

AN ACT concerning State government.

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

Section 5. The Substance Use Disorder Act is amended by changing the heading of Article 40 and Sections 40-5, 40-10, and 40-15 and by adding Section 40-25 as follows:

(20 ILCS 301/Art. 40 heading)

ARTICLE 40. SUBSTANCE USE DISORDER SERVICES ~~TREATMENT~~

FOR CRIMINAL JUSTICE CLIENTS

(Source: P.A. 100-759, eff. 1-1-19.)

(20 ILCS 301/40-5)

Sec. 40-5. Election of specialized case management
~~treatment~~.

(a) As used in this Article, "specialized case management" means a coordinated approach to the delivery of substance use disorder services that adheres to the standards and procedures described in 77 Ill. Adm. Code 2060.530(d).

(b) An individual whose use of drugs or alcohol led to the individual being ~~with a substance use disorder who is~~ charged with, pleading guilty to, or being found guilty ~~or convicted~~ of a crime or any other person charged with, pleading guilty to, or being found guilty ~~or convicted~~ of a misdemeanor

violation of the Use of Intoxicating Compounds Act and who has not been previously convicted of a violation of that Act may elect specialized case management services with ~~treatment under the supervision of~~ a program holding a valid intervention license for designated program services issued by the Department, referred to in this Article as "designated program", unless:

(1) the crime is a crime of violence;

(2) the crime is a violation of Section 401(a), 401(b), 401(c) where the person electing specialized case management ~~treatment~~ has been previously convicted of a non-probationable felony or the violation is non-probationable, 401(d) where the violation is non-probationable, 401.1, 402(a), 405 or 407 of the Illinois Controlled Substances Act, or Section 12-7.3 of the Criminal Code of 2012, or Section 4(d), 4(e), 4(f), 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis Control Act or Section 15, 20, 55, 60(b)(3), 60(b)(4), 60(b)(5), 60(b)(6), or 65 of the Methamphetamine Control and Community Protection Act or is otherwise ineligible for probation under Section 70 of the Methamphetamine Control and Community Protection Act;

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

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

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

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

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

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

(9) the crime is a reckless homicide or a reckless homicide of an unborn child, as defined in Section 9-3 or 9-3.2 of the Criminal Code of 1961 or the Criminal Code of 2012, in which the cause of death consists of the driving of a motor vehicle by a person under the influence of alcohol or any other drug or drugs at the time of the violation.

(c) Nothing in this Section shall preclude an individual who is charged with or convicted of a crime that is a violation of Section 60(b)(1) or 60(b)(2) of the Methamphetamine Control and Community Protection Act, and who is otherwise eligible to make the election provided for under this Section, from being eligible to make an election for specialized case management treatment as a condition of probation as provided for under

this Article.

(d) Nothing in this Section shall preclude any individual whose use of drugs or alcohol led to the individual being charged with or convicted of a crime from receiving specialized case management services with a designated program if such services are ordered by the court.

(Source: P.A. 99-78, eff. 7-20-15; 100-759, eff. 1-1-19.)

(20 ILCS 301/40-10)

Sec. 40-10. Specialized case management ~~Treatment~~ as a condition of probation.

(a) If a court has reason to believe that an individual who is charged with or convicted of a crime suffers from a substance use disorder and the court finds that he or she is eligible to make the election provided for under Section 40-5, the court shall advise the individual that he or she may be sentenced to probation and shall be subject to terms and conditions of probation under Section 5-6-3 of the Unified Code of Corrections if he or she elects to participate in specialized case management ~~treatment~~ and is accepted for services by a designated program. The court shall further advise the individual that:

(1) If he or she elects to participate in specialized case management ~~treatment~~ and is accepted he or she shall be sentenced to probation and placed into specialized case management services with ~~under the supervision of the~~

designated program for a period not to exceed the maximum sentence that could be imposed for his or her conviction or 5 years, whichever is less.

(2) During probation he or she may be provided with services ~~treated~~ at the discretion of the designated program.

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

The court may require an individual to obtain treatment while on probation under the supervision of a designated program and probation authorities regardless of the election of the individual if the assessment, as specified in subsection (b), indicates that such treatment is medically necessary.

