

ASSEMBLY, No. 5604

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

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District 14 (Mercer and Middlesex)

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District 15 (Hunterdon and Mercer)

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Assemblywoman Vainieri Huttie

SYNOPSIS

Establishes “Gambling Treatment Diversion Court Pilot Program” to be administered by AOC.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2021)

1 AN ACT establishing a gambling treatment diversion court pilot
2 program and supplementing chapter 37 of Title 2C of the New
3 Jersey Statutes.

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

7
8 1. a. There is hereby established a “Gambling Treatment
9 Diversion Court Pilot Program” which shall have as a purpose the
10 treatment of persons determined to be affected by an addictive
11 disorder related to gambling and who committed a crime for which
12 they have been convicted in furtherance or as a result of the
13 gambling. The gambling court shall be administered by the
14 Administrative Office of the Courts and shall be established, as it so
15 determines, in one northern, one central, and one southern vicinage
16 of this State.

17 b. At a minimum, the program shall:

18 (1) (a) include the terms and conditions for successful
19 completion of the program;

20 (b) require that the person assigned to the program agree to pay
21 restitution as a condition upon the election of treatment; and

22 (c) provide for progress reports at intervals set by the court to
23 ensure that the person is making satisfactory progress toward
24 completion of the program.

25 (2) be administered by a qualified mental health professional
26 and shall include, without limitation:

27 (a) information and encouragement for the participant to cease
28 problem gambling through educational, counseling and support
29 sessions;

30 (b) the opportunity for the participant to understand the medical,
31 psychological, social and financial implications of problem
32 gambling; and

33 (c) appropriate referral to community, health, substance abuse,
34 religious and social service agencies for additional resources and
35 related services, as needed.

36 (3) Before the court assigns a person to a program for the
37 treatment of problem gambling, the person must agree to pay the
38 cost of the program to which he or she is assigned, to the extent of
39 the financial resources of the person. If the person does not have
40 the financial resources to pay all the related costs, the court shall, to
41 the extent practicable, arrange for the person to be assigned to a
42 program that receives a sufficient amount of federal or state funding
43 to offset the remainder of the costs.

44 c. A problem gambler who has been convicted of a crime and
45 who committed the crime in furtherance or as a result of problem
46 gambling is eligible to be assigned by the court to a program for the
47 treatment of problem gambling before he or she is sentenced unless:

48 (1) The crime is:

- 1 (a) A crime against the person as set forth in chapters 11 through
2 18 in Title 2C of the New Jersey Statutes;
- 3 (b) A crime against a child, including endangering the welfare
4 of a child and child pornography pursuant to N.J.S.2C:24-4;
- 5 (c) An act which constitutes domestic violence pursuant to
6 P.L.1991, c.261 (C.2C:25-17 et seq.);
- 7 (2) The problem gambler has a record of two or more
8 convictions of a crime described in subparagraph (1) of this
9 subsection or a similar crime in violation of the laws of another
10 state;
- 11 (3) Other criminal proceedings alleging commission of a violent
12 offense are pending against the problem gambler;
- 13 (4) The person is on probation or parole, except that the person
14 is eligible if the appropriate probation or parole authority consents
15 or the court finds that the person is eligible after considering any
16 objections made by the appropriate probation or parole authority; or
- 17 (5) The person has previously been assigned by a court to a
18 program for the treatment of problem gambling.
- 19 d. (1) If the court has reason to believe that:
- 20 (a) the person who has been convicted of a crime is a problem
21 gambler; and
- 22 (b) the person committed the crime in furtherance or as a result
23 of problem gambling; the court shall hold a hearing before it
24 sentences the person to determine whether or not the person
25 committed the crime in furtherance or as a result of problem
26 gambling and whether or not the person should receive treatment
27 under the supervision of a qualified mental health professional. The
28 prosecutor may present the court with any evidence concerning
29 whether the person committed the crime in furtherance or as a result
30 of problem gambling and the advisability of permitting the person
31 to enter the program.
- 32 (2) At the hearing, the court shall advise the person that
33 sentencing will be postponed if the person submits to treatment and
34 is accepted into a program for the treatment of problem gambling.
35 The court shall advise the person that:
- 36 (a) The court may impose any conditions upon the treatment that
37 could be imposed as conditions of probation;
- 38 (b) If the person is accepted, the person may be placed under the
39 supervision of the qualified mental health professional for a period
40 of not less than one year or until the court, upon recommendation of
41 the treatment provider, determines that the person has successfully
42 completed the treatment program, whichever is later, except that no
43 person shall remain under supervision pursuant to this section for a
44 period in excess of three years.
- 45 (c) If the person satisfactorily completes treatment, as
46 determined by the court, the conviction will be set aside. If the
47 person does not satisfactorily complete treatment and satisfy the
48 conditions, the court shall impose an sentence that might have been

1 imposed, or that would have been required to be imposed, originally
2 for the offense for which the person was convicted or adjudicated
3 delinquent; and

4 (d) If the person's conviction is set aside they may, at any time
5 after the conviction is set aside, file a petition for the expungement
6 of all records relating to the setting aside of the conviction.

