

SENATE, No. 1973

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Senator CIESLA

1 AN ACT concerning the eviction of drug traffickers, supplementing
2 Title 2A of the New Jersey Statutes and amending N.J.S. 2A:18-53
3 and P.L. 1974, c.49.

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

7
8 1. (New section) This act shall be known and may be cited as the
9 "Expedited Eviction of Drug Traffickers Act."

10
11 2. (New section) The Legislature finds and declares that:

12 a. All citizens, regardless of their income or economic status, have
13 the right to be safe and secure in their residences. All citizens, further,
14 have the right to live and raise their children in apartment complexes,
15 neighborhoods and communities which are free from the destructive
16 influence of drug dealers and drug-related crime and violence.

17 b. Persons who commit drug distribution offenses on or in the
18 immediate vicinity of leased residential premises, or who permit or
19 tolerate the commission of such offenses, violate the rights and
20 jeopardize the health and safety of the other tenants, residents and on-
21 site employees of the premises.

22 c. It is the policy of this State to ensure the swift eviction and
23 removal of persons who engage in certain drug-related criminal
24 activity on or in the immediate vicinity of leased residential premises,
25 or who permit members of their households or guests to engage in this
26 criminal activity on or in the vicinity of the premises.

27 d. Tenants have an obligation to take such actions as are
28 reasonable and necessary under the circumstances to prevent the
29 commission of drug-related criminal activity within their individual
30 rental units and also to prevent members of their household and guests
31 from committing such criminal activity on or in the immediate vicinity
32 of any portion of the leased residential premises.

33 e. It is the policy of this State to encourage owners and landlords
34 to protect the rights, safety and health of their tenants and residents by

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 promptly commencing and fully prosecuting civil eviction and removal
2 proceedings against those tenants and other persons who engage in
3 drug-related criminal activity on or in the immediate vicinity of their
4 properties.

5 f. The civil causes of action and remedies authorized by this act are
6 remedial rather than punitive in nature, and are designed first and
7 foremost to protect the rights, safety and health of law-abiding
8 tenants, residents and on-site employees, while affording due process
9 of law to persons alleged to have allowed such criminal activity to
10 occur on or in the immediate vicinity of leased residential premises.

11 g. Except as may otherwise be expressly provided, it is the general
12 policy of this state to afford the same rights and privileges under this
13 act to the tenants and residents of publicly-owned, publicly-assisted
14 and privately-owned premises and housing facilities.

15 h. Tenants should be empowered to take legal action to protect and
16 enforce their own rights to live in a peaceful community. Tenant
17 organizations should have access to the courts and should therefore be
18 afforded legal standing to initiate eviction for drug related criminal
19 activity on or in the immediate vicinity of the leased residential
20 premises.

21 i. It is the policy of this State to ensure that the causes of action
22 and remedies authorized by this act are heard by the courts on an
23 expedited and priority basis so as to evict and remove as soon as
24 practicable all persons who engage in drug-related criminal activity on
25 or in the immediate vicinity of leased residential premises or who allow
26 such criminal activity to occur.

27 j. In addition to ensuring the swift disposition of all civil actions
28 brought pursuant to this act, it is necessary and appropriate to ensure
29 certain and uniform enforcement by the courts of the rights and
30 remedies provided by this statute. Such certainty, predictability and
31 uniformity is essential to discourage persons from committing or
32 tolerating the commission of drug-related criminal activity, and thereby
33 to protect the rights, safety and health of law-abiding tenants and
34 residents.

35

36 3. (New section) This act is intended to provide a legal process
37 to ensure prompt eviction of persons engaging in specified drug-
38 related criminal activity on or near leased residential premises, or who
39 permit others to engage in such criminal activity. This act is further
40 intended to authorize courts to order persons other than tenants who
41 engage in certain drug-related criminal activity to stay away from the
42 location where the criminal activity occurred.

43

44 4. (New section) As used in this act:

45 "Complete eviction" means the eviction and removal of a tenant and
46 all members of the tenant's household.

1 "Controlled dangerous substance," "controlled substance analog,"
2 "dispensing or possessing with intent to distribute," "distribution,"
3 "drug dependent person" and "manufacture" shall have the same
4 meaning as those terms are used in N.J.S.2C:35-1 et seq.

5 "Crime" shall have the same meaning as the term is used in
6 N.J.S.2C:1-4.

7 "Department of Health and Senior Services" means the State agency
8 designated by the Governor to plan, manage, monitor and evaluate
9 alcohol and other drug treatment services in the State.

10 "Drug-related criminal activity" means the unlawful manufacture,
11 sale, distribution, dispensing or possessing with intent to distribute, a
12 controlled dangerous substance or controlled substance analog in
13 violation of the "Comprehensive Drug Reform Act of 1987,"
14 N.J.S.2C:35-1 et seq., or an unlawful attempt or conspiracy to commit
15 such an act.

16 "Entire premises" or "leased residential premises" means a house,
17 building, mobile home or apartment, whether publicly or privately
18 owned, which is leased for residential purposes. These terms include
19 the entire building or complex of buildings or mobile home park and
20 all appurtenant real property of any nature used in connection
21 therewith, including all individual rental units and common areas.
22 These terms do not include a hotel, motel or other guest house or part
23 thereof rented to a transient guest.

24 "Guest" means any natural person who has been given express or
25 implied permission by a tenant, a member of the tenant's household or
26 another guest of the tenant to enter an individual rental unit or any
27 portion of the entire premises.

28 "Individual rental unit" means an apartment or individual dwelling
29 or accommodation which is leased to a particular tenant, whether or
30 not it is used or occupied or intended to be used or occupied by a
31 single family or household.

32 "Owner" or "landlord" means a person, entity, corporation or
33 governmental authority or agency who or which owns, operates or
34 manages any leased residential premises.

35 "Partial eviction" means the eviction and removal of specified
36 persons other than the tenant from a leased residential premises.

37 "Resident" means any natural person who lawfully resides in a
38 leased residential premises who is not a signatory to a lease or
39 otherwise has no contractual relationship to a landlord or owner. The
40 term includes but is not limited to members of the household of a
41 tenant.

42 "Tenant" means any natural person or entity who is a named party
43 or signatory to a lease or rental agreement, and who occupies, resides
44 at or has a legal right to possess and use an individual rental unit.

45 "Tenant organization" means an organization or association,
46 whether or not incorporated, which is representative of the tenants or

1 residents of a leased residential premises, the membership of which
2 consists of tenants of the leased residential premises which the
3 organization or association represents. The term also includes a
4 community-based organization with members who are tenants of the
5 leased residential premises.

6

7 5. (New section) The causes of action established in this act are
8 civil actions to evict or remove tenants or other persons from leased
9 residential premises. These actions shall be brought in the Superior
10 Court.

