

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1770

STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED JANUARY 28, 2008

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblywoman CONNIE WAGNER

District 38 (Bergen)

Assemblyman REED GUSCIORA

District 15 (Mercer)

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District 33 (Hudson)

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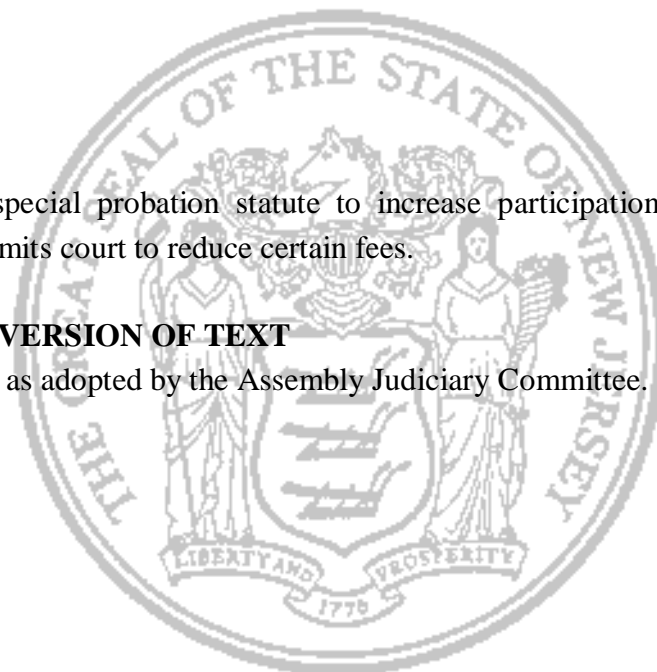
Assemblyman Fisher, Senators Adler and Turner

SYNOPSIS

Amends special probation statute to increase participation in drug court program; permits court to reduce certain fees.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Judiciary Committee.



(Sponsorship Updated As Of: 3/4/2008)

1 AN ACT concerning rehabilitation of drug and alcohol dependent
2 offenders and amending N.J.S.2C:35-14 and N.J.S.2C:35-15.

3

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

6

7 1. N.J.S.2C:35-14 is amended to read as follows:

8 2C:35-14. Rehabilitation Program for Drug and Alcohol
9 Dependent Persons Subject to a Presumption of Incarceration or a
10 Mandatory Minimum Period of Parole Ineligibility; Criteria for
11 Imposing Special Probation; Ineligible Offenders; Prosecutorial
12 Objections; **[Mandatory]** Commitment to Residential Treatment
13 Facilities or Participation in a Nonresidential Treatment Program;
14 Presumption of Revocation; Brief Incarceration in Lieu of
15 Permanent Revocation.

16 a. Any person who is ineligible for probation due to a conviction
17 for a crime which is subject to a presumption of incarceration or a
18 mandatory minimum period of parole ineligibility may be sentenced
19 to a term of special probation in accordance with this section, and
20 may not apply for drug and alcohol treatment pursuant to
21 N.J.S.2C:45-1. Nothing in this section shall be construed to
22 prohibit a person who is eligible for probation in accordance with
23 N.J.S.2C:45-1 due to a conviction for an offense which is not
24 subject to a presumption of incarceration or a mandatory minimum
25 period of parole ineligibility from applying for drug or alcohol
26 treatment as a condition of probation pursuant to N.J.S.2C:45-1.
27 Notwithstanding the presumption of incarceration pursuant to the
28 provisions of subsection d. of N.J.S.2C:44-1, and except as
29 provided in subsection c. of this section, whenever a drug or alcohol
30 dependent person who is subject to sentencing under this section is
31 convicted of or adjudicated delinquent for an offense, other than
32 one described in subsection b. of this section, the court, upon notice
33 to the prosecutor, may, on motion of the person, or on the court's
34 own motion, place the person on special probation, which shall be
35 for a term of five years, provided that the court finds on the record
36 that:

37 (1) the person has undergone a professional diagnostic
38 assessment to determine whether and to what extent the person is
39 drug or alcohol dependent and would benefit from treatment; and

40 (2) the person is a drug or alcohol dependent person within the
41 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the
42 time of the commission of the present offense; and

43 (3) the present offense was committed while the person was
44 under the influence of a controlled dangerous substance, controlled
45 substance analog or alcohol or was committed to acquire property

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.

