

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 241 and 491

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED MARCH 19, 2020

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

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District 7 (Burlington)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

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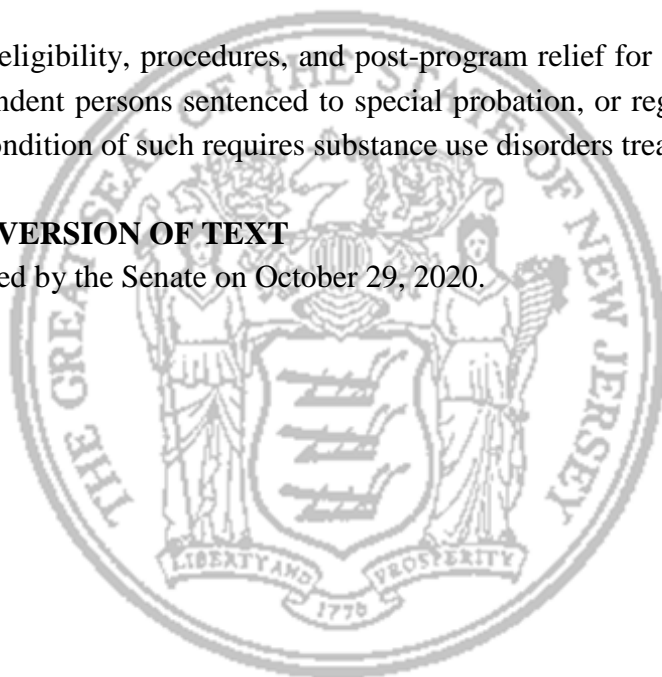
Senators Vitale, Gill, Ruiz, Turner and Diegnan

SYNOPSIS

Concerns eligibility, procedures, and post-program relief for certain drug or alcohol dependent persons sentenced to special probation, or regular probation which as a condition of such requires substance use disorders treatment.

CURRENT VERSION OF TEXT

As amended by the Senate on October 29, 2020.



(Sponsorship Updated As Of: 1/28/2021)

1 **AN ACT** concerning eligibility, procedures, and post-program relief
2 for certain drug or alcohol dependent persons sentenced to special
3 probation under N.J.S.2C:35-14 or section 2 of P.L.2012, c.23
4 (C.2C:35-14.2), or probation under N.J.S.2C:45-1 which as a
5 condition of probation requires substance use disorders treatment,
6 and amending N.J.S.2C:35-14.

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

10
11 1. N.J.S.2C:35-14 is amended to read as follows:

12 2C:35-14. Rehabilitation Program for Drug and Alcohol
13 Dependent Persons Subject to a Presumption of Incarceration or a
14 Mandatory Minimum Period of Parole Ineligibility; Criteria for
15 Imposing Special Probation; Ineligible Offenders; Commitment to
16 Residential Treatment Facilities or Participation in a Nonresidential
17 Treatment Program **【**; Presumption of Revocation; Brief
18 Incarceration in Lieu of Permanent Revocation**】**.

19 a. Any person who is ineligible for probation due to a conviction
20 for a crime which is subject to a presumption of incarceration or a
21 mandatory minimum period of parole ineligibility may be sentenced
22 to a term of special probation in accordance with this section, and
23 may not apply for drug and alcohol treatment pursuant to
24 N.J.S.2C:45-1. Nothing in this section shall be construed to prohibit
25 a person who is eligible for probation in accordance with
26 N.J.S.2C:45-1 due to a conviction for an offense which is not subject
27 to a presumption of incarceration or a mandatory minimum period of
28 parole ineligibility from applying for drug or alcohol treatment as a
29 condition of probation pursuant to N.J.S.2C:45-1; provided,
30 however, that a person in need of treatment as defined in subsection
31 f. of section 2 of P.L.2012, c.23 (C.2C:35-14.2) shall be sentenced in
32 accordance with that section. Notwithstanding the presumption of
33 incarceration pursuant to the provisions of subsection d. of
34 N.J.S.2C:44-1, whenever a drug or alcohol dependent person who is
35 subject to sentencing under this section is convicted of or adjudicated
36 delinquent for an offense, other than one described in subsection b.
37 of this section, the court, upon notice to the prosecutor, may, on
38 motion of the person, or on the court's own motion, place the person
39 on special probation, which shall be for a term of up to five years,
40 provided that the court finds on the record that:

41 (1) the person has undergone a professional diagnostic
42 assessment to determine whether and to what extent the person is
43 drug or alcohol dependent and would benefit from treatment; and

44 (2) the person is a drug or alcohol dependent person within the
45 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the

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:

¹ Senate floor amendments adopted October 29, 2020.

