



Sen. Melinda Bush

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10200SB2565sam002

LRB102 16553 KMF 25222 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, 25, 30, 35, 45, and 50 as follows:

6 (730 ILCS 166/5)

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

1 to incarceration to address incidences ~~a criminal justice~~
2 ~~system program that will reduce the incidence of drug use,~~
3 drug addiction, and provide appropriate access to treatment
4 and support to such persons. ~~crimes committed as a result of~~
5 ~~drug use and drug addiction.~~ It is the intent of the General
6 Assembly to create specialized drug courts, in accordance with
7 national best practices, for addressing addiction and
8 co-occurring disorders with the necessary flexibility to meet
9 the needs for an array of services and supports among
10 participants in drug court programs ~~problems~~ in the State of
11 Illinois.

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

13 (730 ILCS 166/10)

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

15 "Drug court", "drug court program", or "program" means an
16 immediate and highly structured judicial intervention process
17 for substance use disorder ~~abuse~~ treatment of eligible
18 defendants that brings together substance use disorder ~~abuse~~
19 professionals, local social programs, and intensive judicial
20 monitoring in accordance with the nationally recommended 10
21 key components of drug courts.

22 "Drug court professional" means a member of the drug court
23 team, including but not limited to a judge, prosecutor,
24 defense attorney, probation officer, coordinator, Illinois
25 Department of Human Services/Division of Substance Use

1 Prevention and Recovery (IDHS/SUPR) licensed treatment
2 provider, or peer recovery coach.

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

8 "Post-adjudicatory drug court program" means a program in
9 which the defendant has admitted guilt or has been found
10 guilty and agrees, along with the prosecution, to enter a drug
11 court program as part of the defendant's sentence.

12 "Combination drug court program" means a drug court
13 program that includes a pre-adjudicatory drug court program
14 and a post-adjudicatory drug court program.

15 "Clinical treatment plan" means an evidence-based,
16 comprehensive, and individualized plan that is developed by a
17 qualified professional in accordance with IDHS/SUPR
18 regulations contained in Part 2060 of Title 77 of the Illinois
19 Administrative Code, that defines the scope of treatment
20 services to be delivered by a court treatment provider.

21 "Validated clinical assessment" may include assessment
22 tools required by public or private insurance.

23 "Peer recovery coach" means a mentor assigned to a
24 defendant during participation in a drug treatment court
25 program who has been trained by the court, a service provider
26 utilized by the court for substance use disorder or mental

1 health treatment, or be a recovery support specialist
2 certified by the State of Illinois. Peer recovery coaches
3 should be individuals with lived experience and shall guide
4 and mentor the participant to successfully complete assigned
5 requirements and work to help facilitate participants'
6 independence for continued success once the supports of the
7 court are no longer available to them.

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

9 (730 ILCS 166/25)

10 Sec. 25. Procedure.

11 (a) The court shall order an eligibility screening and an
12 assessment of the defendant by an agent designated by the
13 State of Illinois to provide assessment services for the
14 Illinois Courts. The assessment shall be conducted in
15 accordance with IDHS/SUPR regulations contained in Part 2060
16 of Title 77 of the Illinois Administrative Code. The clinical
17 assessment shall be administered by individuals who meet the
18 IDHS/SUPR regulations for professional staff contained in Part
19 2060 of Title 77 of the Illinois Administrative Code and used
20 to inform any Clinical Treatment Plans. Clinical Treatment
21 Plans shall be developed, in part, upon the known availability
22 of treatment resources available. An assessment need not be
23 ordered if the court finds a valid assessment related to the
24 present charge pending against the defendant has been
25 completed within the previous 60 days.

