



Rep. Lindsey LaPointe

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10200SB2565ham002

LRB102 16553 RLC 37801 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, parole, and periods of mandatory  
6 supervised release. As used in this paragraph Section,  
7 "crime of violence" means: first degree murder, second  
8 degree murder, predatory criminal sexual assault of a  
9 child, aggravated criminal sexual assault, criminal sexual  
10 assault, armed robbery, aggravated arson, arson,  
11 aggravated kidnaping, kidnapping ~~kidnaping~~, aggravated  
12 battery resulting in great bodily harm or permanent  
13 disability, aggravated domestic battery resulting in great  
14 bodily harm or permanent disability, aggravated criminal  
15 sexual abuse by a person in a position of trust or  
16 authority over a child, stalking, aggravated stalking,  
17 home invasion, aggravated vehicular hijacking, or any  
18 offense involving the discharge of a firearm.

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

1        Code, the court determines that extraordinary  
2        circumstances exist and require probation.

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

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

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

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

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

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

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

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

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

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

2 (730 ILCS 166/25)

3 Sec. 25. Procedure.

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

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

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

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

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

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

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

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

1 evidence-based practices and the Problem-Solving Court  
2 Standards. A participant's failure to pay program fines or  
3 fees shall not prevent the participant from advancing phases  
4 or successfully completing the program. If the participant  
5 ~~defendant~~ needs treatment for an opioid use disorder ~~abuse~~ or  
6 dependence, the court may not prohibit the participant  
7 ~~defendant~~ from ~~participating in~~ and receiving  
8 medication-assisted ~~medication-assisted~~ treatment under the  
9 care of a physician licensed in this State to practice  
10 medicine in all of its branches. Drug court participants may  
11 not be required to refrain from using medication-assisted  
12 ~~medication-assisted~~ treatment as a term or condition of  
13 successful completion of the drug court program.

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

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

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

8 (730 ILCS 166/30)

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

11       (a) The drug court program shall maintain a network of  
12 substance use disorder ~~abuse~~ treatment programs representing a  
13 continuum of graduated substance use disorder ~~abuse~~ treatment  
14 options commensurate with the needs of the participant  
15 ~~defendants~~.

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 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 drug court program may, at its discretion, employ  
4 additional services or interventions, as it deems necessary on  
5 a case by case basis.

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

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

15 (730 ILCS 166/35)

16 Sec. 35. Violation; termination; dismissal from program  
17 discharge.

18 (a) If the court finds from the evidence presented,  
19 including, but not limited to, the reports or proffers of  
20 proof from the drug court professionals, that: (1) the  
21 participant is not complying with the requirements of the  
22 treatment program; or (2) the participant has otherwise  
23 violated the terms and conditions of the program, the court  
24 may impose reasonable sanctions under the prior written  
25 agreement of the participant, including, but not limited to,



1 imprisonment or dismissal of the participant from the program,  
2 and the court may reinstate criminal proceedings against the  
3 participant or proceed under Section 5-6-4 of the Unified Code  
4 of Corrections for a violation of probation, conditional  
5 discharge, or supervision hearing. If the court finds from the  
6 evidence presented including but not limited to the reports or  
7 proffers of proof from the drug court professionals that:

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

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

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

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

17 ~~the court may impose reasonable sanctions under prior written~~  
18 ~~agreement of the defendant, including but not limited to~~  
19 ~~imprisonment or dismissal of the defendant from the program~~  
20 ~~and the court may reinstate criminal proceedings against him~~  
21 ~~or her or proceed 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-5) Based on the evidence presented, the court shall  
25 determine whether the participant has violated the conditions  
26 of the program and whether the participant should be dismissed

1 from the program or whether, pursuant to the court's policies  
2 and procedures, some other alternative may be appropriate in  
3 the interests of the participant and the public.

4 (a-10) A participant ~~defendant~~ who is assigned to a  
5 substance use disorder ~~abuse~~ treatment program under this Act  
6 for an opioid use disorder ~~abuse or dependence~~ is not in  
7 violation of the terms or conditions of the program on the  
8 basis of ~~his or her~~ participation in medication-assisted  
9 ~~medication-assisted~~ treatment under the care of a physician  
10 licensed in this State to practice medicine in all of its  
11 branches.

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

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

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

20 (3) admonish the participant in open court as to the  
21 consequences, actual or potential, which can result from  
22 withdrawal.

23 Upon withdrawal, the criminal proceedings may be  
24 reinstated against the participant or proceedings may be  
25 initiated under Section 5-6-4 of the Unified Code of  
26 Corrections for a violation of probation, conditional

1 discharge, or supervision hearing.