(b) If the individual elects to undergo treatment or before the individual is required to obtain treatment, the court shall order an assessment by a designated program to determine whether he or she suffers from a substance use disorder and is likely to be rehabilitated through treatment. The designated program shall report to the court the results of the assessment and, if treatment is determined medically necessary, indicate the diagnosis and the recommended initial level of care. If the court, on the basis of the report and

other information, finds that such an individual suffers from a substance use disorder and is likely to be rehabilitated through treatment, the individual shall be placed on probation and into specialized case management services with ~~and under the supervision of~~ a designated program ~~for treatment~~ and under the supervision of the proper probation authorities for probation supervision unless, giving consideration to the nature and circumstances of the offense and to the history, character, and condition of the individual, the court is of the opinion that no significant relationship exists between the substance use disorder of the individual and the crime committed, or that his or her imprisonment or periodic imprisonment is necessary for the protection of the public, and the court specifies on the record the particular evidence, information, or other reasons that form the basis of such opinion. ~~However, under no circumstances shall the individual be placed under the supervision of a designated program for treatment before the entry of a judgment of conviction.~~

(c) If the court, on the basis of the report or other information, finds that the individual suffering from a substance use disorder is not likely to be rehabilitated through treatment, or that his or her substance use disorder and the crime committed are not significantly related, or that his or her imprisonment or periodic imprisonment is necessary for the protection of the public, the court shall impose sentence as in other cases. The court may require such

progress reports on the individual from the probation officer and designated program as the court finds necessary. Specialized case ~~Case~~ management services, as defined in this Act and as further described by rule, shall also be delivered by the designated program. No individual may be placed into specialized case management services ~~under treatment supervision~~ unless a designated program accepts him or her for treatment.

(d) (Blank). ~~Failure of an individual placed on probation and under the supervision of a designated program to observe the requirements set down by the designated program shall be considered a probation violation. Such failure shall be reported by the designated program to the probation officer in charge of the individual and treated in accordance with probation regulations.~~

(e) (Blank). ~~Upon successful fulfillment of the terms and conditions of probation the court shall discharge the person from probation. If the person has not previously been convicted of any felony offense and has not previously been granted a vacation of judgment under this Section, upon motion, the court shall vacate the judgment of conviction and dismiss the criminal proceedings against him or her unless, having considered the nature and circumstances of the offense and the history, character and condition of the individual, the court finds that the motion should not be granted. Unless good cause is shown, such motion to vacate must be filed at any~~

~~time from the date of the entry of the judgment to a date that is not more than 60 days after the discharge of the probation.~~

(f) The court, with the consent of the defendant, may, without entering a judgment, sentence the defendant to probation under this Section. A sentence under this Section shall not be considered a conviction under Illinois law unless and until judgment is entered under paragraph (2) of this subsection (f).

(1) When a defendant is placed on probation, the court shall enter an order specifying a period of probation and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(2) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided by law.

(3) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person.

(4) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal; however, a sentence under this Section is not a conviction for purposes of the Unified Code of Corrections or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime unless and until judgment is entered.

(Source: P.A. 99-574, eff. 1-1-17; 100-759, eff. 1-1-19.)

(20 ILCS 301/40-15)

Sec. 40-15. Specialized case management ~~Acceptance for treatment~~ as a parole or release condition. Specialized case management services by ~~Acceptance for treatment for a substance use disorder under the supervision of~~ a designated program may be made a condition of parole or release, and failure to comply with such services may be treated as a violation of parole or release. A designated program shall establish the eligibility criteria ~~conditions~~ under which a parolee or releasee is accepted for services. No parolee or releasee may be placed into specialized case management services with ~~under the supervision of~~ a designated program for treatment unless the designated program accepts him or her for services ~~treatment~~. The designated program shall make periodic progress reports regarding each such parolee or releasee to the appropriate parole authority and shall report failures to comply with the requirements of the designated ~~prescribed treatment~~ program.

(Source: P.A. 100-759, eff. 1-1-19.)

(20 ILCS 301/40-25 new)

Sec. 40-25. Specialized case management as a condition of pretrial release. Specialized case management services by a designated program may be made a condition of pretrial

release, and failure to comply with such services may be treated as a violation of a condition of pretrial release. A designated program shall establish the eligibility criteria under which a defendant is accepted for services. No individual may be placed into specialized case management services with a designated program for treatment unless the designated program accepts him or her for services. The designated program shall make periodic progress reports regarding each such defendant to the appropriate pretrial services agency or Office of Statewide Pretrial Services and shall report failures to comply with the requirements of the designated program.