

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, Nos. 241 and 491**

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

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ADOPTED MARCH 19, 2020

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Co-Sponsored by:**

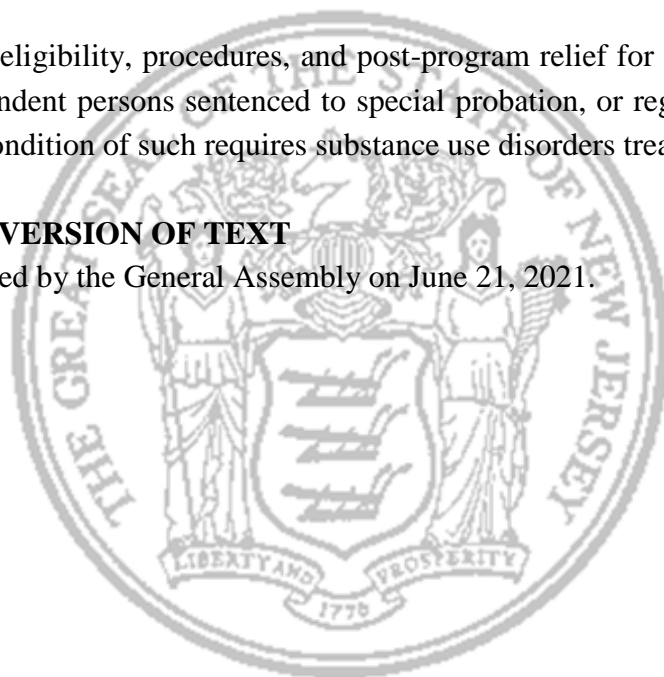
**Senators Vitale, Gill, Ruiz, Turner and Diegnan**

**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 General Assembly on June 21, 2021.



(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  
3 special probation under N.J.S.2C:35-14 or section 2 of P.L.2012,  
4 c.23 (C.2C:35-14.2), or probation under N.J.S.2C:45-1 which as  
5 a condition of probation requires substance use disorders  
6 treatment, 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  
20 conviction for a crime which is subject to a presumption of  
21 incarceration or a mandatory minimum period of parole ineligibility  
22 may be sentenced to a term of special probation in accordance with  
23 this section, and may not apply for drug and alcohol treatment  
24 pursuant to N.J.S.2C:45-1. Nothing in this section shall be  
25 construed to prohibit a person who is eligible for probation in  
26 accordance with N.J.S.2C:45-1 due to a conviction for an offense  
27 which is not subject to a presumption of incarceration or a  
28 mandatory minimum period of parole ineligibility from applying for  
29 drug or alcohol treatment as a condition of probation pursuant to  
30 N.J.S.2C:45-1; provided, however, that a person in need of  
31 treatment as defined in subsection f. of section 2 of P.L.2012, c.23  
32 (C.2C:35-14.2) shall be sentenced in accordance with that section.  
33 Notwithstanding the presumption of incarceration pursuant to the  
34 provisions of subsection d. of N.J.S.2C:44-1, whenever a drug or  
35 alcohol dependent person who is subject to sentencing under this  
36 section is convicted of or adjudicated delinquent for an offense,  
37 other than one described in subsection b. of this section, the court,  
38 upon notice to the prosecutor, may, on motion of the person, or on  
39 the court's own motion, place the person on special probation,  
40 which shall be for a term of up to five years, provided that the court  
41 finds on the record that:

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

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate floor amendments adopted October 29, 2020.

<sup>2</sup>Assembly AJU committee amendments adopted June 9, 2021.

<sup>3</sup>Assembly floor amendments adopted June 21, 2021.

1 (2) the person is a drug or alcohol dependent person within the  
2 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the  
3 time of the commission of the present offense; and

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

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

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

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

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

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

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

36 In determining whether to sentence the person pursuant to this  
37 section, the court shall consider all relevant circumstances, and  
38 shall take judicial notice of any evidence, testimony or information  
39 adduced at the trial, plea hearing or other court proceedings, and  
40 shall also consider the presentence report and the results of the  
41 professional diagnostic assessment to determine whether and to  
42 what extent the person is drug or alcohol dependent and would  
43 benefit from treatment. The court shall give priority to a person  
44 who has moved to be sentenced to special probation over a person  
45 who is being considered for a sentence to special probation on the  
46 court's own motion or in accordance with the provisions of section  
47 2 of P.L.2012, c.23 (C.2C:35-14.2).

