



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4619

Introduced 2/1/2012, by Rep. Michael G. Connelly

SYNOPSIS AS INTRODUCED:

730 ILCS 166/10
730 ILCS 167/10
730 ILCS 167/15
730 ILCS 167/20
730 ILCS 168/10
730 ILCS 168/20
740 ILCS 110/9.2

Amends the Drug Court Treatment Act, the Veterans and Servicemembers Court Treatment Act, and the Mental Health Court Treatment Act. Changes the definitions of "drug court professional", "Veterans and Servicemembers Court professional", and "mental health court professional" to include peer recovery coaches and coordinators. Provides that a Veterans and Servicemembers Court may be established as a problem solving court and includes a mental health court. Deletes provisions that exclude from a Veterans and Servicemembers Court program or a mental health court program a defendant who has previously completed or has been discharged from such program within 3 years of that completion or discharge. Amends the Mental Health and Developmental Disabilities Confidentiality Act. Provides that in addition to other entities prescribed by law, mental health court professionals, Veterans and Servicemembers Court professionals, and juvenile detention facilities may disclose a recipient's mental health record or communications, without consent, to each other, but only for the purpose of admission, treatment, planning, or discharge. Effective immediately.

LRB097 15075 RLC 60166 b

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 5. The Drug Court Treatment Act is amended by
5 changing Section 10 as follows:

6 (730 ILCS 166/10)

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

8 "Drug court", "drug court program", or "program" means an
9 immediate and highly structured judicial intervention process
10 for substance abuse treatment of eligible defendants that
11 brings together substance abuse professionals, local social
12 programs, and intensive judicial monitoring in accordance with
13 the nationally recommended 10 key components of drug courts.

14 "Drug court professional" means a member of the drug court
15 team, including but not limited to a judge, prosecutor, defense
16 attorney, probation officer, coordinator, or treatment
17 provider, or peer recovery coach ~~involved with the drug court~~
18 ~~program.~~

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

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

5 "Combination drug court program" means a drug court program
6 that includes a pre-adjudicatory drug court program and a
7 post-adjudicatory drug court program.

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

9 Section 10. The Veterans and Servicemembers Court
10 Treatment Act is amended by changing Sections 10, 15, and 20 as
11 follows:

12 (730 ILCS 167/10)

13 Sec. 10. Definitions. In this Act:

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

17 "Court" means Veterans and Servicemembers Court.

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

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

24 "Pre-adjudicatory Veterans and Servicemembers Court

1 Program" means a program that allows the defendant with the
2 consent of the prosecution, to expedite the defendant's
3 criminal case before conviction or before filing of a criminal
4 case and requires successful completion of the Veterans and
5 Servicemembers Court programs as part of the agreement.

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

9 "VA" means the United States Department of Veterans'
10 Affairs.

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

14 "Veterans and Servicemembers Court professional" means a
15 member of the Veterans and Servicemembers Court team, including
16 but not limited to a judge, prosecutor, defense attorney,
17 probation officer, coordinator, or treatment provider, or peer
18 recovery coach ~~involved with the Court program.~~

19 "Veterans and Servicemembers Court" means a court or
20 program with an immediate and highly structured judicial
21 intervention process for substance abuse treatment, mental
22 health, or other assessed treatment needs of eligible veteran
23 and servicemember defendants that brings together substance
24 abuse professionals, mental health professionals, VA
25 professionals, local social programs and intensive judicial
26 monitoring in accordance with the nationally recommended 10 key

1 components of drug courts.

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

3 (730 ILCS 167/15)

4 Sec. 15. Authorization. The Chief Judge of each judicial
5 circuit may establish a Veterans and Servicemembers Court
6 program including a format under which it operates under this
7 Act. The Veterans and Servicemembers Court may, at the
8 discretion of the Chief Judge, be a separate court or a program
9 of a problem-solving court, including but not limited to a drug
10 court or mental health court ~~within the Circuit~~. At the
11 discretion of the Chief Judge, the Veterans and Servicemembers
12 Court program may be operated in one county in the Circuit, and
13 allow veteran and servicemember defendants from all counties
14 within the Circuit to participate.

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

16 (730 ILCS 167/20)

17 Sec. 20. Eligibility. Veterans and Servicemembers are
18 eligible for Veterans and Servicemembers Courts, provided the
19 following:

20 (a) A defendant may be admitted into a Veterans and
21 Servicemembers Court program only upon the agreement of the
22 prosecutor and the defendant and with the approval of the
23 Court.

24 (b) A defendant shall be excluded from Veterans and

1 Servicemembers Court program if any of one of the following
2 applies:

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

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

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

18 (4) (Blank). ~~The defendant has previously completed or~~
19 ~~has been discharged from a Veterans and Servicemembers~~
20 ~~Court program within three years of that completion or~~
21 ~~discharge.~~

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

23 Section 15. The Mental Health Court Treatment Act is
24 amended by changing Sections 10 and 20 as follows:

1 (730 ILCS 168/10)

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

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

8 "Mental health court professional" means a member of the
9 mental health court team, including but not limited to a judge,
10 prosecutor, defense attorney, probation officer, coordinator,
11 or treatment provider, or peer recovery coach ~~involved with the~~
12 ~~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
26 health court program and a post-adjudicatory mental health

1 court program.

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

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

9 (730 ILCS 168/20)

10 Sec. 20. Eligibility.

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

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

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

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

20 (3) The defendant has been convicted of a crime of
21 violence within the past 10 years excluding incarceration
22 time, specifically first degree murder, second degree
23 murder, predatory criminal sexual assault of a child,
24 aggravated criminal sexual assault, criminal sexual
25 assault, armed robbery, aggravated arson, arson,

1 aggravated kidnapping, kidnapping, stalking, aggravated
2 stalking, or any offense involving the discharge of a
3 firearm.

4 (4) (Blank). ~~The defendant has previously completed or~~
5 ~~has been discharged from a mental health court program~~
6 ~~within 3 years of completion or discharge.~~

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

8 Section 20. The Mental Health and Developmental
9 Disabilities Confidentiality Act is amended by changing
10 Section 9.2 as follows:

11 (740 ILCS 110/9.2)

12 Sec. 9.2. Interagency disclosure of recipient information.
13 For the purposes of continuity of care, the Department of Human
14 Services (as successor to the Department of Mental Health and
15 Developmental Disabilities), community agencies funded by the
16 Department of Human Services in that capacity, licensed private
17 hospitals receiving payments from the Department of Human
18 Services or the Department of Healthcare and Family Services,
19 State correctional facilities, mental health facilities
20 operated by a county, mental health court professionals as
21 defined in Section 10 of the Mental Health Court Treatment Act,
22 Veterans and Servicemembers Court professionals as defined in
23 Section 10 of the Veterans and Servicemembers Court Treatment
24 Act and jails and juvenile detention facilities and jails

1 operated by any county of this State may disclose a recipient's
2 record or communications, without consent, to each other, but
3 only for the purpose of admission, treatment, planning, or
4 discharge. Entities shall not redisclose any personally
5 identifiable information, unless necessary for admission,
6 treatment, planning, or discharge of the identified recipient
7 to another setting. No records or communications may be
8 disclosed to a county jail or State correctional facility
9 pursuant to this Section unless the Department has entered into
10 a written agreement with the county jail or State correctional
11 facility requiring that the county jail or State correctional
12 facility adopt written policies and procedures designed to
13 ensure that the records and communications are disclosed only
14 to those persons employed by or under contract to the county
15 jail or State correctional facility who are involved in the
16 provision of mental health services to inmates and that the
17 records and communications are protected from further
18 disclosure.

19 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.