

[First Reprint]

**SENATE, No. 1258**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Co-Sponsored by:**

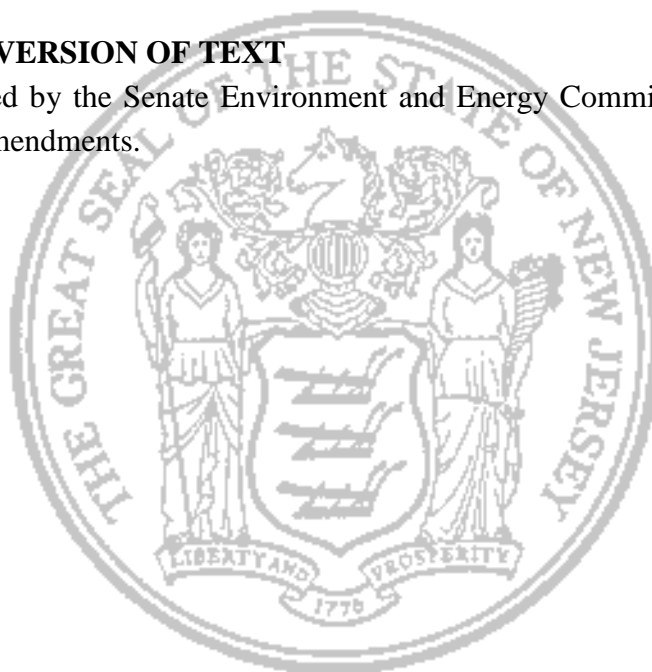
**Senators Greenstein, Addiego, Diegnan and O'Scanlon**

**SYNOPSIS**

Prohibits persons convicted of criminal animal cruelty offenses from owning domestic companion animals and from working or volunteering at animal-related enterprises; establishes presumption against pretrial intervention for certain persons; designated as “Moose’s Law.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Environment and Energy Committee on June 4, 2020, with amendments.



**(Sponsorship Updated As Of: 6/29/2020)**

1 AN ACT concerning animal cruelty violators and their direct  
 2 involvement with animals, the eligibility for pretrial intervention  
 3 of persons accused of certain animal cruelty offenses, designated  
 4 as “Moose’s Law,” supplementing Title 4 of the Revised  
 5 Statutes, and amending P.L.1983, c.525 and N.J.S.2C:43-12.

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

9  
 10 1. (New section) As used in P.L. , c. (C. ) (pending before  
 11 the Legislature as this bill):

12 “Animal-related enterprise” means any for-profit or non-profit  
 13 industry, business, enterprise, or endeavor that requires or involves  
 14 hands-on contact or other direct interaction with animals, including,  
 15 but not limited to: a zoo, aquarium, or other animal exhibition; an  
 16 animal care or veterinary operation; an animal training operation; an  
 17 animal breeding operation; an animal shelter or pound; an animal  
 18 kennel or boarding operation; a pet shop; an animal adoption or sales  
 19 service; or an animal transport service.

20 “Commissioner” means the Commissioner of Health.

21 “Criminal animal cruelty offense” means, in New Jersey, any  
 22 crime or disorderly persons offense under chapter 22 of Title 4 of the  
 23 Revised Statutes, P.L.2002, c.102 (C.4:19-38 et seq.), section 1 of  
 24 P.L.1983, c.261 (C.2C:29-3.1); section 1 of P.L.2013, c.205 (C.2C:29-  
 25 3.2), P.L.2015, c.85 (C.2C:33-31 et seq.), or R.S.39:4-23; or in any  
 26 other state or jurisdiction, conduct which, if committed in New Jersey,  
 27 would constitute a crime or disorderly persons offense under chapter  
 28 22 of Title 4 of the Revised Statutes, P.L.2002, c.102 (C.4:19-  
 29 38 et seq.), section 1 of P.L.1983, c.261 (C.2C:29-3.1); section 1 of  
 30 P.L.2013, c.205 (C.2C:29-3.2), P.L.2015, c.85 (C.2C:33-31 et seq.), or  
 31 R.S.39:4-23.

