ASSEMBLY, No. 5808

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED NOVEMBER 16, 2026

Sponsored by:
Assemblyman DAVID BAILEY, JR.
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Establishes Veterans Treatment Court Program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning justice-involved veterans amending various parts of the statutory law, and supplementing Title 2C of the New Jersey Statutes.

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

1. (New section) The Legislature finds and declares:

Pursuant to P.L.2017, c.42 (2C:43-23 et seq.), there was established a Statewide Veterans Diversion Program, with the purpose of diverting eligible servicemembers away from the criminal justice system and into appropriate case management and mental health services as early as possible following an interaction with law enforcement where the servicemember is alleged to have committed an eligible offense. Under that Act, those eligible offense where non-violent petty disorderly persons offense, disorderly persons offense, or crime of the third or fourth degree.

However, there is an additional need for a court intervention and veterans treatment services in this State. Thus, the Statewide Veterans Treatment Court Program, established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), shall have the purpose of treatment of veterans in an accountability-based court system designed to stabilize individuals whose conduct is closely linked to untreated trauma and behavioral health conditions. The system, a second track for justice-involved veterans, would expand, not replace, the Statewide Veterans Diversion Program, established by P.L.2017, c.42, (C.2C:43-23 et al.).

The need for a second track for justice-involved veterans has become evident because, in practice, the existing prosecutor-led veteran diversion program primarily serves individuals charged with lower-level, non-violent offenses, with a goal of directing these individuals away from criminal prosecution. However, veterans, who have experienced combat-exposure, post-traumatic stress disorder, traumatic brain injury, or serious substance use disorders enter the justice system with more serious charges, and thus fail to qualify for the existing veteran diversion programming. Moreover, due to the discretionary nature of the existing system of veterans diversion within the criminal justice system, New Jersey does not consistently require a dedicated judge, interdisciplinary team, structured reassessment, or standardized clinical engagement.

Thus, P.L. , c. (C.) (pending before the Legislature as this bill) creates a second track for the voluntary entry into a court-led program of post-conviction treatment, a specialized court docket in three regions of the State to address the intersection of military

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 <u>thus</u> is new matter.

service, trauma, addiction, and justice involvement through structured judicial supervision and coordinated clinical care. Enactment of this legislation in New Jersey will continue a trend pursuant to which states have moved beyond diversion-only approaches and developed specialized veterans treatment courts (VTC) or programs.

2. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

The terms "servicemember," "mental illness," and "veteran" shall have the same meaning as set forth in section 1 of P.L.2017, c.42 (C.2C:43-23).

"Central region means Middlesex, Monmouth, Mercer and Union Counties.

"Eligible offense" includes petty disorderly persons offenses, disorderly persons offenses, or any crime set forth in title 2C of the New Jersey Statutes but shall not include an ineligible offense.

"Eligible person" means any servicemember or a veteran discharged under conditions other than dishonorable who is mentally competent as that term is defined in N.J.S.2C:4-4; allegedly committed an eligible offense, or allegedly committed an ineligible offense but is approved for participation by the court, and is not otherwise disqualified by the provisions of P.L. c. (C.), (pending before the Legislature as this bill), and has been diagnosed with a mental disorder or substance use disorder, either previously or through an assessment conducted through the Veteran Court Treatment Program, and there is a nexus between the person's mental disorder condition or substance use disorder condition and the commission of the alleged crime as determined by a licensed mental health or substance use disorder professional. Such conditions may include sexual trauma, traumatic brain injury, and post-traumatic stress disorder.

"Ineligible offense" means:

(1) murder pursuant to N.J.S.2C:11-3;

(2) aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2; or

(3) any offense enumerated in N.J.S.2C:47-1 for which the defendant's conduct was characterized by a pattern of repetitive, compulsive behavior.

" Mental health professional" means a person who holds a current, a valid license issued pursuant to subsection a. of section 6 or subsection a. or d. of section 8 of P.L.1991, c.134 (C.45:15BB-1 et seq.). The licensed mental health professional shall also have training or certification in co-occurring diagnoses, treatment, and services.

"Memorandum of Understanding" means a document, to be drafted by the New Jersey Administrative Office of the Courts, and signed by the stakeholders in the New Jersey Veteran's Treatment

Court Program, to establish the rights and responsibilities of each stakeholder to provide each qualified veteran charged under the New Jersey Code of Criminal Justice an opportunity to receive rehabilitative, mental health, and social services. The stakeholders include the New Jersey Judiciary, the Pretrial Services Program, the Probation Division, the Attorney General, the Public Defender and veteran mentors.

