



Rep. Lindsey LaPointe

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10200HB3850ham001

LRB102 16552 KMF 23611 a

1 AMENDMENT TO HOUSE BILL 3850

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3850 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Drug Court Treatment Act is amended by  
5 changing Sections 5, 10, 25, 30, 35, 45, and 50 as follows:

6 (730 ILCS 166/5)

7 Sec. 5. Purposes. The General Assembly recognizes that  
8 individuals struggling with drug and alcohol dependency or  
9 addiction and substance use disorders may come into contact  
10 with the criminal justice system and be charged with felony or  
11 misdemeanor offenses. The General Assembly also recognizes  
12 that substance use disorders and mental illness co-occur in a  
13 substantial percentage of criminal defendants. ~~the use and~~  
14 ~~abuse of drugs has a dramatic effect on the criminal justice~~  
15 ~~system in the State of Illinois.~~ There is a critical need for  
16 the criminal justice system to recognize individuals

1 struggling with these issues, provide alternatives to  
2 incarceration to address incidences ~~a criminal justice system~~  
3 ~~program that will reduce the incidence of drug use,~~ drug  
4 addiction, and provide appropriate access to treatment and  
5 support to persons with substance use disorders. ~~crimes~~  
6 ~~committed as a result of drug use and drug addiction.~~ It is the  
7 intent of the General Assembly to create specialized drug  
8 courts, in accordance with national best practices, for  
9 addressing addiction and co-occurring disorders with the  
10 necessary flexibility to meet the needs for an array of  
11 services and supports among participants in drug court  
12 programs ~~problems~~ in the State of Illinois.

13 (Source: P.A. 92-58, eff. 1-1-02.)

14 (730 ILCS 166/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Drug court", "drug court program", or "program" means an  
17 immediate and highly structured judicial intervention process  
18 for substance use ~~abuse~~ treatment of eligible defendants that  
19 brings together substance use ~~abuse~~ professionals, local  
20 social programs, and intensive judicial monitoring in  
21 accordance with the nationally recommended 10 key components  
22 of drug courts.

23 "Drug court professional" means a member of the drug court  
24 team, including but not limited to a judge, prosecutor,  
25 defense attorney, probation officer, coordinator, licensed

1 treatment provider, or peer recovery coach.

2 "Pre-adjudicatory drug court program" means a program that  
3 allows the defendant, with the consent of the prosecution, to  
4 expedite the defendant's criminal case before conviction or  
5 before filing of a criminal case and requires successful  
6 completion of the drug court program as part of the agreement.

7 "Post-adjudicatory drug court program" means a program in  
8 which the defendant has admitted guilt or has been found  
9 guilty and agrees, along with the prosecution, to enter a drug  
10 court program as part of the defendant's sentence.

11 "Combination drug court program" means a drug court  
12 program that includes a pre-adjudicatory drug court program  
13 and a post-adjudicatory drug court program.

14 "Clinical treatment plan" means an evidence-based,  
15 comprehensive, and individualized plan that defines the scope  
16 of treatment services to be delivered by a court treatment  
17 provider.

18 "Validated clinical assessment" may include assessment  
19 tools required by public or private insurance.

20 "Peer recovery coach" means a mentor assigned to a  
21 defendant during participation in a drug treatment court  
22 program who has been trained and certified by the court to  
23 guide and mentor the participant to successfully complete the  
24 assigned requirements. Peer recovery coaches should be  
25 individuals with lived experience and shall work to help  
26 facilitate participants' independence for continued success

1 once the supports of the court are no longer available to them.

2 (Source: P.A. 97-946, eff. 8-13-12.)

3 (730 ILCS 166/25)

4 Sec. 25. Procedure.

5 (a) The court shall order an eligibility screening and an  
6 assessment of the defendant by an agent designated by the  
7 State of Illinois to provide assessment services for the  
8 Illinois Courts. The assessment shall include a validated  
9 clinical assessment. The clinical assessment shall include,  
10 but not be limited to, assessments of substance use, mental  
11 and behavioral health needs. The clinical assessment shall be  
12 administered by a qualified clinician and used to inform any  
13 clinical treatment plans. Clinical treatment plans shall be  
14 developed, in part, upon the known availability of treatment  
15 resources available. An assessment need not be ordered if the  
16 court finds a valid assessment related to the present charge  
17 pending against the defendant has been completed within the  
18 previous 60 days.

19 (b) The judge shall inform the defendant that if the  
20 defendant fails to meet the conditions of the drug court  
21 program, eligibility to participate in the program may be  
22 revoked and the defendant may be sentenced or the prosecution  
23 continued as provided in the Unified Code of Corrections for  
24 the crime charged.

25 (c) The defendant shall execute a written agreement as to

1 his or her participation in the program and shall agree to all  
2 of the terms and conditions of the program, including but not  
3 limited to the possibility of sanctions or incarceration for  
4 failing to abide or comply with the terms of the program.