1 time of the commission of the present offense; and

2 (3) the present offense was committed while the person was under
3 the influence of a controlled dangerous substance, controlled
4 substance analog or alcohol or was committed to acquire property or
5 monies in order to support the person's drug or alcohol dependency;
6 and

7 (4) substance use disorders treatment and monitoring will serve
8 to benefit the person by addressing the person's drug or alcohol
9 dependency and will thereby reduce the likelihood that the person
10 will thereafter commit another offense; and

11 (5) the person did not possess a firearm at the time of the present
12 offense and did not possess a firearm at the time of any pending
13 criminal charge; and

14 (6) **the person has not been previously convicted on two or more**
15 **separate occasions of crimes of the first or second degree, other than**
16 **those listed in paragraph (7); or the person has not been previously**
17 **convicted on two or more separate occasions, where one of the**
18 **offenses is a crime of the third degree, other than crimes defined in**
19 **N.J.S.2C:35-10, and one of the offenses is a crime of the first or**
20 **second degree; and** (Deleted by amendment, P.L. , c.) (pending
21 before the Legislature as this bill)

22 (7) the person has not been previously convicted or adjudicated
23 delinquent for, and does not have a pending charge of murder,
24 aggravated manslaughter, manslaughter, kidnapping, **aggravated**
25 **assault,** aggravated sexual assault or sexual assault, or a similar
26 crime under the laws of any other state or the United States; and

27 (8) a suitable treatment facility licensed and approved by the
28 Division of Mental Health and Addiction Services in the Department
29 of Human Services is able and has agreed to provide appropriate
30 treatment services in accordance with the requirements of this
31 section; and

32 (9) no danger to the community will result from the person being
33 placed on special probation pursuant to this section.

34 In determining whether to sentence the person pursuant to this
35 section, the court shall consider all relevant circumstances, and shall
36 take judicial notice of any evidence, testimony or information
37 adduced at the trial, plea hearing or other court proceedings, and shall
38 also consider the presentence report and the results of the
39 professional diagnostic assessment to determine whether and to what
40 extent the person is drug or alcohol dependent and would benefit
41 from treatment. The court shall give priority to a person who has
42 moved to be sentenced to special probation over a person who is
43 being considered for a sentence to special probation on the court's
44 own motion or in accordance with the provisions of section 2 of
45 P.L.2012, c.23 (C.2C:35-14.2).

46 As a condition of special probation, the court shall order the
47 person to enter a residential treatment program at a facility licensed
48 and approved by the Division of Mental Health and Addiction

1 Services in the Department of Human Services or a program of
2 nonresidential treatment by a licensed and approved treatment
3 provider, which program may include the use of medication-assisted
4 treatment as defined in paragraph (7) of subsection f. of this section,
5 to comply with program rules and the requirements of the course of
6 treatment, to cooperate fully with the treatment provider, and to
7 comply with such other reasonable terms and conditions as may be
8 required by the court or by law, pursuant to N.J.S.2C:45-1, and which
9 shall include periodic urine testing for drug or alcohol usage
10 throughout the period of special probation. In determining whether
11 to order the person to participate in a residential or nonresidential
12 **【rather than a residential】** treatment program, the court shall **【follow**
13 **the procedure set forth in subsection j. of this section】** consider the
14 recommendations from a diagnostic assessment, including the level
15 of care that is clinically appropriate and adequate to address the
16 person's treatment needs. **【Subject to the requirements of subsection**
17 **d. of this section, the】** The conditions of special probation may
18 include different methods and levels of community-based or
19 residential supervision.

