



Judiciary I - Civil Law Committee

Filed: 3/10/2010

09600HB5214ham001

LRB096 18368 RLC 35779 a

1 AMENDMENT TO HOUSE BILL 5214

2 AMENDMENT NO. _____. Amend House Bill 5214 by replacing
3 everything after the enacting clause with the following:

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

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

8 Section 10. Definitions. In this Act:

9 "Combination Veterans and Servicemembers Court program"
10 means a court program that includes a pre-adjudicatory and a
11 post-adjudicatory Veterans and Servicemembers court program.

12 "Court" means Veterans and Servicemembers Court.

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

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

19 "Pre-adjudicatory Veterans and Servicemembers Court
20 Program" means a program that allows the defendant with the
21 consent of the prosecution, to expedite the defendant's
22 criminal case before conviction or before filing of a criminal
23 case and requires successful completion of the Veterans and
24 Servicemembers Court programs as part of the agreement.

25 "Servicemember" means a person who is currently serving in

1 the Army, Air Force, Marines, Navy, or Coast Guard on active
2 duty, reserve status or in the National Guard.

3 "VA" means the United States Department of Veterans'
4 Affairs.

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

8 "Veterans and Servicemembers Court professional" means a
9 judge, prosecutor, defense attorney, probation officer, or
10 treatment provider involved with the Court program.

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

20 Section 15. Authorization. The Chief Judge of each judicial
21 circuit may establish a Veterans and Servicemembers Court
22 program including a format under which it operates under this
23 Act. The Veterans and Servicemembers Court may, at the
24 discretion of the Chief Judge, be a separate court or a program
25 of a drug court within the Circuit. At the discretion of the

1 Chief Judge, the Veterans and Servicemembers Court program may
2 be operated in one county in the Circuit, and allow veteran and
3 servicemember defendants from all counties within the Circuit
4 to participate.

5 Section 20. Eligibility. Veterans and Servicemembers are
6 eligible for Veterans and Servicemembers Courts, provided the
7 following:

8 (a) A defendant may be admitted into a Veterans and
9 Servicemembers Court program only upon the agreement of the
10 prosecutor and the defendant and with the approval of the
11 Court.

12 (b) A defendant shall be excluded from Veterans and
13 Servicemembers Court program if any of one of the following
14 applies:

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

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

19 (3) The defendant has been convicted of a crime of
20 violence within the past 10 years excluding incarceration
21 time, including but not limited to: first degree murder,
22 second degree murder, predatory criminal sexual assault of
23 a child, aggravated criminal sexual assault, criminal
24 sexual assault, armed robbery, aggravated arson, arson,
25 aggravated kidnapping and kidnapping, aggravated battery

1 resulting in great bodily harm or permanent disability,
2 stalking, aggravated stalking, or any offense involving
3 the discharge of a firearm or where occurred serious bodily
4 injury or death to any person.

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

8 Section 25. Procedure.

9 (a) The Court shall order the defendant to submit to an
10 eligibility screening and an assessment through the VA and/or
11 the IDVA to provide information on the defendant's veteran or
12 servicemember status.

13 (b) The Court shall order the defendant to submit to an
14 eligibility screening and mental health and drug/alcohol
15 screening and assessment of the defendant by the VA or by the
16 IDVA to provide assessment services for Illinois Courts. The
17 assessment shall include a risks assessment and be based, in
18 part, upon the known availability of treatment resources
19 available to the Veterans and Servicemembers Court. The
20 assessment shall also include recommendations for treatment of
21 the conditions which are indicating a need for treatment under
22 the monitoring of the Court and be reflective of a level of
23 risk assessed for the individual seeking admission. An
24 assessment need not be ordered if the Court finds a valid
25 screening and or assessment related to the present charge

1 pending against the defendant has been completed within the
2 previous 60 days.

3 (c) The judge shall inform the defendant that if the
4 defendant fails to meet the conditions of the Veterans and
5 Servicemembers Court program, eligibility to participate in
6 the program may be revoked and the defendant may be sentenced
7 or the prosecution continued as provided in the Unified Code of
8 Corrections for the crime charged.

9 (d) The defendant shall execute a written agreement with
10 the Court as to his or her participation in the program and
11 shall agree to all of the terms and conditions of the program,
12 including but not limited to the possibility of sanctions or
13 incarceration for failing to abide or comply with the terms of
14 the program.

