

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED JUNE 12, 2023

Sponsored by:

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Senators Turner, Stack, Diegnan, Burgess, Codey, Pou, Assemblymen Verrelli, Wimberly, Assemblywoman Murphy, Assemblyman McKeon, Assemblywomen Reynolds-Jackson and Lopez

SYNOPSIS

Creates Mental Health Diversion Program to divert eligible persons away from criminal justice system and into appropriate case management and mental health services.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 20, 2023, with amendments.

(Sponsorship Updated As Of: 6/30/2023)

1 AN ACT concerning offenders with mental health concerns,
2 amending various sections of the law, and supplementing Title
3 2C of the New Jersey Statutes.

4

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

7

8 1. The Legislature finds and declares that, to facilitate the
9 expansion and growth of programming for individuals with mental
10 **illness involved disorders who, due to their mental health issues,**
11 **engage in conduct that results in involvement**¹ in the criminal
12 justice system, a comprehensive response is needed. It is the goal
13 of the Legislature to establish a Statewide Mental Health Diversion
14 Program **in three regions of the State**¹ to divert individuals with
15 serious mental **illnesses disorders**¹ from having a public record
16 of conviction or serving custodial time in the county jail or State
17 prison, to allow participants to engage in mental health treatment
18 and social services, and to reduce recidivism, thereby increasing
19 public safety.

20 The Legislature further declares that the objectives of the
21 program include: (1) reducing incarceration rates for the appropriate
22 target population through effective diversion away from the
23 criminal justice system; (2) increasing quality of life for the target
24 population through efficient linkage to available social entitlements
25 and community based mental health treatment providers, in
26 conjunction with supportive monitoring to ensure compliance; (3)
27 increasing community awareness and understanding through cross
28 training of law enforcement and mental health communities; and (4)
29 reducing recidivism and re-hospitalization rates for the target
30 population leading to an increase in public safety.

31 The Mental Health Diversion Program established by this
32 enactment is grounded in principles of restorative justice where
33 victims of crimes are empowered by maximizing their input when
34 considering legal outcomes, and participants are held accountable,
35 yet supported in achieving long-term stability with mental health
36 issues, gaining recovery tools, becoming law-abiding citizens, and
37 being successful community members. This process is enhanced by
38 the critical role of the diversion team which is anchored by the
39 judge who presides over a team of professionals from the fields of
40 mental health and criminal justice, and the prosecutor. When the
41 prosecutor makes the determination that a defendant is legally
42 eligible for admission, a clinical determination of appropriateness is
43 made, including a psychosocial evaluation which assists the
44 prosecutor in a final determination of appropriateness for the

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 20, 2023.

1 program, and provides critical information for other professionals
2 involved in programming including the case managers, probation
3 officers, public defenders, and clinical personnel.

4 The ¹**bill** Act¹ initially establishes the program in three
5 vicinages of the State. It is the intention of the Legislature to
6 eventually expand the program to a State-wide mental health
7 diversion program in all vicinages.

8

9 2. (New section) As used in this act:

10 “Eligible offense” means a crime of the third or fourth degree
11 that does not involve violence ¹or the threat of violence¹. ¹**A**
12 crime of the third or fourth degree involving violence or the threat
13 of violence shall be considered by the prosecutor on a case by case
14 basis.¹ ¹**A** crime or offense ¹**involves** does not involve¹ violence
15 or threat of violence ¹if none of the following apply:¹ the victim
16 sustains bodily injury as defined in subsection a. of N.J.S.2C:11-1,
17 or the actor is armed with and uses a deadly weapon as defined in
18 subsection c. of N.J.S.2C:11-1, or threatens by word or gesture to
19 use a deadly weapon or threatens to inflict bodily injury. ¹**Crimes**
20 of the second degree, sexual offenses subject to Megan’s Law as
21 defined in chapter 14 of Title 2C of the New Jersey Statutes and
22 arson offenses as defined in chapter 17 of Title 2C of the New
23 Jersey Statutes are ineligible offenses unless the prosecutor
24 determines on a case-by case basis that an exception is warranted]
25 “Eligible offense” shall not include a crime of the first degree or a
26 presumptively ineligible offense.¹

27 “Eligible person” means a person who: (1) is mentally competent
28 as that term is defined in N.J.S.2C:4-4; (2) allegedly committed an
29 eligible offense ¹, or allegedly committed a presumptively ineligible
30 offense but is approved for participation by the prosecutor,¹ and is
31 not otherwise disqualified by the provisions of this act; and (3) has
32 been diagnosed with a mental ¹**illness** disorder¹, either previously
33 or through a mental health evaluation conducted through the
34 program, and there is a nexus between the person’s mental
35 ¹**illness** disorder¹ and the commission of the alleged crime as
36 determined by a ¹**certified** licensed¹ mental health professional.

37 “Mental Health Diversion Program” or “program” means the
38 criminal diversionary program established pursuant to this ¹**bill**
39 act¹ that shall have the purpose of diverting eligible persons away
40 from the criminal justice system and into appropriate case
41 management and mental health services following interaction with
42 law enforcement ¹**where the person is alleged to have committed**
43 an eligible offense, The program shall be established in three
44 judicial vicinages, one in each of the northern, central, and southern
45 regions of the State. As used in this act “northern region” means
46 Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset,

1 Sussex, and Warren Counties; “central region” means Middlesex,
2 Monmouth, Mercer and Union; and southern region” means
3 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
4 Ocean, and Salem Counties.

5 The program leader shall be a judge of the Superior Court who
6 shall preside over all participant appearances, regularly held Mental
7 Health Diversion Team meetings, and all related court proceedings.
8 Court proceedings include but are not limited to Orders of
9 Acceptance, guilty pleas, sentencings, sanctions, recognitions,
10 notice of terminations, termination hearings, graduations,
11 withdrawals, and violations of probation. The Judge shall meet
12 with each participant individually along with all members of the
13 Mental Health Diversion Team either in the court well or in the jury
14 room to facilitate private conversations about their progress,
15 problems, and goal achievements. Three months prior to any
16 participant moving on, a formal goal attainment log is reviewed by
17 the participant and team members with the Judge. At the
18 conclusion of the court supervision term, a “moving on” or
19 graduation ceremony is held where an individual, their family or
20 friends, and other participants recognize the achievement of
21 completion. The Judge presides over regular Mental Health
22 Diversion Team meetings where participant treatment, progress,
23 and barriers are discussed. All sanctions are discussed by the team
24 but the Judge makes the final sanction decisions **】** and where there is
25 a nexus between the commission of the alleged offense and the
26 eligible person’s mental disorder¹.

27 “Mental Health Diversion Team” is a collaboration of
28 professionals led by the Superior Court Judge and comprised of
29 Assistant Prosecutors, designated Public Defenders, a **1【certified】**
30 licensed¹ mental health professional, a case manager, a specially
31 trained mental health probation officer, and a collaborative justice
32 specialist. If resources are available, a certified drug and alcohol
33 counselor **1【should】 shall**¹ be included as a member of the
34 diversion team.

