

1 AN ACT in relation to drug courts.

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  
5 Juvenile Drug Court Treatment Act.

6 Section 5. Purposes. The General Assembly recognizes that  
7 the use and abuse of drugs has a dramatic effect on the  
8 juvenile justice system in the State of Illinois. There is a  
9 critical need for a juvenile justice system program that will  
10 reduce the incidence of drug use, drug addiction, and crimes  
11 committed as a result of drug use and drug addiction. It is  
12 the intent of the General Assembly to create specialized drug  
13 courts with the necessary flexibility to meet the drug  
14 problems in the State of Illinois.

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

16 "Drug court", "drug court program", or "program" means an  
17 immediate and highly structured judicial intervention process  
18 for substance abuse treatment of eligible minors that  
19 brings together substance abuse professionals, local social  
20 programs, and intensive judicial monitoring in accordance  
21 with the nationally recommended 10 key components of drug  
22 courts.

23 "Drug court professional" means a judge, prosecutor,  
24 defense attorney, probation officer, or treatment provider  
25 involved with the drug court program.

26 "Pre-adjudicatory drug court program" means a program  
27 that allows the minor, with the consent of the  
28 prosecution, to expedite the minor's delinquency case and  
29 requires successful completion of the drug court program  
30 as part of the agreement.

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

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

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

12 Section 20. Eligibility.

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

16 (b) A minor shall be excluded from a drug court  
17 program if any of one of the following apply:

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

20 (2) The minor denies his or her use of or  
21 addiction to drugs.

22 (3) The minor does not demonstrate a  
23 willingness to participate in a treatment program.

24 (4) The minor has been adjudicated delinquent for  
25 a crime of violence within the past 10 years excluding  
26 incarceration time, including but not limited to: first  
27 degree murder, second degree murder, predatory  
28 criminal sexual assault of a child, criminal sexual  
29 assault, armed robbery, aggravated arson, arson,  
30 aggravated kidnapping, kidnapping, aggravated  
31 battery resulting in great bodily harm or permanent  
32 disability, stalking, aggravated stalking, or any

1 offense involving the discharge of a firearm.

2 Section 25. Procedure.

3 (a) The court shall order an eligibility screening and  
4 an assessment of the minor by an agent designated by the  
5 State of Illinois to provide assessment services for the  
6 Illinois Courts. An assessment need not be ordered if the  
7 court finds a valid assessment related to the present charge  
8 pending against the minor has been completed within the  
9 previous 60 days.

10 (b) The judge shall inform the minor that if the  
11 minor fails to meet the conditions of the drug court  
12 program, eligibility to participate in the program may be  
13 revoked and the minor may be sentenced or the prosecution  
14 continued as provided in the Juvenile Court Act of 1987 for  
15 the crime charged.

16 (c) The minor shall execute a written agreement as to  
17 his or her participation in the program and shall agree to  
18 all of the terms and conditions of the program, including but  
19 not limited to the possibility of sanctions or incarceration  
20 for failing to abide or comply with the terms of the program.

21 (d) In addition to any conditions authorized under  
22 Sections 5-505, 5-710, and 5-715, the court may order the  
23 minor to complete substance abuse treatment in an  
24 outpatient, inpatient, residential, or detention-based  
25 custodial treatment program. Any period of time a minor  
26 shall serve in a detention-based treatment program may not  
27 be reduced by the accumulation of good time or other  
28 credits and may be for a period of up to 120 days.

29 (e) The drug court program shall include a regimen of  
30 graduated requirements and rewards and sanctions, including  
31 but not limited to: fines, costs, restitution,  
32 public service employment, incarceration of up to 120  
33 days, individual and group therapy, drug analysis testing,

1 close monitoring by the court at a minimum of once every  
2 30 days and supervision of progress, educational or  
3 vocational counseling as appropriate, and other  
4 requirements necessary to fulfill the drug court program.

5 Section 30. Substance abuse treatment.

6 (a) The drug court program shall maintain a network of  
7 substance abuse treatment programs representing a continuum  
8 of graduated substance abuse treatment options commensurate  
9 with the needs of minors.

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

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

17 Section 35. Violation; termination; discharge.

18 (a) If the court finds from the evidence presented  
19 including but not limited to the reports or proffers of proof  
20 from the drug court professionals that:

21 (1) the minor is not performing satisfactorily in  
22 the assigned program;

23 (2) the minor is not benefitting from  
24 education, treatment, or rehabilitation;

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

27 (4) the minor has otherwise violated the terms and  
28 conditions of the program or his or her dispositional  
29 order or is for any reason unable to participate;

30 the court may impose reasonable sanctions under prior written  
31 agreement of the minor, including but not limited to  
32 imprisonment or dismissal of the minor from the program and

1 the court may reinstate juvenile proceedings against him or  
2 her or proceed under Section 5-720 of the Juvenile Court Act  
3 of 1987 for a violation of probation, conditional  
4 discharge, or supervision hearing.

