



Sen. Michael W. Halpin

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LRB104 20620 KTG 35853 a

1 AMENDMENT TO SENATE BILL 3880

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3880 by replacing  
3 everything after the enacting clause with the following:

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

7 (20 ILCS 301/Art. 40 heading)

8 ARTICLE 40. SUBSTANCE USE DISORDER SERVICES ~~TREATMENT~~  
9 FOR CRIMINAL JUSTICE CLIENTS

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

11 (20 ILCS 301/40-5)

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

14 (a) As used in this Article, "specialized case management"  
15 means a coordinated approach to the delivery of substance use

1 disorder services that adheres to the standards and procedures  
2 described in 77 Ill. Adm. Code 2060.530(d).

3 (b) An individual whose use of drugs or alcohol led to the  
4 individual being ~~with a substance use disorder who is~~ charged  
5 ~~with,~~ pleading guilty to, or being found guilty ~~or convicted~~  
6 of a crime or any other person charged with, pleading guilty  
7 to, or being found guilty ~~or convicted~~ of a misdemeanor  
8 violation of the Use of Intoxicating Compounds Act and who has  
9 not been previously convicted of a violation of that Act may  
10 elect specialized case management services with ~~treatment~~  
11 ~~under the supervision of~~ a program holding a valid  
12 intervention license for designated program services issued by  
13 the 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),  
17 401(b), 401(c) where the person electing specialized case  
18 management ~~treatment~~ has been previously convicted of a  
19 non-probationable felony or the violation is  
20 non-probationable, 401(d) where the violation is  
21 non-probationable, 401.1, 402(a), 405 or 407 of the  
22 Illinois Controlled Substances Act, or Section 12-7.3 of  
23 the Criminal Code of 2012, or Section 4(d), 4(e), 4(f),  
24 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis  
25 Control Act or Section 15, 20, 55, 60(b)(3), 60(b)(4),  
26 60(b)(5), 60(b)(6), or 65 of the Methamphetamine Control

1 and Community Protection Act or is otherwise ineligible  
2 for probation under Section 70 of the Methamphetamine  
3 Control and Community Protection Act;

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

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

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

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

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

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

20 (9) the crime is a reckless homicide or a reckless  
21 homicide of an unborn child, as defined in Section 9-3 or  
22 9-3.2 of the Criminal Code of 1961 or the Criminal Code of  
23 2012, in which the cause of death consists of the driving  
24 of a motor vehicle by a person under the influence of  
25 alcohol or any other drug or drugs at the time of the  
26 violation.

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

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

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

15 (20 ILCS 301/40-10)

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

18 (a) If a court has reason to believe that an individual who  
19 is charged with or convicted of a crime suffers from a  
20 substance use disorder and the court finds that he or she is  
21 eligible to make the election provided for under Section 40-5,  
22 the court shall advise the individual that he or she may be  
23 sentenced to probation and shall be subject to terms and  
24 conditions of probation under Section 5-6-3 of the Unified  
25 Code of Corrections if he or she elects to participate in

1 specialized case management ~~treatment~~ and is accepted for  
2 services by a designated program. The court shall further  
3 advise the individual that:

4 (1) If he or she elects to participate in specialized  
5 case management ~~treatment~~ and is accepted he or she shall  
6 be sentenced to probation and placed into specialized case  
7 management services with ~~under the supervision of~~ the  
8 designated program for a period not to exceed the maximum  
9 sentence that could be imposed for his or her conviction  
10 or 5 years, whichever is less.

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

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

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

25 (b) If the individual elects to undergo treatment or  
26 before the individual is required to obtain treatment, the

1 court shall order an assessment by a designated program to  
2 determine whether he or she suffers from a substance use  
3 disorder and is likely to be rehabilitated through treatment.  
4 The designated program shall report to the court the results  
5 of the assessment and, if treatment is determined medically  
6 necessary, indicate the diagnosis and the recommended initial  
7 level of care. If the court, on the basis of the report and  
8 other information, finds that such an individual suffers from  
9 a substance use disorder and is likely to be rehabilitated  
10 through treatment, the individual shall be placed on probation  
11 and into specialized case management services with ~~and under~~  
12 ~~the supervision of~~ a designated program ~~for treatment~~ and  
13 under the supervision of the proper probation authorities for  
14 probation supervision unless, giving consideration to the  
15 nature and circumstances of the offense and to the history,  
16 character, and condition of the individual, the court is of  
17 the opinion that no significant relationship exists between  
18 the substance use disorder of the individual and the crime  
19 committed, or that his or her imprisonment or periodic  
20 imprisonment is necessary for the protection of the public,  
21 and the court specifies on the record the particular evidence,  
22 information, or other reasons that form the basis of such  
23 opinion. ~~However, under no circumstances shall the individual~~  
24 ~~be placed under the supervision of a designated program for~~  
25 ~~treatment before the entry of a judgment of conviction.~~

26 (c) If the court, on the basis of the report or other

1 information, finds that the individual suffering from a  
2 substance use disorder is not likely to be rehabilitated  
3 through treatment, or that his or her substance use disorder  
4 and the crime committed are not significantly related, or that  
5 his or her imprisonment or periodic imprisonment is necessary  
6 for the protection of the public, the court shall impose  
7 sentence as in other cases. The court may require such  
8 progress reports on the individual from the probation officer  
9 and designated program as the court finds necessary.  
10 Specialized case ~~Case~~ management services, as defined in this  
11 Act and as further described by rule, shall also be delivered  
12 by the designated program. No individual may be placed into  
13 specialized case management services ~~under treatment~~  
14 ~~supervision~~ unless a designated program accepts him or her for  
15 treatment.

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

23 (e) (Blank). ~~Upon successful fulfillment of the terms and~~  
24 ~~conditions of probation the court shall discharge the person~~  
25 ~~from probation. If the person has not previously been~~  
26 ~~convicted of any felony offense and has not previously been~~

1 ~~granted a vacation of judgment under this Section, upon~~  
2 ~~motion, the court shall vacate the judgment of conviction and~~  
3 ~~dismiss the criminal proceedings against him or her unless,~~  
4 ~~having considered the nature and circumstances of the offense~~  
5 ~~and the history, character and condition of the individual,~~  
6 ~~the court finds that the motion should not be granted. Unless~~  
7 ~~good cause is shown, such motion to vacate must be filed at any~~  
8 ~~time from the date of the entry of the judgment to a date that~~  
9 ~~is not more than 60 days after the discharge of the probation.~~

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

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

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

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

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

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

9           (20 ILCS 301/40-15)

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

1 ~~prescribed treatment~~ program.

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

3 (20 ILCS 301/40-25 new)

4 Sec. 40-25. Specialized case management as a condition of  
5 pretrial release. Specialized case management services by a  
6 designated program may be made a condition of pretrial  
7 release, and failure to comply with such services may be  
8 treated as a violation of a condition of pretrial release. A  
9 designated program shall establish the eligibility criteria  
10 under which a defendant is accepted for services. No  
11 individual may be placed into specialized case management  
12 services with a designated program for treatment unless the  
13 designated program accepts him or her for services. The  
14 designated program shall make periodic progress reports  
15 regarding each such defendant to the appropriate pretrial  
16 services agency or Office of Statewide Pretrial Services and  
17 shall report failures to comply with the requirements of the  
18 designated program."