35 ¹【“Clinical partner” means an entity designated to provide or
36 coordinate case management or mental health services, or both, to
37 eligible persons in conjunction with participation in a Mental
38 Health Diversion Program, which services may include screening,
39 counseling, treatment, medication management, and case
40 management for mental health issues and other co-occurring health
41 disorders.】¹

42 “Mental **1【illness】 disorder**¹ ” means a serious mental disorder,
43 other than a personality disorder, classified within the current
44 version of the American Psychiatric Association Diagnostic and
45 Statistical Manual of Mental Disorders (DSM), including, but not
46 limited to, psychotic disorder, bipolar disorder, major depressive

1 disorder, post-traumatic stress disorder (PTSD), and co-occurring
2 substance use disorders.

3 ¹“Presumptively ineligible offense” means a crime of second
4 degree, a crime of the third or fourth degree that involves violence
5 or the threat of violence, an offense enumerated in subsection a., b.,
6 c., or e. of N.J.S.2C:39-5, sexual offenses subject to Megan’s Law
7 P.L.2001, c.167 (C.2C:7-12 et seq.) as defined in chapter 14 of Title
8 2C of the New Jersey Statutes or an arson offense as defined in
9 chapter 17 of Title 2C of the New Jersey Statutes. For purposes of
10 this section, a crime or offense involves violence or threat of
11 violence if the victim sustains bodily injury as defined in subsection
12 a. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly
13 weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens by
14 word or gesture to use a deadly weapon or threatens to inflict bodily
15 injury. A crime of the first degree shall be ineligible under all
16 circumstances.¹

17 “Psychosocial assessment” or “psychosocial evaluation” means a
18 written evaluation of an individual’s mental and emotional
19 functioning.

20

21 3. (New section) a. (1) ¹There is hereby established a
22 Statewide Mental Health Diversion Program that shall have the
23 purpose of diverting certain persons away from the criminal justice
24 system and into appropriate case management and mental health
25 services as early as possible following an interaction with law
26 enforcement, where the person meets the statutory criteria for
27 participation in the program and is alleged to have committed an
28 eligible offense or, subject to the approval of the prosecutor, a
29 presumptively ineligible offense, where there is a nexus between
30 the commission of the alleged offense and the eligible person’s
31 mental disorder.

32 (2) The Statewide Mental Health Diversion Program shall be
33 established initially in no less than three judicial vicinages, with at
34 least one program operating in each of the northern, central, and
35 southern regions of the State. As used in this act “northern region”
36 means Bergen, Essex, Hudson, Hunterdon, Morris, Passaic,
37 Somerset, Sussex, and Warren Counties; “central region” means
38 Middlesex, Monmouth, Mercer and Union Counties; and “southern
39 region” means Atlantic, Burlington, Camden, Cape May,
40 Cumberland, Gloucester, Ocean, and Salem Counties.

41 (3)¹ The Attorney General, in consultation with ¹the¹
42 Administrative Office of the Courts shall ¹select the vicinages that
43 shall participate in the Statewide Mental Health Diversion program,
44 and¹, within one year of the effective date of P.L. c. (C.)
45 (pending before the Legislature as this bill), ¹[establish and
46 maintain a Mental Health Diversion Program in one vicinage in
47 each of the northern, central, and southern regions of the State]

1 shall designate currently operating mental health diversion program
2 pursuant to paragraph (5) of this section or cause to be established
3 and maintained new mental health diversion program in additional
4 selected vicinages¹, which shall accept eligible persons from within
5 the vicinage.

6 ¹**[(2)]** (4) Programs in vicinages selected to participate in the
7 Statewide Mental Health Diversion Program shall be eligible to
8 receive funding from the “Statewide Mental Health Diversion
9 Support Program Fund” established pursuant to section 14 of P.L.
10 c. (C.) (pending before the Legislature as this bill), to defray
11 the costs of program administration and operation.

12 ⁽⁵⁾¹ A mental health diversion program in operation on the
13 effective date of this act, that serves the purpose of diverting
14 eligible persons away from the criminal justice system and into
15 appropriate case management and mental health services, and that
16 applies the same eligibility criteria as provided under this ¹**[(bill)]**
17 act¹, may be deemed to comply with the requirements of this act
18 and may be selected by the Attorney General for inclusion in the
19 Mental ¹**[(health)]** Health¹ Diversion Program established pursuant
20 to this act.

21 b. The Attorney General, in consultation with the Administrative
22 Office of the Courts and the Department of Human Services, shall ¹₂
23 to the extent consistent with the selected program model,¹ designate
24 at least one regional Mental Health Diversion Team for the
25 northern, central, and southern regions of program operation to
26 coordinate case management and mental health services to eligible
27 persons participating in the Mental Health Diversion Program
28 established or maintained in accordance with this act, provided,
29 however, that nothing in this section shall be construed to prevent a
30 Mental Health Diversionary Program from using other providers if
31 authorized by the county prosecutor.

32 c. ¹**[(Two)]** No later than two¹ years after the establishment of
33 the Mental Health Diversion Program pursuant to subsection a. of
34 this section, the Attorney General, in conjunction with the
35 Administrative Office of the Courts and the Department of Human
36 Services, may, subject to the availability of funds, expand the
37 program to additional vicinages, and shall have discretion to modify
38 the program to meet the intent of P.L. c. (C.) (pending before
39 the Legislature as this bill).

40 d. The Attorney General shall publish on its website information
41 regarding the Mental Health Diversion Program, including the
42 guidelines required pursuant to P.L. , c. (C.) (pending
43 before the Legislature as this bill).

44
45 ¹4. (New section) The program leader in a selected vicinage
46 shall be a judge of the Superior Court who shall preside over all
47 participant appearances, regularly held Mental Health Diversion

1 Team meetings, and all related court proceedings. The judge shall
2 preside over regular Mental Health Diversion Team meetings where
3 participant treatment, progress, and barriers are discussed. All
4 sanctions shall be subject to discussion by team members, but final
5 sanction decisions shall be the sole province of the court.

6 The judge shall meet with each participant individually along
7 with all members of the Mental Health Diversion Team in a
8 location, such as the court well, which is suitable to facilitate
9 private conversations, to review and discuss the participant's
10 progress, problems, and goal achievements.

11 Court proceedings include but are not limited to Orders of
12 Acceptance, guilty pleas, sentencings, sanctions, recognitions,
13 notice of terminations, termination hearings, graduations,
14 withdrawals, and violations of probation.