"Northern region" means Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren Counties.

"Participant Agreement" means the document which sets forth the rules and expectations established for a participant in the New Jersey Veteran's Treatment Court Program which shall must be reviewed and signed by a participant and other program participant prior to the start of treatment.

"Psychosocial assessment" or "psychosocial evaluation" means a written evaluation of an individual's mental and emotional functioning.

"Southern region" means Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem Counties.

"Statewide Veteran's Treatment Court Program" or "Veterans' Treatment Court" means the program established pursuant to P.L. c. (C.), (pending before the Legislature as this bill).

"Veterans Court Program Team" means the judge, who presides over a team of professionals from the fields of mental health, substance use disorders, and criminal justice. Additional members of the team shall include Probation Services, Pretrial Services, defense attorneys and the prosecutor.

"Veterans Court Program Treatment Team" means the treatment professional members of the Veteran Court Program Team presided over by the judge of the Veterans Treatment Court Program Team.

3. (New section) a. (1) There is hereby created a Statewide Veterans Treatment Court Program intended to address the underlying cause of the criminal conduct in the veteran population by combining the resources of the Judiciary, including**,** but not limited to, judicial supervision, pretrial, and probation services, with clinical treatment programs to achieve an improved outcome for the participants and promote public safety by supporting sobriety and law-abiding behavior through reducing relapse and recidivism.

(2) The Statewide Veteran Treatment Court Program shall be established initially in no less than three judicial vicinages, with at least one program operating in each of the northern, central, and southern regions of the State.

(3) The Attorney General, in consultation with the Administrative Office of the Courts, shall select the vicinages that shall participate in the Statewide Veteran Treatment Program, and, within one year of the effective date of P.L. c. (C.),

(pending before the Legislature as this bill) shall designate currently operating veterans mental health and substance use disorder programs pursuant to paragraph (4) of this section or cause to be established and maintained new veterans mental health programs in additional selected vicinages, which shall accept eligible persons from within the vicinage.

(4) Programs in the Statewide Veteran Treatment Court Program shall be eligible to receive funding from the Statewide Veteran Treatment Court Program Fund" established pursuant to section 10 of P.L. , c. (C.) (pending before the Legislature as this bill). to defray the costs of program administration and operation.

(5) A veterans mental health or substance use disorder treatment program in operation on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) that serves the purpose of providing appropriate case management, mental health or substance use disorder services, and that applies the same eligibility criteria as provided under P.L. , c. (C.) (pending before the Legislature as this bill) may be deemed to comply with the requirements of this act and may be selected by the Attorney General for inclusion in the Statewide Veterans Treatment Program established pursuant to this act.

(6) The Statewide Veterans Treatment Court Program shall operate under a consistent judicial framework. Each regional program shall operate through standardized operating agreements, supported by a designated Veterans Treatment Court judge, participation by prosecutors and defense counsel, probation-led case management and compliance monitoring, formal integration with Department of Veterans Affairs treatment systems, structured mentor involvement, and standardized data tracking and outcome reporting.

b. The Attorney General, in consultation with the Administrative Office of the Courts, Department of Veterans Affairs, and the Department of Human Services, shall designate at least one regional Veterans Treatment Court Program Treatment Team for the northern, central, and southern regions of program operation to coordinate case management, mental health, and substance use disorder services to eligible persons participating in the program, provided, however, that nothing in this subsection shall be construed to prevent a Statewide Veterans Treatment Court Program from using other providers.

c. No later than two years after the establishment of the Statewide Veterans Treatment Court Program pursuant to subsection a. of this section, the Attorney General, in conjunction with the Administrative Office of the Courts, Department of Veterans Affairs, and the Department of Human Services, may, subject to the availability of funds, expand the program to additional vicinages, and shall have discretion to modify the

program to meet the intent of P.L. c. (C.) (pending before the Legislature as this bill).

d. The Attorney General shall publish on its website information regarding the Veterans Treatment Court Program, including the guidelines required pursuant to P.L. c. (C.), (pending before the Legislature as this bill).

4. (New section) The Administrative Office of the Courts, the Department of Veterans' Affairs, and the Department of Human Services shall collaborate with the United States Veterans Health Administration, and, United States Vet Centers, to create a Memorandum of Understanding in accordance with P.L. , c. (C.) (pending before the Legislature as this bill) to establish the rights and responsibilities of each stakeholder involved in the Veterans Treatment Court program.