7 e. (1) If the court, after a hearing, determines that a person is
8 eligible to accept the problem gambler treatment offered, the court
9 shall order a qualified mental health professional to conduct an
10 examination of the person to determine whether the person is a
11 problem gambler, whether the person committed the crime in
12 furtherance or as a result of problem gambling and whether the
13 person is likely to be rehabilitated through treatment. The qualified
14 mental health professional shall report to the court the results of the
15 examination and recommend whether the person should be placed
16 under supervision for treatment.

17 (2) If the court, acting on the report of the qualified mental
18 health examiner or other relevant information determines that the
19 person is not a problem gambler, did not commit the crime in
20 furtherance or as a result of problem gambling, is not likely to be
21 rehabilitated through treatment or is otherwise not a good candidate
22 for treatment, the person may be sentenced.

23 (3) If the court determines that the person is a problem gambler,
24 committed the crime in furtherance or as a result of problem
25 gambling, is likely to be rehabilitated through treatment and is a
26 good candidate for treatment, the court may:

27 (a) Impose any conditions that may be imposed as conditions of
28 probation;

29 (b) Defer sentencing until such time, if any, as sentencing is
30 authorized; and

31 (c) Place the person under the supervision of a qualified mental
32 health professional for not less than one year and not more than
33 three years. The court may require such progress reports on the
34 treatment of the person as it deems necessary. The probation
35 department or other appropriate agency designated by the court to
36 monitor or supervise the person shall report periodically to the court
37 as to the person's progress in treatment and compliance with court-
38 imposed terms and conditions. The treatment provider shall
39 promptly report to the probation department or other appropriate
40 agency all significant failures by the person to comply with any
41 court imposed term or condition.

42 f. A person who is placed under the supervision of a qualified
43 mental health professional shall pay the cost of the program of
44 treatment to which the person is assigned and the cost of any
45 additional supervision that may be required, to the extent of the
46 financial resources of the person. The judgment constitutes a lien in
47 like manner as a judgment for money rendered in a civil action.

1 g. If the person who is placed under the supervision of a
2 qualified mental health professional does not have the financial
3 resources to pay all of the related costs:

4 (1) The court shall, to the extent practicable, arrange for the
5 person to be assigned to a program that receives a sufficient amount
6 of federal or state funding to offset the remainder of the costs; and

7 (2) The court may order the person to perform supervised
8 community service in lieu of paying the remainder of the costs
9 relating to the person's treatment and supervision.

10 h. Whenever a person is placed under the supervision of a
11 qualified mental health professional, the person's sentencing must
12 be deferred and the person's conviction must be set aside if the
13 qualified mental health professional certifies to the court that the
14 person has satisfactorily completed the program of treatment and
15 the court approves the certification and determines that the
16 conditions imposed for treatment have been satisfied.

17 i. If, upon the expiration of the treatment period, the qualified
18 mental health professional has not certified that the person has
19 completed the program of treatment, the court shall sentence the
20 person. If the person has satisfied the conditions imposed for
21 treatment and the court believes that the person will complete the
22 treatment voluntarily, the court may set the conviction aside.

23 j. If, before the treatment period expires, the qualified mental
24 health professional determines that the person is not likely to
25 benefit from further treatment, the qualified mental health
26 professional shall so advise the court. The court shall either:

27 (1) Arrange for the transfer to a more suitable program; or

28 (2) Terminate the supervision and conduct a hearing to determine
29 whether the person should be sentenced.

30 k. As used in this act, "qualified mental health professional"
31 means any of the following persons:

32 (1) A person who is certified as a problem gambling counselor.

33 (2) A person who is certified as a problem gambling counselor
34 intern.

35 (3) A licensed physician.

36 (4) A nurse who is licensed and is authorized by the State Board
37 of Nursing to engage in the practice of counseling problem
38 gamblers.

39 (5) A licensed psychologist.

40 (6) A licensed clinical professional counselor.

41 (7) A marriage and family therapist authorized to engage in the
42 practice of counseling problem gamblers.

43 (8) A person who is licensed as a clinical social worker and is
44 authorized by the State Board of Social Work Examiners to engage
45 in the practice of counseling problem gamblers.

46

47 2. The Supreme Court of New Jersey may adopt court rules
48 appropriate or necessary to effectuate the purposes of this act.

1 3. This act shall take effect on the first day of the third month
2 after enactment and shall expire three years after the effective date.

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STATEMENT

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7 This bill creates a Gambling Treatment Diversion Court Pilot
8 Program with the purpose to treat persons determined to be affected
9 by an addictive disorder related to gambling and who committed a
10 crime for which they have been convicted in furtherance or as a
11 result of the gambling. The gambling court would be administered
12 by the AOC and be established, as the AOC determines, in one
13 northern, one central, and one southern vicinage of this State. This
14 bill is modeled after a similar program in Nevada.