20 b. A person shall not be eligible for special probation pursuant
21 to this section if the person is convicted of or adjudicated delinquent
22 for:

23 (1) a crime of the first degree;

24 (2) a crime of the first or second degree enumerated in subsection
25 d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other than a crime
26 of the second degree involving N.J.S.2C:15-1 (robbery) or
27 N.J.S.2C:18-2 (burglary);

28 (3) a crime, other than that defined in section 1 of P.L.1987, c.101
29 (C.2C:35-7) or section 1 of P.L.2009, c.333 (C.2C:40-26), for which
30 a mandatory minimum period of incarceration is prescribed under
31 chapter 35 of this Title or any other law; or

32 (4) an offense that involved the distribution or the conspiracy or
33 attempt to distribute a controlled dangerous substance or controlled
34 substance analog to a juvenile near or on school property.

35 c. (Deleted by amendment, P.L.2012, c.23)

36 d. **【Except as otherwise provided in subsection j. of this section,**
37 **a person convicted of or adjudicated delinquent for a crime of the**
38 **second degree or of a violation of section 1 of P.L.1987, c.101**
39 **(C.2C:35-7), or who previously has been convicted of or adjudicated**
40 **delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a**
41 **similar offense under any other law of this State, any other state or**
42 **the United States, who is placed on special probation under this**
43 **section shall be committed to the custody of a residential substance**
44 **use disorders treatment facility licensed and approved by the**
45 **Division of Mental Health and Addiction Services in the Department**
46 **of Human Services. Subject to the authority of the court to**
47 **temporarily suspend imposition of all or any portion of the term of**

1 commitment to a residential treatment facility pursuant to subsection
2 j. of this section, the person shall be committed to the residential
3 treatment facility immediately, unless the facility cannot
4 accommodate the person, in which case the person shall be
5 incarcerated to await commitment to the residential treatment
6 facility. The term of such commitment shall be for a minimum of six
7 months, or until the court, upon recommendation of the treatment
8 provider, determines that the person has successfully completed the
9 residential treatment program, whichever is later, except that no
10 person shall remain in the custody of a residential treatment facility
11 pursuant to this section for a period in excess of five years. Upon
12 successful completion of the required residential treatment program,
13 the person shall complete the period of special probation, as
14 authorized by subsection a. of this section, with credit for time served
15 for any imprisonment served as a condition of probation and credit
16 for each day during which the person satisfactorily complied with the
17 terms and conditions of special probation while committed pursuant
18 to this section to a residential treatment facility. Except as otherwise
19 provided in subsection l. of this section, the person shall not be
20 eligible for early discharge of special probation pursuant to
21 N.J.S.2C:45-2, or any other provision of the law. The court, in
22 determining the number of credits for time spent in residential
23 treatment, shall consider the recommendations of the treatment
24 provider. A person placed into a residential treatment facility
25 pursuant to this section shall be deemed to be subject to official
26 detention for the purposes of N.J.S.2C:29-5 (escape). 】 (Deleted by
27 amendment, P.L. , c.) (pending before the Legislature as this
28 bill)

29 e. The probation department or other appropriate agency
30 designated by the court to monitor or supervise the person's special
31 probation shall report periodically to the court as to the person's
32 progress in treatment and compliance with court-imposed terms and
33 conditions. The treatment provider shall promptly report to the
34 probation department or other appropriate agency all significant
35 failures by the person to comply with any court imposed term or
36 condition of special probation or any requirements of the course of
37 treatment, including but not limited to a positive drug or alcohol test,
38 which shall only constitute a violation for a person using medication-
39 assisted treatment as defined in paragraph (7) of subsection f. of this
40 section if the positive test is unrelated to the person's medication-
41 assisted treatment, or the unexcused failure to attend any session or
42 activity, and shall immediately report any act that would constitute
43 an escape. The probation department or other appropriate agency
44 shall immediately notify the court and the prosecutor in the event that
45 the person refuses to submit to a periodic drug or alcohol test or for
46 any reason terminates the person's participation in the course of
47 treatment, or commits any act that would constitute an escape.

1 f. (1) Upon a **first** violation of any term or condition of the
2 special probation authorized by this section or of any requirements
3 of the course of treatment, the court in its discretion may permanently
4 revoke the person's special probation.

