

1 AN ACT concerning criminal law.

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 Mental
5 Health Court Treatment Act.

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

1 flexibility to meet the problems of criminal defendants with
2 mental illnesses and co-occurring mental illness and substance
3 abuse problems in the State of Illinois.

4 Section 10. Definitions. As used in this Act:

5 "Mental health court", "mental health court program", or
6 "program" means a structured judicial intervention process for
7 mental health treatment of eligible defendants that brings
8 together mental health professionals, local social programs,
9 and intensive judicial monitoring.

10 "Mental health court professional" means a judge,
11 prosecutor, defense attorney, probation officer, or treatment
12 provider involved with the mental health court program.

13 "Pre-adjudicatory mental health court program" means a
14 program that allows the defendant, with the consent of the
15 prosecution, to expedite the defendant's criminal case before
16 conviction or before filing of a criminal case and requires
17 successful completion of the mental health court program as
18 part of the agreement.

19 "Post-adjudicatory mental health court program" means a
20 program in which the defendant has admitted guilt or has been
21 found guilty and agrees, along with the prosecution, to enter a
22 mental health court program as part of the defendant's
23 sentence.

24 "Combination mental health court program" means a mental
25 health court program that includes a pre-adjudicatory mental

1 health court program and a post-adjudicatory mental health
2 court program.

3 "Co-occurring mental health and substance abuse court
4 program" means a program that includes persons with
5 co-occurring mental illness and substance abuse problems. Such
6 programs shall include professionals with training and
7 experience in treating persons with substance abuse problems
8 and mental illness.

9 Section 15. Authorization. The Chief Judge of each judicial
10 circuit may establish a mental health court program, including
11 the format under which it operates under this Act.

12 Section 20. Eligibility.

13 (a) A defendant may be admitted into a mental health court
14 program only upon the agreement of the prosecutor and the
15 defendant and with the approval of the court.

16 (b) A defendant shall be excluded from a mental health
17 court program if any one of the following applies:

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

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

22 (3) The defendant has been convicted of a crime of
23 violence within the past 10 years excluding incarceration
24 time, specifically first degree murder, second degree

1 murder, predatory criminal sexual assault of a child,
2 aggravated criminal sexual assault, criminal sexual
3 assault, armed robbery, aggravated arson, arson,
4 aggravated kidnapping, kidnapping, stalking, aggravated
5 stalking, or any offense involving the discharge of a
6 firearm.

7 (4) The defendant has previously completed or has been
8 discharged from a mental health court program within 3
9 years of completion or discharge.

10 Section 25. Procedure.

11 (a) The court shall require an eligibility screening and an
12 assessment of the defendant. An assessment need not be ordered
13 if the court finds a valid assessment related to the present
14 charge pending against the defendant has been completed within
15 the previous 60 days.

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

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

1 failing to abide or comply with the terms of the program.

2 (d) 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 mental health or substance abuse treatment in an outpatient,
6 inpatient, residential, or jail-based custodial treatment
7 program. Any period of time a defendant shall serve in a
8 jail-based treatment program may not be reduced by the
9 accumulation of good time or other credits and may be for a
10 period of up to 120 days.

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

19 Section 30. Mental health and substance abuse treatment.

20 (a) The mental health court program may maintain or
21 collaborate with a network of mental health treatment programs
22 and, if it is a co-occurring mental health and substance abuse
23 court program, a network of substance abuse treatment programs
24 representing a continuum of treatment options commensurate
25 with the needs of defendants and available resources.