1 or monies in order to support the person's drug or alcohol
2 dependency; and

3 (4) substance abuse treatment and monitoring will serve to
4 benefit the person by addressing his drug or alcohol dependency
5 and will thereby reduce the likelihood that the person will thereafter
6 commit another offense; and

7 (5) the person did not possess a firearm at the time of the present
8 offense and did not possess a firearm at the time of any pending
9 criminal charge; and

10 (6) the person has not been previously convicted on two or more
11 separate occasions of crimes of the first **[.]** or second **[or third]**
12 degree, other than those listed in paragraph (7); or the person has
13 not been previously convicted on two or more separate occasions,
14 where one of the offenses is a crime of the third degree, other than
15 crimes defined in N.J.S.2C:35-10, and one of the offenses is a crime
16 of the first or second degree; and

17 (7) the person has not been previously convicted or adjudicated
18 delinquent for, and does not have a pending charge of murder,
19 aggravated manslaughter, manslaughter, robbery, kidnapping,
20 aggravated assault, aggravated sexual assault or sexual assault, or a
21 similar crime under the laws of any other state or the United States;
22 and

23 (8) a suitable treatment facility licensed and approved by the
24 Division of Addiction Services in the Department of **[Health and**
25 **Senior Services]** Human Services is able and has agreed to provide
26 appropriate treatment services in accordance with the requirements
27 of this section; and

28 (9) no danger to the community will result from the person being
29 placed on special probation pursuant to this section.

30 In determining whether to sentence the person pursuant to this
31 section, the court shall consider all relevant circumstances, and
32 shall take judicial notice of any evidence, testimony or information
33 adduced at the trial, plea hearing or other court proceedings, and
34 shall also consider the presentence report and the results of the
35 professional diagnostic assessment to determine whether and to
36 what extent the person is drug or alcohol dependent and would
37 benefit from treatment.

38 As a condition of special probation, the court shall order the
39 person to enter a residential treatment program at a facility licensed
40 and approved by the Division of Addiction Services in the
41 Department of **[Health and Senior Services]** Human Services or a
42 program of nonresidential treatment by a licensed and approved
43 treatment provider, to comply with program rules and the
44 requirements of the course of treatment, to cooperate fully with the
45 treatment provider, and to comply with such other reasonable terms
46 and conditions as may be required by the court or by law, pursuant
47 to N.J.S.2C:45-1, and which shall include periodic urine testing for

1 drug or alcohol usage throughout the period of special probation. In
2 determining whether to order the person to participate in a
3 nonresidential rather than a residential treatment program, the court
4 shall follow the procedure set forth in subsection j. of this section.
5 Subject to the requirements of subsection d. of this section, the
6 conditions of special probation may include different methods and
7 levels of community-based or residential supervision.

8 b. A person shall not be eligible for special probation pursuant
9 to this section if the person is convicted of or adjudicated
10 delinquent for:

11 (1) a crime of the first degree;

12 (2) a crime of the first or second degree enumerated in
13 subsection d. of **[N.J.S.2C:43-7.2]** section 2 of P.L.1997, c.117
14 (C.2C:43-7.2);

15 (3) a crime, other than that defined in **[N.J.S.2C:35-7]** section 1
16 of P.L.1987, c.101 (C.2C:35-7), for which a mandatory minimum
17 period of incarceration is prescribed under chapter 35 of this Title
18 or any other law; or

19 (4) an offense that involved the distribution or the conspiracy or
20 attempt to distribute a controlled dangerous substance or controlled
21 substance analog to a juvenile near or on school property.