5 (d) In addition to any conditions authorized under the  
6 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
7 Corrections, the court may order the defendant to complete  
8 substance use ~~abuse~~ treatment in an outpatient, inpatient,  
9 residential, or jail-based custodial treatment program, order  
10 the defendant to complete mental health counseling in an  
11 inpatient or outpatient basis, comply with physicians'  
12 recommendation regarding medications and all follow up  
13 treatment for any mental health diagnosis made by the  
14 provider. Substance use treatment programs must be licensed by  
15 the State of Illinois as a Substance Use Prevention and  
16 Recovery (SUPR) provider. When referring participants to  
17 mental health treatment programs, the court shall prioritize  
18 providers certified as community mental health or behavioral  
19 health centers as possible. The court shall prioritize the  
20 least restrictive treatment option when ordering mental health  
21 or substance use treatment for participants. The court may  
22 order jail-based custodial treatment if it finds that  
23 jail-based treatment is the least restrictive alternative  
24 based on evidence that efforts were made to locate less  
25 restrictive alternatives to secure confinement and the reasons  
26 why efforts were unsuccessful in locating a less restrictive

1 alternative to jail-based custodial treatment. Any period of  
2 time a defendant shall serve in a jail-based treatment program  
3 may not be reduced by the accumulation of good time or other  
4 credits and may be for a period of up to 120 days.

5 (e) The drug court program shall include a regimen of  
6 graduated requirements and rewards and sanctions, including  
7 but not limited to: ~~finances, fees, costs,~~ restitution,  
8 incarceration of up to 180 days, individual and group therapy,  
9 drug analysis testing, close monitoring by the court at a  
10 minimum of once every 30 days and supervision of progress,  
11 educational or vocational counseling as appropriate, and other  
12 requirements necessary to fulfill the drug court program. If  
13 the defendant needs treatment for opioid use ~~abuse~~ or  
14 dependence, the court may not prohibit the defendant from  
15 participating in and receiving medication assisted treatment  
16 under the care of a physician licensed in this State to  
17 practice medicine in all of its branches. Drug court  
18 participants may not be required to refrain from using  
19 medication assisted treatment as a term or condition of  
20 successful completion of the drug court program.

21 (f) Recognizing that individuals struggling with mental  
22 health, addiction, and related co-occurring disorders have  
23 often experienced trauma, drug court programs may include  
24 specialized service programs specifically designed to address  
25 trauma. These specialized services may be offered to  
26 defendants admitted to the drug court program. Judicial

1 circuits establishing these specialized programs shall partner  
2 with advocates, survivors, and service providers in the  
3 development of the programs. Trauma-informed services and  
4 programming should be operated in accordance with best  
5 practices outlined by the Substance Abuse and Mental Health  
6 Service Administration's National Center for Trauma Informed  
7 Care (SAMHSA).

8 (g) The Court may establish a mentorship program that  
9 provides access and support to program participants by peer  
10 recovery coaches. Courts shall be responsible to administer  
11 the mentorship program with the support of mentors and local  
12 mental health and substance use treatment organizations. Peer  
13 recovery coaches shall be trained by the court, a service  
14 provider utilized by the court for substance use or mental  
15 health treatment, or be a recovery support specialist  
16 certified by the State of Illinois. Peer recovery coaches  
17 shall be approved by the Court and complete orientation with  
18 the court team prior to being assigned to participants in the  
19 program.

20 (Source: P.A. 99-554, eff. 1-1-17.)

21 (730 ILCS 166/30)

22 Sec. 30. Mental health and substance use ~~Substance abuse~~  
23 treatment.

24 (a) The drug court program shall maintain a network of  
25 substance use ~~abuse~~ treatment programs representing a

1 continuum of graduated substance use ~~abuse~~ treatment options  
2 commensurate with the needs of defendants.

3 (b) Any substance use ~~abuse~~ treatment program to which  
4 defendants are referred must be licensed by the State of  
5 Illinois as SUPR providers, meet all of the rules and  
6 governing programs in Parts 2030 and 2060 of Title 77 of the  
7 Illinois Administrative Code.

8 (c) The drug court program may, at its discretion, employ  
9 additional services or interventions, as it deems necessary on  
10 a case by case basis.

11 (d) The drug court program may maintain or collaborate  
12 with a network of mental health treatment programs  
13 representing a continuum of treatment options commensurate  
14 with the needs of the defendant and available resources  
15 including programs with the State of Illinois and  
16 community-based programs supported and sanctioned by the State  
17 of Illinois. Partnerships with providers certified as  
18 community mental health or behavioral health centers shall be  
19 prioritized when possible.

20 (Source: P.A. 92-58, eff. 1-1-02.)