2 (a-20) No participant may be dismissed from the program  
3 unless, prior to dismissal, the participant is informed in  
4 writing:

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

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

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

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

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

23 (c) Upon successful completion of the terms and conditions  
24 of the program, any State's Attorney in the county of  
25 conviction, participant, or defense attorney may move to  
26 vacate any convictions that are eligible for sealing under the

1 Criminal Identification Act. A participant may immediately  
2 file a petition to expunge vacated convictions and the  
3 associated underlying records per the Criminal Identification  
4 Act. If the State's Attorney moves to vacate a conviction, the  
5 State's Attorney may not object to expungement of that  
6 conviction or the underlying record.

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

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

12 (730 ILCS 166/40)

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

17 (1) criminal law;

18 (2) behavioral health;

19 (3) confidentiality;

20 (4) ethics;

21 (5) evidence-based practices;

22 (6) substance use disorders;

23 (7) mental illness;

24 (8) co-occurring disorders; and

25 (9) presiding over various types of problem-solving

1 ~~courts. The Administrative Office of the Illinois Courts shall~~  
2 ~~conduct education seminars for judges throughout the State on~~  
3 ~~how to operate drug court programs with a specific emphasis on~~  
4 ~~eases involving the illegal possession of methamphetamine.~~

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

6 (730 ILCS 166/45)

7 Sec. 45. Education seminars for drug court prosecutors.  
8 Subject to appropriation, the Office of the State's Attorneys  
9 Appellate Prosecutor shall conduct mandatory education  
10 seminars ~~on the subjects of substance abuse and addiction~~ for  
11 all drug court prosecutors throughout the State to ensure that  
12 the problem-solving court maintains fidelity to the  
13 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 (Source: P.A. 99-480, eff. 9-9-15.)

21 (730 ILCS 166/50)

22 Sec. 50. Education seminars for drug court public  
23 defenders. Subject to appropriation, the Office of the State  
24 Appellate Defender shall conduct mandatory education seminars

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

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

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

17 (730 ILCS 167/5)

18 Sec. 5. Purposes. The General Assembly recognizes that  
19 veterans and active servicemembers, including, Reserve and  
20 National Guard servicemembers,  have provided or are currently  
21 providing an invaluable service to our country. Some veterans  
22 and active duty servicemembers ~~In so doing, some~~ may suffer  
23 from the effects of their service, including,  but not limited  
24 to, post-traumatic ~~post-traumatic~~ stress disorder, traumatic

1 brain injury, depression and may also suffer ~~drug and alcohol~~  
2 ~~dependency or addiction and~~ co-occurring mental illness and  
3 substance use disorder ~~abuse~~ problems. As a result ~~of this,~~  
4 some veterans or active duty servicemembers come into contact  
5 with the criminal justice system and are charged with felony  
6 or misdemeanor offenses. There is a critical need for the  
7 criminal justice system to recognize ~~these~~ veterans, provide  
8 accountability for their wrongdoing, provide for the safety of  
9 the public, and provide for the treatment of such ~~our~~  
10 veterans. It is the intent of the General Assembly to create  
11 specialized veteran and servicemember courts in accordance  
12 with evidence-based practices and Problem-Solving Court  
13 Standards for addressing substance use, mental health, and  
14 co-occurring disorders ~~or programs~~ with the necessary  
15 flexibility to meet the specialized needs for an array of  
16 services and supports among participants in certified veteran  
17 and servicemember court programs in the State ~~problems faced~~  
18 ~~by these veteran and servicemember defendants.~~

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

20 (730 ILCS 167/10)

21 Sec. 10. Definitions. In this Act:

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

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

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

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

23       "Community mental health center" means an entity:

24       (1) licensed by the Department of Public Health as a  
25 community mental health center in accordance with the  
26 conditions of participation for community mental health



1 centers established by the Centers for Medicare and  
2 Medicaid Services; and

3 (2) that provides outpatient services, including  
4 specialized outpatient services, for individuals who are  
5 chronically mental ill.

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

12 "Court" means veterans and servicemembers court ~~Veterans~~  
13 ~~and Servicemembers Court.~~

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

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

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

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

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

1 of the Veterans and Servicemembers Court programs as part of  
2 the agreement.

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

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

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

13 "VAC" means a veterans assistance commission.