11

12 6. (New section) The civil causes of action established in this act
13 shall be proved by a preponderance of the evidence, except as
14 otherwise expressly provided.

15

16 7. (New section) a. A civil action pursuant to this act may be
17 brought by:

18 (1) The owner or landlord of a leased residential premises, or his
19 or her agent;

20 (2) A tenant organization; or

21 (3) A county or municipal prosecutor, county or municipal attorney
22 or the Attorney General.

23 b. A civil action pursuant to this act may be brought against any
24 person within the jurisdiction of the court, including but not limited to
25 a tenant, adult or minor member of the tenant's household, guest or
26 resident of the leased residential premises. If any defendant's true name
27 is unknown to the plaintiff, process may issue against the defendant
28 under a fictitious name, stating it to be fictitious and adding an
29 appropriate description sufficient to identify him.

30 c. (1) A complaint initiating an action pursuant to this act shall be
31 personally served, and notice to all defendants shall be provided in
32 accordance with rules governing civil practice. After filing an affidavit
33 that personal service cannot be had after due diligence on one or more
34 defendants within 20 days after the filing of the complaint, the plaintiff
35 may:

36 (a) Cause a copy of the complaint to be mailed to the defendant by
37 certified mail, restricted delivery, with return receipt requested to the
38 clerk of the court; and

39 (b) Cause a copy of the complaint to be affixed conspicuously to
40 the main entrance to the premises and to all entrances to the individual
41 rental unit where the drug-related criminal activity is alleged to have
42 occurred.

43 Service shall be deemed completed five days after filing with the
44 court proof of mailing and an affidavit that a copy of the complaint has
45 been affixed to the premises.

46 (2) All tenants or residents of any building, place or premises

1 which is used in whole or in part as a home, residence or dwelling,
2 other than transient guests of a guest house, hotel or motel, who may
3 be affected by any order issued pursuant to this act, shall be provided
4 such reasonable notice as shall be ordered by the court and shall be
5 afforded opportunity to be heard at all hearings.

6 d. If an action pursuant to this act is initiated by a tenant
7 organization, county or municipal prosecutor, county or municipal
8 attorney or the Attorney General, the owner of the leased residential
9 premises shall be named as a defendant and shall be served with a copy
10 of the complaint pursuant to subsection c. of this section. Any agent
11 of the owner may be named as a party and shall have the right to
12 appear and participate in all proceedings conducted pursuant to this
13 act.

14 e. No tenant organization shall be permitted to bring an action
15 pursuant to this act unless the organization is represented by an
16 attorney at law who is licensed in this State.

17 (1) In any action brought pursuant to this act, regardless of the
18 identity of the plaintiff, every pleading, motion and other paper of a
19 party represented by an attorney shall be signed by at least one
20 attorney of record whose address shall be stated.

21 (2) An owner, landlord or his or her agent, who is not represented
22 by an attorney, shall sign the party's pleading, motion or other paper
23 and state the party's address.

24 (3) Such signature of an attorney or party constitutes a certificate
25 by the signer that:

26 (a) The signer has read the pleading, motion or other paper;

27 (b) To the best of the signer's knowledge, information and belief
28 formed after reasonable inquiry, it is well-grounded in fact and is
29 warranted by existing law or a good faith argument for the extension,
30 modification or reversal of existing law; and

31 (c) It is not interposed for any improper purpose, such as to harass
32 or to cause unnecessary delay or needless increase in the cost of
33 litigation.

34 (4) If a pleading, motion, or other paper is not signed, it shall be
35 stricken unless it is signed promptly after the omission is called to the
36 attention of the pleader or movant.

37 (5) The court may impose sanctions for the following deficiencies
38 in the pleading:

39 (a) The signer has not read the pleading, motion or other paper;

40 (b) The signer does not have knowledge, information or a belief
41 regarding the facts contained in the pleading, motion or other paper,
42 or whether a reasonable inquiry has been made;

43 (c) The pleading, motion or other paper is not well-grounded in
44 fact or warranted by existing law or a good faith argument for the
45 extension, modification or reversal of existing law; or

46 (d) The pleading, motion or other paper was interposed for any

1 improper delay or needless increase in the cost of litigation.

2 The court, upon motion or upon its own initiative, shall impose
3 these sanctions upon the person who signed the pleading, motion or
4 other paper, a represented party or both. Appropriate sanctions may
5 include an order to pay to another party or parties the amount of the
6 reasonable expenses incurred because of the filing of the pleading,
7 motion or other paper, including reasonable attorney's fees.

8 f. Any person who states upon an oath in writing that he is
9 preparing to initiate an action pursuant to this act, may request that the
10 county register of deeds and mortgages promptly provide, without
11 charge, the name and address of all owners of the leased residential
12 premises where the drug-related criminal activity is alleged to have
13 occurred, as reflected upon the current county records.

14

15 8. (New section) a. Notwithstanding the provisions of subsection
16 n. of section 2 of P.L.1974, c. 49 (C.2A:18-61.1) to the contrary and
17 subject to the provisions of subsection b. of sections 9 and 28 of this
18 act, the court shall order the eviction, as set forth in subsection b. of
19 section 14 and section 16 of this act, of a tenant if it finds that:

20 (1) Drug-related criminal activity has occurred on or within the
21 individual rental unit leased to the tenant;

22 (2) The individual rental unit leased to the tenant was used in any
23 way in furtherance of or to promote drug-related criminal activity;

24 (3) The tenant, any member of the tenant's household or any guest
25 has engaged in drug-related criminal activity on or in the immediate
26 vicinity of any portion of the entire premises;

27 (4) The tenant has given permission to or invited a person to return
28 or re-enter any portion of the entire premises, knowing that the person
29 has been removed and barred from the entire premises pursuant to this
30 act; or

31 (5) The tenant has failed to notify law enforcement or public
32 housing authorities immediately upon learning that a person who has
33 been removed and barred from the tenant's individual rental unit
34 pursuant to this act, has returned to or re-entered the tenant's
35 individual rental unit.

36 b. Notwithstanding the provisions of subsection n. of section 2 of
37 P.L.1974, c.49 (C.2A:18-61.1) to the contrary and subject to the
38 provisions of subsection b. of section 9 and section 28 of this act, the
39 court shall order the immediate removal from the entire premises of
40 any person other than the tenant, including but not limited to an adult
41 or juvenile member of the tenant's household, if the court finds that
42 such person has engaged in drug-related criminal activity on or in the
43 immediate vicinity of any portion of the leased residential premises.
44 Persons removed pursuant to this section shall be barred from
45 returning to or re-entering any portion of the entire premises.