22 c. A person who is subject to sentencing under this section in
23 accordance with subsection a. shall not be eligible for a sentence of
24 special probation pursuant to this section if:

25 (1) the person has been

26 (a) convicted of or adjudicated delinquent for an offense under
27 section 1 of P.L.1987, c.101 (C.2C:35-7), subsection b. of section 1
28 of P.L.1997, c.185 (C.2C:35-4.1), or any crime for which there
29 exists a presumption of imprisonment pursuant to subsection d. of
30 N.J.S.2C:44-1 or any other statute **[, or who has been]**;

31 (b) previously convicted of an offense under subsection a. of
32 N.J.S.2C:35-5 or a similar offense under any other law of this State,
33 any other state or the United States, **[shall not be eligible for**
34 **sentence in accordance with this section if]**; or

35 (c) previously convicted on two or more separate occasions of
36 crimes of the third degree, other than crimes defined in
37 N.J.S.2C:35-10; and

38 (2) the prosecutor objects to the person being placed on special
39 probation. The court shall not place a person on special probation
40 over the prosecutor's objection except upon a finding by the court of
41 a gross and patent abuse of prosecutorial discretion. If the court
42 makes a finding of a gross and patent abuse of prosecutorial
43 discretion and imposes a sentence of special probation
44 notwithstanding the objection of the prosecutor, the sentence of
45 special probation imposed pursuant to this section shall not become
46 final for 10 days in order to permit the appeal of such sentence by
47 the prosecution.

1 d. **[A]** Except as otherwise provided in subsection j. of this
2 section, a person convicted of or adjudicated delinquent for a crime
3 of the second degree or of a violation of section 1 of P.L.1987,
4 c.101 (C.2C:35-7), or who previously has been convicted of or
5 adjudicated delinquent for an offense under subsection a. of
6 N.J.S.2C:35-5 or a similar offense under any other law of this State,
7 any other state or the United States, who is placed on special
8 probation under this section shall be committed to the custody of a
9 residential treatment facility licensed and approved by the Division
10 of Addiction Services in the Department of **[Health and Senior**
11 Services] Human Services **[**, whether or not residential treatment
12 was recommended by the person conducting the diagnostic
13 assessment]. **[The]** Subject to the authority of the court to
14 temporarily suspend imposition of all or any portion of the term of
15 commitment to a residential treatment facility pursuant to
16 subsection j. of this section, the person shall be committed to the
17 residential treatment facility immediately, unless the facility cannot
18 accommodate the person, in which case the person shall be
19 incarcerated to await commitment to the residential treatment
20 facility. The term of such commitment shall be for a minimum of
21 six months, or until the court, upon recommendation of the
22 treatment provider, determines that the person has successfully
23 completed the residential treatment program, whichever is later,
24 except that no person shall remain in the custody of a residential
25 treatment facility pursuant to this section for a period in excess of
26 five years. Upon successful completion of the required residential
27 treatment program, the person shall complete the period of special
28 probation, as authorized by subsection a. of this section, with credit
29 for time served for any imprisonment served as a condition of
30 probation and credit for each day during which the person
31 satisfactorily complied with the terms and conditions of special
32 probation while committed pursuant to this section to a residential
33 treatment facility. **[The]** Except as otherwise provided in
34 subsection l. of this section, the person shall not be eligible for early
35 discharge of special probation pursuant to N.J.S.2C:45-2, or any
36 other provision of the law. The court, in determining the number of
37 credits for time spent in residential treatment, shall consider the
38 recommendations of the treatment provider. A person placed into a
39 residential treatment facility pursuant to this section shall be
40 deemed to be subject to official detention for the purposes of
41 N.J.S.2C:29-5 (escape).

42 e. The probation department or other appropriate agency
43 designated by the court to monitor or supervise the person's special
44 probation shall report periodically to the court as to the person's
45 progress in treatment and compliance with court-imposed terms and
46 conditions. The treatment provider shall promptly report to the
47 probation department or other appropriate agency all significant

1 failures by the person to comply with any court imposed term or
2 condition of special probation or any requirements of the course of
3 treatment, including but not limited to a positive drug or alcohol
4 test or the unexcused failure to attend any session or activity, and
5 shall immediately report any act that would constitute an escape.
6 The probation department or other appropriate agency shall
7 immediately notify the court and the prosecutor in the event that the
8 person refuses to submit to a periodic drug or alcohol test or for any
9 reason terminates his participation in the course of treatment, or
10 commits any act that would constitute an escape.

11 f. (1) Upon a first violation of any term or condition of the
12 special probation authorized by this section or of any requirements
13 of the course of treatment, the court in its discretion may
14 permanently revoke the person's special probation.