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

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

23 "Veterans and servicemembers court ~~Servicemembers Court~~  
24 professional" means a member of the veterans and  
25 servicemembers court ~~Veterans and Servicemembers Court~~ team,  
26 including, but not limited to, a judge, prosecutor, defense

1 attorney, probation officer, coordinator, treatment provider,  
2 ~~or peer recovery coach.~~

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

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

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

8 (730 ILCS 167/15)

9 Sec. 15. Authorization.

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

25 (b) Whenever the county boards of 2 or more counties

1 within the same judicial circuit determine that a single  
2 veteran and servicemembers court program would best serve  
3 those counties, the county board of each such county may adopt  
4 a resolution to the effect that there shall be a single veteran  
5 and servicemembers court program serving those counties, and  
6 shall provide a copy of the resolution to the Chief Judge of  
7 the judicial circuit. Upon receipt of those resolutions, the  
8 Chief Judge may establish or, in the case of an existing  
9 veteran and servicemembers court program, reorganize a single  
10 program to serve those counties.

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

12 (730 ILCS 167/20)

13 Sec. 20. Eligibility. Veterans and servicemembers  
14 ~~Servicemembers~~ are eligible for veterans ~~Veterans~~ and  
15 servicemembers courts ~~Servicemembers Courts~~, provided the  
16 following:

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

1 admitted when a written consent to participate is provided to  
2 the court in open court and the defendant acknowledges  
3 understanding of its contents.

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

8 (b) A defendant shall be excluded from Veterans and  
9 Servicemembers Court program if any of one of the following  
10 applies:

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

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

15 (3) The defendant has been convicted of a crime of  
16 violence within the past 5 ~~10~~ years excluding  
17 incarceration time, parole, and periods of mandatory  
18 supervised release. As used in this paragraph, "crime of  
19 violence" means: ~~, including~~ first degree murder, second  
20 degree murder, predatory criminal sexual assault of a  
21 child, aggravated criminal sexual assault, criminal sexual  
22 assault, armed robbery, aggravated arson, arson,  
23 aggravated kidnapping and kidnapping, aggravated battery  
24 resulting in great bodily harm or permanent disability,  
25 aggravated domestic battery resulting in great bodily harm  
26 or permanent disability, aggravated criminal sexual abuse

1 by a person in a position of trust or authority over a  
2 child, stalking, aggravated stalking, home invasion,  
3 aggravated vehicular hijacking, or any offense involving  
4 the discharge of a firearm.

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

15 (5) (Blank).

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

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

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

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



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

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

5                   (730 ILCS 167/25)

6                   Sec. 25. Procedure.

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

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

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

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

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

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

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

1 ~~the Problem-Solving Court Standards. defendant to complete~~  
2 ~~substance abuse treatment in an outpatient, inpatient,~~  
3 ~~residential, or jail-based custodial treatment program, order~~  
4 ~~the defendant to complete mental health counseling in an~~  
5 ~~inpatient or outpatient basis, comply with physicians'~~  
6 ~~recommendation regarding medications and all follow up~~  
7 ~~treatment. This treatment may include but is not limited to~~  
8 ~~post traumatic stress disorder, traumatic brain injury and~~  
9 ~~depression.~~

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

1 successful completion of the veteran and servicemembers court  
2 program.

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

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

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

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

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

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

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

25           (d) The veterans ~~Veterans~~ and servicemembers court  
26 ~~Servicemembers Court~~ program may maintain or collaborate with

1 a network of mental health treatment programs and, if it is a  
2 co-occurring mental health and substance use disorders ~~abuse~~  
3 court program, a network of substance use disorder ~~abuse~~  
4 treatment programs representing a continuum of treatment  
5 options commensurate with the needs of the participant  
6 ~~defendant~~ and available resources including programs with the  
7 VA, the IDVA, a VAC, and the State of Illinois. When not using  
8 mental health treatment or services available through the VA,  
9 IDVA, or VAC, partnerships with providers certified as  
10 community mental health or behavioral health centers shall be  
11 prioritized, as possible.

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

13 (730 ILCS 167/35)

14 Sec. 35. Violation; termination; dismissal from the  
15 program ~~discharge~~.

16 (a) If the court finds from the evidence presented,  
17 including, but not limited to, the reports or proffers of  
18 proof from the veterans and servicemembers court  
19 professionals, that: (1) the participant is not complying with  
20 the requirements of the treatment program; or (2) the  
21 participant has otherwise violated the terms and conditions of  
22 the program, the court may impose reasonable sanctions under  
23 the prior written agreement of the participant, including, but  
24 not limited to, imprisonment or dismissal of the participant  
25 from the program and the court may reinstate criminal

1 proceedings against the participant or proceed under Section  
2 5-6-4 of the Unified Code of Corrections for a violation of  
3 probation, conditional discharge, or supervision hearing. ~~If~~  
4 ~~the Court finds from the evidence presented including but not~~  
5 ~~limited to the reports or proffers of proof from the Veterans~~  
6 ~~and Servicemembers Court professionals that:~~

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

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

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

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

23 (a-5) Based on the evidence presented, the court shall  
24 determine whether the participant has violated the conditions  
25 of the program and whether the participant should be dismissed  
26 from the program or whether, pursuant to the court's policies



1 and procedures, some other alternative may be appropriate in  
2 the interests of the participant and the public.

