

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Alcoholism and Other Drug Abuse and
5 Dependency Act is amended by changing Section 40-5 as follows:

6 (20 ILCS 301/40-5)

7 Sec. 40-5. Election of treatment. An addict or alcoholic
8 who is charged with or convicted of a crime or any other person
9 charged with or convicted of a misdemeanor violation of the Use
10 of Intoxicating Compounds Act and who has not been previously
11 convicted of a violation of that Act may elect treatment under
12 the supervision of a licensed program designated by the
13 Department, referred to in this Article as "designated
14 program", unless:

15 (1) the crime is a crime of violence;

16 (2) the crime is a violation of Section 401(a), 401(b),
17 401(c) where the person electing treatment has been
18 previously convicted of a non-probationable felony or the
19 violation is non-probationable, 401(d) where the violation
20 is non-probationable, 401.1, 402(a), 405 or 407 of the
21 Illinois Controlled Substances Act, or Section 12-7.3 of
22 the Criminal Code of 2012, or Section 4(d), 4(e), 4(f),
23 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis

1 Control Act or Section 15, 20, 55, 60(b)(3), 60(b)(4),
2 60(b)(5), 60(b)(6), or 65 of the Methamphetamine Control
3 and Community Protection Act or is otherwise ineligible for
4 probation under Section 70 of the Methamphetamine Control
5 and Community Protection Act;

6 (3) the person has a record of 2 or more convictions of
7 a crime of violence;

8 (4) other criminal proceedings alleging commission of
9 a felony are pending against the person;

10 (5) the person is on probation or parole and the
11 appropriate parole or probation authority does not consent
12 to that election;

13 (6) the person elected and was admitted to a designated
14 program on 2 prior occasions within any consecutive 2-year
15 period;

16 (7) the person has been convicted of residential
17 burglary and has a record of one or more felony
18 convictions;

19 (8) the crime is a violation of Section 11-501 of the
20 Illinois Vehicle Code or a similar provision of a local
21 ordinance; or

22 (9) the crime is a reckless homicide or a reckless
23 homicide of an unborn child, as defined in Section 9-3 or
24 9-3.2 of the Criminal Code of 1961 or the Criminal Code of
25 2012, in which the cause of death consists of the driving
26 of a motor vehicle by a person under the influence of

1 alcohol or any other drug or drugs at the time of the
2 violation.

3 (Source: P.A. 96-1440, eff. 1-1-11; 97-889, eff. 1-1-13;
4 97-1150, eff. 1-25-13.)