15 Three months prior to any participant moving on, the judge shall
16 review a formal goal attainment log with the participant and team
17 members. At the conclusion of the court supervision term, a
18 "moving on" or graduation ceremony shall be held where an
19 individual, their family or friends, and other participants recognize
20 the achievement of completion.¹

21

22 ¹**[4.] 5.**¹ (New section) a. ¹**[(1)]**¹ At any time after the filing
23 of a criminal complaint, including the pre-indictment and post-
24 indictment period, but prior to the disposition of the complaint, a
25 prosecutor may refer a person for consideration for diversion to the
26 Mental Health Diversion Program.

27 ¹**[(2)] b.**¹ At any time after the filing of a criminal complaint,
28 including the pre-indictment and post-indictment period, but prior
29 to the disposition of such complaint, an eligible person, or their
30 defense counsel, may make an application to the prosecutor for
31 diversion to the Mental Health Diversion Program.

32

33 ¹**[5.] 6.**¹ (New section) a. Application process. An eligible
34 person who seeks to apply to the Mental ¹**[health] Health**¹
35 Diversion Program shall, by submitting an application, agree to
36 postpone their speedy trial rights. Applicants who are detained pre-
37 trial shall agree to a reasonable amount of excludable time while
38 legal and clinical determinations of eligibility are made.

39 b. Legal determination. ¹**[Except as provided in paragraphs (1)**
40 **and (2) of this subsection, the]** The¹ prosecutor shall have the
41 discretion to determine if an eligible person qualifies for diversion
42 to the Mental Health Diversion Program established or maintained
43 pursuant to P.L. , c. (C.) (pending before the Legislature as this
44 bill) after consideration of the nature of the eligible offense, the
45 causative relationship between the person's diagnosed or apparent
46 mental ¹**[illness] disorder**¹ and the commission of the offense as
47 determined by a mental health professional, the amenability of the

1 person to participation in the services of the program, the
2 availability of case management and mental health services, the
3 desires of any victim, the person's history of prior convictions, any
4 accompanying violations of probation, and the probability that
5 diversion will promote the person's recovery, prevent future
6 criminal behavior, and protect public safety. The prosecutor's
7 office shall make a determination as to legal eligibility within a
8 reasonable time frame. If an applicant is detained, no more than 30
9 days of excludable time should be granted as against an applicant
10 for a legal determination.

11 (1) A person who allegedly committed ¹~~an~~ a presumptively
12 ineligible¹ offense ¹~~that included violence or the threat of violence~~
13 ~~is presumptively ineligible for participation~~ shall not be permitted
14 to participate¹ in the Mental Health Diversion Program unless the
15 prosecutor further determines, on a case-by-case basis, that mental
16 health treatment will serve to benefit the eligible person by
17 addressing the person's mental ¹~~illness~~ disorder¹ and will thereby
18 reduce the likelihood that the person will thereafter commit another
19 offense and no increased danger to the community will result from
20 the person being admitted into the Mental Health Diversion
21 Program.

22 (2) If the person was previously convicted of a violent crime
23 enumerated in subsection d. of section 2 of P.L.1997, c.117
24 (C.2C:43-7.2.), an application may be considered on a case-by-case
25 basis. For purposes of this paragraph, a crime or offense involves
26 violence or the threat of violence if the victim sustains bodily injury
27 as defined in subsection a. of N.J.S.2C:11-1, or the actor is armed
28 with and uses a deadly weapon or threatens by word or gesture to
29 use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1,
30 or threatens to inflict bodily injury.

31 (3) Offenses enumerated in subsection a., b., c., or, e. of
32 N.J.S.2C:39-5 are presumptively ineligible, however, each
33 application may be considered by the prosecutor on a case-by-case
34 basis subject to prosecutorial discretion.

35 (4) A person charged with a sexual offense as defined in chapter
36 14 of Title 2C of the New Jersey Statutes that is subject to
37 P.L.2001, c.167 (C.2C:7-12 et seq.) known as Megan's Law and a
38 person currently charged with an arson offense shall be ineligible
39 unless the prosecutor determines on a case-by-case basis that an
40 exception is warranted.

41 (5) The prosecutor shall consult with victims of an eligible
42 offense prior to approving an eligible person's admission into the
43 Mental Health Diversion Program and shall give due consideration
44 to the victims' position on whether the eligible person should be
45 admitted into the program. Nothing in this subsection shall be
46 construed to alter or limit the authority or discretion of the
47 prosecutor to admit an eligible person into the Mental Health

1 Diversion Program which the prosecutor deems appropriate.
2 Nothing in this section shall be construed to limit a prosecutor's
3 discretion to admit any applicant for any ineligible **'[crime]**
4 offense¹ on a case-by-case basis if, in the prosecutor's discretion,
5 doing so is in the interests of justice.

6 (6) The prosecutor shall have the discretion to determine
7 whether to approve, disapprove, or conditionally approve a person
8 for diversion into the Mental Health Diversion Program and the
9 determination shall not be subject to review by any court.

10 c. The prosecutor's approval of an application for diversion into
11 the Mental Health Diversion Program pursuant to this section may
12 be conditioned on an admission or plea of guilt by an eligible
13 person.

14 d. Clinical determination. If a county prosecutor determines that
15 an applicant meets the legal requirements for admission into the
16 Mental Health Diversion Program as established in this **'[bill] act**¹,
17 a clinical determination of eligibility shall be made by a
18 **'[certified] licensed**¹ mental health professional who holds a
19 current, valid license issued pursuant to subsection a. of section 6 or
20 subsection a. or d. of section 8 of P.L.1991, c.134 (C.45:15BB-1 et
21 seq.) who shall conduct an interview with an applicant to determine
22 clinical appropriateness, and who may also conduct interviews with
23 family members, where the applicant has completed a release
24 authorizing such communications. **'[Certified mental health**
25 **professionals]** The licensed mental health professional¹ should have
26 training or certification in co-occurring diagnoses, treatment, and
27 services. The **'[certified] licensed**¹ mental health professional
28 shall also assess whether there is a nexus between the person's
29 mental **'[illness] disorder**¹ and the alleged crime. The clinical
30 interview may be done in-person or remotely. If conducted
31 remotely, the interview **'[must] shall**¹ be conducted through
32 technology that enables the interviewer and applicant to see one
33 another. The **'[certified] licensed**¹ mental health professional shall
34 submit a psychosocial evaluation to aid the prosecutorial
35 determination of the applicant's eligibility for the Mental Health
36 Diversion Program. Psychosocial reports should be returned to the
37 prosecutor's office and applicant's legal counsel simultaneously
38 within a reasonable period of time following clinical interviews so
39 as to not prejudice the prosecutor's office or the defendant's
40 interests. The evaluation shall not be shared outside of the mental
41 health evaluation process within the prosecutor's office. Defense
42 counsel's use of the psychosocial evaluation is limited to the mental
43 health diversion application process, and it cannot be used in any
44 other proceeding. The psychosocial evaluation shall be provided to
45 the judge presiding over the mental health diversion calendar prior
46 to the issuance of any orders of acceptance or guilty pleas. Final
47 decisions as to acceptance shall lie with the prosecutor's office

1 provided appropriate mental health or co-occurring services are
2 available in the community.