32 “Criminal background check” means a determination of whether a  
 33 person has a criminal record by cross-referencing that person's name  
 34 with an appropriate database or compilation of records, whether  
 35 performed through a State department or agency, privately by the  
 36 owner or operator of an animal-related enterprise, or by other means.  
 37 “Criminal background check” includes any criminal history record  
 38 background check provided pursuant to section 5 of  
 39 P.L. , c. (C. ) (pending before the Legislature as this bill).

40 “Employ” means to use the services of a person, or to hire a person  
 41 for paid work.

42 “Existing employee” means a person who is employed by an  
 43 animal-related enterprise on the date of enactment of  
 44 P.L. , c. (C. ) (pending before the Legislature as this bill).

45 “Existing volunteer” means a person who is volunteering at an

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEN committee amendments adopted June 4, 2020.

1 animal-related enterprise on the date of enactment of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3 “Own” means to have a legal right of possession in, or any legal  
4 title to ownership of, an animal.

5 “Provisional employee” means a person who is employed by an  
6 animal-related enterprise on a provisional basis, in accordance with the  
7 provisions of section 3 of P.L. , c. (C. ) (pending before the  
8 Legislature as this bill).

9 “Provisional volunteer” means a person who is volunteering at an  
10 animal-related enterprise on a provisional basis, in accordance with the  
11 provisions of section 3 of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill).

13 “Volunteer” means a person who is not an employee that provides  
14 services to an animal-related enterprise without expectation of  
15 compensation, and without coercion or intimidation to provide such  
16 services, or the act of providing such services on such a basis.

17

18 2. (New section) a. <sup>1</sup>【Except as otherwise provided by  
19 subsection d. of this section and section 7 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill), no】 No<sup>1</sup> person who is  
21 convicted of a criminal animal cruelty offense shall:

22 (1) commence, operate, apply for employment, be employed, or  
23 volunteer at, or participate in any capacity in, an animal-related  
24 enterprise; or

25 (2) acquire, own, or reside with any animal for the period of  
26 time specified by the court pursuant to subsection c. of this section.

27 b. Any person who violates subsection a. of this section shall  
28 be guilty of a disorderly persons offense.

29 c. Upon a person’s conviction for a criminal animal cruelty  
30 offense, the court may:

31 (1) order the forfeiture of any animal owned by the offender and  
32 the transfer of such animal to the custody of an animal shelter;

33 (2) order the offender to refrain from acquiring, owning, or  
34 residing with any animal for: (a) a period of not less than two years  
35 following the date of the offender’s conviction for the present  
36 criminal animal cruelty offense, or following the date of the  
37 offender’s release from incarceration for the present criminal  
38 animal cruelty offense, whichever is later; (b) the duration of the  
39 probationary period imposed by the court for the present criminal  
40 animal cruelty offense, if that period will last for two years or  
41 longer; or (c) any more extended period of time, which the court, in  
42 its discretion, determines to be appropriate based on the nature and  
43 severity of the criminal animal cruelty offense and the offender’s  
44 prior history of animal cruelty offenses; and

45 (3) order the offender <sup>1</sup>to refrain<sup>1</sup> from commencing, operating,  
46 applying for employment or volunteering at, or participating in, an  
47 animal-related enterprise for a period of time, which the court, in its  
48 discretion, determines to be appropriate based on the nature and

1 severity of the criminal animal cruelty offense and the offender's  
2 prior history of animal cruelty offenses.

3 <sup>1</sup>¶d. The provisions of paragraph (1) of subsection a. of this  
4 section shall not apply to any person who engages in community  
5 service at an animal-related enterprise in compliance with a court  
6 order issued pursuant to R.S.4:22-17.¶<sup>1</sup>

7  
8 3. (New section) a. The owner or operator of an animal-  
9 related enterprise shall not employ, or allow to volunteer or  
10 participate in any animal-related activities, any person at the  
11 enterprise who has been convicted of a criminal animal cruelty  
12 offense. The owner or operator of the animal-related enterprise shall  
13 determine the person does not have such a conviction by:

14 (1) requesting and receiving in writing a determination by the  
15 Commissioner of Health that the person is not identified on the list,  
16 established pursuant to section 3 of P.L.1983, c.525 (C.4:19-  
17 15.16a), of persons who are ineligible to be certified animal control  
18 officers, or if the person is identified on the list, the person was not  
19 convicted of a criminal animal cruelty offense; and

20 (2) performing, having performed, or requesting pursuant to  
21 section 5 of P.L. , c. (C. ) (pending before the Legislature  
22 as this bill) the Commissioner of Health to perform, a criminal  
23 background check that confirms the existing employee, existing  
24 volunteer, provisional employee, or provisional volunteer has not  
25 been convicted of a criminal animal cruelty offense.

26 The owner or operator of the animal-related enterprise may  
27 determine the person's eligibility based on a criminal background  
28 check only, without waiting for the commissioner's action pursuant  
29 to paragraph (1) of this section, but shall complete the criminal  
30 background check for existing employees and existing volunteers  
31 no later than 90 days after the effective date of P.L. , c. (C. )  
32 (pending before the Legislature as this bill), and for a provisional  
33 employee or provisional volunteer no later than 90 days after  
34 receiving an application for employment or to volunteer.

35 b. Notwithstanding the provisions of this section to the  
36 contrary, an animal-related enterprise may provisionally employ a  
37 person or provisionally allow a person to volunteer for a period not  
38 exceeding 90 days, pending the results of the investigation and  
39 criminal background check pursuant to subsection a. of this section.  
40 Following confirmation that there is no record of the person being  
41 convicted of a criminal animal cruelty offense, the person may be  
42 employed or allowed to volunteer on an on-going basis.

43 c. No existing employee, existing volunteer, provisional  
44 employee, or provisional volunteer at an animal-related enterprise  
45 shall be left alone as the only person caring for an animal until the  
46 investigation and criminal background check pursuant to subsection  
47 a. of this section is complete and the results confirm that such

1 person is not disqualified from employment or as a volunteer on the  
2 basis of a conviction for a criminal animal cruelty offense.

3 d. (1) The owner or operator of an animal-related enterprise  
4 requesting an investigation or a criminal background check from the  
5 Commissioner of Health pursuant to paragraph (1) or (2) of  
6 subsection a. of this section, shall submit the request to the  
7 Commissioner of Health with the name and address of:

8 (a) each existing employee or existing volunteer within 30 days  
9 after the effective date of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill); and

11 (b) each provisional employee or provisional volunteer at the  
12 enterprise within two weeks after a person is provisionally  
13 employed or provisionally allowed to volunteer pursuant to  
14 subsection b. of this section.

15 (2) In addition, and as deemed necessary for the purposes of  
16 determining continuing employment or volunteering in accordance  
17 with P.L. , c. (C. ) (pending before the Legislature as this  
18 bill), the owner or operator of an animal-related enterprise shall  
19 request and receive annually from the commissioner follow-up  
20 reviews of the list established pursuant to section 3 of P.L.1983,  
21 c.525 (C.4:19-15.16a), in order to determine the inclusion thereon  
22 of any employee or volunteer for convictions for criminal animal  
23 cruelty offenses. However, an owner or operator of an animal-  
24 related enterprise shall be required to perform a criminal  
25 background check or to request a criminal background check  
26 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill) only once for any employee or volunteer.

28 e. If an existing employee, existing volunteer, provisional  
29 employee, or provisional volunteer refuses to comply with the  
30 investigation or criminal background check performed pursuant to  
31 subsection a. of this section; or if any employee or volunteer refuses  
32 to comply with any follow-up investigation authorized by paragraph  
33 (2) of subsection d. of this section, the owner or operator of the  
34 animal-related enterprise shall immediately terminate the person as  
35 an employee or a volunteer at the animal-related enterprise.

36 f. Any person who is disqualified from employment or as a  
37 volunteer pursuant to P.L. , c. (C. ) (pending before the  
38 Legislature as this bill) shall be entitled to reapply for employment  
39 or as a volunteer at an animal-related enterprise if the disqualifying  
40 conviction is reversed.