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

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

26 (1) a crime of the first degree;  
27 (2) a crime of the first or second degree enumerated in  
28 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other  
29 than a crime of the second degree involving N.J.S.2C:15-1  
30 (robbery) or N.J.S.2C:18-2 (burglary);  
31 (3) a crime, other than that defined in section 1 of P.L.1987,  
32 c.101 (C.2C:35-7) or section 1 of P.L.2009, c.333 (C.2C:40-26), for  
33 which a mandatory minimum period of incarceration is prescribed  
34 under chapter 35 of this Title or any other law; or  
35 (4) an offense that involved the distribution or the conspiracy or  
36 attempt to distribute a controlled dangerous substance or controlled  
37 substance analog to a juvenile near or on school property.

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

39 d. **Except as otherwise provided in subsection j. of this**  
40 **section, a person convicted of or adjudicated delinquent for a crime**  
41 **of the second degree or of a violation of section 1 of P.L.1987,**  
42 **c.101 (C.2C:35-7), or who previously has been convicted of or**  
43 **adjudicated delinquent for an offense under subsection a. of**  
44 **N.J.S.2C:35-5 or a similar offense under any other law of this State,**  
45 **any other state or the United States, who is placed on special**  
46 **probation under this section shall be committed to the custody of a**  
47 **residential substance use disorders treatment facility licensed and**

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

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

1 periodic drug or alcohol test or for any reason terminates the  
2 person's participation in the course of treatment, or commits any act  
3 that would constitute an escape.

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

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

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

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

1 person shall receive credit for any time served in custody pursuant  
2 to N.J.S.2C:45-1 or while awaiting placement in a treatment facility  
3 pursuant to this section, and, regardless of whether the person was  
4 sentenced to special probation under this section or section 2 of  
5 P.L.2012, c.23 (C.2C:35-14.2), or probation under N.J.S.2C:45-1,  
6 for each day during which the person satisfactorily complied with  
7 the terms and conditions of special probation, or probation, as the  
8 case may be, while committed [pursuant to this section] to a  
9 residential treatment facility or a halfway house, so long as that  
10 halfway house meets the statutory criteria of a residential treatment  
11 facility as defined in N.J.S.2C:35-2. The court, in determining the  
12 number of credits for time spent in a residential treatment facility or  
13 a halfway house, shall consider the recommendations of the  
14 treatment provider.

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

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

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

1 into the Intensive Supervision Program for a subsequent  
2 conviction.】

3 As used in this section, the term "medication-assisted treatment"  
4 means the use of any medications approved by the federal Food and  
5 Drug Administration to treat substance use disorders, including  
6 extended-release naltrexone, methadone, and buprenorphine, in  
7 combination with counseling and behavioral therapies, to provide a  
8 whole-patient approach to the treatment of substance use disorders.

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

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



1       i. **【The】** As a condition of the special probation, whether  
2 sentenced under this section or section 2 of P.L.2012, c.23  
3 (C.2C:35-14.2), or probation sentenced under N.J.S.2C:45-1 which  
4 as a condition of probation requires substance use disorders  
5 treatment, the court shall impose **【,** as a condition of the special  
6 probation,】 any fine, penalty, fee or restitution applicable to the  
7 offense for which the person was convicted or adjudicated  
8 delinquent. However, notwithstanding any other provision of law  
9 to the contrary, upon successful discharge from the term of special  
10 probation, or probation, as the case may be, the court may waive or  
11 reduce the Drug Enforcement and Demand Reduction penalty  
12 imposed pursuant to N.J.S.2C:35-15.

13       j. **【Where the court finds that a person has satisfied all of the**  
14 **eligibility criteria for special probation and would otherwise be**  
15 **required to be committed to the custody of a residential substance**  
16 **use disorders treatment facility pursuant to the provisions of**  
17 **subsection d. of this section, the court may temporarily suspend**  
18 **imposition of all or any portion of the term of commitment to a**  
19 **residential treatment facility and may instead order the person to**  
20 **enter a nonresidential treatment program, provided that the court**  
21 **finds on the record that:**

22       (1) the person conducting the diagnostic assessment required  
23 pursuant to paragraph (1) of subsection a. of this section has  
24 recommended in writing that the proposed course of nonresidential  
25 treatment services is clinically appropriate and adequate to address  
26 the person's treatment needs; and

27       (2) no danger to the community would result from the person  
28 participating in the proposed course of nonresidential treatment  
29 services; and

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

32       If the prosecutor objects to the court's decision to suspend the  
33 commitment of the person to a residential treatment facility  
34 pursuant to this subsection, the sentence of special probation  
35 imposed pursuant to this section shall not become final for ten days  
36 in order to permit the appeal by the prosecution of the court's  
37 decision.

