

1 AN ACT concerning courts.

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

4 Section 1. Short title. This Act may be cited as the
5 Veterans and Servicemembers Court Treatment Act.

6 Section 5. Purposes. The General Assembly recognizes that
7 veterans and active, Reserve and National Guard servicemembers
8 have provided or are currently providing an invaluable service
9 to our country. In so doing, some may suffer the effects of,
10 including but not limited to, post traumatic stress disorder,
11 traumatic brain injury, depression and may also suffer drug and
12 alcohol dependency or addiction and co-occurring mental
13 illness and substance abuse problems. As a result of this, some
14 veterans or active duty servicemembers come into contact with
15 the criminal justice system and are charged with felony or
16 misdemeanor offenses. There is a critical need for the criminal
17 justice system to recognize these veterans, provide
18 accountability for their wrongdoing, provide for the safety of
19 the public and provide for the treatment of our veterans. It is
20 the intent of the General Assembly to create specialized
21 veteran and servicemember courts or programs with the necessary
22 flexibility to meet the specialized problems faced by these
23 veteran and servicemember defendants.

1 Section 10. Definitions. In this Act:

2 "Combination Veterans and Servicemembers Court program"
3 means a court program that includes a pre-adjudicatory and a
4 post-adjudicatory Veterans and Servicemembers court program.

5 "Court" means Veterans and Servicemembers Court.

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

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

12 "Pre-adjudicatory Veterans and Servicemembers Court
13 Program" means a program that allows the defendant with the
14 consent of the prosecution, to expedite the defendant's
15 criminal case before conviction or before filing of a criminal
16 case and requires successful completion of the Veterans and
17 Servicemembers Court programs as part of the agreement.

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

21 "VA" means the United States Department of Veterans'
22 Affairs.

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

1 "Veterans and Servicemembers Court professional" means a
2 judge, prosecutor, defense attorney, probation officer, or
3 treatment provider involved with the Court program.

4 "Veterans and Servicemembers Court" means a court or
5 program with an immediate and highly structured judicial
6 intervention process for substance abuse treatment, mental
7 health, or other assessed treatment needs of eligible veteran
8 and servicemember defendants that brings together substance
9 abuse professionals, mental health professionals, VA
10 professionals, local social programs and intensive judicial
11 monitoring in accordance with the nationally recommended 10 key
12 components of drug courts.

13 Section 15. Authorization. The Chief Judge of each judicial
14 circuit may establish a Veterans and Servicemembers Court
15 program including a format under which it operates under this
16 Act. The Veterans and Servicemembers Court may, at the
17 discretion of the Chief Judge, be a separate court or a program
18 of a drug court within the Circuit. At the discretion of the
19 Chief Judge, the Veterans and Servicemembers Court program may
20 be operated in one county in the Circuit, and allow veteran and
21 servicemember defendants from all counties within the Circuit
22 to participate.

23 Section 20. Eligibility. Veterans and Servicemembers are
24 eligible for Veterans and Servicemembers Courts, provided the

1 following:

2 (a) A defendant may be admitted into a Veterans and
3 Servicemembers Court program only upon the agreement of the
4 prosecutor and the defendant and with the approval of the
5 Court.

6 (b) A defendant shall be excluded from Veterans and
7 Servicemembers Court program if any of one of the following
8 applies:

9 (1) The crime is a crime of violence as set forth in
10 clause (3) of this subsection (b).

11 (2) The defendant does not demonstrate a willingness to
12 participate in a treatment program.

13 (3) The defendant has been convicted of a crime of
14 violence within the past 10 years excluding incarceration
15 time, including but not limited to: first degree murder,
16 second degree murder, predatory criminal sexual assault of
17 a child, aggravated criminal sexual assault, criminal
18 sexual assault, armed robbery, aggravated arson, arson,
19 aggravated kidnapping and kidnapping, aggravated battery
20 resulting in great bodily harm or permanent disability,
21 stalking, aggravated stalking, or any offense involving
22 the discharge of a firearm or where occurred serious bodily
23 injury or death to any person.

24 (4) The defendant has previously completed or has been
25 discharged from a Veterans and Servicemembers Court
26 program within three years of that completion or discharge.

1 Section 25. Procedure.

2 (a) The Court shall order the defendant to submit to an
3 eligibility screening and an assessment through the VA and/or
4 the IDVA to provide information on the defendant's veteran or
5 servicemember status.