46 c. If the court finds that a member of the tenant's household, or

1 guest or resident of the tenant's leased residential premises, has
2 engaged in a drug-related criminal activity on or in the immediate
3 vicinity of any portion of the leased residential premises, but such
4 person has not been named as a party defendant, has not appeared in
5 the action or otherwise has not been subject to the jurisdiction of the
6 court, a removal order issued pursuant to subsection b. of this section
7 shall be directed against the tenant, and shall provide that as an
8 express condition of the tenancy, the tenant shall not give permission
9 to or invite the barred person or persons to return to or re-enter any
10 portion of the entire premises. The tenant shall acknowledge in writing
11 that he understands the terms of the court's order, and that he further
12 understands that the failure to comply with the court's order will result
13 in the mandatory termination of the tenancy pursuant to section 14 of
14 this act.

15

16 9. (New section) a. The court may refrain from ordering the
17 complete eviction of a tenant pursuant to subsection a. of section 8 of
18 this act, if the tenant has established that he was not involved in the
19 drug-related criminal activity, and that he:

20 (1) Did not know or have reason to know that drug-related
21 criminal activity was occurring on or within the individual rental unit,
22 that the individual rental unit was used in any way in furtherance of or
23 to promote drug-related criminal activity, or that any member of the
24 tenant's household or any guest has engaged in drug-related criminal
25 activity on or in the immediate vicinity of any portion of the entire
26 premises;

27 (2) Did everything that could reasonably be expected in the
28 circumstances to prevent the commission of the drug-related criminal
29 activity; or

30 (3) Had promptly reported the drug-related criminal activity to
31 appropriate law enforcement authorities.

32 b. If the grounds for a complete eviction have been established, the
33 court shall forthwith order the eviction of the tenant, unless,
34 considering the circumstances of the criminal activity and the condition
35 of the tenant, the court is clearly convinced that immediate eviction or
36 removal would be a serious injustice, the prevention of which
37 overrides the need to protect the rights, safety and health of the other
38 tenants and residents of the leased residential premises.

39 c. The burden of proof for the affirmative defense set forth in
40 subsection a. of this section shall be by a preponderance of the
41 evidence. The burden of proof for the exemption set forth in
42 subsection b. of this section shall be by clear and convincing evidence.

43

44 10. (New section) a. If the plaintiff has established grounds for a
45 complete eviction but the court finds that the tenant has satisfactorily
46 established the basis for an affirmative defense or exemption pursuant

1 to section 9 of this act, and the court in its discretion elects not to
2 order the complete eviction of the tenant, the court, except as
3 otherwise provided in section 28 of this act, shall order the immediate
4 removal from the entire premises of any person other than the tenant,
5 including but not limited to adult or minor members of the tenant's
6 household, who has engaged in drug-related criminal activity on any
7 portion of the entire premises. Persons removed pursuant to this
8 section shall be permanently barred from returning to or re-entering
9 any portion of the entire premises. The court shall further order as an
10 express condition of the tenancy that the tenant shall not give
11 permission to or invite any person who has been removed pursuant to
12 this act to return to or re-enter any portion of the entire premises.

13 b. The tenant upon whom a partial eviction is imposed shall
14 acknowledge in writing that he understands the terms of the court's
15 order issued pursuant to subsection a. of this section, and that he
16 further understands that the failure to comply with the court's order
17 will result in the mandatory termination of the tenancy pursuant to
18 section 8 of this act. Refusal by the tenant to acknowledge such
19 terms, as required by this subsection, shall invalidate any prior finding
20 by the court that an exemption to a complete eviction exists, or that
21 the tenant has satisfactorily established an affirmative defense.

22
23 11. (New section) If the court determines in its discretion that the
24 plaintiff bringing an action pursuant to this act has failed to prosecute
25 the matter with reasonable diligence, the court may substitute as
26 plaintiff any person or entity that consents thereto, provided that the
27 person or entity would have been authorized pursuant to the
28 provisions of this act to initiate the action.

29
30 12. (New section) Any removal or eviction issued by a court
31 pursuant to this act shall be enforced by the person bringing the action,
32 provided, however, that the local police department or sheriff shall,
33 upon the request of the person or entity bringing the action, assume
34 responsibility for the actual execution of the removal or eviction.

35
36 13. (New section) Any person who knowingly violates any order
37 issued pursuant to this act, or who knowingly interferes with,
38 obstructs, impairs or prevents any law enforcement officer from
39 enforcing or executing any order issued pursuant to this act, shall be
40 subject to contempt of court under N.J.S.2C:29-9. Nothing in this
41 section shall be construed in any way to preclude or preempt a criminal
42 prosecution for any other criminal offense.

43
44 14. (New section) a. Any person authorized to bring an action
45 pursuant to this act may at any time move to enforce a removal issued
46 pursuant to this act.

1 b. A motion to enforce a removal order shall be heard on an
2 expedited basis and within 14 days of the filing of the motion.

3 c. The court shall order the immediate eviction of the tenant if it
4 finds that:

5 (1) The tenant has given permission to or invited any person
6 removed or barred from the leased residential premises pursuant to this
7 act to return to or re-enter any portion of the premises;

8 (2) The tenant has failed to notify appropriate law enforcement or
9 public housing authorities immediately upon learning that any person
10 who had been removed and barred pursuant to this act has returned to
11 or re-entered the tenant's rental unit; or

12 (3) The tenant has otherwise knowingly violated an express term
13 or condition of any order issued by the court pursuant to this act.
14

15 15. (New section) It shall not be a defense to an action brought
16 pursuant to this act that the drug-related criminal activity was an
17 isolated incident or otherwise has not recurred. Nor is it a defense
18 that the person who actually engaged in the drug-related criminal
19 activity no longer resides in the tenant's rental unit.
20

21 16. (New section) a. When a complaint is filed initiating an action
22 pursuant to this act, the court shall set the matter for a hearing which
23 shall be held on an expedited basis and within (1) 20 days after the
24 filing of an answer or (2) 30 days after service of the complaint if no
25 answer is filed.

26 b. The court shall not grant a continuance, nor shall it stay the civil
27 proceedings pending the disposition of any related criminal
28 proceedings, except for compelling and extraordinary reasons or on
29 application of the county prosecutor or Attorney General for good
30 cause shown.
31

32 17. (New section) Notwithstanding section 2 of P.L.1974, c.49
33 (C.2A:18-61.1) or any other provision of law, rule or regulation
34 concerning the procedures otherwise used in eviction proceedings, it
35 shall not be necessary to provide notice to the tenant to vacate the
36 premises prior to filing the complaint initiating a civil action pursuant
37 to this act.
38

39 18. (New section) No relevant testimony or evidence shall be
40 excluded from any civil action brought pursuant to this act on account
41 of the manner by which it was obtained by a law enforcement officer
42 or agency, notwithstanding that the civil action may have been brought
43 by a county or municipal prosecutor, county or municipal attorney, or
44 the Attorney General.

1 19. (New section) a. The fact that a criminal prosecution involving
2 the drug-related criminal activity is not commenced or, if commenced,
3 has not yet been concluded or has terminated without a conviction or
4 adjudication of delinquency, shall not preclude a civil action or the
5 issuance of any order pursuant to this act.

