

ASSEMBLY, No. 798

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman JON M. BRAMNICK
District 21 (Essex, Morris, Somerset and Union)
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District 15 (Mercer)
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District 18 (Middlesex)

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Assemblyman Coutinho

SYNOPSIS

Establishes conditional intervention program in municipal court for certain first-time offenders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/9/2010)

1 AN ACT concerning conditional intervention for certain first
2 offenders in municipal courts and supplementing Title 2C of the
3 New Jersey Statutes.

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

7
8 1. Conditional intervention in municipal courts for certain first
9 offenses; expunging of records. a. Whenever any person who has
10 not previously been convicted of any disorderly persons or petty
11 disorderly persons offense is charged with or convicted of any
12 disorderly persons offense or petty disorderly persons offense, the
13 court upon notice to the prosecutor and subject to subsection c. of
14 this section, may on motion of the defendant or the court:

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

19 (2) After plea of guilty or finding of guilty, and without entering
20 a judgment of conviction, and with the consent of the person after
21 proper reference to the State Bureau of Identification criminal
22 history record information files, place him under such reasonable
23 terms and conditions as it may require, or as otherwise provided by
24 law.

25 b. In no event shall the court require any terms or conditions
26 under this section to exceed a period of one year. Upon violation of
27 a term or condition the court may enter a judgment of conviction
28 and proceed as otherwise provided, or where there has been no plea
29 of guilty or finding of guilty, resume proceedings. Upon fulfillment
30 of the terms and conditions of conditional intervention the court
31 shall terminate the terms and conditions and dismiss the
32 proceedings against him. Termination of conditional intervention
33 and dismissal under this section shall be without court adjudication
34 of guilt and shall not be deemed a conviction for purposes of
35 disqualifications or disabilities, if any, imposed by law upon
36 conviction of a disorderly persons offense or petty disorderly
37 persons offense but shall be reported by the clerk of the municipal
38 court to the State Bureau of Identification criminal history record
39 information files. Termination of conditional intervention and
40 dismissal under this section may occur only once with respect to
41 any person. Imposition of conditional intervention under this
42 section shall not be deemed a conviction for the purposes of
43 determining whether a second or subsequent offense has occurred
44 under any law of this State.

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

- 1 (1) The person has not participated previously in a program of
2 conditional intervention in municipal court available pursuant to the
3 provisions of this section; and
4 (2) The person has not participated previously in a program of
5 conditional discharge available pursuant to N.J.S. 2C:36A-1 or
6 under section 27 of P.L.1970, c.226 (C.24:21-27); and
7 (3) The person has not completed previously a program of
8 intensive supervision established pursuant to the Rules Governing
9 the Courts of the State of New Jersey; and
10 (4) The terms and conditions of conditional intervention will be
11 adequate to protect the public; and
12 (5) The court is satisfied that the nature of the offense; the facts
13 of the case; the motivation and age of the defendant; and the desire
14 of the complainant or victim to forego prosecution make it likely
15 that the defendant would be conducive to change through his
16 participation in conditional intervention.
17 d. The terms and duration of the conditional intervention shall
18 be set forth in writing, signed by the municipal prosecutor and
19 agreed to and signed by the participant. If the participant is
20 represented by counsel, defense counsel shall also sign the
21 agreement. Each order of conditional intervention shall be filed
22 with the municipal clerk.
23 e. A person seeking conditional intervention pursuant to this
24 section shall pay to the court a fee of \$75. A person may apply for
25 a waiver of this fee, by reason of poverty, pursuant to the Rules
26 Governing the Courts of the State of New Jersey.
27
28 2. The Supreme Court may adopt rules concerning conditional
29 intervention in municipal courts in accordance with the procedures
30 set forth in section 1 of this act.
31
32 3. This act shall take effect on the 60th day after enactment.
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35 STATEMENT
36

37 This bill creates an alternative to sentencing for certain first-time
38 offenders in municipal court who are charged with a disorderly
39 persons offense or a petty disorderly persons offense.
40 The provisions of the bill are patterned closely on the provisions
41 of N.J.S.A. 2C:36A-1 which permits certain first-time drug
42 offenders to have proceedings suspended or to have no judgment of
43 conviction entered if they complete certain drug treatment or meet
44 other conditions imposed by the court. N.J.S.A. 2C:36A-1 is a
45 continuation of a provision previously found in Title 24 of the
46 Revised Statutes at N.J.S. 24:21-27.

1 The bill provides that a municipal judge, upon notice to the
2 prosecutor and subject to certain findings by the judge, may
3 suspend further proceedings and place the first-time offender under
4 reasonable terms and conditions. Alternatively, after plea of guilty
5 or finding of guilty, and without entering a judgment of conviction,
6 may place the first-time offender under reasonable terms and
7 conditions. If the offender violates a term or condition then the
8 court may enter a judgment of conviction and proceed, or where
9 there has been no plea of guilty or finding of guilty, resume
10 proceedings. Upon fulfillment of the terms and conditions of
11 conditional intervention the court terminates the program and
12 dismisses the proceedings. Termination of conditional intervention
13 and dismissal shall not be deemed a conviction for purposes of
14 disqualifications or disabilities. Termination of conditional
15 intervention and dismissal may only be granted once to any person.
16 A person seeking conditional intervention as established by this bill
17 cannot have participated previously in a program of conditional
18 discharge for drug offenses or in a program of intensive supervision
19 for indictable offenses.

20 The municipal judge must find also that the terms and conditions
21 of conditional intervention will be adequate to protect the public.
22 Additionally the judge must find that the nature of the offense, the
23 facts of the case, the motivation and age of the defendant, and the
24 desire of the complainant or victim to forego prosecution make it
25 likely that the defendant would be conducive to change through
26 participation in conditional intervention.

27 The sponsor notes that persons who are charged with an
28 indictable offense have the possible benefit of pretrial intervention
29 pursuant to N.J.S.A. 2C:43-12 et seq. This bill provides a similar
30 alternative for first-time offenders who are charged with lesser,
31 non-indictable disorderly or petty disorderly persons offenses in
32 municipal court in the hope that this type of intervention may offer
33 a similar benefit to this offender without any criminal history who
34 makes a mistake.