6 (b) The Court shall order the defendant to submit to an
7 eligibility screening and mental health and drug/alcohol
8 screening and assessment of the defendant by the VA or by the
9 IDVA to provide assessment services for Illinois Courts. The
10 assessment shall include a risks assessment and be based, in
11 part, upon the known availability of treatment resources
12 available to the Veterans and Servicemembers Court. The
13 assessment shall also include recommendations for treatment of
14 the conditions which are indicating a need for treatment under
15 the monitoring of the Court and be reflective of a level of
16 risk assessed for the individual seeking admission. An
17 assessment need not be ordered if the Court finds a valid
18 screening and/or assessment related to the present charge
19 pending against the defendant has been completed within the
20 previous 60 days.

21 (c) The judge shall inform the defendant that if the
22 defendant fails to meet the conditions of the Veterans and
23 Servicemembers Court program, eligibility to participate in
24 the program may be revoked and the defendant may be sentenced
25 or the prosecution continued as provided in the Unified Code of

1 Corrections for the crime charged.

2 (d) The defendant shall execute a written agreement with
3 the Court as to his or her participation in the program and
4 shall agree to all of the terms and conditions of the program,
5 including but not limited to the possibility of sanctions or
6 incarceration for failing to abide or comply with the terms of
7 the program.

8 (e) In addition to any conditions authorized under the
9 Pretrial Services Act and Section 5-6-3 of the Unified Code of
10 Corrections, the Court may order the defendant to complete
11 substance abuse treatment in an outpatient, inpatient,
12 residential, or jail-based custodial treatment program, order
13 the defendant to complete mental health counseling in an
14 inpatient or outpatient basis, comply with physicians'
15 recommendation regarding medications and all follow up
16 treatment. This treatment may include but is not limited to
17 post-traumatic stress disorder, traumatic brain injury and
18 depression.

19 Section 30. Mental health and substance abuse treatment.

20 (a) The Veterans and Servicemembers Court program may
21 maintain a network of substance abuse treatment programs
22 representing a continuum of graduated substance abuse
23 treatment options commensurate with the needs of defendants;
24 these shall include programs with the VA, IDVA, the State of
25 Illinois and community-based programs supported and sanctioned

1 by either or both.

2 (b) Any substance abuse treatment program to which
3 defendants are referred must meet all of the rules and
4 governing programs in Parts 2030 and 2060 of Title 77 of the
5 Illinois Administrative Code.

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

9 (d) The Veterans and Servicemembers Court program may
10 maintain or collaborate with a network of mental health
11 treatment programs and, if it is a co-occurring mental health
12 and substance abuse court program, a network of substance abuse
13 treatment programs representing a continuum of treatment
14 options commensurate with the needs of the defendant and
15 available resources including programs with the VA, the IDVA
16 and the State of Illinois.

17 Section 35. Violation; termination; discharge.

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

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

23 (2) the defendant is not benefitting from education,
24 treatment, or rehabilitation;

25 (3) the defendant has engaged in criminal conduct

1 rendering him or her unsuitable for the program; or

2 (4) the defendant has otherwise violated the terms and
3 conditions of the program or his or her sentence or is for
4 any reason unable to participate; the Court may impose
5 reasonable sanctions under prior written agreement of the
6 defendant, including but not limited to imprisonment or
7 dismissal of the defendant from the program and the Court
8 may reinstate criminal proceedings against him or her or
9 proceed under Section 5-6-4 of the Unified Code of
10 Corrections for a violation of probation, conditional
11 discharge, or supervision hearing.

12 (b) Upon successful completion of the terms and conditions
13 of the program, the Court may dismiss the original charges
14 against the defendant or successfully terminate the
15 defendant's sentence or otherwise discharge him or her from any
16 further proceedings against him or her in the original
17 prosecution.

18 Section 90. The Counties Code is amended by changing
19 Section 5-1101 as follows:

20 (55 ILCS 5/5-1101) (from Ch. 34, par. 5-1101)

21 Sec. 5-1101. Additional fees to finance court system. A
22 county board may enact by ordinance or resolution the following
23 fees:

24 (a) A \$5 fee to be paid by the defendant on a judgment of

1 guilty or a grant of supervision for violation of the Illinois
2 Vehicle Code other than Section 11-501 or violations of similar
3 provisions contained in county or municipal ordinances
4 committed in the county, and up to a \$30 fee to be paid by the
5 defendant on a judgment of guilty or a grant of supervision for
6 violation of Section 11-501 of the Illinois Vehicle Code or a
7 violation of a similar provision contained in county or
8 municipal ordinances committed in the county.

9 (b) In the case of a county having a population of
10 1,000,000 or less, a \$5 fee to be collected in all civil cases
11 by the clerk of the circuit court.