5. (New section) a. Referral. Upon a finding of guilt or entry of a guilty plea, or in the case of a plea offer, at the time the proffer is made, a judge of the criminal court of record in the case, defense attorneys, pretrial services officers, probation services, and any other members of the Veterans Court Program Team may refer an eligible defendant to the program. Sentencing may be deferred until an eligible defendant is either graduated or terminated from the program.

b. After a referral, a Veterans Court Program team member shall contact the defendant and the defendant’s counsel, as appropriate, to determine if the defendant is interested in participating in the Veterans Court program and whether the defendant is eligible for Veteran Affairs benefits. Eligible persons who seek to apply to the Veterans Treatment Court Program shall, by submitting an application, agree to postpone their speedy trial rights. Applicants who are detained pre-trial shall agree to a reasonable amount of excludable time while legal and clinical determinations of eligibility are made pursuant to this section.

c. If the potential candidate for the Veterans Treatment Court Program is eligible for Veterans Affairs benefits and is interested in Veterans Treatment Court program participation, an eligible veteran may be conditionally approved for admission into the program pending verification of the person’s veteran status, review of the person’s criminal history to determine if the person is legally eligible, and consideration of the findings of a clinical assessment of the person’s mental health by the Pretrial Services Program for a clinical determination of eligibility.

d. A clinical determination of eligibility shall be made by licensed mental health professional who shall conduct an interview with an applicant to determine clinical appropriateness, and who may also conduct interviews with family members, where the applicant has completed a release authorizing such communications.

The licensed mental health professional shall also assess whether there is a nexus between the person's mental disorder or substance use disorder and the alleged crime. The clinical interview may be done in-person or remotely. If conducted remotely, the interview shall be conducted through technology that enables the interviewer and applicant to see one another. The licensed mental health professional shall submit a psychosocial evaluation to aid the determination of the applicant's eligibility for the Veterans Treatment Court Program.

Psychosocial reports should be returned to the court, the prosecutor's office, and applicant's legal counsel simultaneously within a reasonable period of time following clinical interviews so as to not prejudice the prosecutor's office or the defendant's interests. The evaluation shall not be shared outside of the mental health evaluation process. Defense counsel's use of the psychosocial evaluation is limited to the Veterans Treatment Court application process, and it cannot be used in any other proceeding. The psychosocial evaluation shall be provided to the judge presiding over the Veterans Treatment Court docket prior to the issuance of any orders of acceptance into the program.

e. Within 10 days of the referral of an eligible defendant pursuant to subsection a. of this section, the prosecutor shall notify the court that the prosecutor is either in favor of or opposed to the eligible defendant's participation in the Veterans Court Treatment Program. A prosecutor's opposition to an eligible defendant's participation in the Veteran Court Treatment Program shall not be the sole reason for denying admission of the defendant into the program.

f. If the prosecution communicates its preliminary determination in favor of an applicant's participation, the Pretrial Services Program and the Probation Office shall review the matter and make a recommendation to the Veterans Treatment Court Presiding Judge and Veterans Treatment Court Program Team as to whether the veteran should be accepted into the program. If the team, led by the judge, agrees that the veteran is suitable for participation the eligible defendant shall be approved for participation and all parties shall sign the Participant Agreement.

g. The case shall be placed on the differentiated veterans mental health supervision docket established pursuant to subsection a. of this section.

6. (New section) a. Any eligible defendant who has entered a guilty plea, or who has been convicted of a crime or offense under the laws of this State, or, for whom a plea offer is under consideration, at the time the proffer is made, may be sentenced under the Statewide Veterans Treatment Court Program pursuant to a Memorandum of Understanding in accordance with P.L. , c. (C.) (pending before the Legislature as this bill).

7. (New section) a. Administrative Director of the Courts, differentiated veterans mental health and substance use disorder case type; probation.

The Administrative Director of the Courts shall develop a differentiated veterans mental health and substance use disorder case type within the Probation Division of the Superior Court for eligible persons who are eligible for participation in veteran services probation supervision.

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

b. To the extent that sufficient resources are available, probation officers assigned to the specialized caseload shall be experienced in behavioral health and evidence-based therapeutic interventions and shall coordinate with federal and State case management mental health and substance use disorder service providers available to persons to promote their recovery, compliance with the terms of probation, and re-integration into the community.

Probation officers assigned to the Veterans Treatment Court Program may provide supervision to those participants who have been accepted into the Veterans Treatment Court Program.

c. The judge shall preside over all Orders of Acceptance for each individual who is accepted into the Veterans Treatment Court Program. The Veterans Treatment Court Program Team shall meet at regular intervals as determined by the court to discuss participant treatment plans and participant progress and other topics critical to treatment, reduction of recidivism, and public safety including, but not limited to, pending applications, legal statuses, timelines for psychosocial evaluation, plea agreements, and requirements for program participation to promote the goals of programming.