15 (2) Upon a second or subsequent violation of any term or
16 condition of the special probation authorized by this section or of
17 any requirements of the course of treatment, the court shall, subject
18 only to the provisions of subsection g. of this section, permanently
19 revoke the person's special probation unless the court finds on the
20 record that there is a substantial likelihood that the person will
21 successfully complete the treatment program if permitted to
22 continue on special probation, and the court is clearly convinced,
23 considering the nature and seriousness of the violations, that no
24 danger to the community will result from permitting the person to
25 continue on special probation pursuant to this section. The court's
26 determination to permit the person to continue on special probation
27 following a second or subsequent violation pursuant to this
28 paragraph may be appealed by the prosecution.

29 (3) In making its determination whether to revoke special
30 probation, and whether to overcome the presumption of revocation
31 established in paragraph (2) of this subsection, the court shall
32 consider the nature and seriousness of the present infraction and any
33 past infractions in relation to the person's overall progress in the
34 course of treatment, and shall also consider the recommendations of
35 the treatment provider. The court shall give added weight to the
36 treatment provider's recommendation that the person's special
37 probation be permanently revoked, or to the treatment provider's
38 opinion that the person is not amenable to treatment or is not likely
39 to complete the treatment program successfully.

40 (4) If the court permanently revokes the person's special
41 probation pursuant to this subsection, the court shall impose any
42 sentence that might have been imposed, or that would have been
43 required to be imposed, originally for the offense for which the
44 person was convicted or adjudicated delinquent. The court shall
45 conduct a de novo review of any aggravating and mitigating factors
46 present at the time of both original sentencing and resentencing. If
47 the court determines or is required pursuant to any other provision

1 of this chapter or any other law to impose a term of imprisonment,
2 the person shall receive credit for any time served in custody
3 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
4 treatment facility pursuant to this section, and for each day during
5 which the person satisfactorily complied with the terms and
6 conditions of special probation while committed pursuant to this
7 section to a residential treatment facility. The court, in determining
8 the number of credits for time spent in a residential treatment
9 facility, shall consider the recommendations of the treatment
10 provider.

11 (5) Following a violation, if the court permits the person to
12 continue on special probation pursuant to this section, the court
13 shall order the person to comply with such additional terms and
14 conditions, including but not limited to more frequent drug or
15 alcohol testing, as are necessary to deter and promptly detect any
16 further violation.

17 (6) Notwithstanding any other provision of this subsection, if the
18 person at any time refuses to undergo urine testing for drug or
19 alcohol usage as provided in subsection a. of this section, the court
20 shall, subject only to the provisions of subsection g. of this section,
21 permanently revoke the person's special probation.
22 Notwithstanding any other provision of this section, if the person at
23 any time while committed to the custody of a residential treatment
24 facility pursuant to this section commits an act that would constitute
25 an escape, the court shall forthwith permanently revoke the person's
26 special probation.

27 (7) An action for a violation under this section may be brought
28 by a probation officer or prosecutor or on the court's own motion.
29 Failure to complete successfully the required treatment program
30 shall constitute a violation of the person's special probation. A
31 person who fails to comply with the terms of his special probation
32 pursuant to this section and is thereafter sentenced to imprisonment
33 in accordance with this subsection shall thereafter be ineligible for
34 entry into the Intensive Supervision Program, provided however
35 that this provision shall not affect the person's eligibility for entry
36 into the Intensive Supervision Program for a subsequent conviction.

37 g. When a person on special probation is subject to a
38 presumption of revocation on a second or subsequent violation
39 pursuant to paragraph (2) of subsection f. of this section, or when
40 the person refuses to undergo drug or alcohol testing pursuant to
41 paragraph (6) of subsection f. of this section, the court may, in lieu
42 of permanently revoking the person's special probation, impose a
43 term of incarceration for a period of not less than 30 days nor more
44 than six months, after which the person's term of special probation
45 pursuant to this section may be reinstated. In determining whether
46 to order a period of incarceration in lieu of permanent revocation
47 pursuant to this subsection, the court shall consider the

1 recommendations of the treatment provider with respect to the
2 likelihood that such confinement would serve to motivate the
3 person to make satisfactory progress in treatment once special
4 probation is reinstated. This disposition may occur only once with
5 respect to any person unless the court is clearly convinced that there
6 are compelling and extraordinary reasons to justify reimposing this
7 disposition with respect to the person. Any such determination by
8 the court to reimpose this disposition may be appealed by the
9 prosecution. Nothing in this subsection shall be construed to limit
10 the authority of the court at any time during the period of special
11 probation to order a person on special probation who is not subject
12 to a presumption of revocation pursuant to paragraph (2) of
13 subsection f. of this section to be incarcerated over the course of a
14 weekend, or for any other reasonable period of time, when the court
15 in its discretion determines that such incarceration would help to
16 motivate the person to make satisfactory progress in treatment.