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

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

12 (d) In addition to any conditions authorized under the
13 Pretrial Services Act and Section 5-6-3 of the Unified Code of
14 Corrections, the court may order the defendant to complete
15 substance use disorder ~~abuse~~ treatment in an outpatient,
16 inpatient, residential, or jail-based custodial treatment
17 program, order the defendant to complete mental health
18 counseling in an inpatient or outpatient basis, comply with
19 physicians' recommendation regarding medications and all
20 follow up treatment for any mental health diagnosis made by
21 the provider. Substance use disorder treatment programs must
22 be licensed by IDHS/SUPR and utilize evidence-based treatment.
23 When referring participants to mental health treatment
24 programs, the court shall prioritize providers certified as
25 community mental health or behavioral health centers as
26 possible. The court shall prioritize the least restrictive

1 treatment option when ordering mental health or substance use
2 disorder treatment for participants. The court may order
3 jail-based custodial treatment if it finds that jail-based
4 treatment is the least restrictive alternative based on
5 evidence that efforts were made to locate less restrictive
6 alternatives to secure confinement and the reasons why efforts
7 were unsuccessful in locating a less restrictive alternative
8 to jail-based custodial treatment. Any period of time a
9 defendant shall serve in a jail-based treatment program may
10 not be reduced by the accumulation of good time or other
11 credits and may be for a period of up to 120 days.

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

1 successful completion of the drug court program.

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

15 (g) The Court may establish a mentorship program that
16 provides access and support to program participants by peer
17 recovery coaches. Courts shall be responsible to administer
18 the mentorship program with the support of mentors and local
19 mental health and substance use disorder treatment
20 organizations. Peer recovery coaches shall be trained by the
21 court, a service provider utilized by the court for substance
22 use or mental health treatment, or be a recovery support
23 specialist certified by the State of Illinois. Peer recovery
24 coaches shall be approved by the Court and complete
25 orientation with the court team prior to being assigned to
26 participants in the program.

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

2 (730 ILCS 166/30)

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

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

9 (b) Any substance use disorder ~~abuse~~ treatment program to
10 which defendants are referred must be licensed by IDHS/SUPR,
11 utilize evidence-based treatment, and deliver all services in
12 accordance with the regulations contained in Part ~~meet all of~~
13 ~~the rules and governing programs in Parts 2030 and 2060 of~~
14 Title 77 of the Illinois Administrative Code.

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

18 (d) The drug court program may maintain or collaborate
19 with a network of mental health treatment programs
20 representing a continuum of treatment options commensurate
21 with the needs of the defendant and available resources
22 including programs with the State of Illinois and
23 community-based programs supported and sanctioned by the State
24 of Illinois. Partnerships with providers certified as
25 community mental health or behavioral health centers shall be

1 prioritized when possible.

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

3 (730 ILCS 166/35)

4 Sec. 35. Violation; termination; discharge.

5 (a) If the court finds from the evidence presented
6 including but not limited to the reports or proffers of proof
7 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) A defendant who is assigned to a substance use
25 disorder ~~abuse~~ treatment program under this Act for an opioid

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

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

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

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

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

1 (730 ILCS 166/45)

2 Sec. 45. Education seminars for drug court prosecutors.
3 Subject to appropriation, the Office of the State's Attorneys
4 Appellate Prosecutor shall conduct mandatory education
5 seminars on the subjects of substance use disorder ~~abuse~~ and
6 addiction for all drug court prosecutors throughout the State.
7 (Source: P.A. 99-480, eff. 9-9-15.)

8 (730 ILCS 166/50)

9 Sec. 50. Education seminars for public defenders. Subject
10 to appropriation, the Office of the State Appellate Defender
11 shall conduct mandatory education seminars on the subjects of
12 substance use disorder ~~abuse~~ and addiction for all public
13 defenders and assistant public defenders practicing in drug
14 courts throughout the State.
15 (Source: P.A. 99-480, eff. 9-9-15.)

16 Section 10. The Veterans and Servicemembers Court
17 Treatment Act is amended by changing Sections 5, 10, 20, 25,
18 30, and 35 and by adding Sections 40, 45, and 50 as follows:

19 (730 ILCS 167/5)

20 Sec. 5. Purposes. The General Assembly recognizes that
21 veterans and active, Reserve and National Guard servicemembers
22 have provided or are currently providing an invaluable service

1 to our country. In so doing, some may suffer the effects of,
2 including but not limited to, post traumatic stress disorder,
3 traumatic brain injury, depression and may also suffer drug
4 and alcohol dependency or addiction and co-occurring mental
5 illness and substance use disorders ~~abuse problems~~. As a
6 result of this, some veterans or active duty servicemembers
7 come into contact with the criminal justice system and are
8 charged with felony or misdemeanor offenses. There is a
9 critical need for the criminal justice system to recognize
10 these veterans, provide accountability for their wrongdoing,
11 provide for the safety of the public and provide for the
12 treatment of our veterans. It is the intent of the General
13 Assembly to create specialized veteran and servicemember
14 courts or programs with the necessary flexibility to meet the
15 specialized needs ~~problems~~ faced by these veteran and
16 servicemember defendants.