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

e. The Veterans Treatment Court Program Team shall consist of a Judge of the Superior Court who shall preside over the Veterans Treatment Court Program for each designated region of the State, designated Assistant Prosecutors, designated Public Defenders, a certified mental health professional, a case manager, a specially trained mental health probation officer, and a collaborative justice specialist. A social worker who is trained or

certified regarding co-occurring issues can, if resources are available, be incorporated into the Veterans Treatment Court Team.

8. (New section) a. The program leader in a selected vicinage shall be a Judge of the Superior Court who shall preside over all participant appearances, regularly held Veterans Treatment Court Program meetings, and all related court proceedings. The judge shall preside over regular Statewide Veterans Treatment Court Team meetings where participant treatment, progress, and barriers are discussed. All sanctions shall be subject to discussion by team members, but final sanction decisions shall be the sole province of the court.

b. The judge shall meet with each participant individually along with all members of the Statewide Veterans Treatment Court Team in a location, which is suitable to facilitate private conversations, to review and discuss the participant's progress, problems, and goal achievements.

c. The duration of the program shall be for at least one year but not to exceed 18 months.

d. Three months prior to any participant completing the program, the judge shall review a formal goal attainment log with the participant and team members.

e. If the court finds that the person has willfully failed to comply with any term or condition of the Veterans Treatment Court Program agreement, the court is required to afford the person notice and an opportunity to be heard on the issue of the defendant’s continued participation in the Veterans Treatment Court Program. All actions taken to terminate an eligible person’s participation in a Veterans Treatment Court Program is recommended to be carried out following a consultation with the Victim Court Program Team in full compliance with due process laws and the Rules Governing the Courts of the State of New Jersey.

f. No fee shall be assessed for applying to, participating in, or receiving treatment through the Veterans Treatment Court Program. Participants shall not be required to pay for treatment and services as a condition of participating in the Veterans Treatment Court Program. The Veterans Treatment Court Program team shall assist program participants in applying for all federal and State benefits that may cover or offset the cost of necessary treatment and services, including medication. The Department of Veteran affairs is also required to assist the Veterans Treatment Court Program Treatment Team in identifying available resources.

g. An eligible person may be admitted to the Veterans Treatment Court Program one or more times, subject to the restrictions enumerated in the bill if treatment promotes the person’s recovery, prevents the commission of future offenses, and protects the safety of the public.

h. The dismissal of charges based on successful participation in the Veterans Treatment Court Program would not be deemed:

(1) a conviction for purposes of disqualifications or disabilities but would be reported to the State Bureau of Identification criminal history record information files for purposes of determining future eligibility or exclusion from other diversion programs; or

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

9. (New section) The Attorney General, in consultation with the Administrative Director of the Courts, the Commissioner of the Department of Veterans Affairs and county prosecutors shall, no later than two years after the establishment of the Veterans Treatment Court Program, prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the program. The report shall assist policymakers in determining whether the Veterans Treatment Court Program should be modified or expanded to achieve the goals of recovery for eligible persons and public safety. The report shall include statistics regarding the number of applications, the number of eligible persons accepted into the Veterans Treatment Court Program and the number who successfully completed this program; and other relevant information and recommendations at the discretion of the Attorney General.

10. (New section) There is created in the Department of the Treasury a special, non-lapsing fund to be known as the "Veterans Treatment Court Program Support Fund." There shall be deposited into the fund the amounts made available for the purposes of the fund and any interest earned thereon. Monies deposited in the fund shall be dedicated to the purposes of defraying the costs and expenses associated with the administration and operation of the Statewide Veterans Treatment Court Program established pursuant to P.L. c. (C.) (pending before the Legislature as this bill.

11. (New section) Nothing in P.L. c. (C.), (pending before the Legislature as this bill) shall be construed to limit or constrain in any way the authority or discretion of a prosecutor to divert, prosecute or pursue any other disposition of a criminal matter involving a defendant who is a servicemember as defined within P.L. c. (C.), (pending before the Legislature as this bill). When considering the appropriate treatment of a veteran, the Veteran Treatment Court Program may use the Veterans Diversion Program established pursuant to P.L.2017, c.42 (C.2C:43-23 et al), any other diversion mechanism authorized by law, or a county-based law enforcement diversion program after considering each program's restrictions, the relief available to the veteran, and the safety of any victim and the public.