41 g. This section shall apply only to an existing employee,  
42 existing volunteer, provisional employee, provisional volunteer, or  
43 applicant for employment, as a volunteer, or for participation with  
44 an animal-related enterprise who is, or would be responsible for, the  
45 care or handling of, or would otherwise come into direct contact  
46 with, any animal during the course of the person's employment,  
47 volunteering, or participation with an animal-related enterprise.

1       4. (New section) a. The Commissioner of Health shall  
2 complete the investigation required by paragraph (1) of subsection  
3 a. of section 3 of P.L. , c. (C. ) (pending before the  
4 Legislature as this bill, and shall notify the person who is the  
5 subject of the investigation and the owner or operator of the animal-  
6 related enterprise of the results of the investigation, in writing,  
7 within 90 days after the receipt of the person's name and address,  
8 which have been submitted in accordance with subsection d. of  
9 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
10 this bill), or as soon thereafter as may be reasonably practicable.  
11 The written notice shall: (1) expressly identify any offenses which  
12 constitute the basis for disqualification; and (2) afford the person  
13 the opportunity for a hearing, in the manner provided for contested  
14 cases pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.), in order to contest the person's  
16 inclusion on the ineligibility list, or in order to challenge the history  
17 of offenses that was used by the commissioner to support the  
18 person's inclusion on the list.

19       b. If requested to do so pursuant to section 5 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill), the Commissioner of  
21 Health, in cooperation with the State Police and the Federal Bureau  
22 of Investigation, shall complete the criminal background check and  
23 shall notify the person who is the subject of the criminal  
24 background check and the owner or operator of the animal-related  
25 enterprise of the results, in writing, within 90 days after the receipt  
26 of the person's name and address, which have been submitted in  
27 accordance with subsection d. of section 3 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill), or as soon thereafter as  
29 may be reasonably practicable. The written notice shall: (1)  
30 expressly identify any offenses which constitute the basis for  
31 disqualification; and (2) afford the person the opportunity for a  
32 hearing, in the manner provided for contested cases pursuant to the  
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
34 1 et seq.), in order to challenge the history of offenses used for  
35 disqualification.

36  
37       5. (New section) The Commissioner of Health is authorized to  
38 exchange criminal history record information with the Federal  
39 Bureau of Investigation and the State Bureau of Identification in the  
40 Division of State Police consistent with applicable State and federal  
41 laws, rules and regulations for use in implementing the employment  
42 restrictions imposed pursuant to P.L. , c. (C. ) (pending  
43 before the Legislature as this bill). Each owner or operator of an  
44 animal-related enterprise requesting the commissioner to perform a  
45 criminal background check to satisfy the requirements pursuant to  
46 section 3 of P.L. , c. (C. ) (pending before the Legislature  
47 as this bill), shall submit to the Department of Health the name,  
48 address, fingerprints of, and written consent for a criminal history

1 record background check to be performed on, the person, as  
2 applicable. The owner or operator of the animal-related enterprise  
3 making the request of the department shall bear the cost for the  
4 criminal history record background check, including all  
5 administering and processing costs.

6  
7 6. (New section) All names, addresses, and other information  
8 submitted to the Commissioner of Health to complete a criminal  
9 background check requested pursuant to sections 3 and 5 of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill),  
11 and any records developed therefrom, shall be considered criminal  
12 investigatory records for the purposes of compliance with P.L.1963,  
13 c.73 (C.47:1A-1 et seq.), commonly known as the open public  
14 records act, and shall not be disclosed as a government record.  
15 Nothing contained in this section shall be construed to prevent the  
16 Commissioner of Health from posting a list pursuant to subsection  
17 c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a) of all persons  
18 whose certificate, issued pursuant to subsection b. of section 3 of  
19 P.L.1983, c.525 (C.4:19-15.16a), has been revoked, or who have  
20 been convicted of a criminal violation of any provision of chapter  
21 22 of Title 4 of the Revised Statutes.

