

ASSEMBLY, No. 4368

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 29, 2020

Sponsored by:

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblyman Giblin and Assemblywoman Reynolds-Jackson

SYNOPSIS

Expands municipal court conditional dismissal program to include defendants charged with certain drug offenses; requires defendant's participation in various programs and services; allows dismissal of charges after one-year probationary period.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/27/2020)

1 AN ACT concerning the diversion of certain charges in municipal
2 court and amending various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.2013, c.158 (2C:43-13.1) is amended to
8 read as follows:

9 1. Eligibility and Application. a. Whenever any defendant who
10 has not been previously convicted of any petty disorderly persons
11 offense, disorderly persons offense or crime under any law of the
12 United States, this State or any other state, and who has not
13 previously participated in conditional discharge under
14 N.J.S.2C:36A-1, supervisory treatment under N.J.S.2C:43-12, or
15 conditional dismissal under P.L.2013, c.158 (C.2C:43-13.1 et al.),
16 or a Veterans Diversion Program pursuant to P.L.2017, c.42
17 (C.2C:43-23 et al.), is charged with a petty disorderly offense **[or]**,
18 disorderly persons offense, or crime of the fourth degree under
19 chapter 35 or 36 of Title 2C of the New Jersey Statutes except as
20 provided in subsection b. of this section, the defendant may, after a
21 plea of guilty or a finding of guilt, but prior to the entry of a
22 judgment of conviction and with appropriate notice to the
23 prosecutor, apply to the court for entry into the conditional
24 dismissal program pursuant to the requirements of P.L.2013, c.158
25 (C.2C:43-13.1 et al.). As a condition of such application, the
26 defendant shall submit to the fingerprint identification procedures
27 as provided in R.S.53:1-15 before making such application to the
28 court to allow sufficient time for verification of the defendant's
29 criminal history by the prosecutor.

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

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

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

- 3 (1) The nature and circumstances of the offense;
4 (2) The facts surrounding the commission of the offense;
5 (3) The motivation, age, character and attitude of the defendant;
6 (4) The desire of the complainant or victim to forego
7 prosecution;
8 (5) The needs and interests of the victim and the community;
9 (6) The extent to which the defendant's offense constitutes part
10 of a continuing pattern of anti-social behavior;
11 (7) Whether the offense is of an assaultive or violent nature,
12 whether in the act itself or in the possible injurious consequences of
13 such behavior;
14 (8) Whether the applicant's participation will adversely affect
15 the prosecution of codefendants;
16 (9) Whether diversion of the defendant from prosecution is
17 consistent with the public interest; and
18 (10) Any other factors deemed relevant by the court.

19 (cf: P.L.2017, c.42, s.8)
20

21 2. Section 2 of P.L.2013, c.158 (C.2C:43-13.2) is amended to
22 read as follows:

23 2. a. Court Approval of Defendant's Participation in
24 Conditional Dismissal Program. After considering the eligibility
25 criteria set forth in section 1 of P.L.2013, c.158 (C.2C:43-13.1), the
26 defendant's criminal history and the municipal prosecutor's
27 recommendation, the court may, without entering a judgment of
28 conviction, and after proper reference to the State Bureau of
29 Identification criminal history record information files, approve the
30 defendant's participation in the conditional dismissal program
31 established pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.) and
32 place the defendant under a probation monitoring status for a period
33 of one year.

34 b. The court may also impose financial obligations and other
35 terms and conditions in accordance with P.L.2013, c.158 (C.2C:43-
36 13.1 et al.).

37 c. Where the court approves a defendant's participation in the
38 conditional dismissal program over the municipal prosecutor's
39 objection, the order approving the defendant's participation in the
40 program shall be a final order but upon request of the municipal
41 prosecutor shall be stayed for a period of 10 days in order to permit
42 the prosecutor to appeal such order to the Superior Court.

43 d. As a condition of participation in the conditional dismissal
44 program, the defendant shall participate in appropriate programs
45 and services as directed by the court. The defendant shall not be
46 charged a fee for participation in any such programs. The programs
47 shall include, but are not limited to:

1 (1) substance abuse treatment, including but not limited to
2 medication-assisted treatment as defined in paragraph (7) of
3 subsection f. of N.J.S.2C:35-14;

4 (2) health and mental health services, including referral to
5 medical providers;

6 (3) assistance in obtaining health insurance, such as Medicaid;

7 (4) assistance in obtaining any other benefits the defendant may
8 be entitled to, such as veterans' benefits;

9 (5) assistance in obtaining personal identification;

10 (6) assistance in payment of motor vehicle surcharges;

11 (7) vocational training;

12 (8) job placement;

13 (9) housing assistance;

14 (10) educational assistance;

15 (11) transportation assistance; and

16 (12) referral to legal assistance.