21 (730 ILCS 166/35)

22 Sec. 35. Violation; termination; discharge.

23 (a) If the court finds from the evidence presented  
24 including but not limited to the reports or proffers of proof  
25 from the drug court professionals that:



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

3 (2) the defendant is not benefitting from education,  
4 treatment, or rehabilitation;

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

7 (4) the defendant has otherwise violated the terms and  
8 conditions of the program or his or her sentence or is for  
9 any reason unable to participate;

10 the court may impose reasonable sanctions under prior written  
11 agreement of the defendant, including but not limited to  
12 imprisonment or dismissal of the defendant from the program  
13 and the court may reinstate criminal proceedings against him  
14 or her or proceed under Section 5-6-4 of the Unified Code of  
15 Corrections for a violation of probation, conditional  
16 discharge, or supervision hearing.

17 (a-5) A defendant who is assigned to a substance use ~~abuse~~  
18 treatment program under this Act for opioid use ~~abuse~~ or  
19 dependence is not in violation of the terms or conditions of  
20 the program on the basis of his or her participation in  
21 medication assisted treatment under the care of a physician  
22 licensed in this State to practice medicine in all of its  
23 branches.

24 (b) Upon successful completion of the terms and conditions  
25 of the program, the court may dismiss the original charges  
26 against the defendant or successfully terminate the

1 defendant's sentence or otherwise discharge him or her from  
2 any further proceedings against the defendant ~~him or her~~ in  
3 the original prosecution.

4 (c) Upon successful completion of the terms and conditions  
5 of the program, any State's Attorney in the county of  
6 conviction may move to vacate convictions held by the  
7 defendant that are eligible for sealing under the Criminal  
8 Identification Act. Participants may immediately file  
9 petitions to expunge vacated convictions and the associated  
10 underlying records per the Criminal Identification Act. In  
11 cases where the State's Attorney moves to vacate a conviction,  
12 they may not object to expungement of that conviction or the  
13 underlying record.

14 (d) The drug court program may maintain or collaborate  
15 with a network of legal aid organizations that specialize in  
16 conviction relief to support participants navigating the  
17 expungement and sealing process.

18 (Source: P.A. 99-554, eff. 1-1-17.)

19 (730 ILCS 166/45)

20 Sec. 45. Education seminars for drug court prosecutors.  
21 Subject to appropriation, the Office of the State's Attorneys  
22 Appellate Prosecutor shall conduct mandatory education  
23 seminars on the subjects of substance use disorder ~~abuse~~ and  
24 addiction for all drug court prosecutors throughout the State.

25 (Source: P.A. 99-480, eff. 9-9-15.)

1 (730 ILCS 166/50)

2 Sec. 50. Education seminars for public defenders. Subject  
3 to appropriation, the Office of the State Appellate Defender  
4 shall conduct mandatory education seminars on the subjects of  
5 substance use disorder ~~abuse~~ and addiction for all public  
6 defenders and assistant public defenders practicing in drug  
7 courts throughout the State.

8 (Source: P.A. 99-480, eff. 9-9-15.)

9 Section 10. The Veterans and Servicemembers Court  
10 Treatment Act is amended by changing Sections 5, 10, 20, 25,  
11 30, and 35 and by adding Sections 40, 45, and 50 as follows:

12 (730 ILCS 167/5)

13 Sec. 5. Purposes. The General Assembly recognizes that  
14 veterans and active, Reserve and National Guard servicemembers  
15 have provided or are currently providing an invaluable service  
16 to our country. In so doing, some may suffer the effects of,  
17 including but not limited to, post traumatic stress disorder,  
18 traumatic brain injury, depression and may also suffer drug  
19 and alcohol dependency or addiction and co-occurring mental  
20 illness and substance use disorders ~~abuse problems~~. As a  
21 result of this, some veterans or active duty servicemembers  
22 come into contact with the criminal justice system and are  
23 charged with felony or misdemeanor offenses. There is a

1 critical need for the criminal justice system to recognize  
2 these veterans, provide accountability for their wrongdoing,  
3 provide for the safety of the public and provide for the  
4 treatment of our veterans. It is the intent of the General  
5 Assembly to create specialized veteran and servicemember  
6 courts or programs with the necessary flexibility to meet the  
7 specialized needs ~~problems~~ faced by these veteran and  
8 servicemember defendants.

9 (Source: P.A. 96-924, eff. 6-14-10.)

10 (730 ILCS 167/10)

11 Sec. 10. Definitions. In this Act:

12 "Combination Veterans and Servicemembers Court program"  
13 means a court program that includes a pre-adjudicatory and a  
14 post-adjudicatory Veterans and Servicemembers court program.

15 "Court" means Veterans and Servicemembers Court.

16 "IDVA" means the Illinois Department of Veterans' Affairs.

