

ASSEMBLY, No. 420

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

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District 14 (Mercer and Middlesex)

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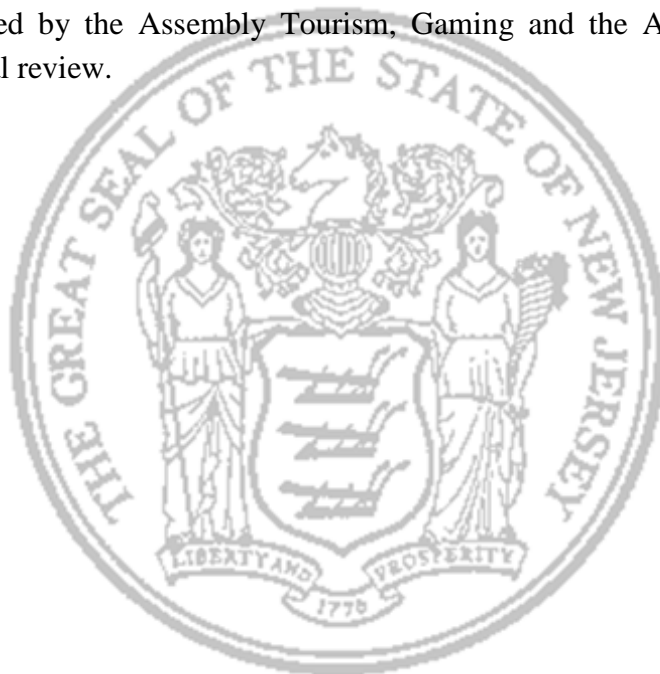
Assemblywomen McKnight and Murphy

SYNOPSIS

Establishes “Gambling Treatment Diversion Court Pilot Program” to be administered by AOC.

CURRENT VERSION OF TEXT

As reported by the Assembly Tourism, Gaming and the Arts Committee with technical review.



(Sponsorship Updated As Of: 3/20/2023)

1 **AN ACT** establishing a gambling treatment diversion court pilot
2 program and supplementing chapter 37 of Title 2C of the New
3 Jersey Statutes.

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

7
8 1. a. There is hereby established a “Gambling Treatment
9 Diversion Court Pilot Program” which shall have as a purpose the
10 treatment of persons determined to be affected by an addictive
11 disorder related to gambling and who committed a crime for which
12 they have been convicted in furtherance or as a result of the
13 gambling. The gambling court shall be administered by the
14 Administrative Office of the Courts and shall be established, as it so
15 determines, in one northern, one central, and one southern vicinage
16 of this State.

17 b. At a minimum, the program shall:

18 (1) (a) include the terms and conditions for successful
19 completion of the program;

20 (b) require that the person assigned to the program agree to pay
21 restitution as a condition upon the election of treatment; and

22 (c) provide for progress reports at intervals set by the court to
23 ensure that the person is making satisfactory progress toward
24 completion of the program.

25 (2) be administered by a qualified mental health professional
26 and shall include, without limitation:

27 (a) information and encouragement for the participant to cease
28 problem gambling through educational, counseling and support
29 sessions;

30 (b) the opportunity for the participant to understand the medical,
31 psychological, social and financial implications of problem
32 gambling; and

33 (c) appropriate referral to community, health, substance abuse,
34 religious and social service agencies for additional resources and
35 related services, as needed.

36 (3) Before the court assigns a person to a program for the
37 treatment of problem gambling, the person must agree to pay the
38 cost of the program to which he or she is assigned, to the extent of
39 the financial resources of the person. If the person does not have
40 the financial resources to pay all the related costs, the court shall, to
41 the extent practicable, arrange for the person to be assigned to a
42 program that receives a sufficient amount of federal or state funding
43 to offset the remainder of the costs.

44 c. A problem gambler who has been convicted of a crime and
45 who committed the crime in furtherance or as a result of problem
46 gambling is eligible to be assigned by the court to a program for the
47 treatment of problem gambling before he or she is sentenced unless:

- 1 (1) The crime is:
 - 2 (a) A crime against the person as set forth in chapters 11
 - 3 through 18 in Title 2C of the New Jersey Statutes;
 - 4 (b) A crime against a child, including endangering the welfare
 - 5 of a child and child pornography pursuant to N.J.S.2C:24-4;
 - 6 (c) An act which constitutes domestic violence pursuant to
 - 7 P.L.1991, c.261 (C.2C:25-17 et seq.);
- 8 (2) The problem gambler has a record of two or more
- 9 convictions of a crime described in subparagraph (1) of this
- 10 subsection or a similar crime in violation of the laws of another
- 11 state;
- 12 (3) Other criminal proceedings alleging commission of a violent
- 13 offense are pending against the problem gambler;
- 14 (4) The person is on probation or parole, except that the person
- 15 is eligible if the appropriate probation or parole authority consents
- 16 or the court finds that the person is eligible after considering any
- 17 objections made by the appropriate probation or parole authority; or
- 18 (5) The person has previously been assigned by a court to a
- 19 program for the treatment of problem gambling.
- 20 d. (1) If the court has reason to believe that:
 - 21 (a) the person who has been convicted of a crime is a problem
 - 22 gambler; and
 - 23 (b) the person committed the crime in furtherance or as a result
 - 24 of problem gambling; the court shall hold a hearing before it
 - 25 sentences the person to determine whether or not the person
 - 26 committed the crime in furtherance or as a result of problem
 - 27 gambling and whether or not the person should receive treatment
 - 28 under the supervision of a qualified mental health professional. The
 - 29 prosecutor may present the court with any evidence concerning
 - 30 whether the person committed the crime in furtherance or as a result
 - 31 of problem gambling and the advisability of permitting the person
 - 32 to enter the program.
- 33 (2) At the hearing, the court shall advise the person that
- 34 sentencing will be postponed if the person submits to treatment and
- 35 is accepted into a program for the treatment of problem gambling.
- 36 The court shall advise the person that:
 - 37 (a) The court may impose any conditions upon the treatment that
 - 38 could be imposed as conditions of probation;
 - 39 (b) If the person is accepted, the person may be placed under the
 - 40 supervision of the qualified mental health professional for a period
 - 41 of not less than one year or until the court, upon recommendation of
 - 42 the treatment provider, determines that the person has successfully
 - 43 completed the treatment program, whichever is later, except that no
 - 44 person shall remain under supervision pursuant to this section for a
 - 45 period in excess of three years.
 - 46 (c) If the person satisfactorily completes treatment, as
 - 47 determined by the court, the conviction will be set aside. If the
 - 48 person does not satisfactorily complete treatment and satisfy the