12 (c) A fee to be paid by the defendant on a judgment of
13 guilty or a grant of supervision, as follows:

- 14 (1) for a felony, \$50;
- 15 (2) for a class A misdemeanor, \$25;
- 16 (3) for a class B or class C misdemeanor, \$15;
- 17 (4) for a petty offense, \$10;
- 18 (5) for a business offense, \$10.

19 (d) A \$100 fee for the second and subsequent violations of
20 Section 11-501 of the Illinois Vehicle Code or violations of
21 similar provisions contained in county or municipal ordinances
22 committed in the county. The proceeds of this fee shall be
23 placed in the county general fund and used to finance education
24 programs related to driving under the influence of alcohol or
25 drugs.

26 (d-5) A \$10 fee to be paid by the defendant on a judgment

1 of guilty or a grant of supervision under Section 5-9-1 of the
2 Unified Code of Corrections to be placed in the county general
3 fund and used to finance the county mental health court, the
4 county drug court, the Veterans and Servicemembers Court, or
5 any or all of the above ~~or both~~.

6 (e) In each county in which a teen court, peer court, peer
7 jury, youth court, or other youth diversion program has been
8 created, a county may adopt a mandatory fee of up to \$5 to be
9 assessed as provided in this subsection. Assessments collected
10 by the clerk of the circuit court pursuant to this subsection
11 must be deposited into an account specifically for the
12 operation and administration of a teen court, peer court, peer
13 jury, youth court, or other youth diversion program. The clerk
14 of the circuit court shall collect the fees established in this
15 subsection and must remit the fees to the teen court, peer
16 court, peer jury, youth court, or other youth diversion program
17 monthly, less 5%, which is to be retained as fee income to the
18 office of the clerk of the circuit court. The fees are to be
19 paid as follows:

20 (1) a fee of up to \$5 paid by the defendant on a
21 judgment of guilty or grant of supervision for violation of
22 the Illinois Vehicle Code or violations of similar
23 provisions contained in county or municipal ordinances
24 committed in the county;

25 (2) a fee of up to \$5 paid by the defendant on a
26 judgment of guilty or grant of supervision under Section

1 5-9-1 of the Unified Code of Corrections for a felony; for
2 a Class A, Class B, or Class C misdemeanor; for a petty
3 offense; and for a business offense.

4 (f) In each county in which a drug court has been created,
5 the county may adopt a mandatory fee of up to \$5 to be assessed
6 as provided in this subsection. Assessments collected by the
7 clerk of the circuit court pursuant to this subsection must be
8 deposited into an account specifically for the operation and
9 administration of the drug court. The clerk of the circuit
10 court shall collect the fees established in this subsection and
11 must remit the fees to the drug court, less 5%, which is to be
12 retained as fee income to the office of the clerk of the
13 circuit court. The fees are to be paid as follows:

14 (1) a fee of up to \$5 paid by the defendant on a
15 judgment of guilty or grant of supervision for a violation
16 of the Illinois Vehicle Code or a violation of a similar
17 provision contained in a county or municipal ordinance
18 committed in the county; or

19 (2) a fee of up to \$5 paid by the defendant on a
20 judgment of guilty or a grant of supervision under Section
21 5-9-1 of the Unified Code of Corrections for a felony; for
22 a Class A, Class B, or Class C misdemeanor; for a petty
23 offense; and for a business offense.

24 The clerk of the circuit court shall deposit the 5%
25 retained under this subsection into the Circuit Court Clerk
26 Operation and Administrative Fund to be used to defray the

1 costs of collection and disbursement of the drug court fee.

2 (f-5) In each county in which a Children's Advocacy Center
3 provides services, the county board may adopt a mandatory fee
4 of between \$5 and \$30 to be paid by the defendant on a judgment
5 of guilty or a grant of supervision under Section 5-9-1 of the
6 Unified Code of Corrections for a felony; for a Class A, Class
7 B, or Class C misdemeanor; for a petty offense; and for a
8 business offense. Assessments shall be collected by the clerk
9 of the circuit court and must be deposited into an account
10 specifically for the operation and administration of the
11 Children's Advocacy Center. The clerk of the circuit court
12 shall collect the fees as provided in this subsection, and must
13 remit the fees to the Children's Advocacy Center.

14 (g) The proceeds of all fees enacted under this Section
15 must, except as provided in subsections (d), (d-5), (e), and
16 (f), be placed in the county general fund and used to finance
17 the court system in the county, unless the fee is subject to
18 disbursement by the circuit clerk as provided under Section
19 27.5 of the Clerks of Courts Act.

20 (Source: P.A. 95-103, eff. 1-1-08; 95-331, eff. 8-21-07;
21 96-328, eff. 8-11-09.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.