

SENATE, No. 3976

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 21, 2021

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Establishes the “Gambling Treatment Diversion Court Pilot Program” within the criminal justice system.

CURRENT VERSION OF TEXT

As introduced.



S3976 SCUTARI

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1 AN ACT establishing a gambling treatment diversion court pilot
2 program and supplementing Title 2B of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. The Legislature finds and declares that legalized gambling is
8 a \$3.5 billion dollar industry in New Jersey. The New Jersey
9 Division of Gaming enforcement reported that in 2020, the
10 industry's total gaming revenue was \$2.881 billion compared to
11 \$3.469 billion in 2019, reflecting a decrease of 16.9%, likely due to
12 COVID. However, internet gambling dramatically increased by
13 101% during COVID to \$970.3 million when compared to the prior
14 period. Sports wagering gross revenue was \$66.4 million for
15 December 2020, and sports wagering gross revenue was \$398.5
16 million. The Legislature further finds that traditional gambling,
17 requiring money to participate, including land based gaming
18 formats such as casino gaming, lottery and scratch-off cards, and
19 newer formats, such as internet gambling and sports betting, create
20 unrestrained opportunity for persons with problem gambling or
21 disordered gambling to become engulfed in destructive behaviors,
22 ranging from personal and family financial ruin to criminal
23 behavior, because of the disease of problem gambling or disordered
24 gambling. While the industry does not cause destructive behavior,
25 and each individual must be accountable for their actions, it is
26 fitting and proper, that a special court with judges knowledgeable in
27 criminal law and procedure and addictive behaviors, be established
28 to adjudicate criminal cases involving persons determined to be
29 affected by problem gambling or disordered gambling.

30

31 2. Definitions.

32 a. "Person with an addictive disorder related to gambling"
33 defined. "Person with an addictive disorder related to gambling"
34 means a person who suffers from disordered gambling and who
35 meets the criteria for Gambling Disorder as described in the current
36 edition of the Diagnostic and Statistical Manual of Mental
37 Disorders (DSM) of the American Psychiatric Association."

38 b. "Disordered gambling" defined. "Disordered gambling" is
39 defined in the current edition of the Diagnostic and Statistical
40 Manual of Mental Disorders (DSM) of the American Psychiatric
41 Association."

42 c. "Problem gambling" defined. "Problem gambling" is
43 defined as a sub-clinical term with the following symptoms,
44 including but not limited to, increasing preoccupation with
45 gambling, loss of control, restlessness or inability when attempting
46 to stop gambling.

47 d. "Qualified mental health professional" means any of the
48 following persons:

S3976 SCUTARI

- 1 (1) A person who is certified as a problem gambling counselor.
- 2 (2) A person who is certified as a problem gambling counselor
- 3 intern who is under a qualified supervisor and actively pursuing
- 4 IGCCB certification.
- 5 (3) A physician licensed to practice in New Jersey who holds a
- 6 board certification in Psychiatry or Addiction Medicine.
- 7 (4) A nurse who is licensed (R.N.) and is authorized by the State
- 8 Board of Nursing to engage in the practice of counseling problem
- 9 gamblers or disordered gamblers.
- 10 (5) A licensed psychologist.
- 11 (6) A licensed professional counselor (LPC).
- 12 (7) A licensed clinical alcohol and drug counselor (LCADC).
- 13 (8) A marriage and family therapist (LMFT) authorized to
- 14 engage in the practice of counseling problem gamblers or
- 15 disordered gamblers.
- 16 (9) A person who is licensed as a clinical social worker (LCSW)
- 17 and is authorized by the State Board of Social Work Examiners to
- 18 engage in the practice of counseling problem gamblers or
- 19 disordered gamblers.
- 20 (10) For subparagraph (1), and subparagraphs (4) through (9) of
- 21 this subsection, the qualified mental health professional must have
- 22 International Gambling Counselor Certification Board (IGCCB)
- 23 certification and maintain such active IGCCB certification.
- 24 e. “Gambling Treatment Diversion Court Pilot Program Court
- 25 Coordinator” (hereinafter “gambling court coordinator”) is a
- 26 qualified mental health professional who shall collect and gather all
- 27 information, including but not limited to, treatment provider
- 28 reports, probation reports, drug tests, support group attendance logs,
- 29 employment information, restitution payments, other financial
- 30 documents, location monitoring history, and submit same to the
- 31 court in a unified report.
- 32 f. “Restitution” means the total amount of money owed to a
- 33 victim of a crime to compensate the victim for all losses suffered as
- 34 a result of the crime and any statutory fees and costs associated with
- 35 the collection of that amount of money.
- 36
- 37 3. a. There is hereby established a “Gambling Treatment
- 38 Diversion Court Pilot Program” which shall have as a purpose the
- 39 treatment of persons determined to be affected by problem
- 40 gambling or disordered gambling and who committed a crime for
- 41 which they have been convicted in furtherance of or because of the
- 42 gambling. The “Gambling Treatment Diversion Court Pilot
- 43 Program” shall be administered by the Administrative Office of the
- 44 Courts and shall be established, as it so determines, including
- 45 regarding the appropriate and practical assignment of gambling
- 46 court cases within the court system statewide.
- 47 b. At a minimum, the program shall:

S3976 SCUTARI

- 1 (1) (a) include the terms and conditions for successful
2 completion of the diversion program;
- 3 (b) require that the person assigned to the diversion program
4 agree to pay restitution as a condition upon the election of
5 treatment; and
- 6 (c) provide for progress reports at intervals set by the court to
7 ensure that the person is making satisfactory progress toward
8 completion of the diversion program.
- 9 (2) be administered by a qualified mental health professional
10 and shall include, without limitation:
- 11 (a) information and encouragement for the participant to cease
12 problem or disordered gambling through educational, counseling
13 and support sessions such as those offered through the Council on
14 Compulsive Gambling of New Jersey 1-800-GAMBLER;
- 15 (b) the opportunity for the participant to understand the medical,
16 psychological, social, and financial implications of problem
17 gambling or disordered gambling; and
- 18 (c) appropriate referral to community, health, substance use
19 disorder, religious and social service agencies, including the
20 Council on Compulsive Gambling of New Jersey 1-800-GAMBLER
21 for additional resources and related services, as needed.
- 22 (3) Before the court assigns a person to a diversion program for
23 the treatment of problem gambling or disordered gambling, the
24 person must agree to pay the cost of the diversion program to which
25 he or she is assigned, to the extent of the financial resources of the
26 person, including use of the person's health or medical insurance, if
27 available. If the person does not have the financial resources to pay
28 all the related costs, the court shall, to the extent practicable,
29 arrange for the person to be assigned to a diversion program that
30 receives a sufficient amount of federal or state funding to offset the
31 remainder of the costs.
- 32
- 33 4. A person with a gambling problem or who suffers from
34 disordered gambling who has been convicted of a crime and who
35 committed the crime in furtherance of or because of problem
36 gambling or disordered gambling is eligible to be assigned by the
37 court to a program for the treatment of problem gambling or
38 disordered gambling before the person is sentenced unless:
- 39 a. The crime is:
- 40 (1) A crime against the person as set forth in chapters 11
41 through 18 in Title 2C of the New Jersey statutes;
- 42 (2) A crime against a child, including endangering the welfare
43 of a child and child pornography pursuant to N.J.S.2C:24-4;
- 44 (3) An act which constitutes domestic violence pursuant to P.L.
45 1991, c.261 (C.2C:25-17 et seq.);
- 46 b. The disordered gambler has a record of two or more
47 convictions of a crime described in subsection a. of this section or a
48 similar crime in violation of the laws of another state;

1 c. Other criminal proceedings alleging commission of a violent
2 offense are pending against the problem gambler or disordered
3 gambler;

4 d. The person is on probation or parole, except that the person is
5 eligible if the appropriate probation or parole authority consents or
6 the court finds that the person is eligible after considering any
7 objections made by the appropriate probation or parole authority; or

8 e. The person has previously been assigned by a court to a
9 program for the treatment of problem gambling or disordered
10 gambling, except that the person is eligible to make the election if
11 the court finds that the person with the disorder is eligible to make
12 such an election.

13 f. If the court makes a judicial finding that:

14 (1) the person who has been convicted of a crime is afflicted
15 with problem gambling or disordered gambling; and

16 (2) the person committed the crime in furtherance of or because
17 of problem gambling or disordered gambling; the court shall hold
18 an eligibility hearing before it sentences the person to determine
19 whether the person committed the crime in furtherance of or
20 because of problem gambling or disordered gambling and whether
21 the person should receive treatment under the supervision of a
22 qualified mental health professional. A prosecutor, public defender
23 or defense attorney may present the court with any evidence
24 concerning whether the person committed the crime in furtherance
25 of or because of problem gambling or disordered gambling and the
26 advisability of permitting the person to enter the program.

27 g. At the hearing, the court shall advise the person that
28 sentencing will be postponed if the person submits to treatment and
29 is accepted into a diversion program for the treatment of problem
30 gambling or disordered gambling. The court shall advise the person
31 that:

32 (1) The court may impose any conditions upon the treatment
33 that could be imposed as conditions of probation;

34 (2) If the person is accepted, the person may be placed under the
35 supervision of the qualified mental health professional for a period
36 of not less than one year or until the court, upon assessment and
37 recommendation of the qualified mental health professional
38 treatment provider, determines that the person has successfully
39 completed the diversion program, whichever is later, except that no
40 person shall remain under supervision pursuant to this section for a
41 period in excess of three years.