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

1. Eligibility and Application. a. Whenever any defendant who has not been previously convicted of any petty disorderly persons offense, disorderly persons offense or crime under any law of the United States, this State or any other state, and who has not previously participated in conditional discharge under N.J.S.2C:36A-1, supervisory treatment under N.J.S.2C:43-12, or conditional dismissal under P.L.2013, c.158 (C.2C:43-13.1 et al.), a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), **[**or**]** a Mental Health Diversion Program pursuant to P.L.2023 c.188 (C.2C:43-32 et al.), or a Veterans Treatment Court Program under P.L. c. (C.) (pending before the Legislature as this bill) is charged with a petty disorderly offense or disorderly persons offense except as provided in subsection b. of this section, the defendant may, after a plea of guilty or a finding of guilt, but prior to the entry of a judgment of conviction and with appropriate notice to the prosecutor, apply to the court for entry into the conditional dismissal program pursuant to the requirements of P.L.2013, c.158 (C.2C:43-13.1 et al.). As a condition of such application, the defendant shall submit to the fingerprint identification procedures as provided in R.S.53:1-15 before making such application to the court to allow sufficient time for verification of the defendant's criminal history by the prosecutor.

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

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

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

(1) The nature and circumstances of the offense;

(2) The facts surrounding the commission of the offense;

(3) The motivation, age, character and attitude of the defendant;

(4) The desire of the complainant or victim to forego prosecution;

(5) The needs and interests of the victim and the community;

(6) The extent to which the defendant's offense constitutes part of a continuing pattern of anti-social behavior;

(7) Whether the offense is of an assaultive or violent nature, whether in the act itself or in the possible injurious consequences of such behavior;

(8) Whether the applicant's participation will adversely affect the prosecution of codefendants;

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

(10) Any other factors deemed relevant by the court.

(cf: P.L.2023, c.188, s.10)

13. N.J.S.2C:36A-1 is amended to read as follows:

2C:36A-1. Conditional discharge for certain first offenses.

a. Whenever any person who has not previously been convicted of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a disorderly persons or petty disorderly persons offense defined in chapter 35 or 36 of this title or, subsequent to the effective date of this title, under any law of the United States, this State or any other state relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, and who has not previously participated in a program of supervisory treatment pursuant to N.J.S.2C:43-12 or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), **[**or**]** a Mental Health Diversion Program pursuant to P.L.2023 c.188 (C.2C:43-32 et al.), or a Veterans Treatment Court Program under P.L. c. (C.) (pending before the Legislature as this bill) is charged with or convicted of any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of this title, the court upon notice to the prosecutor and subject to subsection c. of this section, may on motion of the defendant or the court:

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

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

b. In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the

individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of three years.

Upon violation of a term or condition of supervisory treatment the court may enter a judgment of conviction and proceed as otherwise provided, or where there has been no plea of guilty or finding of guilty, resume proceedings. Upon fulfillment of the terms and conditions of supervisory treatment the court shall terminate the supervisory treatment and dismiss the proceedings against him. Termination of supervisory treatment and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly persons offense but shall be reported by the clerk of the court to the State Bureau of Identification criminal history record information files. Termination of supervisory treatment and dismissal under this section may occur only once with respect to any person. Imposition of supervisory treatment under this section shall not be deemed a conviction for the purposes of determining whether a second or subsequent offense has occurred under section 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this title or any law of this State.

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

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

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

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

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

(cf:P.L.2023, c.188, s.11)

14. N.J.S.2C:43-12 is amended to read as follows:

2C:43-12. Supervisory treatment - pretrial intervention.

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

(1) Provide applicants, on an equal basis, with opportunities to avoid ordinary prosecution by receiving early rehabilitative services or supervision, when such services or supervision can reasonably be expected to deter future criminal behavior by an applicant, and when there is apparent causal connection between the offense charged and the rehabilitative or supervisory need, without which cause both the alleged offense and the need to prosecute might not have occurred; or

(2) Provide an alternative to prosecution for applicants who might be harmed by the imposition of criminal sanctions as presently administered, when such an alternative can be expected to serve as sufficient sanction to deter criminal conduct; or

(3) Provide a mechanism for permitting the least burdensome form of prosecution possible for defendants charged with "victimless" offenses, other than defendants who were public officers or employees charged with offenses that involved or touched their office or employment; or

(4) Provide assistance to criminal calendars in order to focus expenditure of criminal justice resources on matters involving serious criminality and severe correctional problems; or

(5) Provide deterrence of future criminal or disorderly behavior by an applicant in a program of supervisory treatment.

b. (1) Admission of an applicant into a program of supervisory treatment shall be measured according to the applicant's amenability to correction, responsiveness to rehabilitation and the nature of the offense.