17 h. The court, as a condition of its order, and after considering
18 the person's financial resources, shall require the person to pay that
19 portion of the costs associated with his participation in any
20 rehabilitation program, nonresidential treatment program or period
21 of residential treatment imposed pursuant to this section which, in
22 the opinion of the court, is consistent with the person's ability to
23 pay, taking into account the court's authority to order payment or
24 reimbursement to be made over time and in installments.

25 i. The court shall impose, as a condition of the special probation,
26 any fine, penalty, fee or restitution applicable to the offense for
27 which the person was convicted or adjudicated delinquent.

28 j. Where the court finds that a person has satisfied all of the
29 eligibility criteria for special probation and would otherwise be
30 required to be committed to the custody of a residential treatment
31 facility pursuant to the provisions of subsection d. of this section,
32 the court may temporarily suspend imposition of all or any portion
33 of the term of commitment to a residential treatment facility and
34 may instead order the person to enter a nonresidential treatment
35 program, provided that the court finds on the record that:

36 (1) the person conducting the diagnostic assessment required
37 pursuant to paragraph (1) of subsection a. of this section has
38 recommended in writing that the proposed course of nonresidential
39 treatment services is clinically appropriate and adequate to address
40 the person's treatment needs; and

41 (2) no danger to the community would result from the person
42 participating in the proposed course of nonresidential treatment
43 services; and

44 (3) a suitable treatment provider is able and has agreed to
45 provide clinically appropriate nonresidential treatment services.

46 If the prosecutor objects to the court's decision to suspend the
47 commitment of the person to a residential treatment facility

1 pursuant to this subsection, the sentence of special probation
2 imposed pursuant to this section shall not become final for ten days
3 in order to permit the appeal by the prosecution of the court's
4 decision.

5 After a period of six months of nonresidential treatment, if the
6 court, considering all available information including but not
7 limited to the recommendation of the treatment provider, finds that
8 the person has made satisfactory progress in treatment and that
9 there is a substantial likelihood that the person will successfully
10 complete the nonresidential treatment program and period of special
11 probation, the court, on notice to the prosecutor, may permanently
12 suspend the commitment of the person to the custody of a
13 residential treatment program, in which event the special
14 monitoring provisions set forth in subsection k. of this section shall
15 no longer apply.

16 Nothing in this subsection shall be construed to limit the
17 authority of the court at any time during the term of special
18 probation to order the person to be committed to a residential or
19 nonresidential treatment facility if the court determines that such
20 treatment is clinically appropriate and necessary to address the
21 person's present treatment needs.

22 k. (1) When the court temporarily suspends the commitment of
23 the person to a residential treatment facility pursuant to subsection
24 j. of this section, the court shall, in addition to ordering
25 participation in a prescribed course of nonresidential treatment and
26 any other appropriate terms or conditions authorized or required by
27 law, order the person to undergo urine testing for drug or alcohol
28 use not less than once per week unless otherwise ordered by the
29 court. The court-ordered testing shall be conducted by the
30 probation department or the treatment provider. The results of all
31 tests shall be reported promptly to the court and to the prosecutor.
32 In addition, the court shall impose appropriate curfews or other
33 restrictions on the person's movements, and may order the person to
34 wear electronic monitoring devices to enforce such curfews or other
35 restrictions as a condition of special probation.

36 (2) The probation department or other appropriate agency shall
37 immediately notify the court and the prosecutor in the event that the
38 person fails or refuses to submit to a drug or alcohol test, knowingly
39 defrauds the administration of a drug test, terminates his
40 participation in the course of treatment, or commits any act that
41 would constitute absconding from parole. If the person at any time
42 while entered in a nonresidential treatment program pursuant to
43 subsection j. of this section knowingly defrauds the administration
44 of a drug test, goes into hiding or leaves the State with a purpose of
45 avoiding supervision, the court shall permanently revoke the
46 person's special probation.