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

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

8 Section 35. Violation; termination; discharge.

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

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

14 (2) the defendant is not benefiting from education,
15 treatment, or rehabilitation;

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

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

21 the court may impose reasonable sanctions under prior written
22 agreement of the defendant, including but not limited to
23 imprisonment or dismissal of the defendant from the program;
24 and the court may reinstate criminal proceedings against him or
25 her or proceed under Section 5-6-4 of the Unified Code of

1 Corrections for a violation of probation, conditional
2 discharge, or supervision hearing. No defendant may be
3 dismissed from the program unless, prior to such dismissal, the
4 defendant is informed in writing: (i) of the reason or reasons
5 for the dismissal; (ii) the evidentiary basis supporting the
6 reason or reasons for the dismissal; (iii) that the defendant
7 has a right to a hearing at which he or she may present
8 evidence supporting his or her continuation in the program.
9 Based upon the evidence presented, the court shall determine
10 whether the defendant has violated the conditions of the
11 program and whether the defendant should be dismissed from the
12 program or whether some other alternative may be appropriate in
13 the interests of the defendant and the public.

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

20 Section 105. The Unified Code of Corrections is amended by
21 changing Section 5-9-3 as follows:

22 (730 ILCS 5/5-9-3) (from Ch. 38, par. 1005-9-3)

23 Sec. 5-9-3. Default.

24 (a) An offender who defaults in the payment of a fine or

1 any installment of that fine may be held in contempt and
2 imprisoned for nonpayment. The court may issue a summons for
3 his appearance or a warrant of arrest.

4 (b) Unless the offender shows that his default was not due
5 to his intentional refusal to pay, or not due to a failure on
6 his part to make a good faith effort to pay, the court may
7 order the offender imprisoned for a term not to exceed 6 months
8 if the fine was for a felony, or 30 days if the fine was for a
9 misdemeanor, a petty offense or a business offense. Payment of
10 the fine at any time will entitle the offender to be released,
11 but imprisonment under this Section shall not satisfy the
12 payment of the fine.

13 (c) If it appears that the default in the payment of a fine
14 is not intentional under paragraph (b) of this Section, the
15 court may enter an order allowing the offender additional time
16 for payment, reducing the amount of the fine or of each
17 installment, or revoking the fine or the unpaid portion.

18 (d) When a fine is imposed on a corporation or
19 unincorporated organization or association, it is the duty of
20 the person or persons authorized to make disbursement of
21 assets, and their superiors, to pay the fine from assets of the
22 corporation or unincorporated organization or association. The
23 failure of such persons to do so shall render them subject to
24 proceedings under paragraphs (a) and (b) of this Section.

25 (e) A default in the payment of a fine, fee, cost,
26 restitution, or judgment of bond forfeiture or any installment

1 may be collected by any and all means authorized for the
2 collection of money judgments. The State's Attorney of the
3 county in which the fine, fee, cost, restitution, or judgment
4 of bond forfeiture was imposed may retain attorneys and private
5 collection agents for the purpose of collecting any default in
6 payment of any fine, fee, cost, restitution, or judgment of
7 bond forfeiture or installment of that fine, fee, cost,
8 restitution, or judgment of bond forfeiture. An additional fee
9 of 30% of the delinquent amount is to be charged to the
10 offender for any amount of the fine, fee, cost, restitution, or
11 judgment of bond forfeiture or installment of the fine, fee,
12 cost, restitution, or judgment of bond forfeiture that remains
13 unpaid after the time fixed for payment of the fine, fee, cost,
14 restitution, or judgment of bond forfeiture by the court. The
15 additional fee shall be payable to the State's Attorney in
16 order to compensate the State's Attorney for costs incurred in
17 collecting the delinquent amount. The State's Attorney may
18 enter into agreements assigning any portion of the fee to the
19 retained attorneys or the private collection agent retained by
20 the State's Attorney. Any agreement between the State's
21 Attorney and the retained attorneys or collection agents shall
22 require the approval of the Circuit Clerk of that county. A
23 default in payment of a fine, fee, cost, restitution, or
24 judgment of bond forfeiture shall draw interest at the rate of
25 9% per annum. The fees and costs incurred by the State's
26 Attorney in any such collection and the fees and charges of

1 ~~attorneys and private collection agents retained by the State's~~

2 ~~Attorney for those purposes shall be charged to the offender.~~

3 (Source: P.A. 93-693, eff. 1-1-05.)