3 e. To qualify for prosecutorial diversion under this section, an
4 eligible person shall, in addition to the terms set forth in the
5 application to participate in the Mental Health Diversion
6 **‘[program] Program’**¹, agree in writing to the following terms,
7 where relevant to the eligible offense:

8 (1) Participate in case management and mental health services
9 initiated through the Mental Health Diversion Program or other
10 similar services;

11 (2) Provide through defense counsel their mental health records
12 to consider the person’s eligibility for the program, and cooperate
13 with any recommended course of treatment, including the use of
14 medications as prescribed and participation in counseling;

15 (3) Authorize the case management or mental health service
16 provider to release to the prosecutor and defense counsel periodic
17 status reports regarding the person’s participation, cooperation, and
18 recovery progress with case management and mental health
19 services;

20 (4) Cooperate with case management service providers to
21 procure housing, education, and employment services, where
22 appropriate;

23 (5) Refrain from the use of alcohol, use of any recreational
24 drugs, or any illegal drugs;

25 (6) Refrain from the possession or use of firearms or other
26 weapons;

27 (7) Refrain from further criminal activity;

28 (8) Refrain from any contact with a victim of the offense unless
29 otherwise permitted;

30 (9) The tolling of time for the purposes of the person’s right to a
31 speedy trial while the person is participating in the program;

32 (10) Advise the prosecutor of any change in the person’s
33 residential address or any change in the provider of case
34 management and mental health services; and **‘[;]’**¹

35 (11) Any other terms and conditions related to the person’s
36 recovery and public safety deemed appropriate by the prosecutor.

37 An eligible person, in consultation with the public defender
38 assigned to the eligible person or the person’s own legal counsel,
39 shall be given the opportunity to review and sign all necessary
40 agreements and informed consents after consulting with their
41 designated or retained counsel.

42 f. The prosecutor shall determine the duration of the person’s
43 participation in the Mental Health Diversion Program, whether their
44 acceptance into the diversion program requires a guilty plea or
45 whether a person may be accepted without having to enter a plea of
46 guilty. The length of the person’s participation in the program shall
47 not exceed two years from the date of the Order of Acceptance
48 issued by the court ‘unless the prosecutor requests that the person’s

1 participation in the program be extended based on the person's
2 treatment needs and progress, and the court for good cause approves
3 the request¹. The term of the person's participation shall be based
4 on the initial clinical evaluation and recommendations, status
5 reports of the person's participation and attaining established goals,
6 and progress reports from the case management and mental health
7 service providers.

8 g. The eligible person shall be responsible for executing any
9 necessary releases to allow for the Mental Health Diversion
10 Program or other case management and mental health service
11 provider to receives periodic reports on the person's participation,
12 cooperation, and recovery progress, including the execution of any
13 necessary signed releases. The person shall contact the Mental
14 Health Diversion Program or other case management and mental
15 health service provider within seven days of the date of the
16 diversion agreement to initiate treatment, services, and any other
17 required activity.

18 h. If at any time, the prosecutor finds that the person has
19 willfully failed to comply with any term or condition of the
20 diversion agreement, the prosecutor shall file a notice with the court
21 and defense counsel alleging willful failure to comply with the
22 conditions of diversion. The court shall afford the person notice
23 and an opportunity to be heard on the issue of for the defendant's
24 continued participation in the program. All actions taken to
25 terminate an eligible person's participation in a Mental Health
26 Diversion Program shall be carried out in full compliance with due
27 process laws and the Rules Governing the Courts of the State of
28 New Jersey.

29 i. No fee shall be assessed to a person for application,
30 participation, or treatment in the Mental Health Diversion Program
31 and program participants shall not be required to pay for
32 treatment and services as a condition of participating in the
33 program¹. ¹**【Treatment costs shall be covered by the Department of**
34 **Mental Health and Addiction Services.】**¹ Indigent participants who
35 are sentenced to a term of probation may petition the court for a
36 waiver of any other applicable fines ¹, to the extent consistent with
37 law. The mental health diversion team shall assist program
38 participants in applying for all federal and State benefits that may
39 cover or offset the cost of necessary treatment and services,
40 including medication. The Department of Human Services shall
41 assist a mental health diversion team in identifying available
42 resources, programs, and benefits¹.

43 j. An eligible person may be admitted to the Mental Health
44 Diversion Program one or more times at the discretion of the
45 prosecutor, subject to the restrictions in this section, if diversion
46 promotes the person's recovery, prevents the commission of future
47 offenses, and protects the safety of the public. Nothing in P.L. , c.

1 (C.) (pending before the Legislature as this bill) shall preclude
2 an eligible person from applying for admission to a criminal justice
3 diversion program, including a program of supervisory treatment
4 pursuant to N.J.S.2C:43-12, conditional discharge pursuant to
5 N.J.S.2C:36A-1, or conditional dismissal pursuant to section 1 of
6 P.L.2013, c.158 (C.2C:43-13.1), as an alternative to the Mental
7 Health Diversion Program to the extent that the person meets the
8 eligibility criteria and qualifies for those programs. Nothing in
9 P.L. , c. (C.) (pending before the Legislature as this bill) shall
10 preclude an otherwise eligible person with pending charges, prior
11 convictions, or prior diversion through supervisory treatment
12 pursuant to N.J.S.2C.:43-12, conditional discharge pursuant to
13 N.J.S.2C:36A-1, or conditional dismissal pursuant to section 1 of
14 P.L.2013, c. 158 (C.2C:43-13.1) from applying to the Mental
15 Health Diversion Program. A dismissal of a criminal complaint
16 resulting from successful participation in a Mental Health Diversion
17 Program pursuant to this section shall bar a person's subsequent
18 eligibility for a program of supervisory treatment pursuant to
19 N.J.S.2C:43-12, conditional discharge pursuant to N.J.S.2C:36A-1,
20 or conditional dismissal pursuant to section 1 of P.L.2013, c.158
21 (C.2C:43-13.1); however an eligible person may seek subsequent
22 admission to the Mental Health Diversion Program and may be
23 admitted at the discretion of the prosecutor.

24 k. The dismissal of charges for a crime of the second, third or
25 fourth degree, which did not involve violence or the threat of
26 violence based on a person's successful participation in Mental
27 Health Diversion Program pursuant to this section shall not be
28 deemed:

29 (1) a conviction for purposes of disqualifications or disabilities,
30 if any, imposed by law upon conviction of a petty disorderly
31 persons or disorderly persons offense or a crime, but shall be
32 reported to the State Bureau of Identification criminal history
33 record information files for purposes of determining future
34 eligibility or exclusion from other diversion programs; or

35 (2) a conviction for the purpose of determining whether a
36 second or subsequent offense has occurred under any law of this
37 State.