5 (2) **Upon a second or subsequent violation of any term or**
6 **condition of the special probation authorized by this section or of any**
7 **requirements of the course of treatment, the court shall, subject only**
8 **to the provisions of subsection g. of this section, permanently revoke**
9 **the person's special probation unless the court finds on the record that**
10 **there is a substantial likelihood that the person will successfully**
11 **complete the treatment program if permitted to continue on special**
12 **probation, and the court is clearly convinced, considering the nature**
13 **and seriousness of the violations, that no danger to the community**
14 **will result from permitting the person to continue on special**
15 **probation pursuant to this section. The court's determination to**
16 **permit the person to continue on special probation following a second**
17 **or subsequent violation pursuant to this paragraph may be appealed**
18 **by the prosecution.** (Deleted by amendment, P.L. , c.) (pending
19 before the Legislature as this bill)

20 (3) In making its determination whether to revoke special
21 probation, **and whether to overcome the presumption of revocation**
22 **established in paragraph (2) of this subsection,** the court shall
23 consider the nature and seriousness of the present infraction and any
24 past infractions in relation to the person's overall progress in the
25 course of treatment, and shall also consider the recommendations of
26 the treatment provider. **The court shall give added weight to the**
27 **treatment provider's recommendation that the person's special**
28 **probation be permanently revoked, or to the treatment provider's**
29 **opinion that the person is not amenable to treatment or is not likely**
30 **to complete the treatment program successfully.**

31 (4) If the court permanently revokes the person's special probation
32 pursuant to this subsection, the court **shall** may impose any
33 sentence which includes a term of imprisonment of up to five years,
34 notwithstanding any sentence that might have been imposed, or that
35 would have been required to be imposed, originally for the offense
36 for which the person was convicted or adjudicated delinquent. The
37 court shall conduct a **de novo** review of any **aggravating and**
38 **mitigating factors present at the time of both original sentencing and**
39 **resentencing, and determine whether the violation negates any of the**
40 **mitigating factors originally found, consistent with a hearing**
41 **pursuant to N.J.S.2C:45-3. If the court determines or is required**
42 **pursuant to any other provision of this chapter or any other law** to
43 impose a term of imprisonment, the person shall receive credit for
44 any time served in custody pursuant to N.J.S.2C:45-1 or while
45 awaiting placement in a treatment facility pursuant to this section,
46 and, regardless of whether the person was sentenced to special
47 probation under this section or section 2 of P.L.2012, c.23 (C.2C:35-

1 14.2), or probation under N.J.S.2C:45-1, for each day during which
 2 the person satisfactorily complied with the terms and conditions of
 3 special probation, or probation, as the case may be, while committed
 4 **【pursuant to this section】** to a residential treatment facility or a
 5 halfway house, so long as that halfway house meets the statutory
 6 criteria of a residential treatment facility as defined in N.J.S.2C:35-
 7 2. The court, in determining the number of credits for time spent in
 8 a residential treatment facility or a halfway house, shall consider the
 9 recommendations of the treatment provider.

10 (5) Following a violation, if the court permits the person to
 11 continue on special probation pursuant to this section, the court shall
 12 order the person to comply with such additional terms and conditions,
 13 including but not limited to more frequent drug or alcohol testing, as
 14 are necessary to deter and promptly detect any further violation.

15 (6) **【Notwithstanding any other provision of this subsection, if**
 16 **the person at any time refuses to undergo urine testing for drug or**
 17 **alcohol usage as provided in subsection a. of this section, the court**
 18 **shall, subject only to the provisions of subsection g. of this section,**
 19 **permanently revoke the person's special probation. Notwithstanding**
 20 **any other provision of this section, if the person at any time while**
 21 **committed to the custody of a residential treatment facility pursuant**
 22 **to this section commits an act that would constitute an escape, the**
 23 **court shall forthwith permanently revoke the person's special**
 24 **probation.】** (Deleted by amendment, P.L. , c.) (pending before
 25 the Legislature as this bill)

