

1                                AMENDMENT TO SENATE BILL 1638

2                        AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1638 as follows:

3    by replacing everything after the enacting clause with the  
4    following:

5                        "Section 1. Short title. This Act may be cited as  
6    the Juvenile Drug Court Treatment Act.

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

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

17                       "Drug court", "drug court program", or "program" means an  
18   immediate and highly structured judicial intervention process  
19   for substance abuse treatment of eligible minors that  
20   brings together substance abuse professionals, local social

1 programs, and intensive judicial monitoring in accordance  
2 with the nationally recommended 10 key components of drug  
3 courts.

4 "Drug court professional" means a judge, prosecutor,  
5 defense attorney, probation officer, or treatment provider  
6 involved with the drug court program.

7 "Pre-adjudicatory drug court program" means a program  
8 that allows the minor, with the consent of the  
9 prosecution, to expedite the minor's delinquency case and  
10 requires successful completion of the drug court program  
11 as part of the agreement.

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

16 "Combination drug court program" means a drug court  
17 program that includes a pre-adjudicatory drug court program  
18 and a post-adjudicatory drug court program.

19 Section 15. Authorization. The Chief Judge of each  
20 judicial circuit may establish a drug court program for  
21 minors including the format under which it operates under  
22 this Act.

23 Section 20. Eligibility.

24 (a) A minor may be admitted into a drug court  
25 program only upon the agreement of the prosecutor and the  
26 minor and with the approval of the court.

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

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

31 (2) The minor denies his or her use of or  
32 addiction to drugs.

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

3           (4) The minor has been adjudicated delinquent for  
4 a crime of violence within the past 10 years excluding  
5 incarceration time, including but not limited to: first  
6 degree murder, second degree murder, predatory  
7 criminal sexual assault of a child, criminal sexual  
8 assault, armed robbery, aggravated arson, arson,  
9 aggravated kidnapping, kidnapping, aggravated  
10 battery resulting in great bodily harm or permanent  
11 disability, stalking, aggravated stalking, or any  
12 offense involving the discharge of a firearm.

13           Section 25. Procedure.

14           (a) The court shall order an eligibility screening and  
15 an assessment of the minor by an agent designated by the  
16 State of Illinois to provide assessment services for the  
17 Illinois Courts. An assessment need not be ordered if the  
18 court finds a valid assessment related to the present charge  
19 pending against the minor has been completed within the  
20 previous 60 days.

21           (b) The judge shall inform the minor that if the  
22 minor fails to meet the conditions of the drug court  
23 program, eligibility to participate in the program may be  
24 revoked and the minor may be sentenced or the prosecution  
25 continued as provided in the Juvenile Court Act of 1987 for  
26 the crime charged.

27           (c) The minor shall execute a written agreement as to  
28 his or her participation in the program and shall agree to  
29 all of the terms and conditions of the program, including but  
30 not limited to the possibility of sanctions or incarceration  
31 for failing to abide or comply with the terms of the program.

32           (d) In addition to any conditions authorized under  
33 Sections 5-505, 5-710, and 5-715, the court may order the

1 minor to complete substance abuse treatment in an  
2 outpatient, inpatient, residential, or detention-based  
3 custodial treatment program. Any period of time a minor  
4 shall serve in a detention-based treatment program may not  
5 be reduced by the accumulation of good time or other  
6 credits and may be for a period of up to 120 days.

7 (e) The drug court program shall include a regimen of  
8 graduated requirements and rewards and sanctions, including  
9 but not limited to: fines, costs, restitution,  
10 public service employment, incarceration of up to 120  
11 days, individual and group therapy, drug analysis testing,  
12 close monitoring by the court at a minimum of once every  
13 30 days and supervision of progress, educational or  
14 vocational counseling as appropriate, and other  
15 requirements necessary to fulfill the drug court program.

16 Section 30. Substance abuse treatment.

17 (a) The drug court program shall maintain a network of  
18 substance abuse treatment programs representing a continuum  
19 of graduated substance abuse treatment options commensurate  
20 with the needs of minors.

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

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

28 Section 35. Violation; termination; discharge.

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

32 (1) the minor is not performing satisfactorily in

1 the assigned program;

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

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

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

9 the court may impose reasonable sanctions under prior written  
10 agreement of the minor, including but not limited to  
11 imprisonment or dismissal of the minor from the program and  
12 the court may reinstate juvenile proceedings against him or  
13 her or proceed under Section 5-720 of the Juvenile Court Act  
14 of 1987 for a violation of probation, conditional  
15 discharge, or supervision hearing.

