

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 40-10 as follows:

6 (20 ILCS 301/40-10)

7 Sec. 40-10. Treatment as a condition of probation.

8 (a) If a court has reason to believe that an individual who
9 is charged with or convicted of a crime suffers from alcoholism
10 or other drug addiction and the court finds that he is eligible
11 to make the election provided for under Section 40-5, the court
12 shall advise the individual that he or she may be sentenced to
13 probation and shall be subject to terms and conditions of
14 probation under Section 5-6-3 of the Unified Code of
15 Corrections if he or she elects to submit to treatment and is
16 accepted for treatment by a designated program. The court shall
17 further advise the individual that:

18 (1) if he or she elects to submit to treatment and is
19 accepted he or she shall be sentenced to probation and
20 placed under the supervision of the designated program for
21 a period not to exceed the maximum sentence that could be
22 imposed for his conviction or 5 years, whichever is less.

23 (2) during probation he or she may be treated at the

1 discretion of the designated program.

2 (3) if he or she adheres to the requirements of the
3 designated program and fulfills the other conditions of
4 probation ordered by the court, he or she will be
5 discharged, but any failure to adhere to the requirements
6 of the designated program is a breach of probation.

7 The court may certify an individual for treatment while on
8 probation under the supervision of a designated program and
9 probation authorities regardless of the election of the
10 individual.

11 (b) If the individual elects to undergo treatment or is
12 certified for treatment, the court shall order an examination
13 by a designated program to determine whether he suffers from
14 alcoholism or other drug addiction and is likely to be
15 rehabilitated through treatment. The designated program shall
16 report to the court the results of the examination and
17 recommend whether the individual should be placed for
18 treatment. If the court, on the basis of the report and other
19 information, finds that such an individual suffers from
20 alcoholism or other drug addiction and is likely to be
21 rehabilitated through treatment, the individual shall be
22 placed on probation and under the supervision of a designated
23 program for treatment and under the supervision of the proper
24 probation authorities for probation supervision unless, giving
25 consideration to the nature and circumstances of the offense
26 and to the history, character and condition of the individual,

1 the court is of the opinion that no significant relationship
2 exists between the addiction or alcoholism of the individual
3 and the crime committed, or that his imprisonment or periodic
4 imprisonment is necessary for the protection of the public, and
5 the court specifies on the record the particular evidence,
6 information or other reasons that form the basis of such
7 opinion. However, under no circumstances shall the individual
8 be placed under the supervision of a designated program for
9 treatment before the entry of a judgment of conviction.

10 (c) If the court, on the basis of the report or other
11 information, finds that the individual suffering from
12 alcoholism or other drug addiction is not likely to be
13 rehabilitated through treatment, or that his addiction or
14 alcoholism and the crime committed are not significantly
15 related, or that his imprisonment or periodic imprisonment is
16 necessary for the protection of the public, the court shall
17 impose sentence as in other cases. The court may require such
18 progress reports on the individual from the probation officer
19 and designated program as the court finds necessary. No
20 individual may be placed under treatment supervision unless a
21 designated program accepts him for treatment.

22 (d) Failure of an individual placed on probation and under
23 the supervision of a designated program to observe the
24 requirements set down by the designated program shall be
25 considered a probation violation. Such failure shall be
26 reported by the designated program to the probation officer in

1 charge of the individual and treated in accordance with
2 probation regulations.

3 (e) Upon successful fulfillment of the terms and conditions
4 of probation the court shall discharge the person from
5 probation. If the person has not previously been convicted of
6 any felony offense and has not previously been granted a
7 vacation of judgment under this Section, upon motion, the court
8 shall vacate the judgment of conviction and dismiss the
9 criminal proceedings against him unless, having considered the
10 nature and circumstances of the offense and the history,
11 character and condition of the individual, the court finds that
12 the motion should not be granted. Unless good cause is shown,
13 such motion to vacate must be filed at any time from the date
14 of ~~within 30 days of~~ the entry of the judgment to a date that is
15 not more than 60 days after the discharge of the probation.

16 (Source: P.A. 91-663, eff. 12-22-99.)