1 conditions, the court shall impose an sentence that might have been
2 imposed, or that would have been required to be imposed, originally
3 for the offense for which the person was convicted or adjudicated
4 delinquent; and

5 (d) If the person's conviction is set aside they may, at any time
6 after the conviction is set aside, file a petition for the expungement
7 of all records relating to the setting aside of the conviction.

8 e. (1) If the court, after a hearing, determines that a person is
9 eligible to accept the problem gambler treatment offered, the court
10 shall order a qualified mental health professional to conduct an
11 examination of the person to determine whether the person is a
12 problem gambler, whether the person committed the crime in
13 furtherance or as a result of problem gambling and whether the
14 person is likely to be rehabilitated through treatment. The qualified
15 mental health professional shall report to the court the results of the
16 examination and recommend whether the person should be placed
17 under supervision for treatment.

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

24 (3) If the court determines that the person is a problem gambler,
25 committed the crime in furtherance or as a result of problem
26 gambling, is likely to be rehabilitated through treatment and is a
27 good candidate for treatment, the court may:

28 (a) Impose any conditions that may be imposed as conditions of
29 probation;

30 (b) Defer sentencing until such time, if any, as sentencing is
31 authorized; and

32 (c) Place the person under the supervision of a qualified mental
33 health professional for not less than one year and not more than
34 three years. The court may require such progress reports on the
35 treatment of the person as it deems necessary. The probation
36 department or other appropriate agency designated by the court to
37 monitor or supervise the person shall report periodically to the court
38 as to the person's progress in treatment and compliance with court-
39 imposed terms and conditions. The treatment provider shall
40 promptly report to the probation department or other appropriate
41 agency all significant failures by the person to comply with any
42 court imposed term or condition.

43 f. A person who is placed under the supervision of a qualified
44 mental health professional shall pay the cost of the program of
45 treatment to which the person is assigned and the cost of any
46 additional supervision that may be required, to the extent of the
47 financial resources of the person. The judgment constitutes a lien in
48 like manner as a judgment for money rendered in a civil action.

1 g. If the person who is placed under the supervision of a
2 qualified mental health professional does not have the financial
3 resources to pay all of the related costs:

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

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

10 h. Whenever a person is placed under the supervision of a
11 qualified mental health professional, the person's sentencing must
12 be deferred and the person's conviction must be set aside if the
13 qualified mental health professional certifies to the court that the
14 person has satisfactorily completed the program of treatment and
15 the court approves the certification and determines that the
16 conditions imposed for treatment have been satisfied.

17 i. If, upon the expiration of the treatment period, the qualified
18 mental health professional has not certified that the person has
19 completed the program of treatment, the court shall sentence the
20 person. If the person has satisfied the conditions imposed for
21 treatment and the court believes that the person will complete the
22 treatment voluntarily, the court may set the conviction aside.

23 j. If, before the treatment period expires, the qualified mental
24 health professional determinates that the person is not likely to
25 benefit from further treatment, the qualified mental health
26 professional shall so advise the court. The court shall either:

27 (1) Arrange for the transfer to a more suitable program; or

28 (2) Terminate the supervision and conduct a hearing to
29 determine whether the person should be sentenced.

30 k. As used in this act, "qualified mental health professional"
31 means any of the following persons:

32 (1) A person who is certified as a problem gambling counselor.

33 (2) A person who is certified as a problem gambling counselor
34 intern.

35 (3) A licensed physician.

36 (4) A nurse who is licensed and is authorized by the State Board
37 of Nursing to engage in the practice of counseling problem
38 gamblers.

39 (5) A licensed psychologist.

40 (6) A licensed clinical professional counselor.

41 (7) A marriage and family therapist authorized to engage in the
42 practice of counseling problem gamblers.

43 (8) A person who is licensed as a clinical social worker and is
44 authorized by the State Board of Social Work Examiners to engage
45 in the practice of counseling problem gamblers.

46
47 2. The Supreme Court of New Jersey may adopt court rules
48 appropriate or necessary to effectuate the purposes of this act.

1 3. This act shall take effect on the first day of the third month
2 after enactment and shall expire three years after the effective date.