26 (7) An action for a violation under this section may be brought by
 27 a probation officer or prosecutor or on the court's own motion.
 28 Failure to complete successfully the required treatment program shall
 29 constitute a violation of the person's special probation. In the case of
 30 the temporary or continued management of a person's drug or alcohol
 31 dependency by means of medication-assisted treatment as defined
 32 herein, whenever supported by a report from the treatment provider
 33 of existing satisfactory progress and reasonably predictable long-
 34 term success with or without further medication-assisted treatment,
 35 the person's use of the medication-assisted treatment, even if
 36 continuing, shall not be the basis to constitute a failure to complete
 37 successfully the treatment program. **【A person who fails to comply**
 38 **with the terms of the person's special probation pursuant to this**
 39 **section and is thereafter sentenced to imprisonment in accordance**
 40 **with this subsection shall thereafter be ineligible for entry into the**
 41 **Intensive Supervision Program, provided however that this provision**
 42 **shall not affect the person's eligibility for entry into the Intensive**
 43 **Supervision Program for a subsequent conviction.】**

44 As used in this section, the term "medication-assisted treatment"
 45 means the use of any medications approved by the federal Food and
 46 Drug Administration to treat substance use disorders, including
 47 extended-release naltrexone, methadone, and buprenorphine, in

1 combination with counseling and behavioral therapies, to provide a
2 whole-patient approach to the treatment of substance use disorders.

3 g. **【When a person on special probation is subject to a**
4 **presumption of revocation on a second or subsequent violation**
5 **pursuant to paragraph (2) of subsection f. of this section, or when the**
6 **person refuses to undergo drug or alcohol testing pursuant to**
7 **paragraph (6) of subsection f. of this section, the court may, in lieu**
8 **of permanently revoking the person's special probation, impose a**
9 **term of incarceration for a period of not less than 30 days nor more**
10 **than six months, after which the person's term of special probation**
11 **pursuant to this section may be reinstated. In determining whether to**
12 **order a period of incarceration in lieu of permanent revocation**
13 **pursuant to this subsection, the court shall consider the**
14 **recommendations of the treatment provider with respect to the**
15 **likelihood that such confinement would serve to motivate the person**
16 **to make satisfactory progress in treatment once special probation is**
17 **reinstated. This disposition may occur only once with respect to any**
18 **person unless the court is clearly convinced that there are compelling**
19 **and extraordinary reasons to justify reimposing this disposition with**
20 **respect to the person. Any such determination by the court to**
21 **reimpose this disposition may be appealed by the prosecution.**
22 **Nothing in this subsection shall be construed to limit the authority of**
23 **the court at any time during the period of special probation to order**
24 **a person on special probation who is not subject to a presumption of**
25 **revocation pursuant to paragraph (2) of subsection f. of this section**
26 **to be incarcerated over the course of a weekend, or for any other**
27 **reasonable period of time, when the court in its discretion determines**
28 **that such incarceration would help to motivate the person to make**
29 **satisfactory progress in treatment.】** (Deleted by amendment, P.L. __, c. __)
30 (pending before the Legislature as this bill)

31 h. **【The court, as a condition of its order, and after considering the**
32 **person's financial resources, shall require the person to pay that**
33 **portion of the costs associated with the person's participation in any**
34 **residential or nonresidential treatment program imposed pursuant to**
35 **this section which, in the opinion of the court, is consistent with the**
36 **person's ability to pay, taking into account the court's authority to**
37 **order payment or reimbursement to be made over time and in**
38 **installments.】** (Deleted by amendment, P.L. __, c. __) (pending before
39 the Legislature as this bill)

40 i. **【The】** As a condition of the special probation, whether
41 sentenced under this section or section 2 of P.L.2012, c.23 (C.2C:35-
42 14.2), or probation sentenced under N.J.S.2C:45-1 which as a
43 condition of probation requires substance use disorders treatment, the
44 court shall impose 【, as a condition of the special probation,】 any
45 fine, penalty, fee or restitution applicable to the offense for which the
46 person was convicted or adjudicated delinquent. However,
47 notwithstanding any other provision of law to the contrary, upon

1 successful discharge from the term of special probation, or probation,
2 as the case may be, the court may waive or reduce the Drug
3 Enforcement and Demand Reduction penalty imposed pursuant to
4 N.J.S.2C:35-15.

