

AN ACT concerning State government.

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

Section 5. The Alcoholism and Other Drug Abuse and Dependency Act is amended by changing Section 40-10 as follows:

(20 ILCS 301/40-10)

Sec. 40-10. Treatment as a condition of probation.

(a) If a court has reason to believe that an individual who is charged with or convicted of a crime suffers from alcoholism or other drug addiction and the court finds that he is eligible to make the election provided for under Section 40-5, the court shall advise the individual that he or she may be sentenced to probation and shall be subject to terms and conditions of probation under Section 5-6-3 of the Unified Code of Corrections if he or she elects to submit to treatment and is accepted for treatment by a designated program. The court shall further advise the individual that:

(1) if he or she elects to submit to treatment and is accepted he or she shall be sentenced to probation and placed under the supervision of the designated program for a period not to exceed the maximum sentence that could be imposed for his conviction or 5 years, whichever is less.

(2) during probation he or she may be treated at the

discretion of the designated program.

(3) if he or she adheres to the requirements of the designated program and fulfills the other conditions of probation ordered by the court, he or she will be discharged, but any failure to adhere to the requirements of the designated program is a breach of probation.

The court may certify an individual for treatment while on probation under the supervision of a designated program and probation authorities regardless of the election of the individual.

(b) If the individual elects to undergo treatment or is certified for treatment, the court shall order an examination by a designated program to determine whether he suffers from alcoholism or other drug addiction and is likely to be rehabilitated through treatment. The designated program shall report to the court the results of the examination and recommend whether the individual should be placed for treatment. If the court, on the basis of the report and other information, finds that such an individual suffers from alcoholism or other drug addiction and is likely to be rehabilitated through treatment, the individual shall be placed on probation and under the supervision of a designated program for treatment and under the supervision of the proper probation authorities for probation supervision unless, giving consideration to the nature and circumstances of the offense and to the history, character and condition of the individual,

the court is of the opinion that no significant relationship exists between the addiction or alcoholism of the individual and the crime committed, or that his imprisonment or periodic imprisonment is necessary for the protection of the public, and the court specifies on the record the particular evidence, information or other reasons that form the basis of such opinion. However, under no circumstances shall the individual be placed under the supervision of a designated program for treatment before the entry of a judgment of conviction.

(c) If the court, on the basis of the report or other information, finds that the individual suffering from alcoholism or other drug addiction is not likely to be rehabilitated through treatment, or that his addiction or alcoholism and the crime committed are not significantly related, or that his imprisonment or periodic imprisonment is necessary for the protection of the public, the court shall impose sentence as in other cases. The court may require such progress reports on the individual from the probation officer and designated program as the court finds necessary. No individual may be placed under treatment supervision unless a designated program accepts him for treatment.

(d) Failure of an individual placed on probation and under the supervision of a designated program to observe the requirements set down by the designated program shall be considered a probation violation. Such failure shall be reported by the designated program to the probation officer in

charge of the individual and treated in accordance with probation regulations.

(e) Upon successful fulfillment of the terms and conditions of probation the court shall discharge the person from probation. If the person has not previously been convicted of any felony offense and has not previously been granted a vacation of judgment under this Section, upon motion, the court shall vacate the judgment of conviction and dismiss the criminal proceedings against him unless, having considered the nature and circumstances of the offense and the history, character and condition of the individual, the court finds that the motion should not be granted. Unless good cause is shown, such motion to vacate must be filed at any time from the date of ~~within 30 days of~~ the entry of the judgment to a date that is not more than 60 days after the discharge of the probation.

(Source: P.A. 91-663, eff. 12-22-99.)