38 ¹**[m.]** 1¹ Except as otherwise provided in this section, nothing
39 in P.L. , c. (C.) (pending before the Legislature as this bill)
40 shall limit the prosecutor's discretion to otherwise divert or provide
41 any other available disposition for a person alleged to have
42 committed any crime or offense other than an eligible offense, and
43 in compelling circumstances may allow the person to participate in
44 a Mental Health Diversion Program established or maintained in
45 accordance with section 3 of P.L. , c. (C.) (pending before
46 the Legislature as this bill).

1 ¹**[6.] 7.**¹ (New section) Nothing in P.L. , c. (C.) (pending
2 before the Legislature as this bill) shall be construed to limit or
3 constrain in any way the authority or discretion of a prosecutor to
4 divert, prosecute or pursue any other disposition of a criminal
5 matter involving a defendant who is an eligible person. When
6 considering the diversion of an eligible person from the criminal
7 justice system, a prosecutor may use the Mental Illness Diversion
8 Program established pursuant to P.L. , c. (C.) (pending before
9 the Legislature as this bill), any other diversion mechanism
10 authorized by law, or a county-based law enforcement diversion
11 program after considering each program's restrictions, the relief
12 available to the person, and the safety of any victim and the public.
13

14 ¹**[7.] 8.**¹ (New section) a. The Administrative Director of the
15 Courts shall develop a differentiated mental health supervision case
16 type within the Probation Division of the Superior Court for eligible
17 persons who are sentenced to a term of probation supervision. To the
18 extent that sufficient resources are available, probation officers
19 assigned to the specialized caseload shall be experienced in behavioral
20 health and evidence-based therapeutic interventions and shall
21 coordinate with federal and State case management and mental health
22 service providers available to persons to promote their recovery,
23 compliance with the terms of probation and re-integration into the
24 community.

25 Eligible persons who are sentenced to a term of probation
26 supervision shall be screened and assigned to a differentiated mental
27 health supervision case type pursuant to procedures developed by the
28 Administrative Director of the Courts. A person who is assigned to a
29 differentiated mental health supervision case type shall provide written
30 authorization for any case management or mental health service
31 provider to release to the Probation Division, the court, and prosecutor,
32 and defense counsel periodic status reports regarding the person's
33 participation, cooperation, and recovery progress.

34 Probation officers assigned to the mental health diversion program
35 may provide supervision to those participants who have been accepted
36 into the mental health diversion.

37 b. A county prosecutor shall notify the Mental Health Diversion
38 Judge that an eligible person has qualified for admission to the
39 Mental Health Diversion Program, and request that the case be
40 placed on the differentiated mental health supervision docket
41 established pursuant to subsection a. of this section.

42 c. The Judge shall preside over all Orders of Acceptance for
43 each individual who is accepted into the Mental Health Diversion
44 Program. The Mental Health Diversion Team shall meet at regular
45 intervals as determined by the court to discuss participant treatment
46 plans and participant progress and other topics critical to treatment,
47 reduction of recidivism and public safety including, but not limited
48 to, pending applications, legal statuses, timelines for psychosocial

1 evaluation, plea agreements, and requirements for program
2 participation to promote the goals of programming.

3 d. All guilty pleas are required to be entered before the court and
4 may not originate from another court.

5 e. The Mental Health Diversion Team shall consist of a Judge of
6 the Superior Court who shall preside over the Mental Health Diversion
7 Program for each designated region of the State, designated Assistant
8 Prosecutors, designated Public Defenders, a certified mental health
9 professional, a case manager, a specially trained mental health
10 probation officer, and a collaborative justice specialist. The Judge
11 of the Superior Court shall be designated the Mental Health
12 Diversion Team Leader. A social worker who is trained and or
13 certified regarding co-occurring issues can, if resources are
14 available, be incorporated into the mental health diversion team.

15

16 ¹~~[8.]~~ 9.¹ N.J.S.2C:52-6 is amended to read as follows:

17 2C:52-6. Arrests not resulting in conviction.

18 a. When a person has been arrested or held to answer for a crime,
19 disorderly persons offense, petty disorderly persons offense, or
20 municipal ordinance violation under the laws of this State or of any
21 governmental entity thereof and proceedings against the person were
22 dismissed, the person was acquitted, or the person was discharged
23 without a conviction or finding of guilt, the Superior Court shall, at the
24 time of dismissal, acquittal, or discharge, or, in any case set forth in
25 paragraph (1) of this subsection, order the expungement of all records
26 and information relating to the arrest.

27 (1) If proceedings took place in municipal court, the municipal
28 court shall follow procedures developed by the Administrative
29 Director of the Courts.

30 (2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall
31 not apply to an expungement pursuant to this subsection.

32 (3) An expungement under this subsection shall not be ordered
33 where the dismissal, acquittal, or discharge resulted from a plea
34 bargaining agreement involving the conviction of other charges. This
35 bar, however, shall not apply once the conviction is itself expunged.

36 (4) The court shall forward a copy of the expungement order to the
37 county prosecutor. The county prosecutor shall promptly distribute
38 copies of the expungement order to appropriate law enforcement
39 agencies and correctional institutions who have custody and control of
40 the records specified in the order so that they may comply with the
41 requirements of N.J.S.2C:52-15.

42 (5) An expungement related to a dismissal, acquittal, or discharge
43 ordered pursuant to this subsection shall not bar any future
44 expungement.

45 (6) Where a dismissal of an offense is based on an eligible
46 servicemember's successful participation in a Veterans Diversion
47 Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), the county
48 prosecutor, on behalf of the eligible servicemember, may move before

1 the court for the expungement of all records and information relating
2 to the arrest and the diversion at the time of dismissal pursuant to this
3 section.

4 (7) Where a dismissal of an offense is based on an eligible
5 person's successful participation in a Mental Health Diversion
6 Program pursuant to P.L. , c. (C.) (pending before the
7 Legislature as this bill), the eligible person may make a motion before
8 the court for the expungement of all records and information relating
9 to the arrest or charge and the diversion, at the time of dismissal
10 pursuant to this section.

11 b. When a person did not apply or a prosecutor did not move on
12 behalf of an eligible servicemember for an expungement of an arrest
13 not resulting in a conviction pursuant to subsection a. of this section,
14 the person may at any time following the disposition of proceedings,
15 present a duly verified petition as provided in N.J.S.2C:52-7 to the
16 Superior Court in the county in which the disposition occurred praying
17 that records of such arrest and all records and information pertaining
18 thereto be expunged.

19 c. (1) Any person who has had charges dismissed against him
20 pursuant to a program of supervisory treatment pursuant to
21 N.J.S.2C:43-12, or conditional discharge pursuant to N.J.S.2C:36A-1,
22 or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et
23 al.), shall be barred from the relief provided in this section until six
24 months after the entry of the order of dismissal.

