



Rep. Patricia Reid Lindner

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LRB095 06578 RLC 34029 a

1 AMENDMENT TO HOUSE BILL 3022

2 AMENDMENT NO. _____. Amend House Bill 3022 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Mental Health Court Treatment Act.

6 Section 5. Purposes. The General Assembly recognizes that a
7 large percentage of criminal defendants have a diagnosable
8 mental illness and that mental illnesses have a dramatic effect
9 on the criminal justice system in the State of Illinois. The
10 General Assembly also recognizes that mental illness and
11 substance abuse problems co-occur in a substantial percentage
12 of criminal defendants. There is a critical need for a criminal
13 justice system program that will reduce the number of persons
14 with mental illnesses and with co-occurring mental illness and
15 substance abuse problems in the criminal justice system, reduce
16 recidivism among persons with mental illness and with

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

11 Section 10. Definitions. As used in this Act:

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

17 "Mental health court professional" means a judge,
18 prosecutor, defense attorney, probation officer, or treatment
19 provider involved with the mental health court program.

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

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

6 "Combination mental health court program" means a mental
7 health court program that includes a pre-adjudicatory mental
8 health court program and a post-adjudicatory mental health
9 court program.

10 "Co-occurring mental health and substance abuse court
11 program" means a program that includes persons with
12 co-occurring mental illness and substance abuse problems. Such
13 programs shall include professionals with training and
14 experience in treating persons with substance abuse problems
15 and mental illness.

16 Section 15. Authorization. The Chief Judge of each judicial
17 circuit may establish a mental health court program, including
18 the format under which it operates under this Act.

19 Section 20. Eligibility.

20 (a) A defendant may be admitted into a mental health court
21 program only upon the agreement of the prosecutor and the
22 defendant and with the approval of the court.

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

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

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

5 (3) The defendant has been convicted of a crime of
6 violence within the past 10 years excluding incarceration
7 time, specifically first degree murder, second degree
8 murder, predatory criminal sexual assault of a child,
9 aggravated criminal sexual assault, criminal sexual
10 assault, armed robbery, aggravated arson, arson,
11 aggravated kidnapping, kidnapping, stalking, aggravated
12 stalking, or any offense involving the discharge of a
13 firearm.

14 (4) The defendant has previously completed or has been
15 discharged from a mental health court program within 3
16 years of completion or discharge.

17 Section 25. Procedure.

18 (a) The court shall require an eligibility screening and an
19 assessment of the defendant. An assessment need not be ordered
20 if the court finds a valid assessment related to the present
21 charge pending against the defendant has been completed within
22 the previous 60 days.

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

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

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

9 (d) In addition to any conditions authorized under the
10 Pretrial Services Act and Section 5-6-3 of the Unified Code of
11 Corrections, the court may order the defendant to complete
12 mental health or substance abuse treatment in an outpatient,
13 inpatient, residential, or jail-based custodial treatment
14 program. Any period of time a defendant shall serve in a
15 jail-based treatment program may not be reduced by the
16 accumulation of good time or other credits and may be for a
17 period of up to 120 days.

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

1 Section 30. Mental health and substance abuse treatment.

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

8 (b) Any substance abuse treatment program to which
9 defendants are referred must meet all of the rules and
10 governing programs in Parts 2030 and 2060 of Title 77 of the
11 Illinois Administrative Code.

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

15 Section 35. Violation; termination; discharge.

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

19 (1) the defendant is not performing satisfactorily in
20 the assigned program;

21 (2) the defendant is not benefiting from education,
22 treatment, or rehabilitation;

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

25 (4) the defendant has otherwise violated the terms and

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

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