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

18 (730 ILCS 167/10)

19 Sec. 10. Definitions. In this Act:

20 "Combination Veterans and Servicemembers Court program"
21 means a court program that includes a pre-adjudicatory and a
22 post-adjudicatory Veterans and Servicemembers court program.

23 "Court" means Veterans and Servicemembers Court.

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

25 "Peer recovery coach" means a ~~volunteer~~ veteran mentor

1 assigned to a veteran or servicemember during participation in
2 a veteran treatment court program who has been trained ~~and~~
3 ~~certified~~ by the court, a service provider utilized by the
4 court for substance use or mental health treatment, or be a
5 recovery support specialist certified by the State of
6 Illinois. Peer recovery coaches should be individuals with
7 lived experience and shall ~~to~~ guide and mentor the participant
8 to successfully complete ~~the~~ assigned requirements and work to
9 help facilitate participants' independence for continued
10 success once the supports of the court are no longer available
11 to them.

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

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

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

26 "VA" means the United States Department of Veterans'

1 Affairs.

2 "VAC" means a veterans assistance commission.

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

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

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

20 "Clinical treatment plan" means an evidence-based,
21 comprehensive, and individualized plan developed by a
22 qualified professional in accordance with IDHS/SUPR
23 regulations contained in Part 2060 of Title 77 of the Illinois
24 Administrative Code, that defines the scope of treatment
25 services to be delivered by a treatment provider.

26 "Validated clinical assessment" may include assessment

1 tools required by public or private insurance.

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

3 (730 ILCS 167/25)

4 Sec. 25. Procedure.

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

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

1 ordered if the Court finds a valid screening and/or assessment
2 related to the present charge pending against the defendant
3 has been completed within the previous 60 days.

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

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

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

1 When referring participants to mental health treatment
2 programs, the court shall prioritize providers certified as
3 community mental health or behavioral health centers as
4 possible. The court shall prioritize the least restrictive
5 treatment option when ordering mental health or substance use
6 treatment for participants. The court may order jail-based
7 custodial treatment if it finds that jail-based treatment is
8 the least restrictive alternative based on evidence that
9 efforts were made to locate less restrictive alternatives to
10 secure confinement and the reasons why efforts were
11 unsuccessful in locating a less restrictive alternative to
12 jail-based custodial treatment. ~~This treatment may include but~~
13 ~~is not limited to post-traumatic stress disorder, traumatic~~
14 ~~brain injury and depression.~~

15 (e-5) Recognizing that individuals struggling with mental
16 health, addiction and related co-occurring disorders have
17 often experienced trauma, veterans and servicemembers court
18 programs may include specialized service programs specifically
19 designed to address trauma. These specialized services may be
20 offered to defendants admitted to the mental health court
21 program. Judicial circuits establishing these specialized
22 programs shall partner with advocates, survivors, and service
23 providers in the development of the programs. Trauma-informed
24 services and programming should be operated in accordance with
25 best practices outlined by the Substance Abuse and Mental
26 Health Service Administration's National Center for Trauma

1 Informed Care (SAMHSA).

2 (f) The Court may establish a mentorship program that
3 provides access and support to program participants by peer
4 recovery coaches. Courts shall be responsible to administer
5 the mentorship program with the support of volunteer veterans
6 and local veteran service organizations, including a VAC. Peer
7 recovery coaches shall be trained ~~and certified~~ by the Court,
8 a service provider utilized by the court for substance use or
9 mental health treatment, or be a recovery support specialist
10 certified by the State of Illinois. Peer recovery coaches
11 shall be approved by the Court and complete orientation with
12 the court team prior to being assigned to participants in the
13 program.

