

1 AN ACT concerning State government.

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

4 Section 5. The Alcoholism and Other Drug Abuse and  
5 Dependency Act is amended by changing Section 40-5 as follows:

6 (20 ILCS 301/40-5)

7 Sec. 40-5. Election of treatment. An addict or alcoholic  
8 who is charged with or convicted of a crime or any other person  
9 charged with or convicted of a misdemeanor violation of the Use  
10 of Intoxicating Compounds Act and who has not been previously  
11 convicted of a violation of that Act may elect treatment under  
12 the supervision of a licensed program designated by the  
13 Department, referred to in this Article as "designated  
14 program", unless:

15 (1) the crime is a crime of violence;

16 (2) the crime is a violation of Section 401(a), 401(b),  
17 401(c) where the person electing treatment has been  
18 previously convicted of a non-probationable felony or the  
19 violation is non-probationable, 401(d) where the violation  
20 is non-probationable, 401.1, 402(a), 405 or 407 of the  
21 Illinois Controlled Substances Act, or Section 12-7.3 of  
22 the Criminal Code of 2012, or Section 4(d), 4(e), 4(f),  
23 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis

1 Control Act or Section 15, 20, 55, 60(b)(3), 60(b)(4),  
2 60(b)(5), 60(b)(6), or 65 of the Methamphetamine Control  
3 and Community Protection Act or is otherwise ineligible for  
4 probation under Section 70 of the Methamphetamine Control  
5 and Community Protection Act;

6 (3) the person has a record of 2 or more convictions of  
7 a crime of violence;

8 (4) other criminal proceedings alleging commission of  
9 a felony are pending against the person;

10 (5) the person is on probation or parole and the  
11 appropriate parole or probation authority does not consent  
12 to that election;

13 (6) the person elected and was admitted to a designated  
14 program on 2 prior occasions within any consecutive 2-year  
15 period;

16 (7) the person has been convicted of residential  
17 burglary and has a record of one or more felony  
18 convictions;

19 (8) the crime is a violation of Section 11-501 of the  
20 Illinois Vehicle Code or a similar provision of a local  
21 ordinance; or

22 (9) the crime is a reckless homicide or a reckless  
23 homicide of an unborn child, as defined in Section 9-3 or  
24 9-3.2 of the Criminal Code of 1961, in which the cause of  
25 death consists of the driving of a motor vehicle by a  
26 person under the influence of alcohol or any other drug or

1           drugs at the time of the violation.

2           (Source: P.A. 96-1440, eff. 1-1-11; 97-889, eff. 1-1-13.)