(2) There shall be a presumption against admission into a program of supervisory treatment for:

(a) a defendant who was a public officer or employee whose offense involved or touched upon his public office or employment; and

(b) a defendant charged with any crime or offense involving domestic violence, as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19) if the defendant committed the crime or offense while subject to a temporary or permanent restraining order issued pursuant to the provisions of the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or if the crime or offense charged involved violence or the threat of violence. For purposes of this subparagraph, a crime or offense involves violence or the threat of violence if the victim sustains serious or significant bodily injury as defined in subsection

b. or d. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon or threatens by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious or significant bodily injury.

c. The decision and reasons therefor made by the designated judges (or assignment judges), prosecutors and program directors in granting or denying applications for supervisory treatment, in recommending and ordering termination from the program or dismissal of charges, in all cases shall be reduced to writing and disclosed to the applicant.

d. If an applicant desires to challenge the decision of the prosecutor or program director not to recommend enrollment in a program of supervisory treatment the proceedings prescribed under N.J.S.2C:43-14 and in accordance with the Rules of Court shall be followed.

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

(1) The nature of the offense;

(2) The facts of the case;

(3) The motivation and age of the defendant;

(4) The desire of the complainant or victim to forego prosecution;

(5) The existence of personal problems and character traits which may be related to the applicant's crime and for which services are unavailable within the criminal justice system, or which may be provided more effectively through supervisory treatment and the probability that the causes of criminal behavior can be controlled by proper treatment;

(6) The likelihood that the applicant's crime is related to a condition or situation that would be conducive to change through his participation in supervisory treatment;

(7) The needs and interests of the victim and society;

(8) The extent to which the applicant's crime constitutes part of a continuing pattern of anti-social behavior;

(9) The applicant's record of criminal and penal violations and the extent to which he may present a substantial danger to others;

(10) Whether or not the crime is of an assaultive or violent nature, whether in the criminal act itself or in the possible injurious consequences of such behavior;

(11) Consideration of whether or not prosecution would exacerbate the social problem that led to the applicant's criminal act;

(12) The history of the use of physical violence toward others;

(13) Any involvement of the applicant with organized crime;

(14) Whether or not the crime is of such a nature that the value of supervisory treatment would be outweighed by the public need for prosecution;

(15) Whether or not the applicant's involvement with other people in the crime charged or in other crime is such that the interest of the State would be best served by processing his case through traditional criminal justice system procedures;

(16) Whether or not the applicant's participation in pretrial intervention will adversely affect the prosecution of codefendants; and

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

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

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

g. Limitations. (1) Supervisory treatment may occur only once with respect to any defendant and any person who has previously received supervisory treatment under section 27 of P.L.1970, c.226 (C.24:21-27), a conditional discharge pursuant to N.J.S.2C:36A-1, a conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), or was granted a dismissal due to successful participation in the Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), or the Mental Health Diversion Program pursuant to P.L.2023 c.188 (C.2C:43-32 et al.), shall not be eligible for supervisory treatment under this section.

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

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

(b) a defendant charged with any crime if the defendant had previously been convicted of a first or second degree crime; (c) a defendant charged with a third or fourth degree crime involving domestic violence, as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19); or (d) a defendant charged with any disorderly persons or petty disorderly persons offense involving domestic violence, as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19) if the defendant committed the offense while subject to a temporary or permanent restraining order issued pursuant to the provisions of the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.). For any such defendant, following the plea of guilty the plea shall be held in an inactive status pending termination of supervisory treatment pursuant to subsection d. or e. of N.J.S.2C:43-13. Upon successful completion of the program of supervisory treatment the charges shall be dismissed.

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

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

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

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

(cf: P.L.2023, c.188, s.12)

15. This act shall take effect on the first day of the sixth month next following enactment, except that the Attorney General, the Administrative Director of the Courts, and the Adjutant General of

the Department of Veterans' Affairs may take any anticipatory action in advance as shall be necessary for the implementation of this act.

STATEMENT

This bill is intended to facilitate the expansion and growth of programming for certain veterans of the United States Armed Forces who, due to serious mental health or substance use disorder issues, engage in conduct that results in involvement in the criminal justice system. The bill establishes a Statewide Veterans Treatment Court Program ("VTCP") for the treatment of veterans in an accountability-based court system designed to stabilize individuals whose conduct is linked to untreated trauma and behavioral health conditions. The system, a separate track for justice-involved veterans, is designed to expand, not replace, the Veterans Diversion Program established in 2017 by P.L.2017, c.42, (C.2C:43-23 et al.).