1 1. If the court finds that the person has made exemplary progress
2 in the course of treatment, the court may, upon recommendation of
3 the person's supervising probation officer or on the court's own
4 motion, and upon notice to the prosecutor, grant early discharge
5 from a term of special probation provided that the person: (1) has
6 satisfactorily completed the treatment program ordered by the court;
7 (2) has served at least two years of special probation; (3) did not
8 commit a substantial violation of any term or condition of special
9 probation, including but not limited to a positive urine test, within
10 the preceding 12 months; and (4) is not likely to relapse or commit
11 an offense if probation supervision and related services are
12 discontinued.

13 (cf: P.L.2001, c.129, s.2.)

14

15 2. N.J.S.2C:35-15 is amended to read as follows:

16 2C:35-15. a. (1) In addition to any disposition authorized by this
17 title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43),
18 or any other statute indicating the dispositions that can be ordered
19 for an adjudication of delinquency, every person convicted of or
20 adjudicated delinquent for a violation of any offense defined in this
21 chapter or chapter 36 of this title shall be assessed for each such
22 offense a penalty fixed at:

23 (a) \$3,000.00 in the case of a crime of the first degree;

24 (b) \$2,000.00 in the case of a crime of the second degree;

25 (c) \$1,000.00 in the case of a crime of the third degree;

26 (d) \$750.00 in the case of a crime of the fourth degree;

27 (e) \$500.00 in the case of a disorderly persons or petty disorderly
28 persons offense.

29 (2) A person being sentenced for more than one offense set forth
30 in subsection a. of this section who is neither placed in supervisory
31 treatment pursuant to this section nor ordered to perform
32 reformatory service pursuant to subsection f. of this section may, in
33 the discretion of the court, be assessed a single penalty applicable to
34 the highest degree offense for which the person is convicted or
35 adjudicated delinquent, if the court finds that the defendant has
36 established the following:

37 (a) the imposition of multiple penalties would constitute a
38 serious hardship that outweighs the need to deter the defendant
39 from future criminal activity; and

40 (b) the imposition of a single penalty would foster the
41 defendant's rehabilitation.

42 Every person placed in supervisory treatment pursuant to the
43 provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12 for a violation of
44 any offense defined in this chapter or chapter 36 of this title shall be
45 assessed the penalty prescribed herein and applicable to the degree
46 of the offense charged, except that the court shall not impose more
47 than one such penalty regardless of the number of offenses charged.

1 If the person is charged with more than one offense, the court shall
2 impose as a condition of supervisory treatment the penalty
3 applicable to the highest degree offense for which the person is
4 charged.

5 All penalties provided for in this section shall be in addition to
6 and not in lieu of any fine authorized by law or required to be
7 imposed pursuant to the provisions of N.J.S.2C:35-12.

8 b. All penalties provided for in this section shall be collected as
9 provided for collection of fines and restitutions in section 3 of
10 P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the
11 Department of the Treasury as provided in subsection c. of this
12 section.

13 c. All moneys collected pursuant to this section shall be
14 forwarded to the Department of the Treasury to be deposited in a
15 nonlapsing revolving fund to be known as the "Drug Enforcement
16 and Demand Reduction Fund." Moneys in the fund shall be
17 appropriated by the Legislature on an annual basis for the purposes
18 of funding in the following order of priority: (1) the Alliance to
19 Prevent Alcoholism and Drug Abuse and its administration by the
20 Governor's Council on Alcoholism and Drug Abuse; (2) the
21 "Alcoholism and Drug Abuse Program for the Deaf, Hard of
22 Hearing and Disabled" established pursuant to section 2 of
23 P.L.1995, c.318 (C.26:2B-37); (3) the "Partnership for a Drug Free
24 New Jersey," the State affiliate of the "Partnership for a Drug Free
25 America"; and (4) other alcohol and drug abuse programs.

