

AN ACT concerning criminal law.

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

Section 1. Short title. This Act may be cited as the Mental Health Court Treatment Act.

Section 5. Purposes. The General Assembly recognizes that a large percentage of criminal defendants have a diagnosable mental illness and that mental illnesses have a dramatic effect on the criminal justice system in the State of Illinois. The General Assembly also recognizes that mental illness and substance abuse problems co-occur in a substantial percentage of criminal defendants. There is a critical need for a criminal justice system program that will reduce the number of persons with mental illnesses and with co-occurring mental illness and substance abuse problems in the criminal justice system, reduce recidivism among persons with mental illness and with co-occurring mental illness and substance abuse problems, provide appropriate treatment to persons with mental illnesses and co-occurring mental illness and substance abuse problems and reduce the incidence of crimes committed as a result of mental illnesses or co-occurring mental illness and substance abuse problems. It is the intent of the General Assembly to create specialized mental health courts with the necessary

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

Section 10. Definitions. As used in this Act:

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

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

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

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

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

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

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

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

Section 20. Eligibility.

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

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

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

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

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

murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated arson, arson, aggravated kidnapping, kidnapping, stalking, aggravated stalking, or any offense involving the discharge of a firearm.

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

Section 25. Procedure.

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

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

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

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

(d) In addition to any conditions authorized under the Pretrial Services Act and Section 5-6-3 of the Unified Code of Corrections, the court may order the defendant to complete mental health or substance abuse treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program. Any period of time a defendant shall serve in a jail-based treatment program may not be reduced by the accumulation of good time or other credits and may be for a period of up to 120 days.

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

Section 30. Mental health and substance abuse treatment.

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

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

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

Section 35. Violation; termination; discharge.

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

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

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

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

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

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

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

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

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

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

Sec. 5-9-3. Default.

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

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

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

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

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

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

may be collected by any and all means authorized for the collection of money judgments. The State's Attorney of the county in which the fine, fee, cost, restitution, or judgment of bond forfeiture was imposed may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine, fee, cost, restitution, or judgment of bond forfeiture or installment of that fine, fee, cost, restitution, or judgment of bond forfeiture. An additional fee of 30% of the delinquent amount is to be charged to the offender for any amount of the fine, fee, cost, restitution, or judgment of bond forfeiture or installment of the fine, fee, cost, restitution, or judgment of bond forfeiture that remains unpaid after the time fixed for payment of the fine, fee, cost, restitution, or judgment of bond forfeiture by the court. The additional fee shall be payable to the State's Attorney in order to compensate the State's Attorney for costs incurred in collecting the delinquent amount. The State's Attorney may enter into agreements assigning any portion of the fee to the retained attorneys or the private collection agent retained by the State's Attorney. Any agreement between the State's Attorney and the retained attorneys or collection agents shall require the approval of the Circuit Clerk of that county. A default in payment of a fine, fee, cost, restitution, or judgment of bond forfeiture shall draw interest at the rate of 9% per annum. ~~The fees and costs incurred by the State's Attorney in any such collection and the fees and charges of~~

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~~attorneys and private collection agents retained by the State's
Attorney for those purposes shall be charged to the offender.~~

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