17 "Peer recovery coach" means a ~~volunteer~~ veteran mentor  
18 assigned to a veteran or servicemember during participation in  
19 a veteran treatment court program who has been trained and  
20 certified by the court to guide and mentor the participant to  
21 successfully complete the assigned requirements. Peer recovery  
22 coaches should be individuals with lived experience and shall  
23 work to help facilitate participants' independence for  
24 continued success once the supports of the court are no longer  
25 available to them.

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

6 "Pre-adjudicatory Veterans and Servicemembers Court  
7 Program" means a program that allows the defendant with the  
8 consent of the prosecution, to expedite the defendant's  
9 criminal case before conviction or before filing of a criminal  
10 case and requires successful completion of the Veterans and  
11 Servicemembers Court programs as part of the agreement.

12 "Servicemember" means a person who is currently serving in  
13 the Army, Air Force, Marines, Navy, or Coast Guard on active  
14 duty, reserve status or in the National Guard.

15 "VA" means the United States Department of Veterans'  
16 Affairs.

17 "VAC" means a veterans assistance commission.

18 "Veteran" means a person who served in the active  
19 military, naval, or air service and who was discharged or  
20 released therefrom under conditions other than dishonorable.

21 "Veterans and Servicemembers Court professional" means a  
22 member of the Veterans and Servicemembers Court team,  
23 including but not limited to a judge, prosecutor, defense  
24 attorney, probation officer, coordinator, treatment provider,  
25 or peer recovery coach.

26 "Veterans and Servicemembers Court" means a court or

1 program with an immediate and highly structured judicial  
2 intervention process for substance use ~~abuse~~ treatment, mental  
3 health, or other assessed treatment needs of eligible veteran  
4 and servicemember defendants that brings together substance  
5 use ~~abuse~~ professionals, mental health professionals, VA  
6 professionals, local social programs and intensive judicial  
7 monitoring in accordance with the nationally recommended 10  
8 key components of drug courts.

9 "Clinical treatment plan" means an evidence-based,  
10 comprehensive, and individualized plan that defines the scope  
11 of treatment services to be delivered by a treatment provider.

12 "Validated clinical assessment" may include assessment  
13 tools required by public or private insurance.

14 (Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

15 (730 ILCS 167/25)

16 Sec. 25. Procedure.

17 (a) The Court shall order the defendant to submit to an  
18 eligibility screening and an assessment through the VA, VAC,  
19 and/or the IDVA to provide information on the defendant's  
20 veteran or servicemember status.

21 (b) The Court shall order the defendant to submit to an  
22 eligibility screening and mental health and drug/alcohol  
23 screening and assessment of the defendant by the VA, VAC, or by  
24 the IDVA to provide assessment services for Illinois Courts.  
25 The assessment shall include a validated clinical assessment.

1 The clinical assessment shall include, but not be limited to,  
2 assessments of substance use, mental and behavioral health  
3 needs. The clinical assessment shall be administered by a  
4 qualified clinician and used to inform any clinical treatment  
5 plans. Clinical treatment plans shall be developed ~~risks~~  
6 ~~assessment and be based,~~ in part, upon the known availability  
7 of treatment resources available to the Veterans and  
8 Servicemembers Court. The assessment shall also include  
9 recommendations for treatment of the conditions which are  
10 indicating a need for treatment under the monitoring of the  
11 Court and be reflective of a level of risk assessed for the  
12 individual seeking admission. An assessment need not be  
13 ordered if the Court finds a valid screening and/or assessment  
14 related to the present charge pending against the defendant  
15 has been completed within the previous 60 days.

16 (c) The judge shall inform the defendant that if the  
17 defendant fails to meet the conditions of the Veterans and  
18 Servicemembers Court program, eligibility to participate in  
19 the program may be revoked and the defendant may be sentenced  
20 or the prosecution continued as provided in the Unified Code  
21 of Corrections for the crime charged.

22 (d) The defendant shall execute a written agreement with  
23 the Court as to his or her participation in the program and  
24 shall agree to all of the terms and conditions of the program,  
25 including but not limited to the possibility of sanctions or  
26 incarceration for failing to abide or comply with the terms of

1 the program.

2 (e) In addition to any conditions authorized under the  
3 Pretrial Services Act and Section 5-6-3 of the Unified Code of  
4 Corrections, the Court may order the defendant to complete  
5 substance use ~~abuse~~ treatment in an outpatient, inpatient,  
6 residential, or jail-based custodial treatment program, order  
7 the defendant to complete mental health counseling in an  
8 inpatient or outpatient basis, comply with physicians'  
9 recommendation regarding medications and all follow up  
10 treatment for any mental health diagnosis made by the  
11 provider. Substance use treatment programs must be licensed by  
12 the State of Illinois as a Substance Use Prevention and  
13 Recovery (SUPR) provider. When referring participants to  
14 mental health treatment programs, the court shall prioritize  
15 providers certified as community mental health or behavioral  
16 health centers as possible. The court shall prioritize the  
17 least restrictive treatment option when ordering mental health  
18 or substance use treatment for participants. The court may  
19 order jail-based custodial treatment if it finds that  
20 jail-based treatment is the least restrictive alternative  
21 based on evidence that efforts were made to locate less  
22 restrictive alternatives to secure confinement and the reasons  
23 why efforts were unsuccessful in locating a less restrictive  
24 alternative to jail-based custodial treatment. ~~This treatment~~  
25 may include but is not limited to post traumatic stress  
26 disorder, traumatic brain injury and depression.



