (1) criminal law;

2           (2) behavioral health;

3           (3) confidentially;

4           (4) ethics;

5           (5) evidence-based practices;

6           (6) substance use disorders;

7           (7) mental illness;

8           (8) co-occurring disorders; and

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

11           (730 ILCS 167/45 new)

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

1 (730 ILCS 167/50 new)

2 Sec. 50. Education seminars for veteran and servicemembers  
3 court public defenders. Subject to appropriation, the Office  
4 of the State Appellate Defender shall conduct mandatory  
5 education seminars for all public defenders and assistant  
6 public defenders practicing in veterans and servicemembers  
7 courts throughout the State to ensure that the problem-solving  
8 court maintains fidelity to the problem-solving court model.  
9 Topics include, but are not limited to, evidence-based  
10 screening, assessment and training practices, target  
11 population, substance use disorders, mental illness,  
12 disability, co-occurring disorders, trauma, confidentiality,  
13 criminogenic risks and needs, incentives and sanctions, court  
14 processes, limited English proficiency, military culture and  
15 language, and team dynamics.

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

19 (730 ILCS 168/5)

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

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

1 in the State of Illinois.

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

3 (730 ILCS 168/10)

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

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

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

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

24 "Community behavioral health center" means a physical site  
25 where behavioral healthcare services are provided in

1 accordance with the Community Behavioral Health Center  
2 Infrastructure Act.

3 "Community mental health center" means an entity:

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

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

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

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

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

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

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



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

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

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

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

1 problem-solving courts in this State.

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

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

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

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

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

1 ~~and mental illness.~~

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

3 (730 ILCS 168/15)

4 Sec. 15. Authorization.

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

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

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

1 (730 ILCS 168/20)

2 Sec. 20. Eligibility.

3 (a) A defendant, ~~who is eligible for probation based on~~  
4 ~~the nature of the crime convicted of and in consideration of~~  
5 ~~his or her criminal background, if any,~~ may be admitted into a  
6 mental health court program only upon the consent ~~agreement~~ of  
7 the defendant and with the approval of the court. A defendant  
8 agrees to be admitted when a written consent to participate is  
9 provided to the court in open court and the defendant  
10 acknowledges understanding its contents.

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

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

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

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

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

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

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

20 (5) (Blank).

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

24 (c) Notwithstanding subsection (a), the defendant may be  
25 admitted into a mental health court program only upon the  
26 agreement of the prosecutor if the defendant is charged with a

1 Class 2 or greater felony violation of:

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

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

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

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

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

22 (730 ILCS 168/25)

23 Sec. 25. Procedure.

24 (a) ~~An~~ The court shall require an eligibility screening  
25 and an assessment of the defendant shall be performed as

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

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

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

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

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



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

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

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

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

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

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

1 recovery coaches. Courts shall be responsible to administer  
2 the mentorship program with the support of mentors and local  
3 mental health and substance use disorder treatment  
4 organizations.

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

6 (730 ILCS 168/30)

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

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

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

1 ~~programs in Parts 2030 and 2060 of Title 77 of the Illinois~~  
2 ~~Administrative Code.~~

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

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

7 (730 ILCS 168/35)

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

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

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

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

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

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

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

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 may voluntarily withdraw from the  
24 mental health court program in accordance with the mental  
25 health court program's policies and procedures. Prior to  
26 allowing the participant to withdraw, the judge shall:

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

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

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

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

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

26          (a-20) A participant who has not violated the conditions

1 of the program in such a way as to warrant unsuccessful  
2 dismissal, but who is unable to complete program requirements  
3 to qualify for a successful discharge, may be terminated from  
4 the program as a neutral discharge.

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

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

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

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

1 (730 ILCS 168/41 new)

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

6 (1) criminal law;

7 (2) behavioral health;

8 (3) confidently;

9 (4) ethics;

10 (5) evidence-based practices;

11 (6) substance use disorders;

12 (7) mental illness;

13 (8) co-occurring disorders; and

14 (9) presiding over various types of problem-solving  
15 courts.

16 (730 ILCS 168/45 new)

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



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

6 (730 ILCS 168/50 new)

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

20 (730 ILCS 168/40 rep.)

21 Section 20. The Mental Health Court Treatment Act is  
22 amended by repealing Section 40.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.".