26 Moneys appropriated for the purpose of funding the "Alcoholism
27 and Drug Abuse Program for the Deaf, Hard of Hearing and
28 Disabled" shall not be used to supplant moneys that are available to
29 the Department of Health and Senior Services as of the effective
30 date of P.L.1995, c.318 (C.26:2B-36 et al.), and that would
31 otherwise have been made available to provide alcoholism and drug
32 abuse services for the deaf, hard of hearing and disabled, nor shall
33 the moneys be used for the administrative costs of the program.

34 d. (Deleted by amendment, P.L.1991, c.329).

35 e. The court may suspend the collection of a penalty imposed
36 pursuant to this section; provided the person is ordered by the court
37 to participate in a drug or alcohol rehabilitation program approved
38 by the court; and further provided that the person agrees to pay for
39 all or some portion of the costs associated with the rehabilitation
40 program. In this case, the collection of a penalty imposed pursuant
41 to this section shall be suspended during the person's participation
42 in the approved, court-ordered rehabilitation program. Upon
43 successful completion of the program, as determined by the court
44 upon the recommendation of the treatment provider, the person may
45 apply to the court to reduce the penalty imposed pursuant to this
46 section by any amount actually paid by the person for his
47 participation in the program. The court shall not reduce the penalty

1 pursuant to this subsection unless the person establishes to the
2 satisfaction of the court that he has successfully completed the
3 rehabilitation program. If the person's participation is for any
4 reason terminated before his successful completion of the
5 rehabilitation program, collection of the entire penalty imposed
6 pursuant to this section shall be enforced. Nothing in this section
7 shall be deemed to affect or suspend any other criminal sanctions
8 imposed pursuant to this chapter or chapter 36 of this title.

9 f. A person required to pay a penalty under this section may
10 propose to the court and the prosecutor a plan to perform
11 reformatory service in lieu of payment of up to one-half of the
12 penalty amount imposed under this section. The reformatory
13 service plan option shall not be available if the provisions of
14 paragraph (2) of subsection a. of this section apply or if the person
15 is placed in supervisory treatment pursuant to the provisions of
16 N.J.S.2C:36A-1 or N.J.S.2C:43-12. For purposes of this section,
17 "reformatory service" shall include training, education or work, in
18 which regular attendance and participation is required, supervised,
19 and recorded, and which would assist in the defendant's
20 rehabilitation and reintegration. "Reformatory service" shall
21 include, but not be limited to, substance abuse treatment or services,
22 other therapeutic treatment, educational or vocational services,
23 employment training or services, family counseling, service to the
24 community and volunteer work. For the purposes of this section, an
25 application to participate in a court-administered alcohol and drug
26 rehabilitation program shall have the same effect as the submission
27 of a reformatory service plan to the court.

28 The court, in its discretion, shall determine whether to accept the
29 plan, after considering the position of the prosecutor, the plan's
30 appropriateness and practicality, the defendant's ability to pay and
31 the effect of the proposed service on the defendant's rehabilitation
32 and reintegration into society. The court shall determine the amount
33 of the credit that would be applied against the penalty upon
34 successful completion of the reformatory service, not to exceed one-
35 half of the amount assessed, except that the court may, in the case
36 of an extreme financial hardship, waive additional amounts of the
37 penalty owed by a person who has completed a court administered
38 alcohol and drug rehabilitation program if necessary to aid the
39 person's rehabilitation and reintegration into society. The court
40 shall not apply the credit against the penalty unless the person
41 establishes to the satisfaction of the court that he has successfully
42 completed the reformatory service. If the person's participation is
43 for any reason terminated before his successful completion of the
44 reformatory service, collection of the entire penalty imposed
45 pursuant to this section shall be enforced. Nothing in this
46 subsection shall be deemed to affect or suspend any other criminal

1 sanctions imposed pursuant to this chapter or chapter 36 of this
2 title.

3 Any reformatory service ordered pursuant to this section shall be
4 in addition to and not in lieu of any community service imposed by
5 the court or otherwise required by law. Nothing in this section shall
6 limit the court's authority to order a person to participate in any
7 activity, program or treatment in addition to those proposed in a
8 reformatory service plan.

9 (cf: P.L.2007, c.297, s.1.)

10

11 3. This act shall take effect on the first day of the fourth month
12 following enactment.