6 b. When a criminal prosecution involving the drug-related criminal
7 activity results in a final criminal conviction or adjudication of
8 delinquency, such conviction or adjudication shall be considered in the
9 civil action as creating a rebuttable presumption that the drug violation
10 occurred; provided, however, that any such final conviction or
11 adjudication shall estop the convicted defendant or adjudicated
12 juvenile from denying the essential allegations of the criminal offense
13 in any subsequent civil proceeding brought pursuant to this act.

14 c. Any evidence or testimony admitted in the criminal proceeding,
15 including recordings or transcripts of the adult or juvenile criminal
16 proceedings, whether or not they have been transcribed, may be
17 admitted in the civil action initiated pursuant to this act.

18
19 20. (New section) The parties to an action brought pursuant to
20 this act shall not be entitled to conduct discovery otherwise available
21 in a civil action except by leave of court where required to ensure the
22 fair disposition of the civil action. However, the plaintiff in a civil
23 action brought pursuant to this act shall provide to the tenant and all
24 other named defendants a reasonable opportunity prior to the hearing
25 to examine any relevant documents or records within the plaintiff's
26 possession which directly relate to the action, subject to the limitations
27 of section 22 of this act.

28
29 21. (New section) If proof necessary to establish the grounds for
30 eviction depends, in whole or in part, upon the affidavits or testimony
31 of a witness who is not a peace officer, the court may, upon a
32 showing of prior threats of violence or acts of violence by any
33 defendant or any other person, issue orders to protect the witnesses,
34 including but not limited to, the nondisclosure of the name, address or
35 any other information which may identify the witness.

36
37 22. (New section) A law enforcement agency may make available
38 to any person or entity authorized to bring an action pursuant to this
39 act any police report or edited portion thereof, or forensic laboratory
40 report or edited portion thereof, concerning drug-related criminal
41 activity committed on or in the immediate vicinity of the leased
42 residential premises. A law enforcement agency may also make any
43 officer or officers available to testify as a witness or expert witness in
44 a civil action brought pursuant to this act. The agency shall not
45 disclose such information if, in the agency's opinion, disclosure would

1 jeopardize an investigation, prosecution, or other proceeding, or if
2 such disclosure would violate any federal or State statute.

3

4 23. (New section) A landlord or owner shall be entitled to collect
5 rent due and owing from the tenant during the pendency of any civil
6 action brought pursuant to this act.

7

8 24. (New section) A tenant organization, county or municipal
9 prosecutor, county or municipal attorney or the Attorney General,
10 bringing a successful action pursuant to this act, including an action
11 ultimately discharged under subsection k. of section 28 of this act,
12 shall be entitled to recover the cost of the suit, including but not
13 limited to reasonable attorney fees and costs from the landlord or
14 owner of the leased residential premises involved, provided that the
15 landlord or owner, or his appropriate agent, refused to bring the action
16 within 10 days after having been requested to do so in writing,
17 delivered personally or by certified mail, return receipt requested. If
18 the court determines, pursuant to section 11 of this act, that an owner
19 or landlord of the leased residential premises, or his agent, has failed
20 to prosecute the action with reasonable diligence, the owner, landlord
21 or agent shall be responsible for the payment of all reasonable costs of
22 the suit expended by a prevailing substitute plaintiff designated
23 pursuant to section 11 of this act notwithstanding that the owner,
24 landlord or agent initiated the action.

25

26 25. (New section) The court before which the civil action has been
27 brought pursuant to this act shall have the authority at any time to
28 issue a temporary restraining order, grant preliminary relief or take
29 such other actions as the court deems necessary to enjoin or prevent
30 the commission of drug-related criminal activity on or in the immediate
31 vicinity of leased residential premises, or otherwise protect the rights
32 and interests of all tenants and residents. A violation of any duly issued
33 order or preliminary relief shall subject the violator to being held in
34 contempt.

35

36 26. (New section) The causes of action and remedies authorized
37 by this act shall be cumulative with each other and shall be in addition
38 to, not in lieu of, any other causes of action or remedies which may be
39 available by law.

40

41 27. (New section) Any person or organization who in good faith
42 institutes, participates in or encourages a person to institute or
43 participate in a civil action brought pursuant to this act, or who in
44 good faith provides any information relied upon by any person or
45 entity in instituting or participating in a civil action pursuant to this
46 act, shall have immunity from any civil liability that might otherwise be

1 incurred or imposed. The person or organization shall have the same
2 immunity from civil liability with respect to testimony given in any
3 judicial proceeding conducted pursuant to this act.

4
5 28. (New section) a. The court, on the application of the tenant
6 or other person subject to removal, may suspend the execution of a
7 complete or partial eviction for a period of no more than 10 days in
8 order to refer the person to a licensed substance abuse treatment
9 program or facility for that period for a drug addiction assessment and
10 treatment recommendation. The assessment and recommendation shall
11 determine whether the person is a suitable candidate for a stay of
12 execution of eviction or removal pursuant to subsection b. of this
13 section, provided that the person asserts that he is drug dependent
14 within the meaning of this act; is willing to participate in a licensed
15 treatment and monitoring program recommended by the program or
16 facility and approved by the court; and meets the requirements set
17 forth in paragraphs (4), (5) and (6) of subsection b. of this section;
18 and further provided that the court is clearly convinced that the
19 temporary suspension of execution of the eviction or removal will not
20 endanger the safety of the community or otherwise unduly jeopardize
21 the rights or interests of other tenants and residents of the leased
22 residential premises. Pending the filing of an application for a stay of
23 execution pursuant to subsection b. of this section, a temporary
24 suspension shall automatically expire on the date fixed by the court or
25 10 days after the suspension is granted, whichever is earlier. The
26 eviction or removal shall be immediately enforced unless a stay is
27 granted in accordance with the provisions of subsection b. of this
28 section.

29 b. On the application of a tenant or other person subject to
30 removal, the court may stay the execution of complete or partial
31 eviction, for a period of time as provided in subsection f. of this
32 section and during which the person is participating in a court-
33 approved and licensed drug treatment program, provided that the
34 tenant or other person subject to complete or partial eviction
35 establishes by clear and convincing evidence all of the following:

36 (1) The person is drug dependent, and the criminal activity that
37 was the basis for the order of eviction or removal pursuant to
38 subsection b. of section 8 of this act was committed in order to
39 support the person's drug dependency;

40 (2) No evidence is currently proffered or has been presented that
41 the person is an adult and, in the commission of such drug-related
42 criminal activity, distributed a controlled dangerous substance or
43 controlled substance analog to a person under 16 years of age;

44 (3) No evidence is currently proffered or has been presented that
45 the person unlawfully used or possessed a firearm on the leased
46 premises, or that the person used or threatened to use violence in

1 committing any of the acts which are the basis for the order of eviction
2 or removal;

3 (4) The person has not previously undergone court-approved
4 treatment pursuant to the provisions of this section;

5 (5) The person has agreed to participate in the course of drug
6 treatment recommended by the treatment facility conducting the court-
7 ordered drug addiction assessment and treatment recommendation;

8 (6) The stay of execution of the order of complete or partial
9 eviction will not endanger the safety of the community or otherwise
10 unduly jeopardize the rights or interests of other tenants and residents
11 of the leased residential premises; and

12 (7) Admission to the recommended course of treatment will serve
13 to benefit the person by addressing his drug dependency and will
14 thereby remove the incentive for the person to engage in drug-related
15 criminal activity.