22  
23 <sup>1</sup>7. (New section) The provisions of P.L. , c. (C. )  
24 (pending before the Legislature as this bill) shall not apply to any  
25 farm, livestock operation, or other business where domestic  
26 livestock are raised, kept, treated, marketed, or sold, or to any  
27 owner, operator, or employee thereof, or to any academic research  
28 institution or to any owner, operator, or employee thereof.<sup>1</sup>

29  
30 <sup>1</sup>8. <sup>1</sup>7. Section 3 of P.L.1983, c.525 (C.4:19-15.16a) is  
31 amended to read as follows:

32 3. a. The Commissioner of Health shall, within 120 days after  
33 the effective date of P.L.1983, c.525, and pursuant to the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.), adopt rules and regulations concerning the training and  
36 educational qualifications for the certification of animal control  
37 officers, including, but not limited to, a course of study approved by  
38 the commissioner and the Police Training Commission, in  
39 consultation with the New Jersey Certified Animal Control Officers  
40 Association, which acquaints a person with:

41 (1) The law as it affects animal control, animal welfare, and  
42 animal cruelty;

43 (2) Animal behavior and the handling of stray or diseased  
44 animals; and

45 (3) Community safety as it relates to animal control.

46 (4) (Deleted by amendment, P.L.2017, c.331)

1 Any person 18 years of age or older may satisfy the courses of  
2 study established pursuant to this subsection at that person's own  
3 time and expense; however, nothing in this section shall be  
4 construed as authorizing a person to exercise the powers and duties  
5 of an animal control officer absent municipal appointment or  
6 authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-  
7 15.16b).

8 b. (1) The commissioner shall provide for the issuance of a  
9 certificate to a person who possesses, or acquires, the training and  
10 education required to qualify as a certified animal control officer  
11 pursuant to paragraphs (1) through (3) of subsection a. of this  
12 section and to a person who has been employed in the State of New  
13 Jersey in the capacity of, and with similar responsibilities to those  
14 required of, a certified animal control officer pursuant to the  
15 provisions of P.L.1983, c.525, for a period of three years before  
16 January 17, 1987. The commissioner shall not issue a certificate to  
17 any person convicted of, or found civilly liable for, a violation of  
18 any provision of chapter 22 of Title 4 of the Revised Statutes.

19 (2) The commissioner shall revoke the certificate of any person  
20 convicted of, or found civilly liable for, a violation of any provision  
21 of chapter 22 of Title 4 of the Revised Statutes **】, and shall place**  
22 **the name of the person on the list established pursuant to subsection**  
23 **c. of this section】.**

24 c. (1) The commissioner shall establish a list of all persons  
25 **【issued a certificate pursuant to subsection b. of this section】**; (a)  
26 **for whom 【that】 a certificate issued pursuant to subsection b. of this**  
27 **section has been revoked, or (b) who have been convicted of, or**  
28 **found civilly liable for, a violation of any provision of chapter 22 of**  
29 **Title 4 of the Revised Statutes. The commissioner shall provide**  
30 **each municipality in the State with a copy of this list within 30 days**  
31 **after the list is established and not less often than annually**  
32 **thereafter if no revised list required pursuant to paragraph (2) of this**  
33 **subsection has been issued in the interim. The commissioner shall**  
34 **also post the list, together with a statement identifying the list's**  
35 **proper use and purpose, at a publicly accessible and readily**  
36 **identifiable location on the Department of Health's Internet website.**

37 (2) Upon receipt of a notice required pursuant to section 3 or 4  
38 of P.L.2003, c.67 (C.4:22-57 or C.2B:12-17.1) **【involving a person**  
39 **who has been issued a certificate pursuant to subsection b. of this**  
40 **section】**, the commissioner shall add to the list the name of the  
41 person convicted of, or found civilly liable for, a violation of any  
42 provision of chapter 22 of Title 4 of the Revised Statutes according  
43 to the notice, and shall issue a copy of the revised list to each  
44 municipality **and post a copy of the revised list at a publicly**  
45 **accessible and readily identifiable location on the Department of**  
46 **Health's Internet website** within 30 days after receipt of any notice.  
47 (cf: P.L.2017, c.331, s.5)

48 <sup>1</sup>**【9】 8.**<sup>1</sup> N.J.S.2C:43-12 is amended to read as follows:



1       2C:43-12. Supervisory Treatment--Pretrial Intervention.