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

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

24 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

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

26 (1) Except as provided in this Section and paragraph (2)  
27 of Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who  
28 is the subject of the proceeding and his parents, guardian,  
29 legal custodian or responsible relative who are parties  
30 respondent have the right to be present, to be heard, to  
31 present evidence material to the proceedings, to  
32 cross-examine witnesses, to examine pertinent court files and

1 records and also, although proceedings under this Act are not  
2 intended to be adversary in character, the right to be  
3 represented by counsel. At the request of any party  
4 financially unable to employ counsel, with the exception of a  
5 foster parent permitted to intervene under this Section, the  
6 court shall appoint the Public Defender or such other counsel  
7 as the case may require. Counsel appointed for the minor and  
8 any indigent party shall appear at all stages of the trial  
9 court proceeding, and such appointment shall continue through  
10 the permanency hearings and termination of parental rights  
11 proceedings subject to withdrawal or substitution pursuant to  
12 Supreme Court Rules or the Code of Civil Procedure. Following  
13 the dispositional hearing, the court may require appointed  
14 counsel, other than counsel for the minor or counsel for the  
15 guardian ad litem, to withdraw his or her appearance upon  
16 failure of the party for whom counsel was appointed under  
17 this Section to attend any subsequent proceedings.

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

23 (1.5) The Department shall maintain a system of response  
24 to inquiry made by parents or putative parents as to whether  
25 their child is under the custody or guardianship of the  
26 Department; and if so, the Department shall direct the  
27 parents or putative parents to the appropriate court of  
28 jurisdiction, including where inquiry may be made of the  
29 clerk of the court regarding the case number and the next  
30 scheduled court date of the minor's case. Effective notice  
31 and the means of accessing information shall be given to the  
32 public on a continuing basis by the Department.

33 (2) (a) Though not appointed guardian or legal custodian  
34 or otherwise made a party to the proceeding, any current or

1 previously appointed foster parent or relative caregiver, or  
2 representative of an agency or association interested in the  
3 minor has the right to be heard by the court, but does not  
4 thereby become a party to the proceeding.

5 In addition to the foregoing right to be heard by the  
6 court, any current foster parent or relative caregiver of a  
7 minor and the agency designated by the court or the  
8 Department of Children and Family Services as custodian of  
9 the minor who is alleged to be or has been adjudicated an  
10 abused or neglected minor under Section 2-3 or a dependent  
11 minor under Section 2-4 of this Act has the right to and  
12 shall be given adequate notice at all stages of any hearing  
13 or proceeding under this Act.

14 Any foster parent or relative caregiver who is denied his  
15 or her right to be heard under this Section may bring a  
16 mandamus action under Article XIV of the Code of Civil  
17 Procedure against the court or any public agency to enforce  
18 that right. The mandamus action may be brought immediately  
19 upon the denial of those rights but in no event later than 30  
20 days after the foster parent has been denied the right to be  
21 heard.

22 (b) If after an adjudication that a minor is abused or  
23 neglected as provided under Section 2-21 of this Act and a  
24 motion has been made to restore the minor to any parent,  
25 guardian, or legal custodian found by the court to have  
26 caused the neglect or to have inflicted the abuse on the  
27 minor, a foster parent may file a motion to intervene in the  
28 proceeding for the sole purpose of requesting that the minor  
29 be placed with the foster parent, provided that the foster  
30 parent (i) is the current foster parent of the minor or (ii)  
31 has previously been a foster parent for the minor for one  
32 year or more, has a foster care license or is eligible for a  
33 license, and is not the subject of any findings of abuse or  
34 neglect of any child. The juvenile court may only enter