16 c. The plaintiff in the civil action and the tenant organization for
17 the premises, whether or not such organization joined in the civil
18 action, shall be provided an opportunity to be heard with respect to an
19 application to temporarily suspend execution of an eviction pursuant
20 to subsection a. of this section or to stay execution of the order
21 pursuant to subsection b. of this section, or to discharge the eviction
22 or removal pursuant to subsection k. of this section, and shall also
23 have the right to participate in any action upon a violation pursuant to
24 subsection j. of this section.

25 d. If the court is satisfied that the grounds for a stay set forth in
26 subsection b. of this section have been clearly and convincingly
27 established, the court as a condition of the stay of execution of the
28 eviction or removal shall order the person to participate in the
29 recommended course of treatment, which program shall include
30 periodic drug testing. Such course of treatment shall take place in a
31 program licensed by the Department of Health and Senior Services to
32 provide substance abuse treatment. The court shall impose reasonable
33 terms and conditions of the person's participation in the court-
34 approved treatment program as if the person were placed on probation
35 following a conviction for a crime. Such terms and conditions shall
36 include a requirement that the person comply with all rules and
37 regulations established by the treatment program. The terms and
38 conditions imposed by the court may also include but need not be
39 limited to establishing a curfew or imposing restrictions on the
40 person's associations and places where he may travel. The court may
41 at any time modify or impose additional terms or conditions, provided
42 that the court, prior to its removal of any significant term or condition,
43 provides notice to all persons entitled pursuant to subsection c. of this
44 section to participate in the proceedings. The person placed on
45 probationary tenancy shall consent to original or amended terms and
46 conditions as a condition of the stay of execution of the eviction or

1 removal, and shall acknowledge in writing that he understands and
2 accepts all terms and conditions. In the event that the person refuses
3 to accept or comply with any original or amended terms and
4 conditions, the stay of execution shall be automatically rescinded and
5 the eviction or removal shall be immediately enforced in accordance
6 with the provisions of this act.

7 e. If the person maintains compliance with the terms and conditions
8 of the court and with the requirements of the course of treatment and
9 monitoring, the stay of execution of eviction or removal shall remain
10 in force for a period of six months. The court, upon recommendation
11 by the treatment program, may extend the initial period of the
12 probationary tenancy for an additional six months.

13 f. A stay of eviction or removal pursuant to this section shall be
14 contingent upon the person commencing his participation in the
15 recommended course of treatment, or being placed on a certified
16 waiting list until a position for the recommended course of treatment
17 becomes available, within 10 days of the entry of the court's order
18 granting the stay of eviction or removal. If the person is placed on a
19 certified list, he must submit to regular drug testing as ordered by the
20 court and must also attend, with verification, no fewer than five 12-
21 step recovery meetings per week, until the course of treatment can
22 begin, unless the person demonstrates bona fide religious objections
23 to attendance. If the person for any reason fails to comply with the
24 conditions of this subsection within 10 days of entry of the court's
25 order, the stay shall be automatically rescinded unless the court
26 determines that there are extraordinary and compelling reasons to
27 reinstate the stay pending the person's participation in the
28 recommended course of treatment, by a date certain to be fixed by the
29 court.

30 g. The treatment program administrator shall, as a condition of the
31 stay of the eviction or removal, agree in writing to report periodically
32 to the court as to the person's progress and compliance with court-
33 imposed terms and conditions. The treatment program administrator
34 shall further agree to promptly report any significant failure to comply
35 with the requirements of the course of treatment. The treatment
36 program also shall agree immediately to advise the court in the event
37 that the person for any reason terminates his participation in the course
38 of treatment. The person and, where necessary, the person's parent or
39 legal guardian, shall, as a condition of the stay, sign a consent form
40 necessary to release information to the court pursuant to this section,
41 with respect to his participation in the course of treatment.

42 h. The court may assign the county probation office and, in the
43 case of a juvenile, the child welfare authorities, the responsibility to
44 assist in monitoring and supervising the person's participation in the
45 recommended course of treatment and his compliance with all court-
46 imposed terms and conditions of the probationary tenancy. The court

1 may also assign the county probation office the responsibility to
2 administer the periodic drug testing, which office shall immediately
3 report any significant violation of the court-imposed terms and
4 conditions, in accordance with the provisions of subsection g. of this
5 section.

6 i. Upon a first significant violation of any court-ordered term or
7 condition of the probationary tenancy, the court may and upon
8 recommendation of the treatment program or upon subsequent
9 violation, shall, in the absence of extraordinary and compelling
10 reasons, rescind the stay of eviction or removal, in which event the
11 order shall be immediately enforced. In making its determination
12 whether to rescind the stay after a first significant violation, the court
13 shall consider the nature and seriousness of the infraction in relation
14 to the person's progress in the course of treatment, and shall also
15 consider the recommendations of the treatment program. If the
16 treatment program determines to discontinue the person's course of
17 treatment, the court shall revoke the probationary tenancy and rescind
18 the stay of eviction or removal, unless the treatment program
19 recommends that another treatment program be engaged to provide
20 the course of treatment. Notwithstanding any other provision of this
21 section, where the court finds reasonable grounds to believe that the
22 person, during the term of the probationary tenancy, has been involved
23 in drug-related criminal activity, whether or not the activity occurred
24 on the leased residential premises, the court shall immediately rescind
25 the stay of eviction or removal, in which event the order shall be
26 immediately enforced.

27 j. An action for a violation of any term or condition of the
28 probationary tenancy may be brought by the plaintiff in the eviction
29 action, any person or entity which could have initiated the eviction
30 action pursuant to this act, by the treatment program administrator,
31 any agency assigned by the court to assist in monitoring or supervising
32 the probationary tenancy, or by the court on its own motion. Such
33 action shall be summary in nature and shall be heard and decided
34 within five days of the notice to the court of the violation.