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

15 (730 ILCS 167/30)

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

18 (a) The Veterans and Servicemembers Court program may
19 maintain a network of substance use ~~abuse~~ treatment programs
20 representing a continuum of graduated substance use ~~abuse~~
21 treatment options commensurate with the needs of defendants;
22 these shall include programs with the VA, IDVA, a VAC, the
23 State of Illinois and community-based programs supported and
24 sanctioned by either or both.

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

1 defendants are referred must be licensed by IDHS/SUPR, utilize
2 evidence-based treatment, and deliver all services in
3 accordance with the regulations contained ~~meet all of the~~
4 ~~rules and governing programs~~ in Parts 2030 and 2060 of Title 77
5 of the Illinois Administrative Code.

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

9 (d) The Veterans and Servicemembers Court program may
10 maintain or collaborate with a network of mental health
11 treatment programs and, if it is a co-occurring mental health
12 and substance use disorder ~~abuse~~ court program, a network of
13 substance use disorder ~~abuse~~ treatment programs representing a
14 continuum of treatment options commensurate with the needs of
15 the defendant and available resources including programs with
16 the VA, the IDVA, a VAC, and the State of Illinois. When not
17 utilizing mental health treatment or services available
18 through the VA, IDVA or VAC, partnerships with providers
19 certified as community mental health or behavioral health
20 centers shall be prioritized as possible.

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

22 (730 ILCS 167/35)

23 Sec. 35. Violation; termination; discharge.

24 (a) If the Court finds from the evidence presented
25 including but not limited to the reports or proffers of proof

1 from the Veterans and Servicemembers Court professionals that:

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

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

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

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

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

24 (c) Upon successful completion of the terms and conditions
25 of the program, any State's Attorney in the county of
26 conviction may move to vacate any convictions eligible for

1 sealing under the Criminal Identification Act. Defendants may
2 immediately file petitions to expunge vacated convictions and
3 the associated underlying records per the Criminal
4 Identification Act. In cases where the State's Attorney moves
5 to vacate a conviction, the State's Attorney may not object to
6 expungement of that conviction or the underlying record.

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

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

12 (730 ILCS 167/40 new)

13 Sec. 40. Education seminars for judges. The Administrative
14 Office of the Illinois Courts shall conduct education seminars
15 for judges throughout the State on how to operate Veterans and
16 Servicemembers Court Programs.

17 (730 ILCS 167/45 new)

18 Sec. 45. Education seminars for Veterans and
19 Servicemembers Court prosecutors. Subject to appropriation,
20 the Office of the State's Attorneys Appellate Prosecutor shall
21 conduct mandatory education seminars on the subjects of
22 substance use disorders, addiction and mental health, for all
23 Veterans and Servicemembers Court prosecutors throughout the
24 State.

1 (730 ILCS 167/50 new)

2 Sec. 50. Education seminars for public defenders. Subject
3 to appropriation, the Office of the State Appellate Defender
4 shall conduct mandatory education seminars on the subjects of
5 substance use disorders, addiction and mental health, for all
6 public defenders and assistant public defenders practicing in
7 Veterans and Servicemembers Courts throughout the State.

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

11 (730 ILCS 168/5)

12 Sec. 5. Purposes. The General Assembly recognizes that a
13 large percentage of criminal defendants have a diagnosable
14 mental illness and that mental illnesses have a dramatic
15 effect on the criminal justice system in the State of
16 Illinois. The General Assembly also recognizes that mental
17 illness and substance use disorders ~~abuse problems~~ co-occur in
18 a substantial percentage of criminal defendants. There is a
19 critical need for a criminal justice system program that will
20 reduce the number of persons with mental illnesses and with
21 co-occurring mental illness and substance use disorders ~~abuse~~
22 ~~problems~~ in the criminal justice system, reduce recidivism
23 among persons with mental illness and with co-occurring mental

1 illness and substance use disorders ~~abuse problems~~, provide
2 appropriate treatment to persons with mental illnesses and
3 co-occurring mental illness and substance use disorders ~~abuse~~
4 ~~problems~~ and reduce the incidence of crimes committed as a
5 result of mental illnesses or co-occurring mental illness and
6 substance use disorders ~~abuse problems~~. It is the intent of
7 the General Assembly to create specialized mental health
8 courts with the necessary flexibility to meet the needs
9 ~~problems~~ of criminal defendants with mental illnesses and
10 co-occurring mental illness and substance use disorders ~~abuse~~
11 ~~problems~~ in the State of Illinois.