42 h. If the person satisfactorily completes the diversion program
43 described in section 3, as determined by the court, the conviction
44 shall be set aside. If the person does not satisfactorily complete the
45 diversion program and satisfy the conditions, the court shall impose
46 a sentence that might have been imposed, or that would have been
47 required to be imposed, originally for the offense for which the
48 person was convicted or adjudicated delinquent; and

S3976 SCUTARI

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1 i. If the person's conviction is set aside the person may, at any
2 time after the conviction is set aside, file a petition for the
3 expungement of all records relating to the setting aside of the
4 conviction.

5 j. If the court, after a hearing, determines that a person is
6 eligible to accept the problem gambling or disordered gambling
7 treatment offered, the court shall order a qualified mental health
8 professional to assess the person. The assessment must include:

9 (1) whether the person is a problem gambler or disordered
10 gambler,

11 (2) whether the person committed the crime in furtherance of or
12 because of problem gambling or disordered gambling, and

13 (3) whether the person is likely to be rehabilitated through
14 treatment.

15 k. The qualified mental health professional shall report to the
16 court the results of the assessment and recommend whether the
17 person should be placed under supervision for treatment.

18 l. If the court, acting on the report of the qualified mental health
19 professional or other relevant information, determines that the
20 person is not a problem gambler or disordered gambler or did not
21 commit the crime in furtherance of or because of problem gambling
22 or disordered gambling, or the person is not likely to be
23 rehabilitated through treatment or is otherwise not a good candidate
24 for treatment, the person may be sentenced.

25 m. The court shall appoint a qualified Gambling Treatment
26 Diversion Court Pilot Program Court Coordinator, or gambling
27 court coordinator, to collect and gather all information, including
28 but not limited to, treatment provider reports, probation reports,
29 drug tests, support group attendance logs, employment information,
30 restitution payments, other financial documents, location
31 monitoring history, and submit same to the court in a unified report.

32 n. If the court determines that the person is a problem gambler
33 or disordered gambler, committed the crime in furtherance of or
34 because of problem gambling or disordered gambling, is likely to be
35 rehabilitated through treatment and is a good candidate for
36 treatment, the court may:

37 (1) Impose any conditions that may be imposed as conditions of
38 probation;

39 (2) Defer sentencing until such time, if any, as sentencing is
40 authorized; and

41 (3) Place the person under the supervision of a qualified mental
42 health professional for not less than one year and not more than
43 three years. The court may require such progress reports on the
44 treatment of the person as it deems necessary. The probation
45 department or other appropriate agency designated by the court to
46 monitor or supervise the person shall report periodically to the court
47 or gambling court coordinator as to the person's progress in
48 treatment and compliance with court-imposed terms and conditions.

1 The qualified mental health professional shall promptly report to
2 the gambling court coordinator all significant infractions by the
3 person to comply with any court-imposed term or condition.

4 o. A person who is placed under the supervision of a qualified
5 mental health professional shall pay the cost of the program of
6 treatment to which the person is assigned and the cost of any
7 additional supervision that may be required, to the extent of the
8 financial resources of the person. The judgment shall constitute as
9 a lien in like manner as a judgment for money rendered in a civil
10 action.

11 p. If the person who is placed under the supervision of a
12 qualified mental health professional does not have the financial
13 resources to pay all the related costs:

14 (1) The court shall, to the extent practicable, arrange for the
15 person to be assigned to a treatment program that receives a
16 sufficient amount of federal or state funding to offset the remainder
17 of the costs; and

18 (2) The court may order the person to perform supervised
19 community service in lieu of paying the remainder of the costs
20 relating to the person's treatment and supervision.

21 q. Whenever a person is placed under the supervision of a
22 qualified mental health professional, the person's sentencing shall
23 be deferred, and the person's conviction shall be set aside if the
24 qualified mental health professional certifies in writing to the court
25 that the person has satisfactorily completed the program of
26 treatment and the court approves the certification and determines
27 that the conditions imposed for treatment have been satisfied.

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29 5. The Supreme Court of New Jersey may adopt court rules
30 appropriate or necessary to effectuate the purposes of this act.

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32 6. The Administrative Office of the Courts shall submit and
33 publish a comprehensive study and report on the Gambling
34 Treatment Diversion Court Pilot Program. The report shall include
35 findings as to whether a continuation of the Gambling Treatment
36 Diversion Court Pilot Program is in the interest of the citizens of
37 this State.

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39 7. This act shall take effect on the first day of the third month
40 after enactment and shall expire three years after the effective date.

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STATEMENT

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45 This bill creates a Gambling Court Pilot Program with the
46 purpose to treat persons determined to be affected by an addictive
47 disorder related to gambling and who committed a crime for which
48 they have been convicted in furtherance or as a result of the

S3976 SCUTARI

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1 gambling. The Gambling Treatment Diversion Court Pilot Program
2 would be administered by the Administrative Office of the Courts
3 and be established, as the AOC determines, including regarding the
4 appropriate and practical assignment of gambling court cases within
5 the court system Statewide. This bill is modeled after a similar
6 program in Las Vegas, Nevada established November 2018.