1       (e-5) Recognizing that individuals struggling with mental  
2 health, addiction and related co-occurring disorders have  
3 often experienced trauma, veterans and servicemembers court  
4 programs may include specialized service programs specifically  
5 designed to address trauma. These specialized services may be  
6 offered to defendants admitted to the mental health court  
7 program. Judicial circuits establishing these specialized  
8 programs shall partner with advocates, survivors, and service  
9 providers in the development of the programs. Trauma-informed  
10 services and programming should be operated in accordance with  
11 best practices outlined by the Substance Abuse and Mental  
12 Health Service Administration's National Center for Trauma  
13 Informed Care (SAMHSA).

14       (f) The Court may establish a mentorship program that  
15 provides access and support to program participants by peer  
16 recovery coaches. Courts shall be responsible to administer  
17 the mentorship program with the support of volunteer veterans  
18 and local veteran service organizations, including a VAC. Peer  
19 recovery coaches shall be trained ~~and certified~~ by the Court,  
20 a service provider utilized by the court for substance use or  
21 mental health treatment, or be a recovery support specialist  
22 certified by the State of Illinois. Peer recovery coaches  
23 shall be approved by the Court and complete orientation with  
24 the court team prior to being assigned to participants in the  
25 program.

26       (Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

1 (730 ILCS 167/30)

2 Sec. 30. Mental health and substance use ~~abuse~~ treatment.

3 (a) The Veterans and Servicemembers Court program may  
4 maintain a network of substance use ~~abuse~~ treatment programs  
5 representing a continuum of graduated substance use ~~abuse~~  
6 treatment options commensurate with the needs of defendants;  
7 these shall include programs with the VA, IDVA, a VAC, the  
8 State of Illinois and community-based programs supported and  
9 sanctioned by either or both.

10 (b) Any substance use ~~abuse~~ treatment program to which  
11 defendants are referred must be licensed by the State of  
12 Illinois as SUPR providers, meet all of the rules and  
13 governing programs in Parts 2030 and 2060 of Title 77 of the  
14 Illinois Administrative Code.

15 (c) The Veterans and Servicemembers Court program may, in  
16 its discretion, employ additional services or interventions,  
17 as it deems necessary on a case by case basis.

18 (d) The Veterans and Servicemembers Court program may  
19 maintain or collaborate with a network of mental health  
20 treatment programs and, if it is a co-occurring mental health  
21 and substance use ~~abuse~~ court program, a network of substance  
22 use ~~abuse~~ treatment programs representing a continuum of  
23 treatment options commensurate with the needs of the defendant  
24 and available resources including programs with the VA, the  
25 IDVA, a VAC, and the State of Illinois. When not utilizing

1 mental health treatment or services available through the VA,  
2 IDVA or VAC, partnerships with providers certified as  
3 community mental health or behavioral health centers shall be  
4 prioritized as possible.

5 (Source: P.A. 99-819, eff. 8-15-16.)

6 (730 ILCS 167/35)

7 Sec. 35. Violation; termination; discharge.

8 (a) If the Court finds from the evidence presented  
9 including but not limited to the reports or proffers of proof  
10 from the Veterans and Servicemembers Court professionals that:

11 (1) the defendant is not performing satisfactorily in  
12 the assigned program;

13 (2) the defendant is not benefitting from education,  
14 treatment, or rehabilitation;

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

17 (4) the defendant has otherwise violated the terms and  
18 conditions of the program or his or her sentence or is for  
19 any reason unable to participate; the Court may impose  
20 reasonable sanctions under prior written agreement of the  
21 defendant, including but not limited to imprisonment or  
22 dismissal of the defendant from the program and the Court  
23 may reinstate criminal proceedings against him or her or  
24 proceed under Section 5-6-4 of the Unified Code of  
25 Corrections for a violation of probation, conditional

1 discharge, or supervision hearing.

2 (b) Upon successful completion of the terms and conditions  
3 of the program, the Court may dismiss the original charges  
4 against the defendant or successfully terminate the  
5 defendant's sentence or otherwise discharge him or her from  
6 any further proceedings against him or her in the original  
7 prosecution.