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

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

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

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

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

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

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

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

37       (a) a defendant who was a public officer or employee whose  
38 offense involved or touched upon his public office or employment;  
39 **[and]**

40       (b) a defendant charged with any crime or offense involving  
41 domestic violence, as defined in subsection a. of section 3 of  
42 P.L.1991, c.261 (C.2C:25-19) if the defendant committed the crime  
43 or offense while subject to a temporary or permanent restraining  
44 order issued pursuant to the provisions of the "Prevention of  
45 Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-  
46 17 et al.) or if the crime or offense charged involved violence or the  
47 threat of violence. For purposes of this subparagraph, a crime or  
48 offense involves violence or the threat of violence if the victim

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

6 (c) a defendant charged with a criminal animal cruelty offense,  
7 as defined in section 1 of P.L. , c. (C. ) (pending before  
8 the Legislature as this bill) .

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

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

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

30 (1) The nature of the offense;

31 (2) The facts of the case;

32 (3) The motivation and age of the defendant;

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

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

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

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

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

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

- 1 (10) Whether or not the crime is of an assaultive or violent  
2 nature, whether in the criminal act itself or in the possible injurious  
3 consequences of such behavior;
- 4 (11) Consideration of whether or not prosecution would  
5 exacerbate the social problem that led to the applicant's criminal  
6 act;
- 7 (12) The history of the use of physical violence toward others;
- 8 (13) Any involvement of the applicant with organized crime;
- 9 (14) Whether or not the crime is of such a nature that the value  
10 of supervisory treatment would be outweighed by the public need  
11 for prosecution;
- 12 (15) Whether or not the applicant's involvement with other  
13 people in the crime charged or in other crime is such that the  
14 interest of the State would be best served by processing his case  
15 through traditional criminal justice system procedures;
- 16 (16) Whether or not the applicant's participation in pretrial  
17 intervention will adversely affect the prosecution of codefendants;  
18 and
- 19 (17) Whether or not the harm done to society by abandoning  
20 criminal prosecution would outweigh the benefits to society from  
21 channeling an offender into a supervisory treatment program.
- 22 The prosecutor and the court, in formulating their  
23 recommendations or decisions regarding an applicant's participation  
24 in a supervisory treatment program, shall give due consideration to  
25 the victim's position on whether the defendant should be admitted.
- 26 f. Review of Supervisory Treatment Applications; Procedure  
27 Upon Denial. Each applicant for supervisory treatment shall be  
28 entitled to full and fair consideration of his application. If an  
29 application is denied, the program director or the prosecutor shall  
30 precisely state his findings and conclusion which shall include the  
31 facts upon which the application is based and the reasons offered  
32 for the denial. If the applicant desires to challenge the decision of a  
33 program director not to recommend, or of a prosecutor not to  
34 consent to, enrollment into a supervisory treatment program, a  
35 motion shall be filed before the designated judge (or assignment  
36 judge) authorized pursuant to the Rules of Court to enter orders.
- 37 g. Limitations. (1) Supervisory treatment may occur only once  
38 with respect to any defendant and any person who has previously  
39 received supervisory treatment under section 27 of P.L.1970, c.226  
40 (C.24:21-27), a conditional discharge pursuant to N.J.S.2C:36A-1, a  
41 conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-  
42 13.1 et al.), or was granted a dismissal due to successful  
43 participation in the Veterans Diversion Program pursuant to  
44 P.L.2017, c.42 (C.2C:43-23 et al.) shall not be eligible for  
45 supervisory treatment under this section.
- 46 (2) Except as otherwise provided in paragraph (3) of this  
47 subsection, supervisory treatment, as provided herein, shall be

1 available to a defendant irrespective of whether the defendant  
2 contests his guilt of the charge or charges against him.

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

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

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

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

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

46 (cf: P.L.2017, c.42, s.10)

47

48 <sup>1</sup>**[10.]** 9.<sup>1</sup> This act shall take effect immediately.