25 (2) A servicemember who has successfully participated in a
26 Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23
27 et al.) may apply for expungement pursuant to this section at any time
28 following the order of dismissal if an expungement was not granted at
29 the time of dismissal.

30 (3) An eligible person who has successfully participated in the
31 Mental Health Diversion Program pursuant to P.L. , c. (C.)
32 (pending before the Legislature as this bill), may apply for
33 expungement pursuant to this section at any time following the order
34 of dismissal if an expungement was not granted at the time of
35 dismissal.

36 d. Any person who has been arrested or held to answer for a
37 crime shall be barred from the relief provided in this section where the
38 dismissal, discharge, or acquittal resulted from a determination that the
39 person was insane or lacked the mental capacity to commit the crime
40 charged.

41 (cf: P.L.2019, c.269, s.4)

42

43 ¹[9.] ¹10.¹ Section 1 of P.L.2013, c.158 (C.2C:43-13.1) is amended
44 to read as follows:

45 1. Eligibility and Application. a. Whenever any defendant who
46 has not been previously convicted of any petty disorderly persons
47 offense, disorderly persons offense or crime under any law of the
48 United States, this State or any other state, and who has not previously

1 participated in conditional discharge under N.J.S.2C:36A-1,
2 supervisory treatment under N.J.S.2C:43-12, or conditional dismissal
3 under P.L.2013, c.158 (C.2C:43-13.1 et al.), **or** a Veterans Diversion
4 Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), or a Mental
5 Health Diversion Program pursuant to P.L. , c. (C.) (pending
6 before the Legislature as this bill), is charged with a petty disorderly
7 offense or disorderly persons offense except as provided in subsection
8 b. of this section, the defendant may, after a plea of guilty or a finding
9 of guilt, but prior to the entry of a judgment of conviction and with
10 appropriate notice to the prosecutor, apply to the court for entry into
11 the conditional dismissal program pursuant to the requirements of
12 P.L.2013, c.158 (C.2C:43-13.1 et al.). As a condition of such
13 application, the defendant shall submit to the fingerprint identification
14 procedures as provided in R.S.53:1-15 before making such application
15 to the court to allow sufficient time for verification of the defendant's
16 criminal history by the prosecutor.

17 b. (1) A defendant shall not be eligible for participation in the
18 conditional dismissal program if the offense for which the person is
19 charged involved: (a) organized criminal or gang activity; (b) a
20 continuing criminal business or enterprise; (c) a breach of the public
21 trust by a public officer or employee; (d) domestic violence as defined
22 by subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19); (e) an
23 offense against an elderly, disabled or minor person; (f) an offense
24 involving driving or operating a motor vehicle while under the
25 influence of alcohol, intoxicating liquor, narcotic, hallucinogenic or
26 habit-producing drug; (g) a violation of animal cruelty laws; or (h) any
27 disorderly persons offense or petty disorderly persons offense under
28 chapter 35 or 36 of Title 2C.

29 (2) Nothing in this act shall preclude a defendant charged with any
30 disorderly persons offense or petty disorderly persons offense under
31 chapter 35 or 36 of Title 2C from applying to the court for admission
32 into the conditional discharge program in accordance with
33 N.J.S.2C:36A-1.

34 c. In addition to the eligibility criteria enumerated in this section,
35 the court shall consider the following factors:

- 36 (1) The nature and circumstances of the offense;
- 37 (2) The facts surrounding the commission of the offense;
- 38 (3) The motivation, age, character and attitude of the defendant;
- 39 (4) The desire of the complainant or victim to forego prosecution;
- 40 (5) The needs and interests of the victim and the community;
- 41 (6) The extent to which the defendant's offense constitutes part of
42 a continuing pattern of anti-social behavior;
- 43 (7) Whether the offense is of an assaultive or violent nature,
44 whether in the act itself or in the possible injurious consequences of
45 such behavior;
- 46 (8) Whether the applicant's participation will adversely affect the
47 prosecution of codefendants;

1 (9) Whether diversion of the defendant from prosecution is
2 consistent with the public interest; and

3 (10) Any other factors deemed relevant by the court.
4 (cf: P.L.2017, c.42, s.8)

5
6 ¹**【10.】 11.**¹ N.J.S.2C:36A-1 is amended to read as follows:
7 2C:36A-1. Conditional discharge for certain first offenses.

8 a. Whenever any person who has not previously been convicted
9 of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a
10 disorderly persons or petty disorderly persons offense defined in
11 chapter 35 or 36 of this title or, subsequent to the effective date of this
12 title, under any law of the United States, this State or any other state
13 relating to marijuana, or stimulant, depressant, or hallucinogenic
14 drugs, and who has not previously participated in a program of
15 supervisory treatment pursuant to N.J.S.2C:43-12 or conditional
16 dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), **【or】** a
17 Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23
18 et al.), or a Mental Health Diversion Program pursuant to P.L. _____, c.
19 (C. _____) (pending before the Legislature as this bill) is charged with or
20 convicted of any disorderly persons offense or petty disorderly persons
21 offense under chapter 35 or 36 of this title, the court upon notice to the
22 prosecutor and subject to subsection c. of this section, may on motion
23 of the defendant or the court:

24 (1) Suspend further proceedings and with the consent of the person
25 after reference to the State Bureau of Identification criminal history
26 record information files, place him under supervisory treatment upon
27 such reasonable terms and conditions as it may require; or

28 (2) After a plea of guilty or finding of guilty, and without entering
29 a judgment of conviction, and with the consent of the person after
30 proper reference to the State Bureau of Identification criminal history
31 record information files, place him on supervisory treatment upon
32 reasonable terms and conditions as it may require, or as otherwise
33 provided by law.

34 b. In no event shall the court require as a term or condition of
35 supervisory treatment under this section, referral to any residential
36 treatment facility for a period exceeding the maximum period of
37 confinement prescribed by law for the offense for which the individual
38 has been charged or convicted, nor shall any term of supervisory
39 treatment imposed under this subsection exceed a period of three
40 years.

41 Upon violation of a term or condition of supervisory treatment the
42 court may enter a judgment of conviction and proceed as otherwise
43 provided, or where there has been no plea of guilty or finding of
44 guilty, resume proceedings. Upon fulfillment of the terms and
45 conditions of supervisory treatment the court shall terminate the
46 supervisory treatment and dismiss the proceedings against him.
47 Termination of supervisory treatment and dismissal under this section
48 shall be without court adjudication of guilt and shall not be deemed a

1 conviction for purposes of disqualifications or disabilities, if any,
2 imposed by law upon conviction of a crime or disorderly persons
3 offense but shall be reported by the clerk of the court to the State
4 Bureau of Identification criminal history record information files.
5 Termination of supervisory treatment and dismissal under this section
6 may occur only once with respect to any person. Imposition of
7 supervisory treatment under this section shall not be deemed a
8 conviction for the purposes of determining whether a second or
9 subsequent offense has occurred under section 29 of P.L.1970, c.226
10 (C.24:21-29), chapter 35 or 36 of this title or any law of this State.