8 (c) Upon successful completion of the terms and conditions  
9 of the program, any State's Attorney in the county of  
10 conviction may move to vacate any convictions eligible for  
11 sealing under the Criminal Identification Act. Defendants may  
12 immediately file petitions to expunge vacated convictions and  
13 the associated underlying records per the Criminal  
14 Identification Act. In cases where the State's Attorney moves  
15 to vacate a conviction, they may not object to expungement of  
16 that conviction or the underlying record.

17 (d) Veterans and servicemembers court programs may  
18 maintain or collaborate with a network of legal aid  
19 organizations that specialize in conviction relief to support  
20 participants navigating the expungement and sealing process.

21 (Source: P.A. 96-924, eff. 6-14-10.)

22 (730 ILCS 167/40 new)

23 Sec. 40. Education seminars for judges. The Administrative  
24 Office of the Illinois Courts shall conduct education seminars  
25 for judges throughout the State on how to operate Veterans and

1 Servicemembers Court Programs.

2 (730 ILCS 167/45 new)

3 Sec. 45. Education seminars for Veterans and  
4 Servicemembers Court prosecutors. Subject to appropriation,  
5 the Office of the State's Attorneys Appellate Prosecutor shall  
6 conduct mandatory education seminars on the subjects of  
7 substance use, addiction, and mental health, for all Veterans  
8 and Servicemembers Court prosecutors throughout the State.

9 (730 ILCS 167/50 new)

10 Sec. 50. Education seminars for public defenders. Subject  
11 to appropriation, the Office of the State Appellate Defender  
12 shall conduct mandatory education seminars on the subjects of  
13 substance use, addiction, and mental health, for all public  
14 defenders and assistant public defenders practicing in  
15 Veterans and Servicemembers Courts throughout the State.

16 Section 15. The Mental Health Court Treatment Act is  
17 amended by changing Sections 5, 10, 20, 25, 30, and 35 and by  
18 adding Sections 45, 50, and 55 as follows:

19 (730 ILCS 168/5)

20 Sec. 5. Purposes. The General Assembly recognizes that a  
21 large percentage of criminal defendants have a diagnosable  
22 mental illness and that mental illnesses have a dramatic

1 effect on the criminal justice system in the State of  
2 Illinois. The General Assembly also recognizes that mental  
3 illness and substance use disorders ~~abuse problems~~ co-occur in  
4 a substantial percentage of criminal defendants. There is a  
5 critical need for a criminal justice system program that will  
6 reduce the number of persons with mental illnesses and with  
7 co-occurring mental illness and substance use disorders ~~abuse~~  
8 ~~problems~~ in the criminal justice system, reduce recidivism  
9 among persons with mental illness and with co-occurring mental  
10 illness and substance use disorders ~~abuse problems~~, provide  
11 appropriate treatment to persons with mental illnesses and  
12 co-occurring mental illness and substance use disorders ~~abuse~~  
13 ~~problems~~ and reduce the incidence of crimes committed as a  
14 result of mental illnesses or co-occurring mental illness and  
15 substance use disorders ~~abuse problems~~. It is the intent of  
16 the General Assembly to create specialized mental health  
17 courts with the necessary flexibility to meet the needs  
18 ~~problems~~ of criminal defendants with mental illnesses and  
19 co-occurring mental illness and substance use disorders ~~abuse~~  
20 ~~problems~~ in the State of Illinois.

21 (Source: P.A. 95-606, eff. 6-1-08.)

22 (730 ILCS 168/10)

23 Sec. 10. Definitions. As used in this Act:

24 "Mental health court", "mental health court program", or  
25 "program" means a structured judicial intervention process for

1 mental health treatment of eligible defendants that brings  
2 together mental health professionals, local social programs,  
3 and intensive judicial monitoring.

4 "Mental health court professional" means a member of the  
5 mental health court team, including but not limited to a  
6 judge, prosecutor, defense attorney, probation officer,  
7 coordinator, treatment provider, or peer recovery coach.

8 "Pre-adjudicatory mental health court program" means a  
9 program that allows the defendant, with the consent of the  
10 prosecution, to expedite the defendant's criminal case before  
11 conviction or before filing of a criminal case and requires  
12 successful completion of the mental health court program as  
13 part of the agreement.

14 "Post-adjudicatory mental health court program" means a  
15 program in which the defendant has admitted guilt or has been  
16 found guilty and agrees, along with the prosecution, to enter  
17 a mental health court program as part of the defendant's  
18 sentence.

19 "Combination mental health court program" means a mental  
20 health court program that includes a pre-adjudicatory mental  
21 health court program and a post-adjudicatory mental health  
22 court program.

23 "Co-occurring mental health and substance use ~~abuse~~ court  
24 program" means a program that includes persons with  
25 co-occurring mental illness and substance use disorders ~~abuse~~  
26 ~~problems~~. Such programs shall include professionals with

1 training and experience in treating persons with substance use  
2 disorders ~~abuse problems~~ and mental illness.