3 (a-10) A participant who is assigned to a substance use  
4 disorder treatment program under this Act for an opioid use  
5 disorder is not in violation of the terms or conditions of the  
6 program on the basis of participation in medication-assisted  
7 treatment under the care of a physician licensed in this State  
8 to practice medicine in all of its branches.

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

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

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

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

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

25 (a-20) A participant who has not violated the conditions  
26 of the program in such a way as to warrant unsuccessful

1 dismissal, but who is unable to complete program requirements  
2 to qualify for a successful discharge, may be terminated from  
3 the program as a neutral discharge.

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

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

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

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

1 (730 ILCS 167/40 new)

2 Sec. 40. Education for judges. A judge assigned to preside  
3 over a veteran and servicemembers 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 167/45 new)

17 Sec. 45. Education seminars for veterans and  
18 servicemembers court prosecutors. Subject to appropriation,  
19 the Office of the State's Attorneys Appellate Prosecutor shall  
20 conduct mandatory education seminars for all prosecutors  
21 serving in veterans and servicemembers courts throughout the  
22 State to ensure that the problem-solving court maintains  
23 fidelity to the problem-solving court model. Topics include,  
24 but are not limited to, evidence-based screening, assessment  
25 and treatment practices, target population, substance use

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

5 (730 ILCS 167/50 new)

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

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

23 (730 ILCS 168/5)

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

1 substance use and co-occurring disorders with the necessary  
2 flexibility to meet the needs for an array of services and  
3 supports among participants in certified mental health court  
4 programs ~~problems of criminal defendants with mental illnesses~~  
5 ~~and co-occurring mental illness and substance abuse problems~~  
6 in the State of Illinois.

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

8 (730 ILCS 168/10)

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

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

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

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

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

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

8 "Community mental health center" means an entity:

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

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

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

23 "Mental health court", "mental health court program",  
24 "court", or "program" means a specially designated court,  
25 court calendar, or docket facilitating intensive therapeutic  
26 treatment to monitor and assist participants with mental

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

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

25 "Peer recovery coach" means a mentor assigned to a  
26 defendant during participation in a mental health treatment



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

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

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

1 program as part of the agreement.

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

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

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

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

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

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

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

8       (730 ILCS 168/15)

9       Sec. 15. Authorization.

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

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

1 establish or, in the case of an existing mental health court  
2 program, reorganize a single mental health court program to  
3 serve these counties.

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

5 (730 ILCS 168/20)

6 Sec. 20. Eligibility.

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

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

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

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

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

25 (3) The defendant has been convicted of a crime of

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

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

26 (5) (Blank).

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

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

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

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

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

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

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

2 (730 ILCS 168/25)

3 Sec. 25. Procedure.

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

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

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

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

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



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

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

1 jail sanctions, shall be administered in accordance with  
2 evidence-based practices and the Problem-Solving Court  
3 Standards. A participant's failure to pay program fines or  
4 fees shall not prevent the participant from advancing phases  
5 or successfully completing the program. If the participant  
6 needs treatment for an opioid use disorder or dependence, the  
7 court may not prohibit the participant from receiving  
8 medication-assisted treatment under the care of a physician  
9 licensed in this State to practice medicine in all of its  
10 branches. Mental health court participants may not be required  
11 to refrain from using medication-assisted treatment as a term  
12 or condition of successful completion of the mental health  
13 court program.

14 (f) The mental health court program may maintain or  
15 collaborate with a network of mental health treatment programs  
16 and, if it is a co-occurring mental health and substance use  
17 disorders court program, a network of substance use disorder  
18 treatment programs representing a continuum of treatment  
19 options commensurate with the needs of the participant and  
20 available resources, including programs of this State.

21 (g) Recognizing that individuals struggling with mental  
22 health, addiction, and related co-occurring disorders have  
23 often experienced trauma, mental health court programs may  
24 include specialized service programs specifically designed to  
25 address trauma. These specialized services may be offered to  
26 individuals admitted to the mental health court program.