11 c. Proceedings under this section shall not be available to any
12 defendant unless the court in its discretion concludes that:

13 (1) The defendant's continued presence in the community, or in a
14 civil treatment center or program, will not pose a danger to the
15 community; or

16 (2) That the terms and conditions of supervisory treatment will be
17 adequate to protect the public and will benefit the defendant by serving
18 to correct any dependence on or use of controlled substances which he
19 may manifest; and

20 (3) The person has not previously received supervisory treatment
21 under section 27 of P.L.1970, c.226 (C.24:21-27), N.J.S.2C:43-12, or
22 the provisions of this chapter.

23 d. A person seeking conditional discharge pursuant to this section
24 shall pay to the court a fee of \$75 which shall be paid to the Treasurer
25 of the State of New Jersey for deposit in the General Fund. The
26 defendant shall also be required to pay restitution, costs and other
27 assessments as provided by law. A person may apply for a waiver of
28 this fee, by reason of poverty, pursuant to the Rules Governing the
29 Courts of the State of New Jersey, or the court may permit the
30 defendant to pay the conditional discharge fee and other assessments
31 in installments or may order other alternatives pursuant to section 1 of
32 P.L.2009, c.317 (C.2B:12-23.1).

33 (cf: P.L.2019, c.276, s.5)

34

35 ¹**[11.] 12.**¹ N.J.S.2C:43-12 is amended to read as follows:

36 2C:43-12. Supervisory Treatment--Pretrial Intervention.

37 a. Public policy. The purpose of N.J.S.2C:43-12 through
38 N.J.S.2C:43-22 is to effectuate a Statewide program of Pretrial
39 Intervention. It is the policy of the State of New Jersey that
40 supervisory treatment should ordinarily be limited to persons who
41 have not previously been convicted of any criminal offense under the
42 laws of New Jersey, or under any criminal law of the United States, or
43 any other state when supervisory treatment would:

44 (1) Provide applicants, on an equal basis, with opportunities to
45 avoid ordinary prosecution by receiving early rehabilitative services or
46 supervision, when such services or supervision can reasonably be
47 expected to deter future criminal behavior by an applicant, and when
48 there is apparent causal connection between the offense charged and

- 1 the rehabilitative or supervisory need, without which cause both the
2 alleged offense and the need to prosecute might not have occurred; or
- 3 (2) Provide an alternative to prosecution for applicants who might
4 be harmed by the imposition of criminal sanctions as presently
5 administered, when such an alternative can be expected to serve as
6 sufficient sanction to deter criminal conduct; or
- 7 (3) Provide a mechanism for permitting the least burdensome form
8 of prosecution possible for defendants charged with “victimless”
9 offenses, other than defendants who were public officers or employees
10 charged with offenses that involved or touched their office or
11 employment; or
- 12 (4) Provide assistance to criminal calendars in order to focus
13 expenditure of criminal justice resources on matters involving serious
14 criminality and severe correctional problems; or
- 15 (5) Provide deterrence of future criminal or disorderly behavior by
16 an applicant in a program of supervisory treatment.
- 17 b. (1) Admission of an applicant into a program of supervisory
18 treatment shall be measured according to the applicant’s amenability
19 to correction, responsiveness to rehabilitation and the nature of the
20 offense.
- 21 (2) There shall be a presumption against admission into a program
22 of supervisory treatment for:
- 23 (a) a defendant who was a public officer or employee whose
24 offense involved or touched upon his public office or employment; and
- 25 (b) a defendant charged with any crime or offense involving
26 domestic violence, as defined in subsection a. of section 3 of P.L.1991,
27 c.261 (C.2C:25-19) if the defendant committed the crime or offense
28 while subject to a temporary or permanent restraining order issued
29 pursuant to the provisions of the “Prevention of Domestic Violence
30 Act of 1991,” P.L.1991, c.261 (C.2C:25-17 et al.) or if the crime or
31 offense charged involved violence or the threat of violence. For
32 purposes of this subparagraph, a crime or offense involves violence or
33 the threat of violence if the victim sustains serious or significant bodily
34 injury as defined in subsection
35 b. or d. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly
36 weapon or threatens by word or gesture to use a deadly weapon as
37 defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious
38 or significant bodily injury.
- 39 c. The decision and reasons therefor made by the designated
40 judges (or assignment judges), prosecutors and program directors in
41 granting or denying applications for supervisory treatment, in
42 recommending and ordering termination from the program or
43 dismissal of charges, in all cases shall be reduced to writing and
44 disclosed to the applicant.
- 45 d. If an applicant desires to challenge the decision of the
46 prosecutor or program director not to recommend enrollment in a
47 program of supervisory treatment the proceedings prescribed under

1 N.J.S.2C:43-14 and in accordance with the Rules of Court shall be
2 followed.

3 e. Referral. At any time prior to trial but after the filing of a
4 criminal complaint, or the filing of an accusation or the return of an
5 indictment, with the consent of the prosecutor and upon written
6 recommendation of the program director, the assignment judge or a
7 judge designated by him may postpone all further proceedings against
8 an applicant and refer said applicant to a program of supervisory
9 treatment approved by the Supreme Court. Prosecutors and program
10 directors shall consider in formulating their recommendation of an
11 applicant's participation in a supervisory treatment program, among
12 others, the following criteria:

- 13 (1) The nature of the offense;
- 14 (2) The facts of the case;
- 15 (3) The motivation and age of the defendant;
- 16 (4) The desire of the complainant or victim to forego prosecution;
- 17 (5) The existence of personal problems and character traits which
18 may be related to the applicant's crime and for which services are
19 unavailable within the criminal justice system, or which may be
20 provided more effectively through supervisory treatment and the
21 probability that the causes of criminal behavior can be controlled by
22 proper treatment;
- 23 (6) The likelihood that the applicant's crime is related to a
24 condition or situation that would be conducive to change through his
25 participation in supervisory treatment;
- 26 (7) The needs and interests of the victim and society;
- 27 (8) The extent to which the applicant's crime constitutes part of a
28 continuing pattern of anti-social behavior;
- 29 (9) The applicant's record of criminal and penal violations and the
30 extent to which he may present a substantial danger to others;
- 31 (10) Whether or not the crime is of an assaultive or violent nature,
32 whether in the criminal act itself or in the possible injurious
33 consequences of such behavior;
- 34 (11) Consideration of whether or not prosecution would
35 exacerbate the social problem that led to the applicant's criminal act;
- 36 (12) The history of the use of physical violence toward others;
- 37 (13) Any involvement of the applicant with organized crime;
- 38 (14) Whether or not the crime is of such a nature that the value of
39 supervisory treatment would be outweighed by the public need for
40 prosecution;
- 41 (15) Whether or not the applicant's involvement with other people
42 in the crime charged or in other crime is such that the interest of the
43 State would be best served by processing his case through traditional
44 criminal justice system procedures;
- 45 (16) Whether or not the applicant's participation in pretrial
46 intervention will adversely affect the prosecution of codefendants; and

1 (17) Whether or not the harm done to society by abandoning
2 criminal prosecution would outweigh the benefits to society from
3 channeling an offender into a supervisory treatment program.