3 "Clinical treatment plan" means an evidence-based,  
4 comprehensive, and individualized plan that defines the scope  
5 of treatment services to be delivered by a treatment provider.

6 "Validated clinical assessment" may include assessment  
7 tools required by public or private insurance.

8 "Peer recovery coach" means a mentor assigned to a  
9 defendant during participation in a drug treatment court  
10 program who has been trained and certified by the court to  
11 guide and mentor the participant to successfully complete the  
12 assigned requirements. Peer recovery coaches should be  
13 individuals with lived experience and work to help facilitate  
14 participants' independence for continued success once the  
15 supports of the court are no longer available to them.

16 (Source: P.A. 97-946, eff. 8-13-12.)

17 (730 ILCS 168/20)

18 Sec. 20. Eligibility.

19 (a) A defendant, who is eligible for probation based on  
20 the nature of the crime convicted of and in consideration of  
21 his or her criminal background, if any, may be admitted into a  
22 mental health court program only upon the agreement of the  
23 defendant and with the approval of the court.

24 (b) A defendant shall be excluded from a mental health  
25 court program if any 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  
4 to 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. As used in this paragraph (3), "crime of violence"  
8 means: first degree murder, second degree murder,  
9 predatory criminal sexual assault of a child, aggravated  
10 criminal sexual assault, criminal sexual assault, armed  
11 robbery, aggravated arson, arson, aggravated kidnapping,  
12 kidnapping, aggravated battery resulting in great bodily  
13 harm or permanent disability, stalking, aggravated  
14 stalking, or any offense involving the discharge of a  
15 firearm.

16           (4) (Blank).

17           (5) The crime for which the defendant has been  
18 convicted is non-probationable.

19           (6) The sentence imposed on the defendant, whether the  
20 result of a plea or a finding of guilt, renders the  
21 defendant ineligible for probation.

22           ~~(e) A defendant charged with prostitution under Section~~  
23 ~~11-14 of the Criminal Code of 2012 may be admitted into a~~  
24 ~~mental health court program, if available in the jurisdiction~~  
25 ~~and provided that the requirements in subsections (a) and (b)~~  
26 ~~are satisfied. Mental health court programs may include~~

1 ~~specialized service programs specifically designed to address~~  
2 ~~the trauma associated with prostitution and human trafficking,~~  
3 ~~and may offer those specialized services to defendants~~  
4 ~~admitted to the mental health court program. Judicial circuits~~  
5 ~~establishing these specialized programs shall partner with~~  
6 ~~prostitution and human trafficking advocates, survivors, and~~  
7 ~~service providers in the development of the programs.~~

8 (Source: P.A. 100-426, eff. 1-1-18.)

9 (730 ILCS 168/25)

10 Sec. 25. Procedure.

11 (a) The court shall require an eligibility screening and  
12 an assessment of the defendant. The assessment shall include a  
13 validated clinical assessment. The clinical assessment shall  
14 include, but not be limited to, assessments of substance use,  
15 mental and behavioral health needs. The clinical assessment  
16 shall be administered by a qualified clinician and used to  
17 inform any clinical treatment plans. Clinical treatment plans  
18 shall be developed, in part, upon the known availability of  
19 treatment resources available. An assessment need not be  
20 ordered if the court finds a valid assessment related to the  
21 present charge pending against the defendant has been  
22 completed within 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

1 be revoked and the defendant may be sentenced or the  
2 prosecution continued, as provided in the Unified Code of  
3 Corrections, for 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 use ~~abuse~~ treatment in an  
13 outpatient, inpatient, residential, or jail-based custodial  
14 treatment program, order the defendant to complete mental  
15 health counseling in an inpatient or outpatient basis, comply  
16 with physicians' recommendation regarding medications and all  
17 follow up treatment for any mental health diagnosis made by  
18 the provider. Substance abuse treatment programs must be  
19 licensed by the State of Illinois as a Substance Use  
20 Prevention and Recovery (SUPR) provider. When referring  
21 participants to mental health treatment programs, the court  
22 shall prioritize providers certified as community mental  
23 health or behavioral health centers as possible. The court  
24 shall prioritize the least restrictive treatment option when  
25 ordering mental health or substance use treatment for  
26 participants. The court may order jail-based custodial

1 treatment if it finds that jail-based treatment is the least  
2 restrictive alternative based on evidence that efforts were  
3 made to locate less restrictive alternatives to secure  
4 confinement and the reasons why efforts were unsuccessful in  
5 locating a less restrictive alternative to jail-based  
6 custodial treatment. Any period of time a defendant shall  
7 serve in a jail-based treatment program may not be reduced by  
8 the accumulation of good time or other credits and may be for a  
9 period of up to 120 days.