1 Judicial circuits establishing these specialized programs  
2 shall partner with advocates, survivors, and service providers  
3 in the development of the programs. Trauma-informed services  
4 and programming shall be operated in accordance with  
5 evidence-based best practices as outlined by the Substance  
6 Abuse and Mental Health Service Administration's National  
7 Center for Trauma-Informed Care.

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

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

15 (730 ILCS 168/30)

16 Sec. 30. Mental health and substance use disorder ~~abuse~~  
17 treatment.

18 (a) The mental health court program may maintain or  
19 collaborate with a network of mental health treatment programs  
20 and, if it is a co-occurring mental health and substance use  
21 disorders ~~abuse~~ court program, a network of substance use  
22 disorder ~~abuse~~ treatment programs representing a continuum of  
23 treatment options commensurate with the needs of participants  
24 ~~defendants~~ and available resources.

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

1 which participants ~~defendants~~ are referred must hold a valid  
2 license from the Department of Human Services Division of  
3 Substance Use Prevention and Recovery, use evidence-based  
4 treatment, and deliver all services in accordance with 77 Ill.  
5 Adm. Code 2060, including services available through the  
6 United States Department of Veterans Affairs, the Illinois  
7 Department of Veterans Affairs, or the Veterans Assistance  
8 Commission, or an equivalent standard in any other state where  
9 treatment may take place ~~meet all of the rules and governing~~  
10 ~~programs in Parts 2030 and 2060 of Title 77 of the Illinois~~  
11 ~~Administrative Code.~~

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

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

16 (730 ILCS 168/35)

17 Sec. 35. Violation; termination; dismissal from program  
18 discharge.

19 (a) If the court finds from the evidence presented,  
20 including, but not limited to, the reports or proffers of  
21 proof from the mental health court professionals, that: (1)  
22 the participant is not complying with the requirements of the  
23 treatment program; or (2) the participant has otherwise  
24 violated the terms and conditions of the program, the court  
25 may impose reasonable sanctions under the prior written

1 agreement of the participant, including, but not limited to,  
2 imprisonment or dismissal of the defendant from the program  
3 and the court may reinstate criminal proceedings against the  
4 participant or proceed under Section 5-6-4 of the Unified Code  
5 of Corrections for a violation of probation, conditional  
6 discharge, or supervision hearing. If the court finds from the  
7 evidence presented, including but not limited to the reports  
8 or proffers of proof from the mental health court  
9 professionals that:

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

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

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

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

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

26 (a-5) Based on the evidence presented, the court shall

1 determine whether the participant has violated the conditions  
2 of the program and whether the participant should be dismissed  
3 from the program or whether, pursuant to the court's policies  
4 and procedures, some other alternative may be appropriate in  
5 the interests of the participant and the public.

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

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

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

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

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

22 (a-15) No participant ~~defendant~~ may be dismissed from the  
23 program unless, prior to such dismissal, the participant  
24 ~~defendant~~ is informed in writing: (i) of the reason or reasons  
25 for the dismissal; (ii) the evidentiary basis supporting the  
26 reason or reasons for the dismissal; (iii) that the

1 ~~participant defendant~~ has a right to a hearing at which he or  
2 she may present evidence supporting his or her continuation in  
3 the program. ~~Based upon the evidence presented, the court~~  
4 ~~shall determine whether the defendant has violated the~~  
5 ~~conditions of the program and whether the defendant should be~~  
6 ~~dismissed from the program or whether some other alternative~~  
7 ~~may be appropriate in the interests of the defendant and the~~  
8 ~~public.~~

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

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

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

1 associated underlying records per the Criminal Identification  
2 Act. If the State's Attorney moves to vacate a conviction, the  
3 State's Attorney may not object to expungement of that  
4 conviction or the underlying record.

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

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

10 (730 ILCS 168/41 new)

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

15 (1) criminal law;

16 (2) behavioral health;

17 (3) confidentially;

18 (4) ethics;

19 (5) evidence-based practices;

20 (6) substance use disorders;

21 (7) mental illness;

22 (8) co-occurring disorders; and

23 (9) presiding over various types of problem-solving

24 courts.



1 (730 ILCS 168/45 new)

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

15 (730 ILCS 168/50 new)

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

1 confidentiality, criminogenic risks and needs, incentives and  
2 sanctions, court processes, limited English proficiency, and  
3 team dynamics.

4 (730 ILCS 168/40 rep.)

5 Section 20. The Mental Health Court Treatment Act is  
6 amended by repealing Section 40.

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law."