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

11 Section 105. The Juvenile Court Act of 1987 is amended  
12 by changing Section 1-5 as follows:

13 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

14 Sec. 1-5. Rights of parties to proceedings.

15 (1) Except as provided in this Section and paragraph (2)  
16 of Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who  
17 is the subject of the proceeding and his parents, guardian,  
18 legal custodian or responsible relative who are parties  
19 respondent have the right to be present, to be heard, to  
20 present evidence material to the proceedings, to  
21 cross-examine witnesses, to examine pertinent court files and  
22 records and also, although proceedings under this Act are not  
23 intended to be adversary in character, the right to be  
24 represented by counsel. At the request of any party  
25 financially unable to employ counsel, with the exception of a  
26 foster parent permitted to intervene under this Section, the  
27 court shall appoint the Public Defender or such other counsel  
28 as the case may require. Counsel appointed for the minor and  
29 any indigent party shall appear at all stages of the trial  
30 court proceeding, and such appointment shall continue through  
31 the permanency hearings and termination of parental rights  
32 proceedings subject to withdrawal or substitution pursuant to

1 Supreme Court Rules or the Code of Civil Procedure. Following  
2 the dispositional hearing, the court may require appointed  
3 counsel, other than counsel for the minor or counsel for the  
4 guardian ad litem, to withdraw his or her appearance upon  
5 failure of the party for whom counsel was appointed under  
6 this Section to attend any subsequent proceedings.

7 No hearing on any petition or motion filed under this Act  
8 may be commenced unless the minor who is the subject of the  
9 proceeding is represented by counsel. Each adult respondent  
10 shall be furnished a written "Notice of Rights" at or before  
11 the first hearing at which he or she appears.

12 (1.5) The Department shall maintain a system of response  
13 to inquiry made by parents or putative parents as to whether  
14 their child is under the custody or guardianship of the  
15 Department; and if so, the Department shall direct the  
16 parents or putative parents to the appropriate court of  
17 jurisdiction, including where inquiry may be made of the  
18 clerk of the court regarding the case number and the next  
19 scheduled court date of the minor's case. Effective notice  
20 and the means of accessing information shall be given to the  
21 public on a continuing basis by the Department.

22 (2) (a) Though not appointed guardian or legal custodian  
23 or otherwise made a party to the proceeding, any current or  
24 previously appointed foster parent or relative caregiver, or  
25 representative of an agency or association interested in the  
26 minor has the right to be heard by the court, but does not  
27 thereby become a party to the proceeding.

28 In addition to the foregoing right to be heard by the  
29 court, any current foster parent or relative caregiver of a  
30 minor and the agency designated by the court or the  
31 Department of Children and Family Services as custodian of  
32 the minor who is alleged to be or has been adjudicated an  
33 abused or neglected minor under Section 2-3 or a dependent  
34 minor under Section 2-4 of this Act has the right to and

1 shall be given adequate notice at all stages of any hearing  
2 or proceeding under this Act.

3 Any foster parent or relative caregiver who is denied his  
4 or her right to be heard under this Section may bring a  
5 mandamus action under Article XIV of the Code of Civil  
6 Procedure against the court or any public agency to enforce  
7 that right. The mandamus action may be brought immediately  
8 upon the denial of those rights but in no event later than 30  
9 days after the foster parent has been denied the right to be  
10 heard.

11 (b) If after an adjudication that a minor is abused or  
12 neglected as provided under Section 2-21 of this Act and a  
13 motion has been made to restore the minor to any parent,  
14 guardian, or legal custodian found by the court to have  
15 caused the neglect or to have inflicted the abuse on the  
16 minor, a foster parent may file a motion to intervene in the  
17 proceeding for the sole purpose of requesting that the minor  
18 be placed with the foster parent, provided that the foster  
19 parent (i) is the current foster parent of the minor or (ii)  
20 has previously been a foster parent for the minor for one  
21 year or more, has a foster care license or is eligible for a  
22 license, and is not the subject of any findings of abuse or  
23 neglect of any child. The juvenile court may only enter  
24 orders placing a minor with a specific foster parent under  
25 this subsection (2)(b) and nothing in this Section shall be  
26 construed to confer any jurisdiction or authority on the  
27 juvenile court to issue any other orders requiring the  
28 appointed guardian or custodian of a minor to place the minor  
29 in a designated foster home or facility. This Section is not  
30 intended to encompass any matters that are within the scope  
31 or determinable under the administrative and appeal process  
32 established by rules of the Department of Children and Family  
33 Services under Section 5(o) of the Children and Family  
34 Services Act. Nothing in this Section shall relieve the

1 court of its responsibility, under Section 2-14(a) of this  
2 Act to act in a just and speedy manner to reunify families  
3 where it is the best interests of the minor and the child can  
4 be cared for at home without endangering the child's health  
5 or safety and, if reunification is not in the best interests  
6 of the minor, to find another permanent home for the minor.  
7 Nothing in this Section, or in any order issued by the court  
8 with respect to the placement of a minor with a foster  
9 parent, shall impair the ability of the Department of  
10 Children and Family Services, or anyone else authorized under  
11 Section 5 of the Abused and Neglected Child Reporting Act, to  
12 remove a minor from the home of a foster parent if the  
13 Department of Children and Family Services or the person  
14 removing the minor has reason to believe that the  
15 circumstances or conditions of the minor are such that  
16 continuing in the residence or care of the foster parent will  
17 jeopardize the child's health and safety or present an  
18 imminent risk of harm to that minor's life.