5 j. **【**Where the court finds that a person has satisfied all of the
6 eligibility criteria for special probation and would otherwise be
7 required to be committed to the custody of a residential substance use
8 disorders treatment facility pursuant to the provisions of subsection
9 d. of this section, the court may temporarily suspend imposition of
10 all or any portion of the term of commitment to a residential treatment
11 facility and may instead order the person to enter a nonresidential
12 treatment program, provided that the court finds on the record that:

13 (1) the person conducting the diagnostic assessment required
14 pursuant to paragraph (1) of subsection a. of this section has
15 recommended in writing that the proposed course of nonresidential
16 treatment services is clinically appropriate and adequate to address
17 the person's treatment needs; and

18 (2) no danger to the community would result from the person
19 participating in the proposed course of nonresidential treatment
20 services; and

21 (3) a suitable treatment provider is able and has agreed to provide
22 clinically appropriate nonresidential treatment services.

23 If the prosecutor objects to the court's decision to suspend the
24 commitment of the person to a residential treatment facility pursuant
25 to this subsection, the sentence of special probation imposed pursuant
26 to this section shall not become final for ten days in order to permit
27 the appeal by the prosecution of the court's decision.

28 After a period of six months of nonresidential treatment, if the
29 court, considering all available information including but not limited
30 to the recommendation of the treatment provider, finds that the
31 person has made satisfactory progress in treatment and that there is a
32 substantial likelihood that the person will successfully complete the
33 nonresidential treatment program and period of special probation, the
34 court, on notice to the prosecutor, may permanently suspend the
35 commitment of the person to the custody of a residential treatment
36 program, in which event the special monitoring provisions set forth
37 in subsection k. of this section shall no longer apply.

38 Nothing in this subsection shall be construed to limit the authority
39 of the court at any time during the term of special probation to order
40 the person to be committed to a residential or nonresidential
41 treatment facility if the court determines that such treatment is
42 clinically appropriate and necessary to address the person's present
43 treatment needs. **】** (Deleted by amendment, P.L. __, c. __)(pending
44 before the Legislature as this bill)

45 k. **【**(1) When the court temporarily suspends the commitment of
46 the person to a residential treatment facility pursuant to subsection j.
47 of this section, the court shall, in addition to ordering participation in
48 a prescribed course of nonresidential treatment and any other

1 appropriate terms or conditions authorized or required by law, order
2 the person to undergo urine testing for drug or alcohol use not less
3 than once per week unless otherwise ordered by the court. The court-
4 ordered testing shall be conducted by the probation department or the
5 treatment provider. The results of all tests shall be reported promptly
6 to the court and to the prosecutor. If the person is involved with a
7 program that is providing the person medication-assisted treatment
8 as defined in paragraph (7) of subsection f. of this section, only a
9 positive urine test for drug or alcohol use unrelated to the medication-
10 assisted treatment shall constitute a violation of the terms and
11 conditions of special probation. In addition, the court shall impose
12 appropriate curfews or other restrictions on the person's movements,
13 and may order the person to wear electronic monitoring devices to
14 enforce such curfews or other restrictions as a condition of special
15 probation.

16 (2) The probation department or other appropriate agency shall
17 immediately notify the court and the prosecutor in the event that the
18 person fails or refuses to submit to a drug or alcohol test, knowingly
19 defrauds the administration of a drug test, terminates the person's
20 participation in the course of treatment, or commits any act that
21 would constitute absconding from parole. If the person at any time
22 while entered in a nonresidential treatment program pursuant to
23 subsection j. of this section knowingly defrauds the administration of
24 a drug test, goes into hiding, or leaves the State with a purpose of
25 avoiding supervision, the court shall permanently revoke the person's
26 special probation. **】** (Deleted by amendment, P.L. , c.) (pending
27 before the Legislature as this bill)

28 1. If the court finds that the person has made exemplary progress
29 in the course of treatment, the court may, upon recommendation of
30 the person's supervising probation officer or on the court's own
31 motion, and upon notice to the prosecutor, grant early discharge from
32 a term of special probation provided that the person:

33 (1) **【**has satisfactorily completed the treatment program ordered
34 by the court;**】** (Deleted by amendment, P.L. , c.) (pending before
35 the Legislature as this bill)