10 (e) The mental health court program may include a regimen  
11 of graduated requirements and rewards and sanctions, including  
12 but not limited to: ~~fines, fees, costs,~~ restitution,  
13 incarceration of up to 180 days, individual and group therapy,  
14 medication, drug analysis testing, close monitoring by the  
15 court and supervision of progress, educational or vocational  
16 counseling as appropriate and other requirements necessary to  
17 fulfill the mental health court program.

18 (f) The Mental Health Court program may maintain or  
19 collaborate with a network of mental health treatment programs  
20 and, if it is a co-occurring mental health and substance use  
21 court program, a network of substance use treatment programs  
22 representing a continuum of treatment options commensurate  
23 with the needs of the defendant and available resources  
24 including programs with the State of Illinois.

25 (g) Recognizing that individuals struggling with mental  
26 health, addiction and related co-occurring disorders have

1 often experienced trauma, mental health court programs may  
2 include specialized service programs specifically designed to  
3 address trauma. These specialized services may be offered to  
4 defendants admitted to the mental health court program.  
5 Judicial circuits establishing these specialized programs  
6 shall partner with service providers in the development of the  
7 programs. Trauma-informed services and programming should be  
8 operated in Accordance with best practices outlined by the  
9 Substance Abuse and Mental Health Service Administration's  
10 National Center for Trauma Informed Care (SAMHSA).

11 (h) The Court may establish a mentorship program that  
12 provides access and support to program participants by peer  
13 recovery coaches. Courts shall be responsible to administer  
14 the mentorship program with the support of mentors and local  
15 mental health and SUPR licensed substance use treatment  
16 organizations. Peer recovery coaches shall be trained and  
17 licensed by the court, a service provider utilized by the  
18 court for substance use or mental health treatment, or be a  
19 recovery support specialist certified by the State of  
20 Illinois. Peer recovery coaches shall be approved by the Court  
21 and complete orientation with the court team prior to being  
22 assigned to participants in the program.

23 (Source: P.A. 95-606, eff. 6-1-08.)

24 (730 ILCS 168/30)

25 Sec. 30. Mental health and substance use ~~abuse~~ treatment.

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

8 (b) Any substance use ~~abuse~~ treatment program to which  
9 defendants are referred must be licensed by the State of  
10 Illinois as SUPR providers and meet all of the rules and  
11 governing programs in Parts 2030 and 2060 of Title 77 of the  
12 Illinois Administrative Code.

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

16 (Source: P.A. 95-606, eff. 6-1-08.)

17 (730 ILCS 168/35)

18 Sec. 35. Violation; termination; discharge.

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

22 (1) the defendant is not performing satisfactorily in  
23 the assigned program;

24 (2) the defendant is not benefiting from education,  
25 treatment, or rehabilitation;

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

3           (4) the defendant has otherwise violated the terms and  
4 conditions of the program or his or her sentence or is for  
5 any reason unable to participate;

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

24           (b) Upon successful completion of the terms and conditions  
25 of the program, the court may dismiss the original charges  
26 against the defendant or successfully terminate the

1 defendant's sentence or otherwise discharge him or her from  
2 the program or from any further proceedings against him or her  
3 in the original prosecution.

4 (c) Upon successful completion of the terms and conditions  
5 of the program, any State's Attorney in the county of  
6 conviction may move to vacate any convictions eligible for  
7 sealing under the Criminal Identification Act. Defendants may  
8 immediately file petitions to expunge vacated convictions and  
9 the associated underlying records per the Criminal  
10 Identification Act. In cases where the State's Attorney moves  
11 to vacate a conviction, they may not object to expungement of  
12 that conviction or the underlying record.

13 (d) The mental health court program may maintain or  
14 collaborate with a network of legal aid organizations that  
15 specialize in conviction relief to support participants  
16 navigating the expungement and sealing process.

17 (Source: P.A. 95-606, eff. 6-1-08.)

18 (730 ILCS 168/45 new)

19 Sec. 45. Education seminars for judges. The Administrative  
20 Office of the Illinois Courts shall conduct education seminars  
21 for judges throughout the State on how to operate Mental  
22 Health Court programs.

23 (730 ILCS 168/50 new)

24 Sec. 50. Education seminars for Mental Health Court



1 prosecutors. Subject to appropriation, the Office of the  
2 State's Attorneys Appellate Prosecutor shall conduct mandatory  
3 education seminars on the subjects of substance use, addiction  
4 and mental health, for all prosecutors serving in Mental  
5 Health courts throughout the State.

6 (730 ILCS 168/55 new)

7 Sec. 55. Education seminars for public defenders. Subject  
8 to appropriation, the Office of the State Appellate Defender  
9 shall conduct mandatory education seminars on the subjects of  
10 substance use, addiction, and mental health, for all public  
11 defenders and assistant public defenders practicing in Mental  
12 Health courts throughout the State."