4 The prosecutor and the court, in formulating their
5 recommendations or decisions regarding an applicant's participation in
6 a supervisory treatment program, shall give due consideration to the
7 victim's position on whether the defendant should be admitted.

8 f. Review of Supervisory Treatment Applications; Procedure
9 Upon Denial. Each applicant for supervisory treatment shall be entitled
10 to full and fair consideration of his application. If an application is
11 denied, the program director or the prosecutor shall precisely state his
12 findings and conclusion which shall include the facts upon which the
13 application is based and the reasons offered for the denial. If the
14 applicant desires to challenge the decision of a program director not to
15 recommend, or of a prosecutor not to consent to, enrollment into a
16 supervisory treatment program, a motion shall be filed before the
17 designated judge (or assignment judge) authorized pursuant to the
18 Rules of Court to enter orders.

19 g. Limitations. (1) Supervisory treatment may occur only once
20 with respect to any defendant and any person who has previously
21 received supervisory treatment under section 27 of P.L.1970, c.226
22 (C.24:21-27), a conditional discharge pursuant to N.J.S.2C:36A-1, a
23 conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et
24 al.), or was granted a dismissal due to successful participation in the
25 Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23
26 et al.), or the Mental Health Diversion Program pursuant to P.L. , c.
27 (C.) (pending before the Legislature as this bill), shall not be
28 eligible for supervisory treatment under this section.

29 (2) Except as otherwise provided in paragraph (3) of this
30 subsection, supervisory treatment, as provided herein, shall be
31 available to a defendant irrespective of whether the defendant contests
32 his guilt of the charge or charges against him.

33 (3) Admission into supervisory treatment shall be available to the
34 following defendants only upon entering a plea of guilty: (a) a
35 defendant charged with a first or second degree crime;

36 (b) a defendant charged with any crime if the defendant had
37 previously been convicted of a first or second degree crime; (c) a
38 defendant charged with a third or fourth degree crime involving
39 domestic violence, as defined in subsection a. of section 3 of P.L.1991,
40 c.261 (C.2C:25-19); or (d) a defendant charged with any disorderly
41 persons or petty disorderly persons offense involving domestic
42 violence, as defined in subsection a. of section 3 of P.L.1991, c.261
43 (C.2C:25-19) if the defendant committed the offense while subject to a
44 temporary or permanent restraining order issued pursuant to the
45 provisions of the "Prevention of Domestic Violence Act of 1991,"
46 P.L.1991, c.261 (C.2C:25-17 et al.). For any such defendant, following
47 the plea of guilty the plea shall be held in an inactive status pending
48 termination of supervisory treatment pursuant to subsection d. or e. of

1 N.J.S.2C:43-13. Upon successful completion of the program of
2 supervisory treatment the charges shall be dismissed.

3 h. Termination. Termination of supervisory treatment under this
4 section shall be immediately reported to the assignment judge of the
5 county who shall forward such information to the Administrative
6 Director of the Courts.

7 i. Appointment of Program Directors; Authorized Referrals.
8 Programs of supervisory treatment and appointment of the program
9 directors require approval by the Supreme Court with the consent of
10 the assignment judge and prosecutor. Referrals of participants from
11 supervisory treatment programs may be to any public or private office
12 or agency, including but not limited to, programs within the probation
13 service of the court, offering counseling or any other social service
14 likely to aid in the rehabilitation of the participant and to deter the
15 commission of other offenses.

16 j. Health Care Professional Licensing Board Notification. The
17 program director shall promptly notify the State Board of Medical
18 Examiners when a State licensed physician or podiatrist has been
19 enrolled in a supervisory treatment program after he has been charged
20 with an offense involving drugs or alcohol.

21 The Attorney General shall develop guidelines to ensure the uniform
22 exercise of discretion by prosecutors in formulating their
23 recommendations on participation in a supervisory treatment program
24 by an applicant charged with a crime or offense involving domestic
25 violence, as defined in subsection a. of section 3 of P.L.1991, c.261
26 (C.2C:25-19).

27 (cf: P.L.2017, c.42, s.10)

28

29 ¹~~[[12.]]~~ 13.¹ (New section) ¹~~[[a.]]~~¹ The Attorney General, in
30 cooperation with the Administrative Director of the Courts,
31 Commissioner of the Department of Human Services and county
32 prosecutors shall, no later than two years after the establishment of
33 the Mental Health Diversion Program, prepare and submit a report
34 to the Governor and, pursuant to section 2 of P.L.1991, c.164
35 (C.52:14-19.1), to the Legislature regarding the program. The
36 report shall assist policymakers in determining whether the Mental
37 Health Diversion Program should be modified or expanded to
38 achieve the goals of recovery for eligible persons and public safety.
39 The report shall include statistics regarding the number of
40 applications, the number of eligible persons accepted into the
41 Mental Health Diversion Program and the number who successfully
42 completed this program; and other relevant information and
43 recommendations at the discretion of the Attorney General.

44 ¹~~[[b.]]~~ If the Attorney General fails to submit the report required
45 pursuant to subsection a. of this section, the Attorney General, or a
46 designee, shall appear before the Senate Judiciary Committee or the
47 Assembly Judiciary Committee, or their successor reference

1 committees, or other reference committee, at the direction of the
2 presiding officer, to explain why the report has not been issued.】¹

3
4 ¹14. (New section) There is created in the Department of the
5 Treasury a special, non-lapsing fund to be known as the “Mental
6 Health Diversion Program Support Fund.” There shall be deposited
7 into the fund the amounts made available for the purposes of the
8 fund and any interest earned thereon. Monies deposited in the fund
9 shall be dedicated to the purposes of defraying the costs and
10 expenses associated with the administration and operation of the
11 Statewide Mental Health Diversion Program established pursuant to
12 P.L. , c. (C.)(pending before the Legislature as this bill).¹

13
14 ¹【13.】 15.¹ This act shall take effect on the first day of the
15 seventh month next following enactment, except that the Attorney
16 General, Commissioner of Human Services, county prosecutors,
17 and the Administrative Director of the Courts may take any
18 anticipatory administrative action in advance as shall be necessary
19 for the implementation of this act.