36 (2) **【**has served at least two years of special probation;**】** (Deleted
37 by amendment, P.L. , c.) (pending before the Legislature as this
38 bill)

39 (3) **【**within the preceding 12 months, did not commit a substantial
40 violation of any term or condition of special probation, including but
41 not limited to a positive urine test, which shall only constitute a
42 violation for a person using medication-assisted treatment as defined
43 in paragraph (7) of subsection f. of this section if the positive test is
44 unrelated to the person's medication-assisted treatment; and**】**
45 (Deleted by amendment, P.L. , c.) (pending before the Legislature
46 as this bill)

1 (4) is not likely to relapse or commit an offense if probation
2 supervision and related services are discontinued.

3 m. (1) The Superior Court may order the expungement of all
4 records and information relating to all prior arrests, detentions,
5 convictions, and proceedings for any offense enumerated in Title 2C
6 of the New Jersey Statutes ¹【, including any offense otherwise not
7 subject to expungement pursuant to subsection b. or c. of
8 N.J.S.2C:52-2, or offense enumerated in any other title, any offense
9 repealed by the enactment of Title 2C of the New Jersey Statutes or
10 any other enactment, or offense enumerated in any municipal
11 ordinance of any governmental entity of this State or repealed
12 municipal ordinance】¹ upon successful discharge from a term of
13 special probation as provided in this section **【**, regardless of whether
14 the person was sentenced to special probation under this section, **】** or
15 section 2 of P.L.2012, c.23 (C.2C:35-14.2), or probation under
16 N.J.S.2C:45-1 which as a condition of probation requires substance
17 use disorders treatment, if the person satisfactorily completed a
18 substance abuse treatment program as ordered by the court **【**and was
19 not convicted of any crime, or adjudged a disorderly person or petty
20 disorderly person, during the term of special probation**】**. The
21 provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply
22 to an expungement pursuant to this paragraph and no fee shall be
23 charged to a person eligible for relief pursuant to this paragraph. The
24 court may also vacate any fine, fee, penalty, surcharge, or other court-
25 ordered financial assessment imposed by a court as part of the
26 person's sentence, other than restitution to a victim, which, at the
27 time of granting the expungement, remains subject to collection
28 under the comprehensive enforcement program established pursuant
29 to P.L.1995, c.9 (C.2B:19-1 et al.). The court shall grant the relief
30 requested unless it finds that the need for the availability of the
31 records outweighs the desirability of having the person freed from
32 any disabilities associated with their availability, or it finds that the
33 person is otherwise ineligible for expungement pursuant to paragraph
34 (2) of this subsection. An expungement under this paragraph shall
35 proceed in accordance with rules and procedures developed by the
36 Supreme Court.

37 (2) **【**A person shall not be eligible for expungement under
38 paragraph (1) of this subsection if the records include a conviction
39 for any offense barred from expungement pursuant to subsection b.
40 or c. of N.J.S.2C:52-2.**】** ¹A person shall not be eligible for
41 expungement under paragraph (1) of this subsection if the records
42 include a conviction for any offense barred from expungement
43 pursuant to subsection b. or c. of N.J.S.2C:52-2.¹ It shall be the
44 obligation of the prosecutor to notify the court of **【**any disqualifying
45 convictions or**】** ¹any disqualifying convictions or¹ any other factors
46 related to public safety that should be considered by the court when

1 deciding to grant an expungement under paragraph (1) of this
2 subsection.

3 (3) The Superior Court shall provide a copy of the expungement
4 order granted pursuant to paragraph (1) of this subsection to the
5 prosecutor and to the person and, if the person was represented by
6 the Public Defender, to the Public Defender. The person or, if the
7 person was represented by the Public Defender, the Public Defender
8 on behalf of the person, shall promptly distribute copies of the
9 expungement order to appropriate agencies who have custody and
10 control of the records specified in the order, or request that the court
11 electronically transmit the order to the appropriate agencies pursuant
12 to subsection c. of section 11 of P.L.2019, c.269 (C.2C:52-10.1), so
13 that the agencies may comply with the requirements of N.J.S.2C:52-
14 15.