Definitions of Terms

Because both concepts, justice-involved veteran diversion and court-led structured treatment, are linked in that both focus attention on veterans impacted by combat experience, the following terms have the same meaning under the bill as under Veterans Diversion Program, established under P.L.2017, c.42 (C.2C:43-23 et al.): "servicemember," "mental illness," and "veteran."

Additionally, the following definitions apply to the bill:

"Eligible offense" includes petty disorderly persons offenses, disorderly persons offenses, or any crime set forth in title 2C of the New Jersey Statutes but shall not include an ineligible offense.

"Eligible person" means any servicemember, or a veteran discharged under conditions other than dishonorable, who is mentally competent as that term is defined in N.J.S.2C:4-4; allegedly committed an eligible offense, or allegedly committed an ineligible offense but is approved for participation by the court, and is not otherwise disqualified by the provisions of P.L. c. (C.), (pending before the Legislature as this bill), and has been diagnosed with a mental disorder or substance use disorder, either previously or through an assessment conducted through the Veteran Court Treatment Program, and there is a nexus between the person's mental disorder condition or substance use disorder condition and the commission of the alleged crime as determined by a licensed mental health or substance use disorder professional. Such conditions may include sexual trauma, traumatic brain injury, and post-traumatic stress disorder.

"Ineligible offense" means:

(1) murder pursuant to N.J.S.2C:11-3;

(2) aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2; or

(3) any offense enumerated in N.J.S.2C:47-1 for which the defendant's conduct was characterized by a pattern of repetitive, compulsive behavior.

"Memorandum of Understanding" means a document, to be drafted by the New Jersey Administrative Office of the Courts, and signed by the stakeholders in the New Jersey Veterans Treatment Court Program created to establish the rights and responsibilities of each stakeholder in the program to provide each qualified veteran charged under the New Jersey Code of Criminal Justice an opportunity to receive rehabilitative, mental health, and social services as needed. The stakeholders include the New Jersey Judiciary, the Pretrial Services Program, the Probation Division, the Attorney General, and the Public Defender and veteran mentors.

"Participant Agreement" means the document which sets forth the rules and expectations established for a participant in the New Jersey Veterans Treatment Court Program which must be reviewed and signed by a participant and other program participant prior to the start of treatment.

"Psychosocial assessment" or "psychosocial evaluation" means a written evaluation of an individual's mental and emotional functioning.

"Statewide Veterans Treatment Court Program" or "Veterans Treatment Court Program, VTCP" means the program established pursuant to the bill.

"Veterans Court Program Team, VCPT" means the judge, who presides over a team of professionals from the fields of mental health, substance use disorders, and criminal justice. Additional members of the team shall include Probation Services, Pretrial Services, defense attorneys and the prosecutor.

"Veterans Court Program Treatment Team, VCPTT" means the treatment professional members of the Veteran Court Program Team presided over by the judge of the Veterans Treatment Court Program Team.

<u>Responsibilities of the Attorney General</u>

Under the bill, within one year of the bill's effective date, the Attorney General, in consultation with the Administrative Office of the Courts is required to establish a VTCP in one vicinage in each of the northern, central, and southern regions of the State, to accept eligible persons from within the vicinage. Similar programs in operation at that time may be deemed to comply with the requirements of this bill and may be selected for inclusion in the VTCP. One regional VTCP is required to be designated for each region.

The Attorney General in consultation with the Administrative Director of the Courts, the Commissioner of the Department of

Veterans Affairs and county prosecutors shall, no later than two years after the establishment of the Veterans Treatment Court Program, prepare and submit is submit a report to the Governor and to the Legislature regarding the program.

The Attorney General shall publish on its website information regarding the Veterans Treatment Court Program, including the any required guidelines.

Responsibilities of the Administrative Office of the Courts (AOC)

The AOC, the Department of Veterans Affairs, and the Department of Human Services shall collaborate with the United States Veterans Health Administration, and, United States Vet Centers, to create a Memorandum of Understanding, the document which establishes the rights and responsibilities of each stakeholder.

The Administrative Director of the Courts is directed to develop a differentiated veterans mental health and substance use disorder case type within the Probation Division of the Superior Court for persons who are eligible for participation in veteran services probation supervision.

Probation officers assigned to this specialized caseload should be experienced in behavioral health and evidence-based therapeutic interventions.