38       After a period of six months of nonresidential treatment, if the  
39 court, considering all available information including but not  
40 limited to the recommendation of the treatment provider, finds that  
41 the person has made satisfactory progress in treatment and that  
42 there is a substantial likelihood that the person will successfully  
43 complete the nonresidential treatment program and period of special  
44 probation, the court, on notice to the prosecutor, may permanently  
45 suspend the commitment of the person to the custody of a  
46 residential treatment program, in which event the special  
47 monitoring provisions set forth in subsection k. of this section shall  
48 no longer apply.

1 Nothing in this subsection shall be construed to limit the  
 2 authority of the court at any time during the term of special  
 3 probation to order the person to be committed to a residential or  
 4 nonresidential treatment facility if the court determines that such  
 5 treatment is clinically appropriate and necessary to address the  
 6 person's present treatment needs.】 (Deleted by amendment, P.L. ,  
 7 c. )(pending before the Legislature as this bill)

8 k. 【(1) When the court temporarily suspends the commitment  
 9 of the person to a residential treatment facility pursuant to  
 10 subsection j. of this section, the court shall, in addition to ordering  
 11 participation in a prescribed course of nonresidential treatment and  
 12 any other appropriate terms or conditions authorized or required by  
 13 law, order the person to undergo urine testing for drug or alcohol  
 14 use not less than once per week unless otherwise ordered by the  
 15 court. The court-ordered testing shall be conducted by the  
 16 probation department or the treatment provider. The results of all  
 17 tests shall be reported promptly to the court and to the prosecutor.  
 18 If the person is involved with a program that is providing the person  
 19 medication-assisted treatment as defined in paragraph (7) of  
 20 subsection f. of this section, only a positive urine test for drug or  
 21 alcohol use unrelated to the medication-assisted treatment shall  
 22 constitute a violation of the terms and conditions of special  
 23 probation. In addition, the court shall impose appropriate curfews  
 24 or other restrictions on the person's movements, and may order the  
 25 person to wear electronic monitoring devices to enforce such  
 26 curfews or other restrictions as a condition of special probation.

27 (2) The probation department or other appropriate agency shall  
 28 immediately notify the court and the prosecutor in the event that the  
 29 person fails or refuses to submit to a drug or alcohol test, knowingly  
 30 defrauds the administration of a drug test, terminates the person's  
 31 participation in the course of treatment, or commits any act that  
 32 would constitute absconding from parole. If the person at any time  
 33 while entered in a nonresidential treatment program pursuant to  
 34 subsection j. of this section knowingly defrauds the administration  
 35 of a drug test, goes into hiding, or leaves the State with a purpose of  
 36 avoiding supervision, the court shall permanently revoke the  
 37 person's special probation.】 (Deleted by amendment, P.L. , c. )  
 38 (pending before the Legislature as this bill)

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

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

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

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

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

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

1 paragraph shall proceed in accordance with rules and procedures  
2 developed by the Supreme Court.

3 (2) **【A person shall not be eligible for expungement under**  
4 **paragraph (1) of this subsection if the records include a conviction**  
5 **for any offense barred from expungement pursuant to subsection b.**  
6 **or c. of N.J.S.2C:52-2.】** <sup>1</sup>A person shall not be eligible for  
7 expungement under paragraph (1) of this subsection if the records  
8 include a conviction for any offense barred from expungement  
9 pursuant to subsection b. or c. of N.J.S.2C:52-2.<sup>1</sup> It shall be the  
10 obligation of the prosecutor to notify the court of **【any disqualifying**  
11 **convictions or】** <sup>1</sup>any disqualifying convictions or<sup>1</sup> any other factors  
12 related to public safety that should be considered by the court when  
13 deciding to grant an expungement under paragraph (1) of this  
14 subsection. <sup>2</sup>Any such notification to the court shall take place  
15 within the 60-day period set forth in section 11 of P.L.2019, c.269  
16 (C.2C:52-10.1).<sup>2</sup>

17 (3) The Superior Court shall provide a copy of the expungement  
18 order granted pursuant to paragraph (1) of this subsection to the  
19 prosecutor and to the person and, if the person was represented by  
20 the Public Defender, to the Public Defender. The person or, if the  
21 person was represented by the Public Defender, the Public Defender  
22 on behalf of the person, shall promptly distribute copies of the  
23 expungement order to appropriate agencies who have custody and  
24 control of the records specified in the order, or request that the court  
25 electronically transmit the order to the appropriate agencies  
26 pursuant to subsection c. of section 11 of P.L.2019, c.269 (C.2C:52-  
27 10.1), so that the agencies may comply with the requirements of  
28 N.J.S.2C:52-15.