15 (4) If the person whose records are expunged pursuant to
16 paragraph (1) of this subsection is convicted of any crime following
17 discharge from special probation, or probation, as the case may be,
18 the full record of arrests and convictions may be restored to public
19 access and no future expungement pursuant to this section shall be
20 granted to such person.

21 (5) A person who, prior to the effective date of P.L.2015, c.261,
22 was successfully discharged from a term of special probation as
23 provided in this section **■**, regardless of whether the person was
24 sentenced to special probation under this section, **■** or section 2 of
25 P.L.2012, c.23 (C.2C:35-14.2), or probation under N.J.S.2C:45-1
26 which as a condition of probation requires substance use disorders
27 treatment, may seek an expungement of all records and information
28 relating to all arrests, detentions, convictions, and proceedings for
29 any offense enumerated in Title 2C of the New Jersey Statutes ¹**■**,
30 including any offense otherwise not subject to expungement pursuant
31 to subsection b. or c. of N.J.S.2C:52-2, or offense enumerated in any
32 other title, any offense repealed by the enactment of Title 2C of the
33 New Jersey Statutes or any other enactment, or offense enumerated
34 in any municipal ordinance of any governmental entity of this State
35 or repealed municipal ordinance **■**¹ that existed at the time of
36 discharge ¹**■**from special probation **■**¹ by presenting an application to
37 the Superior Court in the county in which the person was sentenced
38 to special probation, or probation, as the case may be **■**, which
39 contains a duly verified petition as provided in N.J.S.2C:52-7 for
40 each crime or offense sought to be expunged. The petition for
41 expungement shall proceed pursuant to N.J.S.2C:52-1 et seq. except
42 that the requirements related to the expiration of the time periods
43 specified in N.J.S.2C:52-2 through section 1 of P.L.1980, c.163
44 (C.2C:52-4.1) shall not apply **■** . The provisions of N.J.S.2C:52-7
45 through N.J.S.2C:52-14 shall not apply to an expungement pursuant
46 to this paragraph and no fee shall be charged to a person eligible for
47 relief pursuant to this paragraph. A person who was convicted **■** of

1 any offense barred from expungement pursuant to subsection b. or c.
2 of N.J.S.2C:52-2, or who has been convicted **】** 1 of any offense barred
3 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2,
4 or who has been convicted¹ of any crime or offense since the date of
5 discharge from special probation or probation, as the case may be,
6 shall not be eligible to apply for an expungement under this
7 paragraph. In addition, no application for expungement shall be
8 considered until any pending charges are disposed. It shall be the
9 obligation of the prosecutor to notify the court of any disqualifying
10 convictions or any other factors related to public safety that should
11 be considered by the court when deciding to grant an expungement
12 under this paragraph. The Superior Court shall consider the person's
13 **【verified petition】** application and may order the expungement of all
14 records and information relating to all arrests, detentions,
15 convictions, and proceedings of the person that existed at the time of
16 discharge **【from special probation as appropriate】**. The court may
17 also vacate any fine, fee, penalty, surcharge, or other court-ordered
18 financial assessment imposed by a court as part of the person's
19 sentence, other than restitution to a victim, which, at the time of
20 granting the expungement, remains subject to collection under the
21 comprehensive enforcement program established pursuant to
22 P.L.1995, c.9 (C.2B:19-1 et al.). The court shall grant the relief
23 requested unless it finds that the need for the availability of the
24 records outweighs the desirability of having the person freed from
25 any disabilities associated with their availability, or it finds that the
26 person is otherwise ineligible for expungement pursuant to this
27 paragraph. **【No fee shall be charged to a person eligible for relief**
28 **pursuant to this paragraph.】** The Superior Court shall provide a copy
29 of the expungement order granted pursuant to this paragraph to the
30 prosecutor and to the person. The person shall promptly distribute
31 copies of the expungement order to appropriate agencies who have
32 custody and control of the records specified in the order, or request
33 that the court electronically transmit the order to the appropriate
34 agencies pursuant to subsection c. of section 11 of P.L.2019, c.269
35 (C.2C:52-10.1), so that the agencies may comply with the
36 requirements of N.J.S.2C:52-15.
37 (cf: P.L.2015, c.261, s.1)

38
39 2. This act shall take effect immediately.