1 orders placing a minor with a specific foster parent under  
2 this subsection (2)(b) and nothing in this Section shall be  
3 construed to confer any jurisdiction or authority on the  
4 juvenile court to issue any other orders requiring the  
5 appointed guardian or custodian of a minor to place the minor  
6 in a designated foster home or facility. This Section is not  
7 intended to encompass any matters that are within the scope  
8 or determinable under the administrative and appeal process  
9 established by rules of the Department of Children and Family  
10 Services under Section 5(o) of the Children and Family  
11 Services Act. Nothing in this Section shall relieve the  
12 court of its responsibility, under Section 2-14(a) of this  
13 Act to act in a just and speedy manner to reunify families  
14 where it is the best interests of the minor and the child can  
15 be cared for at home without endangering the child's health  
16 or safety and, if reunification is not in the best interests  
17 of the minor, to find another permanent home for the minor.  
18 Nothing in this Section, or in any order issued by the court  
19 with respect to the placement of a minor with a foster  
20 parent, shall impair the ability of the Department of  
21 Children and Family Services, or anyone else authorized under  
22 Section 5 of the Abused and Neglected Child Reporting Act, to  
23 remove a minor from the home of a foster parent if the  
24 Department of Children and Family Services or the person  
25 removing the minor has reason to believe that the  
26 circumstances or conditions of the minor are such that  
27 continuing in the residence or care of the foster parent will  
28 jeopardize the child's health and safety or present an  
29 imminent risk of harm to that minor's life.

30 (c) If a foster parent has had the minor who is the  
31 subject of the proceeding under Article II in his or her home  
32 for more than one year on or after July 3, 1994 and if the  
33 minor's placement is being terminated from that foster  
34 parent's home, that foster parent shall have standing and



1     intervenor status except in those circumstances where the  
2     Department of Children and Family Services or anyone else  
3     authorized under Section 5 of the Abused and Neglected Child  
4     Reporting Act has removed the minor from the foster parent  
5     because of a reasonable belief that the circumstances or  
6     conditions of the minor are such that continuing in the  
7     residence or care of the foster parent will jeopardize the  
8     child's health or safety or presents an imminent risk of harm  
9     to the minor's life.

10     (d) The court may grant standing to any foster parent if  
11     the court finds that it is in the best interest of the child  
12     for the foster parent to have standing and intervenor status.

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

20     If the child is alleged to be abused, neglected or  
21     dependent, the court shall admonish the parents that if the  
22     court declares the child to be a ward of the court and awards  
23     custody or guardianship to the Department of Children and  
24     Family Services, the parents must cooperate with the  
25     Department of Children and Family Services, comply with the  
26     terms of the service plans, and correct the conditions that  
27     require the child to be in care, or risk termination of their  
28     parental rights.

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

33     When the court finds that a child is an abused,  
34     neglected, or dependent minor under Section 2-21, the court

1 shall admonish the parents that the parents must cooperate  
2 with the Department of Children and Family Services, comply  
3 with the terms of the service plans, and correct the  
4 conditions that require the child to be in care, or risk  
5 termination of their parental rights.

6 When the court declares a child to be a ward of the court  
7 and awards guardianship to the Department of Children and  
8 Family Services under Section 2-22, the court shall admonish  
9 the parents, guardian, custodian, or responsible relative  
10 that the parents must cooperate with the Department of  
11 Children and Family Services, comply with the terms of the  
12 service plans, and correct the conditions that require the  
13 child to be in care, or risk termination of their parental  
14 rights.

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

19 (5) In the discretion of the court, the minor may be  
20 excluded from any part or parts of a dispositional hearing  
21 and, with the consent of the parent or parents, guardian,  
22 counsel or a guardian ad litem, from any part or parts of an  
23 adjudicatory hearing.

24 (6) The general public except for the news media and the  
25 victim shall be excluded from any hearing and, except for the  
26 persons specified in this Section only persons, including  
27 representatives of agencies and associations, who in the  
28 opinion of the court have a direct interest in the case or in  
29 the work of the court shall be admitted to the hearing.  
30 However, the court may, for the minor's safety and protection  
31 and for good cause shown, prohibit any person or agency  
32 present in court from further disclosing the minor's  
33 identity. Nothing in this subsection (6) prevents the court  
34 from allowing other juveniles to be present or to

1 participate in a court session being held under the Juvenile  
2 Drug Court Treatment Act.

3 (7) A party shall not be entitled to exercise the right  
4 to a substitution of a judge without cause under subdivision  
5 (a)(2) of Section 2-1001 of the Code of Civil Procedure in a  
6 proceeding under this Act if the judge is currently assigned  
7 to a proceeding involving the alleged abuse, neglect, or  
8 dependency of the minor's sibling or half sibling and that  
9 judge has made a substantive ruling in the proceeding  
10 involving the minor's sibling or half sibling.

11 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-590,  
12 eff. 1-1-99; 90-608, eff. 6-30-98; 91-357, eff. 7-29-99.)".