35 k. If after the expiration of the term of probationary tenancy, the
36 court determines that the person has satisfactorily complied with the
37 terms and conditions of the recommended course of treatment, and
38 that the person no longer poses a risk to the other residents and
39 tenants of the leased residential premises, the court shall discharge the
40 eviction or removal and shall dismiss the action brought pursuant to
41 this act. Nothing in this section shall be construed in any way to
42 prevent the initiation at any time of a new action pursuant to this act.

43

44 29. (New section) a. Prior to the removal of any person pursuant
45 to this act, the court shall cause to be provided to that person outreach
46 information and referral materials on how to obtain drug treatment.

1 b. No less than 10 days prior to the removal of any person pursuant
2 to this act, the court shall cause notice of the removal to be provided
3 to the county alcoholism and drug abuse coordinator, the local council
4 on alcoholism and drug abuse, the local child welfare agency if
5 applicable, and other appropriate social service agencies.

6 c. The Department of Health and Senior Services shall prepare the
7 outreach information and referral materials and shall disseminate the
8 information and materials to all courts having jurisdiction to issue
9 orders pursuant to this act.

10 d. Licensed treatment programs may apply to the Department of
11 Health and Senior Services for compensation for treatment services
12 provided to persons removed pursuant to this act. The department
13 shall adopt regulations as it deems appropriate governing the use of
14 treatment programs and the manner of allocating compensation to the
15 programs. The compensation shall be allocated from the "Drug
16 Enforcement and Demand Reduction Fund" pursuant to N.J.S.2C:35-
17 15.

18
19 30. (New section) Notwithstanding any other provision of law, a
20 landlord or owner shall not bear any responsibility or liability for
21 relocating any person who has been evicted, removed or barred
22 pursuant to this act.

23
24 31. (New section) If any one or more sections, clauses, sentences
25 or parts of this act shall for any reason be adjudged unconstitutional,
26 the judgment shall not affect the remaining provisions but shall be
27 confined to the specific provisions held to be unconstitutional.

28
29 32. (New section) The provisions of this act shall be liberally
30 construed to effectuate the remedial purposes, objectives and policies
31 set forth in sections 2 and 3 of this act.

32
33 33. N.J.S.2A:18-53 is amended to read as follows:

34 2A:18-53. Except for residential lessees and tenants included in
35 section 2 of this act, any lessee or tenant at will or at sufferance, or for
36 a part of a year, or for one or more years, of any houses, buildings,
37 lands or tenements, and the assigns, undertenants or legal
38 representatives of such tenant or lessee, may be removed from such
39 premises by the Superior Court, Law Division, Special Civil Part in an
40 action in the following cases:

41 a. Where such person holds over and continues in possession of all
42 or any part of the demised premises after the expiration of his term,
43 and after demand made and written notice given by the landlord or his
44 agent, for delivery of possession thereof. The notice shall be served
45 either personally upon the tenant or such person in possession by
46 giving him a copy thereof or by leaving a copy of the same at his usual

1 place of abode with a member of his family above the age of 14 years.

2 b. Where such person shall hold over after a default in the payment
3 of rent, pursuant to the agreement under which the premises are held.

4 c. Where such person (1) shall be so disorderly as to destroy the
5 peace and quiet of the landlord or the other tenants or occupants living
6 in said house or the neighborhood, or (2) shall willfully destroy,
7 damage or injure the premises, or (3) shall constantly violate the
8 landlord's rules and regulations governing said premises, provided,
9 such rules have been accepted in writing by the tenant or are made a
10 part of the lease; or (4) shall commit any breach or violation of any of
11 the covenants or agreements in the nature thereof contained in the
12 lease for the premises where a right of re-entry is reserved in the lease
13 for a violation of such covenants or agreements, and shall hold over
14 and continue in possession of the demised premises or any part
15 thereof, after the landlord or his agent for that purpose has caused a
16 written notice of the termination of said tenancy to be served upon
17 said tenant, and a demand that said tenant remove from said premises
18 within three days from the service of such notice. The notice shall
19 specify the cause of the termination of the tenancy, and shall be served
20 either personally upon the tenant or such person in possession by
21 giving him a copy thereof, or by leaving a copy thereof at his usual
22 place of abode with some member of his family above the age of 14
23 years. No notice to vacate the premises shall be required for persons
24 subject to the provisions of P.L. , c. (C.)(now pending before
25 the Legislature as this bill).

26 (cf: P.L.1991, c.91, s.64)

27

28 34. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read
29 as follows:

30 2. No lessee or tenant or the assigns, under-tenants or legal
31 representatives of such lessee or tenant may be removed by the
32 Superior Court from any house, building, mobile home or land in a
33 mobile home park or tenement leased for residential purposes, other
34 than (1) owner-occupied premises with not more than two rental units
35 or a hotel, motel or other guest house or part thereof rented to a
36 transient guest or seasonal tenant; (2) a dwelling unit which is held in
37 trust on behalf of a member of the immediate family of the person or
38 persons establishing the trust, provided that the member of the
39 immediate family on whose behalf the trust is established permanently
40 occupies the unit; and (3) a dwelling unit which is permanently
41 occupied by a member of the immediate family of the owner of that
42 unit, provided, however, that exception (2) or (3) shall apply only in
43 cases in which the member of the immediate family has a
44 developmental disability, except upon establishment of one of the
45 following grounds as good cause:

46 a. The person fails to pay rent due and owing under the lease

- 1 whether the same be oral or written.
- 2 b. The person has continued to be, after written notice to cease, so
3 disorderly as to destroy the peace and quiet of the occupants or other
4 tenants living in said house or neighborhood.
- 5 c. The person has willfully or by reason of gross negligence caused
6 or allowed destruction, damage or injury to the premises.
- 7 d. The person has continued, after written notice to cease, to
8 substantially violate or breach any of the landlord's rules and
9 regulations governing said premises, provided such rules and
10 regulations are reasonable and have been accepted in writing by the
11 tenant or made a part of the lease at the beginning of the lease term.
- 12 e. The person has continued, after written notice to cease, to
13 substantially violate or breach any of the covenants or agreements
14 contained in the lease for the premises where a right of reentry is
15 reserved to the landlord in the lease for a violation of such covenant
16 or agreement, provided that such covenant or agreement is reasonable
17 and was contained in the lease at the beginning of the lease term.
- 18 f. The person has failed to pay rent after a valid notice to quit and
19 notice of increase of said rent, provided the increase in rent is not
20 unconscionable and complies with any and all other laws or municipal
21 ordinances governing rent increases.
- 22 g. The landlord or owner (1) seeks to permanently board up or
23 demolish the premises because he has been cited by local or State
24 housing inspectors for substantial violations affecting the health and
25 safety of tenants and it is economically unfeasible for the owner to
26 eliminate the violations; (2) seeks to comply with local or State
27 housing inspectors who have cited him for substantial violations
28 affecting the health and safety of tenants and it is unfeasible to so
29 comply without removing the tenant; simultaneously with service of
30 notice of eviction pursuant to this clause, the landlord shall notify the
31 Department of Community Affairs of the intention to institute
32 proceedings and shall provide the department with such other
33 information as it may require pursuant to rules and regulations. The
34 department shall inform all parties and the court of its view with
35 respect to the feasibility of compliance without removal of the tenant
36 and may in its discretion appear and present evidence; (3) seeks to
37 correct an illegal occupancy because he has been cited by local or
38 State housing inspectors or zoning officers and it is unfeasible to
39 correct such illegal occupancy without removing the tenant; or (4) is
40 a governmental agency which seeks to permanently retire the premises
41 from the rental market pursuant to a redevelopment or land clearance
42 plan in a blighted area. In those cases where the tenant is being
43 removed for any reason specified in this subsection, no warrant for
44 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
45 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.
- 46 h. The owner seeks to retire permanently the residential building

1 or the mobile home park from residential use or use as a mobile home
2 park, provided this subsection shall not apply to circumstances
3 covered under subsection g. of this section.