17 (cf: P.L.2013, c.158, s.2)

18
19 3. N.J.S.2B:12-17 is amended to read as follows:

20 2B:12-17. Jurisdiction of specified offenses. A municipal court
21 has jurisdiction over the following cases within the territorial
22 jurisdiction of the court:

23 a. Violations of county or municipal ordinances;

24 b. Violations of the motor vehicle and traffic laws;

25 c. Disorderly persons offenses, petty disorderly persons
26 offenses and other non-indictable offenses except where exclusive
27 jurisdiction is given to the Superior Court;

28 d. Violations of the fish and game laws;

29 e. Proceedings to collect a penalty where jurisdiction is granted
30 by statute;

31 f. Violations of laws regulating boating; **[and]**

32 g. Any crime of the fourth degree under chapter 35 or 36 of
33 Title 2C of the New Jersey Statutes where the defendant has not
34 been previously convicted of any petty disorderly persons offense,
35 disorderly persons offense or crime under any law of the United
36 States, this State or any other state, and has not previously
37 participated in conditional discharge under N.J.S.2C:36A-1;
38 supervisory treatment under N.J.S.2C:43-12; conditional dismissal
39 under P.L.2013, c.158 (C.2C:43-13.1 et al.); or a Veterans
40 Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.);
41 and

42 h. Any other proceedings where jurisdiction is granted by
43 statute.

44 (cf: P.L.1996, c.95, s.12)

45
46 4. This act shall take effect on the 90th day following
47 enactment.

STATEMENT

This bill would expand the current conditional dismissal program in municipal court to include certain drug offenses and to require the defendant to participate in various programs and services.

Under the current conditional dismissal program, set out in P.L.2013, c.158 (2C:43-13.1 et seq.), first-time offenders charged with certain disorderly persons or petty disorderly persons offenses may, at the discretion of the municipal court, 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 municipal court for entry into the program. As a condition of the application, the defendant must submit to fingerprint identification procedures to allow verification of his criminal history.

Under the conditional dismissal program, the municipal court will place the defendant under a probation monitoring status for a period of one year. The court may also impose financial obligations and other terms and conditions. A defendant may apply to the court for an extension of a term of conditional dismissal to allow sufficient time to pay financial obligations imposed by the court, and a judge may also extend a defendant's conditional dismissal term for good cause. If a participant is convicted of any crime or offense during his participation or otherwise fails to comply with the terms and conditions imposed by the court, the court may enter a judgment of conviction and impose a fine, penalty, or other assessment which may be imposed in accordance with the defendant's prior guilty plea or finding of guilt.

At the end of the term of conditional dismissal, if the defendant has not been convicted of any subsequent crime or offense, and has complied with any other terms and conditions imposed by the municipal court, the court may terminate probation and dismiss the proceedings against the defendant. Once the proceedings are dismissed, the offense is not deemed a conviction for purposes of any disqualifications or disabilities imposed by law, or for the purposes of determining whether a second or subsequent offense has occurred.

Currently, a defendant is not eligible for participation in the municipal court conditional dismissal program if he is charged with certain offenses, including, among others, any disorderly persons offense or petty disorderly persons offense involving controlled dangerous substances under chapter 35 or 36 of Title 2C of the New Jersey Statutes. The bill eliminates this provision, so that a defendant charged with any of these offenses would be eligible to participate in conditional dismissal.

The bill also requires that, as a condition of participation in the conditional dismissal program, the defendant must participate in appropriate programs and services as directed by the court. The

1 defendant would not be charged a fee for participation in any such
2 programs. The programs shall include, but are not limited to:

3 (1) substance abuse treatment, including but not limited to
4 medication-assisted treatment as defined in paragraph (7) of
5 subsection f. of N.J.S.2C:35-14;

6 (2) health and mental health services, including referral to
7 medical providers;

8 (3) assistance in obtaining health insurance, such as Medicaid;

9 (4) assistance in obtaining any other benefits the defendant may
10 be entitled to, such as veterans' benefits;

11 (5) assistance in obtaining personal identification;

12 (6) assistance in payment of motor vehicle surcharges;

13 (7) vocational training;

14 (8) job placement;

15 (9) housing assistance;

16 (10) educational assistance;

17 (11) transportation assistance; and

18 (12) referral to legal assistance.

19

20 The bill is similar to the "Pathway to Change Pilot Program"
21 operating in Atlantic County municipal courts.