19 (c) If a foster parent has had the minor who is the  
20 subject of the proceeding under Article II in his or her home  
21 for more than one year on or after July 3, 1994 and if the  
22 minor's placement is being terminated from that foster  
23 parent's home, that foster parent shall have standing and  
24 intervenor status except in those circumstances where the  
25 Department of Children and Family Services or anyone else  
26 authorized under Section 5 of the Abused and Neglected Child  
27 Reporting Act has removed the minor from the foster parent  
28 because of a reasonable belief that the circumstances or  
29 conditions of the minor are such that continuing in the  
30 residence or care of the foster parent will jeopardize the  
31 child's health or safety or presents an imminent risk of harm  
32 to the minor's life.

33 (d) The court may grant standing to any foster parent if  
34 the court finds that it is in the best interest of the child



1 for the foster parent to have standing and intervenor status.

2 (3) Parties respondent are entitled to notice in  
3 compliance with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14  
4 and 4-15 or 5-525 and 5-530, as appropriate. At the first  
5 appearance before the court by the minor, his parents,  
6 guardian, custodian or responsible relative, the court shall  
7 explain the nature of the proceedings and inform the parties  
8 of their rights under the first 2 paragraphs of this Section.

9 If the child is alleged to be abused, neglected or  
10 dependent, the court shall admonish the parents that if the  
11 court declares the child to be a ward of the court and awards  
12 custody or guardianship to the Department of Children and  
13 Family Services, the parents must cooperate with the  
14 Department of Children and Family Services, comply with the  
15 terms of the service plans, and correct the conditions that  
16 require the child to be in care, or risk termination of their  
17 parental rights.

18 Upon an adjudication of wardship of the court under  
19 Sections 2-22, 3-23, 4-20 or 5-705, the court shall inform  
20 the parties of their right to appeal therefrom as well as  
21 from any other final judgment of the court.

22 When the court finds that a child is an abused,  
23 neglected, or dependent minor under Section 2-21, the court  
24 shall admonish the parents that the parents must cooperate  
25 with the Department of Children and Family Services, comply  
26 with the terms of the service plans, and correct the  
27 conditions that require the child to be in care, or risk  
28 termination of their parental rights.

29 When the court declares a child to be a ward of the court  
30 and awards guardianship to the Department of Children and  
31 Family Services under Section 2-22, the court shall admonish  
32 the parents, guardian, custodian, or responsible relative  
33 that the parents must cooperate with the Department of  
34 Children and Family Services, comply with the terms of the

1 service plans, and correct the conditions that require the  
2 child to be in care, or risk termination of their parental  
3 rights.

4 (4) No sanction may be applied against the minor who is  
5 the subject of the proceedings by reason of his refusal or  
6 failure to testify in the course of any hearing held prior to  
7 final adjudication under Section 2-22, 3-23, 4-20 or 5-705.

8 (5) In the discretion of the court, the minor may be  
9 excluded from any part or parts of a dispositional hearing  
10 and, with the consent of the parent or parents, guardian,  
11 counsel or a guardian ad litem, from any part or parts of an  
12 adjudicatory hearing.

13 (6) The general public except for the news media and the  
14 victim shall be excluded from any hearing and, except for the  
15 persons specified in this Section only persons, including  
16 representatives of agencies and associations, who in the  
17 opinion of the court have a direct interest in the case or in  
18 the work of the court shall be admitted to the hearing.  
19 However, the court may, for the minor's safety and protection  
20 and for good cause shown, prohibit any person or agency  
21 present in court from further disclosing the minor's  
22 identity. Nothing in this subsection (6) prevents the court  
23 from allowing other juveniles to be present or to  
24 participate in a court session being held under the Juvenile  
25 Drug Court Treatment Act.

26 (7) A party shall not be entitled to exercise the right  
27 to a substitution of a judge without cause under subdivision  
28 (a)(2) of Section 2-1001 of the Code of Civil Procedure in a  
29 proceeding under this Act if the judge is currently assigned  
30 to a proceeding involving the alleged abuse, neglect, or  
31 dependency of the minor's sibling or half sibling and that  
32 judge has made a substantive ruling in the proceeding  
33 involving the minor's sibling or half sibling.

34 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-590,

1 eff. 1-1-99; 90-608, eff. 6-30-98; 91-357, eff. 7-29-99.)