4 i. The landlord or owner proposes, at the termination of a lease,
5 reasonable changes of substance in the terms and conditions of the
6 lease, including specifically any change in the term thereof, which the
7 tenant, after written notice, refuses to accept; provided that in cases
8 where a tenant has received a notice of termination pursuant to
9 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
10 protected tenancy status pursuant to section 9 of the "Senior Citizens
11 and Disabled Protected Tenancy Act," P.L.1981, c.226
12 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
13 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
14 have the burden of proving that any change in the terms and conditions
15 of the lease, rental or regulations both is reasonable and does not
16 substantially reduce the rights and privileges to which the tenant was
17 entitled prior to the conversion.

18 j. The person, after written notice to cease, has habitually and
19 without legal justification failed to pay rent which is due and owing.

20 k. The landlord or owner of the building or mobile home park is
21 converting from the rental market to a condominium, cooperative or
22 fee simple ownership of two or more dwelling units or park sites,
23 except as hereinafter provided in subsection l. of this section. Where
24 the tenant is being removed pursuant to this subsection, no warrant for
25 possession shall be issued until this act has been complied with. No
26 action for possession shall be brought pursuant to this subsection
27 against a senior citizen tenant or disabled tenant with protected
28 tenancy status pursuant to the "Senior Citizens and Disabled Protected
29 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a
30 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
31 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
32 the protected tenancy status or the protected tenancy period has not
33 expired.

34 l. (1) The owner of a building or mobile home park, which is
35 constructed as or being converted to a condominium, cooperative or
36 fee simple ownership, seeks to evict a tenant or sublessee whose initial
37 tenancy began after the master deed, agreement establishing the
38 cooperative or subdivision plat was recorded, because the owner has
39 contracted to sell the unit to a buyer who seeks to personally occupy
40 it and the contract for sale calls for the unit to be vacant at the time of
41 closing. However, no action shall be brought against a tenant under
42 paragraph (1) of this subsection unless the tenant was given a
43 statement in accordance with section 6 of P.L.1975, c.311
44 (C.2A:18-61.9);

45 (2) The owner of three or less condominium or cooperative units
46 seeks to evict a tenant whose initial tenancy began by rental from an

1 owner of three or less units after the master deed or agreement
2 establishing the cooperative was recorded, because the owner seeks to
3 personally occupy the unit, or has contracted to sell the unit to a buyer
4 who seeks to personally occupy it and the contract for sale calls for
5 the unit to be vacant at the time of closing;

6 (3) The owner of a building of three residential units or less seeks
7 to personally occupy a unit, or has contracted to sell the residential
8 unit to a buyer who wishes to personally occupy it and the contract for
9 sale calls for the unit to be vacant at the time of closing.

10 m. The landlord or owner conditioned the tenancy upon and in
11 consideration for the tenant's employment by the landlord or owner as
12 superintendent, janitor or in some other capacity and such employment
13 is being terminated.

14 n. [The] Subject to the provisions of P.L. .c. (C.) (now
15 pending before the Legislature as this bill, the person has been
16 convicted of or pleaded guilty to, or if a juvenile, has been adjudicated
17 delinquent on the basis of an act which if committed by an adult would
18 constitute an offense under the "Comprehensive Drug Reform Act of
19 1987," N.J.S.2C:35-1 et al. involving the use, possession,
20 manufacture, dispensing or distribution of a controlled dangerous
21 substance, controlled dangerous substance analog or drug
22 paraphernalia within the meaning of that act within or upon the leased
23 premises or the building or complex of buildings and land appurtenant
24 thereto, or the mobile home park, in which those premises are located,
25 and has not in connection with his sentence for that offense either (1)
26 successfully completed or (2) been admitted to and continued upon
27 probation while completing, a drug rehabilitation program pursuant to
28 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
29 knowingly harbors or harbored therein a person who has been so
30 convicted or has so pleaded, or otherwise permits or permitted such
31 a person to occupy those premises for residential purposes, whether
32 continuously or intermittently, except that this subsection shall not
33 apply to a person harboring or permitting a juvenile to occupy the
34 premises if the juvenile has been adjudicated delinquent upon the basis
35 of an act which if committed by an adult would constitute the offense
36 of use or possession under the said act. No action for removal may be
37 brought pursuant to this subsection more than two years after the date
38 of the adjudication or conviction or more than two years after the
39 person's release from incarceration whichever is the later.

40 o. The person has been convicted of or pleaded guilty to, or if a
41 juvenile, has been adjudicated delinquent on the basis of an act which
42 if committed by an adult would constitute an offense under
43 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
44 against the landlord, a member of the landlord's family or an employee
45 of the landlord; or, being the tenant or lessee of such leased premises,
46 knowingly harbors or harbored therein a person who has been so

1 convicted or has so pleaded, or otherwise permits or permitted such
2 a person to occupy those premises for residential purposes, whether
3 continuously or intermittently. No action for removal may be brought
4 pursuant to this subsection more than two years after the adjudication
5 or conviction or more than two years after the person's release from
6 incarceration whichever is the later.

7 p. [The] Subject to the provisions of P.L. .c. (C.) (now
8 pending before the Legislature as this bill, the person has been found,
9 by a preponderance of the evidence, liable in a civil action for removal
10 commenced under this act for an offense under N.J.S.2C:20-1 et al.
11 involving theft of property located on the leased premises from the
12 landlord, the leased premises or other tenants residing in the leased
13 premises, or N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or
14 terroristic threats against the landlord, a member of the landlord's
15 family or an employee of the landlord, or under the "Comprehensive
16 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
17 possession, manufacture, dispensing or distribution of a controlled
18 dangerous substance, controlled dangerous substance analog or drug
19 paraphernalia within the meaning of that act within or upon the leased
20 premises or the building or complex of buildings and land appurtenant
21 thereto, or the mobile home park, in which those premises are located,
22 and has not in connection with his sentence for that offense either (1)
23 successfully completed or (2) been admitted to and continued upon
24 probation while completing a drug rehabilitation program pursuant to
25 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
26 knowingly harbors or harbored therein a person who committed such
27 an offense, or otherwise permits or permitted such a person to occupy
28 those premises for residential purposes, whether continuously or
29 intermittently, except that this subsection shall not apply to a person
30 who harbors or permits a juvenile to occupy the premises if the
31 juvenile has been adjudicated delinquent upon the basis of an act which
32 if committed by an adult would constitute the offense of use or
33 possession under the said "Comprehensive Drug Reform Act of 1987."