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

13 (730 ILCS 168/10)

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

15 "Mental health court", "mental health court program", or
16 "program" means a structured judicial intervention process for
17 mental health treatment of eligible defendants that brings
18 together mental health professionals, local social programs,
19 and intensive judicial monitoring.

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

24 "Pre-adjudicatory mental health court program" means a
25 program that allows the defendant, with the consent of the

1 prosecution, to expedite the defendant's criminal case before
2 conviction or before filing of a criminal case and requires
3 successful completion of the mental health court program as
4 part of the agreement.

5 "Post-adjudicatory mental health court program" means a
6 program in which the defendant has admitted guilt or has been
7 found guilty and agrees, along with the prosecution, to enter
8 a mental health court program as part of the defendant's
9 sentence.

10 "Combination mental health court program" means a mental
11 health court program that includes a pre-adjudicatory mental
12 health court program and a post-adjudicatory mental health
13 court program.

14 "Co-occurring mental health and substance use ~~abuse~~ court
15 program" means a program that includes persons with
16 co-occurring mental illness and substance use disorder ~~abuse~~
17 ~~problems~~. Such programs shall include professionals with
18 training and experience in treating persons with substance use
19 disorders ~~abuse problems~~ and mental illness.

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

23 "Validated clinical assessment" may include assessment
24 tools required by public or private insurance.

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 utilized by the court for substance use or mental
3 health treatment, or be a recovery support specialist
4 certified by the State of Illinois. Peer recovery coaches
5 should be individuals with lived experience and shall guide
6 and mentor the participant to successfully complete assigned
7 requirements and work to help facilitate participants'
8 independence for continued success once the supports of the
9 court are no longer available to them.

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

11 (730 ILCS 168/20)

12 Sec. 20. Eligibility.

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

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

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

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

24 (3) The defendant has been convicted of a crime of
25 violence within the past 10 years excluding incarceration

1 time. As used in this paragraph (3), "crime of violence"
2 means: first degree murder, second degree murder,
3 predatory criminal sexual assault of a child, aggravated
4 criminal sexual assault, criminal sexual assault, armed
5 robbery, aggravated arson, arson, aggravated kidnapping,
6 kidnapping, aggravated battery resulting in great bodily
7 harm or permanent disability, stalking, aggravated
8 stalking, or any offense involving the discharge of a
9 firearm.

10 (4) (Blank).

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

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

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

1 ~~service providers in the development of the programs.~~

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

3 (730 ILCS 168/25)

4 Sec. 25. Procedure.

5 (a) The court shall require an eligibility screening and
6 an assessment of the defendant. The assessment shall include a
7 validated clinical assessment. The clinical assessment shall
8 include, but not be limited to, assessments of substance use
9 disorder, mental and behavioral health needs. The clinical
10 assessment shall be administered by a qualified clinician and
11 used to inform any clinical treatment plans. Clinical
12 treatment plans shall be developed, in part, upon the known
13 availability of treatment resources available. Assessments for
14 substance use disorder shall be conducted in accordance with
15 the Illinois Department of Human Services/Division of
16 Substance Use Prevention and Recovery (IDHS/SUPR) regulations
17 contained in Part 2060 of Title 77 of the Illinois
18 Administrative Code, and conducted by individuals who meet the
19 IDHS/SUPR regulations for professional staff also contained
20 within that Code. An assessment need not be ordered if the
21 court finds a valid assessment related to the present charge
22 pending against the defendant has been completed within the
23 previous 60 days.