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

1 Section 30. Mental health and substance abuse treatment.

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

9 (b) Any substance abuse treatment program to which
10 defendants are referred must 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 Veterans and Servicemembers Court program may, in
14 its discretion, employ additional services or interventions,
15 as it deems necessary on a case by case basis.

16 (d) The Veterans and Servicemembers Court program may
17 maintain or collaborate with a network of mental health
18 treatment programs and, if it is a co-occurring mental health
19 and substance abuse court program, a network of substance abuse
20 treatment program representing a continuum of treatment
21 options commensurate with the needs of the defendant and
22 available resources including programs with the VA, the IDVA
23 and the State of Illinois.

24 Section 35. Violation; termination; discharge.

25 (a) If the Court finds from the evidence presented

1 including but not limited to the reports or proffers of proof
2 from the Veterans and Servicemembers Court professionals that:

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

5 (2) the defendant is not benefitting from education,
6 treatment, or rehabilitation;

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

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

19 (b) Upon successful completion of the terms and conditions
20 of the program, the Court may dismiss the original charges
21 against the defendant or successfully terminate the
22 defendant's sentence or otherwise discharge him or her from any
23 further proceedings against him or her in the original
24 prosecution.

25 Section 90. The Counties Code is amended by changing

1 Section 5-1101 as follows:

2 (55 ILCS 5/5-1101) (from Ch. 34, par. 5-1101)

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

6 (a) A \$5 fee to be paid by the defendant on a judgment of
7 guilty or a grant of supervision for violation of the Illinois
8 Vehicle Code other than Section 11-501 or violations of similar
9 provisions contained in county or municipal ordinances
10 committed in the county, and up to a \$30 fee to be paid by the
11 defendant on a judgment of guilty or a grant of supervision for
12 violation of Section 11-501 of the Illinois Vehicle Code or a
13 violation of a similar provision contained in county or
14 municipal ordinances committed in the county.

15 (b) In the case of a county having a population of
16 1,000,000 or less, a \$5 fee to be collected in all civil cases
17 by the clerk of the circuit court.

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

20 (1) for a felony, \$50;

21 (2) for a class A misdemeanor, \$25;

22 (3) for a class B or class C misdemeanor, \$15;

23 (4) for a petty offense, \$10;

24 (5) for a business offense, \$10.

25 (d) A \$100 fee for the second and subsequent violations of

1 Section 11-501 of the Illinois Vehicle Code or violations of
2 similar provisions contained in county or municipal ordinances
3 committed in the county. The proceeds of this fee shall be
4 placed in the county general fund and used to finance education
5 programs related to driving under the influence of alcohol or
6 drugs.

7 (d-5) A \$10 fee to be paid by the defendant on a judgment
8 of guilty or a grant of supervision under Section 5-9-1 of the
9 Unified Code of Corrections to be placed in the county general
10 fund and used to finance the county mental health court, the
11 county drug court, the Veterans and Servicemembers Court, or
12 any or all of the above ~~or both~~.

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

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

6 (2) a fee of up to \$5 paid by the defendant on a
7 judgment of guilty or grant of supervision under Section
8 5-9-1 of the Unified Code of Corrections for a felony; for
9 a Class A, Class B, or Class C misdemeanor; for a petty
10 offense; and for a business offense.

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

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

26 (2) a fee of up to \$5 paid by the defendant on a

1 judgment of guilty or a grant of supervision under Section
2 5-9-1 of the Unified Code of Corrections for a felony; for
3 a Class A, Class B, or Class C misdemeanor; for a petty
4 offense; and for a business offense.

5 The clerk of the circuit court shall deposit the 5%
6 retained under this subsection into the Circuit Court Clerk
7 Operation and Administrative Fund to be used to defray the
8 costs of collection and disbursement of the drug court fee.

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

21 (g) The proceeds of all fees enacted under this Section
22 must, except as provided in subsections (d), (d-5), (e), and
23 (f), be placed in the county general fund and used to finance
24 the court system in the county, unless the fee is subject to
25 disbursement by the circuit clerk as provided under Section
26 27.5 of the Clerks of Courts Act.

1 (Source: P.A. 95-103, eff. 1-1-08; 95-331, eff. 8-21-07;
2 96-328, eff. 8-11-09.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".