34 q. The person has been convicted of or pleaded guilty to, or if a
35 juvenile, has been adjudicated delinquent on the basis of an act which
36 if committed by an adult would constitute an offense under
37 N.J.S.2C:20-1 et al. involving theft of property from the landlord, the
38 leased premises or other tenants residing in the same building or
39 complex; or, being the tenant or lessee of such leased premises,
40 knowingly harbors therein a person who has been so convicted or has
41 so pleaded, or otherwise permits such a person to occupy those
42 premises for residential purposes, whether continuously or
43 intermittently.

44 For purposes of this section, (1) "developmental disability" means
45 any disability which is defined as such pursuant to section 3 of
46 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"

1 means a person's spouse, parent, child or sibling, or a spouse, parent,
2 child or sibling of any of them; and (3) "permanently" occupies or
3 occupied means that the occupant maintains no other domicile at
4 which the occupant votes, pays rent or property taxes or at which rent
5 or property taxes are paid on the occupant's behalf.

6 (cf: P.L.1996, c.131., s.1)

7

8 35. This act shall take effect on the first day of the seventh month
9 after enactment.

10

11

12

STATEMENT

13

14 This bill, the "Expedited Eviction of Drug Traffickers Act," is part
15 of the series of legislative initiatives proposed by the President's
16 Commission on Model State Drug laws, appointed by former President
17 George Bush. They are designed to establish and codify a number of
18 innovative civil actions to supplement traditional criminal sentencing
19 sanctions directed against convicted drug offenders. The ability of
20 private litigants and public agencies to use innovative civil remedies to
21 redress injuries related to the illicit drug trade and to safeguard the
22 interests of law abiding citizens who are the constant victims of drug-
23 related crimes is especially important.

24 This bill expands the scope of permissible plaintiffs, specifically
25 authorizing, in certain circumstances, a bona fide tenant organization
26 or local prosecutor's agency to initiate an eviction action, and
27 especially when the landlord for any reason refuses to do so after being
28 provided notice of the factual basis for commencing the action.
29 Traditionally, an eviction action under landlord-tenant law is an in rem
30 suit. The court's jurisdiction is limited to determining whether or not
31 to terminate the leasehold. This bill, in contrast, introduces the
32 concept of a "partial eviction." Under this approach, the court may
33 specifically tailor its eviction order to remove only those persons who
34 are culpable, that is, those who were found to be actually involved in
35 the drug-trafficking activity occurring on or related to the leased
36 residential premises. Under this formulation and under certain
37 circumstances which are described in the bill, the court may preserve
38 the tenancy upon certain conditions, thus allowing an innocent tenant
39 or residency to remain on the premises, while ordering culpable
40 offenders to vacate the premises.

41 In a closely related vein, the bill permits the courts in certain
42 circumstances to establish a "probationary tenancy." Under this
43 remedy, the court may allow the drug-dependent tenant or resident,
44 who otherwise would be subject to complete eviction, to remain on the
45 premises as long as he or she is undergoing an appropriate and
46 carefully supervised course of drug treatment. This provision

1 recognizes that many persons who sell illicit drugs are doing so to
2 support their own drug addiction.

3 Finally, this bill provides firm guidance to the courts as to when and
4 under what circumstances a complete or partial eviction should occur,
5 and under what circumstances a court may decline to order an eviction
6 or removal of an individual even if the plaintiff in the action has proven
7 the existence of tenancy-based drug trafficking activities. New
8 Jersey's eviction statutes, in contrast, merely set out the so-called
9 "grounds" for eviction, leaving the courts with wholly unguided
10 discretion to decide whether to effect the eviction when these grounds
11 have been established. It is intended that by providing precise
12 guidance to the courts, the State's tenants as well as its residents and
13 landlords are placed on clear notice of what will happen to them if they
14 engage in or tolerate drug-related criminal activities, excluding simple
15 possession, on the leased residential premises.

16 Carefully crafted civil remedial legislation can help to provide law
17 abiding citizens with incentives to organize and to work cooperatively
18 with law enforcement, other governmental officials, and private sector
19 concerns in addressing the drug problem at the neighborhood and
20 community level. This bill is intended to inspire and support
21 grassroots efforts to reclaim buildings, streets and entire
22 neighborhoods from the influence of drug traffickers and violent street
23 criminals.

24 This bill is designed to facilitate its use by landlords, tenant
25 organizations and prosecuting agencies to evict drug dealers from
26 neighborhood properties. It is designed to provide practical economic
27 incentives for landlords to take those actions that are necessary and
28 appropriate under the circumstances to protect the interests of their
29 law abiding tenants. At the same time, it is designed to provide
30 incentives to these tenants to organize into bona fide tenant
31 associations in order to protect their own rights and interests without
32 the need to resort to vigilantism or other manifestations of the
33 frustrations which have gripped many urban neighborhoods.

34 Currently, the landlord-tenant statutes in many jurisdictions like
35 New Jersey are known as "anti-eviction" acts, which are designed
36 principally to protect the legal rights of tenants as against those
37 landlords who seek to remove them in civil eviction proceedings.
38 Although this bill, in contrast, is designed to facilitate and expedite
39 eviction actions in certain circumstances, it nonetheless continues to
40 effect this general philosophy by seeking to protect the rights of law
41 abiding tenants and residents as against those tenants and residents
42 who engage in illicit drug activities on or near the leased residential
43 premises.

44 It is recommended that this bill be adopted and implemented in
45 conjunction with the proposed "Drug Nuisance Abatement Act." That
46 legislation is designed principally to close down properties which

1 constitute a drug nuisance, while this bill focuses on the removal of the
2 offending individuals from the premises which remain open. It is
3 important to understand that these two bills are designed to work in
4 tandem.

5 It is critical to note that the provisions of this bill are intended to be
6 remedial, rather than punitive, in their nature and effect. The bill
7 attempts carefully to balance the rights of other parties and
8 acknowledges that the eviction remedy can, historically, prove to be
9 an extremely harsh and unforgiving sanction. The bill, nonetheless,
10 puts all tenants and residents on clear notice that drug trafficking
11 activity on or near leased residential premises will not be tolerated.

12

13

14

15

16 The "Expedited Eviction of Drug Traffickers Act."