24 (b) The judge shall inform the defendant that if the
25 defendant fails to meet the requirements of the mental health

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

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

10 (d) In addition to any conditions authorized under the
11 Pretrial Services Act and Section 5-6-3 of the Unified Code of
12 Corrections, the court may order the defendant to complete
13 mental health or substance use disorder ~~abuse~~ treatment in an
14 outpatient, inpatient, residential, or jail-based custodial
15 treatment program, order the defendant to complete mental
16 health counseling in an inpatient or outpatient basis, comply
17 with physicians' recommendation regarding medications and all
18 follow up treatment for any mental health diagnosis made by
19 the provider. Substance use disorder treatment programs must
20 be licensed by IDHS/SUPR and utilize evidence-based treatment.
21 When referring participants to mental health treatment
22 programs, the court shall prioritize providers certified as
23 community mental health or behavioral health centers as
24 possible. The court shall prioritize the least restrictive
25 treatment option when ordering mental health or substance use
26 treatment for participants. The court may order jail-based

1 custodial treatment if it finds that jail-based treatment is
2 the least restrictive alternative based on evidence that
3 efforts were made to locate less restrictive alternatives to
4 secure confinement and the reasons why efforts were
5 unsuccessful in locating a less restrictive alternative to
6 jail-based custodial treatment. Any period of time a defendant
7 shall serve in a jail-based treatment program may not be
8 reduced by the accumulation of good time or other credits and
9 may be for a period of up to 120 days.

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

18 (f) 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 court program, a network of substance use treatment programs
22 representing a continuum of treatment options commensurate
23 with the needs of the defendant and available resources
24 including programs with the State of Illinois.

25 (g) Recognizing that individuals struggling with mental
26 health, addiction and related co-occurring disorders have

1 often experienced trauma, mental health court programs may
2 include specialized service programs specifically designed to
3 address trauma. These specialized services may be offered to
4 defendants admitted to the mental health court program.
5 Judicial circuits establishing these specialized programs
6 shall partner with service providers in the development of the
7 programs. Trauma-informed services and programming should be
8 operated in Accordance with best practices outlined by the
9 Substance Abuse and Mental Health Service Administration's
10 National Center for Trauma Informed Care (SAMHSA).

11 (h) The Court may establish a mentorship program that
12 provides access and support to program participants by peer
13 recovery coaches. Courts shall be responsible to administer
14 the mentorship program with the support of mentors and local
15 mental health and IDHS/SUPR licensed substance use disorder
16 treatment organizations. Peer recovery coaches shall be
17 trained by the court, a service provider utilized by the court
18 for substance use or mental health treatment, or be a recovery
19 support specialist certified by the State of Illinois. Peer
20 recovery coaches shall be approved by the Court and complete
21 orientation with the court team prior to being assigned to
22 participants in the program.

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

24 (730 ILCS 168/30)

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

1 (a) The mental health court program may maintain or
2 collaborate with a network of mental health treatment programs
3 and, if it is a co-occurring mental health and substance use
4 disorder ~~abuse~~ court program, a network of substance use ~~abuse~~
5 treatment programs representing a continuum of treatment
6 options commensurate with the needs of defendants and
7 available resources.

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

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

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

17 (730 ILCS 168/35)

18 Sec. 35. Violation; termination; discharge.

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

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

24 (2) the defendant is not benefiting from education,
25 treatment, or rehabilitation;

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

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

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

24 (b) Upon successful completion of the terms and conditions
25 of the program, the court may dismiss the original charges
26 against the defendant or successfully terminate the

1 defendant's sentence or otherwise discharge him or her from
2 the program or from any further proceedings against him or her
3 in the original prosecution.

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

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

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

18 (730 ILCS 168/45 new)

19 Sec. 45. Education seminars for judges. The Administrative
20 Office of the Illinois Courts shall conduct education seminars
21 for judges throughout the State on how to operate Mental
22 Health Court programs.

23 (730 ILCS 168/50 new)

24 Sec. 50. Education seminars for Mental Health Court

1 prosecutors. Subject to appropriation, the Office of the
2 State's Attorneys Appellate Prosecutor shall conduct mandatory
3 education seminars on the subjects of substance use disorder,
4 addiction and mental health, for all prosecutors serving in
5 Mental Health courts throughout the State.

6 (730 ILCS 168/55 new)

7 Sec. 55. Education seminars for public defenders. Subject
8 to appropriation, the Office of the State Appellate Defender
9 shall conduct mandatory education seminars on the subjects of
10 substance use disorder, addiction, and mental health, for all
11 public defenders and assistant public defenders practicing in
12 Mental Health courts throughout the State."