Responsibilities of the VTCP Judge

The program leader in a selected vicinage is the judge of the Superior Court who shall preside over all participant appearances, regularly held VTCP meetings, and all related court proceedings. The judge shall meet with each participant individually along with all members of the VCPT in a location which is suitable to facilitate private conversations, to review and discuss the participant's progress, problems, and goal achievements. Court proceedings include but are not limited to guilty pleas, sentencings, sanctions, recognitions, notice of terminations, termination hearings, graduations, withdrawals, and violations of probation. Three months prior to any participant moving on, the judge shall review a formal goal attainment log with the participant and VTCP members.

Responsibilities of the VCPTT

The treatment team, VCPTT, is primarily responsible for providing treatment for the eligible person admitted the program.

Additionally, the treatment team, or VCPTT, is required to assist program participants in applying for all federal and State benefits that may cover or offset the cost of necessary treatment and services, including medication.

Referral to VTCP and the Application Process

Upon a finding of guilt or entry of a guilty plea, or in the case of a plea offer, at the time the proffer is made, a judge of the criminal

court of record in the case, defense attorneys, pretrial services officers, probation services, and any other members of the veterans court program team may refer a veteran defendant to the program. Involvement in the VTCP entails, among other criteria, a process for determining eligibility, a legal determination of eligibility, prosecutorial discretion, a clinical determination, any additional terms of the specific program which shall be set forth in the terms of a Participant Agreement, pursuant to which conditions for the dismissal of charges are enumerated. An eligible person who applies for admission to the VTCP is required to agree to postpone their speedy trial rights.

Additional Requirements for Program Participation

The terms of participation are set out in each participant agreement.

Duration of Participation

The court shall determine the duration of the person's participation in the VTCP. The length of the person's participation in the program is not to exceed 18 months from the date of admission to the program by the court.

Consequences for Failure to Comply

If the court finds that the person has willfully failed to comply with any term or condition of the VTCP agreement, the court is required to afford the person notice and an opportunity to be heard on the issue of the defendant's continued participation in the VTCP. All actions taken to terminate an eligible person's participation in a VTCP is recommended to be carried out following a consultation with the VCPT in full compliance with due process laws and the Rules Governing the Courts of the State of New Jersey.

Fees

No fee is to be assessed for applying to, participating in, or receiving treatment through the VTCP. VTCP participants shall not be required to pay for treatment and services as a condition of participating in the VTCP. The VCPTT team is required to assist program participants in applying for all federal and State benefits that may cover or offset the cost of necessary treatment and services, including medication. The Department of Veterans Affairs is also required to assist the VCPTT in identifying available resources, programs, and benefits.

Multiple Admissions

An eligible person may be admitted to the VTCP one or more times, subject to the certain restrictions enumerated in the bill as heretofore described, if treatment promotes the person's recovery,

prevents the commission of future offenses, and protects the safety of the public.

Dismissal of Charges

The dismissal of charges based on successful participation in the VTCP would not be deemed: (1) a conviction for purposes of disqualifications or disabilities but would be reported to the State Bureau of Identification criminal history record information files for purposes of determining future eligibility or exclusion from other diversion programs; or (2) a conviction for the purpose of determining whether a second or subsequent offense has occurred under any law of this State.

Other Programs

The court may use the VTCP established under the bill, any other treatment authorized by law, or a county-based law enforcement treatment program after considering each program's restrictions, the relief available to the eligible person, and the safety of any victim and the public.

Training

The bill would require the Administrative Director of the Courts to develop a differentiated mental health and substance use supervision case type within the Probation Division of the Superior Court for eligible persons who are sentenced to a term of probation supervision for treatment under the VTCP. To the extent that sufficient resources are available, probation officers assigned to the specialized caseload should be experienced in behavioral health and evidence-based therapeutic interventions. The probation officers would also coordinate with federal and State case management and mental health care providers to promote recovery and compliance with the terms of probation.

Amendatory Sections

The bill amends the pretrial intervention (PTI) statute (N.J.S.2C:43-12), conditional discharge statute (N.J.S.2C:36A-1) and the conditional dismissal statute (section 1 of P.L.2013, c.158 (C.2C:43-13.1)) to cross reference the VTCP established by the bill. Successful completion of the VTCP bars the person's subsequent eligibility for the PTI, conditional dismissal and conditional discharge programs. However, an eligible person who participated in any of those diversion programs may seek subsequent admission to the VTCP and may be admitted at the sole discretion of the prosecutor.

"Veterans Treatment Court Program Support Fund"

The bill establishes a special, non-lapsing fund to be known as the "Veterans Treatment Court Program Support Fund." The fund

shall be a depository for amounts made available for the purpose of the fund, and dedicated to the purpose of defraying the costs and expenses associated with the VTCP.