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

35 (5) A person who, prior to the effective date of P.L.2015, c.261,  
36 was successfully discharged from a term of special probation as  
37 provided in this section **【, regardless of whether the person was**  
38 **sentenced to special probation under this section,】** or section 2 of  
39 P.L.2012, c.23 (C.2C:35-14.2), or probation under N.J.S.2C:45-1  
40 which as a condition of probation requires substance use disorders  
41 treatment, may seek an expungement of all records and information  
42 relating to all arrests, detentions, convictions, and proceedings for  
43 any offense enumerated in Title 2C of the New Jersey Statutes <sup>1</sup>**【,**  
44 including any offense otherwise not subject to expungement  
45 pursuant to subsection b. or c. of N.J.S.2C:52-2, or offense  
46 enumerated in any other title, any offense repealed by the enactment  
47 of Title 2C of the New Jersey Statutes or any other enactment, or

1 offense enumerated in any municipal ordinance of any  
2 governmental entity of this State or repealed municipal ordinance.】<sup>1</sup>  
3 <sup>3</sup>and for any violation of a municipal ordinance<sup>3</sup> that existed at the  
4 time of discharge <sup>1</sup>【from special probation】<sup>1</sup> by presenting an  
5 application to the Superior Court in the county in which the person  
6 was sentenced to special probation, or probation, as the case may be  
7 【, which contains a duly verified petition as provided in  
8 N.J.S.2C:52-7 for each crime or offense sought to be expunged.  
9 The petition for expungement shall proceed pursuant to  
10 N.J.S.2C:52-1 et seq. except that the requirements related to the  
11 expiration of the time periods specified in N.J.S.2C:52-2 through  
12 section 1 of P.L.1980, c.163 (C.2C:52-4.1) shall not apply】 . The  
13 provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply  
14 to an expungement pursuant to this paragraph and no fee shall be  
15 charged to a person eligible for relief pursuant to this paragraph. A  
16 person who was convicted 【of any offense barred from  
17 expungement pursuant to subsection b. or c. of N.J.S.2C:52-2, or  
18 who has been convicted】 <sup>1</sup>of any offense barred from expungement  
19 pursuant to subsection b. or c. of N.J.S.2C:52-2, or who has been  
20 convicted<sup>1</sup> of any crime or offense since the date of discharge from  
21 special probation or probation, as the case may be, shall not be  
22 eligible to apply for an expungement under this paragraph. In  
23 addition, no application for expungement shall be considered until  
24 any pending charges are disposed. It shall be the obligation of the  
25 prosecutor to notify the court of any disqualifying convictions or  
26 any other factors related to public safety that should be considered  
27 by the court when deciding to grant an expungement under this  
28 paragraph. <sup>2</sup>Any such notification to the court shall take place  
29 within the 60-day period set forth in section 11 of P.L.2019, c.269  
30 (C.2C:52-10.1).<sup>2</sup>

31 The Superior Court shall consider the person's **【verified petition】**  
32 application and may order the expungement of all records and  
33 information relating to all arrests, detentions, convictions, and  
34 proceedings of the person that existed at the time of discharge  
35 **【from special probation as appropriate】**. The court may also vacate  
36 any fine, fee, penalty, surcharge, or other court-ordered financial  
37 assessment imposed by a court as part of the person's sentence,  
38 other than restitution to a victim, which, at the time of granting the  
39 expungement, remains subject to collection under the  
40 comprehensive enforcement program established pursuant to  
41 P.L.1995, c.9 (C.2B:19-1 et al.). The court shall grant the relief  
42 requested unless it finds that the need for the availability of the  
43 records outweighs the desirability of having the person freed from  
44 any disabilities associated with their availability, or it finds that the  
45 person is otherwise ineligible for expungement pursuant to this  
46 paragraph. 【No fee shall be charged to a person eligible for relief  
47 pursuant to this paragraph.】 The Superior Court shall provide a

1 copy of the expungement order granted pursuant to this paragraph  
2 to the prosecutor and to the person. The person shall promptly  
3 distribute copies of the expungement order to appropriate agencies  
4 who have custody and control of the records specified in the order,  
5 or request that the court electronically transmit the order to the  
6 appropriate agencies pursuant to subsection c. of section 11 of  
7 P.L.2019, c.269 (C.2C:52-10.1), so that the agencies may comply  
8 with the requirements of N.J.S.2C:52-15.

9 (cf: P.L.2015, c.261, s.1)

10

11 2. This act shall take effect immediately.