ASSEMBLY, No. 827

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Permits persons participating in Drug Court and other programs to earn credit against amount owed on certain court-imposed financial obligations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 11/5/2020)

AN ACT concerning certain court-imposed financial obligations, amending N.J.S.2C:35-15, and supplementing chapter 46 of Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:35-15 is amended to read as follows:

2C:35-15. a. (1) In addition to any disposition authorized by this title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed for each such offense a penalty fixed at:

(a) $3,000.00 in the case of a crime of the first degree;

(b) $2,000.00 in the case of a crime of the second degree;

(c) $1,000.00 in the case of a crime of the third degree;

(d) $750.00 in the case of a crime of the fourth degree;

(e) $500.00 in the case of a disorderly persons or petty disorderly persons offense.

(2) A person being sentenced for more than one offense set forth in subsection a. of this section who is neither placed in supervisory treatment pursuant to this section nor ordered to perform reformative service pursuant to subsection f. of this section may, in the discretion of the court, be assessed a single penalty applicable to the highest degree offense for which the person is convicted or adjudicated delinquent, if the court finds that the defendant has established the following:

(a) the imposition of multiple penalties would constitute a serious hardship that outweighs the need to deter the defendant from future criminal activity; and

(b) the imposition of a single penalty would foster the defendant's rehabilitation.

Every person placed in supervisory treatment pursuant to the provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12 for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed the penalty prescribed herein and applicable to the degree of the offense charged, except that the court shall not impose more than one such penalty regardless of the number of offenses charged. If the person is charged with more than one offense, the court shall impose as a condition of supervisory treatment the penalty applicable to the highest degree offense for which the person is charged.

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 <u>thus</u> is new matter.

All penalties provided for in this section shall be in addition to and not in lieu of any fine authorized by law or required to be imposed pursuant to the provisions of N.J.S.2C:35-12.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Drug Enforcement and Demand Reduction Fund." Moneys in the fund shall be appropriated by the Legislature on an annual basis for the purposes of funding in the following order of priority: (1) the Alliance to Prevent Alcoholism and Drug Abuse and its administration by the Governor's Council on Alcoholism and Drug Abuse; (2) the "Alcoholism and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" established pursuant to section 2 of P.L.1995, c.318 (C.26:2B-37); (3) the "Partnership for a Drug Free New Jersey," the State affiliate of the "Partnership for a Drug Free America"; and (4) other alcohol and drug abuse programs.

Moneys appropriated for the purpose of funding the "Alcoholism and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" shall not be used to supplant moneys that are available to the Department of Health ⟦and Senior Services⟧ as of the effective date of P.L.1995, c.318 (C.26:2B-36 et al.), and that would otherwise have been made available to provide alcoholism and drug abuse services for the deaf, hard of hearing and disabled, nor shall the moneys be used for the administrative costs of the program.

d. (Deleted by amendment, P.L.1991, c.329).

e. The court may suspend the collection of a penalty imposed pursuant to this section; provided the person is ordered by the court to participate in a drug or alcohol rehabilitation program approved by the court; and further provided that the person agrees to pay for all or some portion of the costs associated with the rehabilitation program. In this case, the collection of a penalty imposed pursuant to this section shall be suspended during the person's participation in the approved, court-ordered rehabilitation program. Upon successful completion of the program, as determined by the court upon the recommendation of the treatment provider, the person may apply to the court to reduce the penalty imposed pursuant to this section by any amount actually paid by the person for his participation in the program<u>, and to determine the amount of credit earned against the amount owed on any other court-imposed financial obligation as provided for in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill)</u>. The court shall not reduce the penalty pursuant to this subsection unless the person establishes to the satisfaction of the court that he

has successfully completed the rehabilitation program. If the person's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this section shall be enforced. Nothing in this section shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to this chapter or chapter 36 of this title.

f. A person required to pay a penalty under this section may propose to the court and the prosecutor a plan to perform reformative service in lieu of payment of up to one-half of the penalty amount imposed under this section. The reformative service plan option under this subsection shall not be available if the provisions of paragraph (2) of subsection a. of this section apply or if the person is placed in supervisory treatment pursuant to the provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12. For purposes of this section, "reformative service" shall include training, education or work, in which regular attendance and participation is required, supervised, and recorded, and which would assist in the defendant's rehabilitation and reintegration. "Reformative service" shall include, but not be limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer work. For the purposes of this section, an application to participate in a court-administered alcohol and drug rehabilitation program shall have the same effect as the submission of a reformative service plan to the court.

The court, in its discretion, shall determine whether to accept the plan, after considering the position of the prosecutor, the plan's appropriateness and practicality, the defendant's ability to pay and the effect of the proposed service on the defendant's rehabilitation and reintegration into society. The court shall determine the amount of the credit that would be applied against the penalty upon successful completion of the reformative service, not to exceed one-half of the amount assessed, except that the court may, in the case of an extreme financial hardship, waive additional amounts of the penalty owed by a person who has completed a court administered alcohol and drug rehabilitation program if necessary to aid the person's rehabilitation and reintegration into society. The court shall not apply the credit against the penalty unless the person establishes to the satisfaction of the court that he has successfully completed the reformative service. If the person's participation is for any reason terminated before his successful completion of the reformative service, collection of the entire penalty imposed pursuant to this section shall be enforced. Nothing in this subsection shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to this chapter or chapter 36 of this title.

Any reformative service ordered pursuant to this section shall be in addition to and not in lieu of any community service imposed by the court or otherwise required by law. Nothing in this section shall limit the court's authority to order a person to participate in any activity, program or treatment in addition to those proposed in a reformative service plan.
(cf: P.L.2008, c.15, s.2)

2. (New section) a. A person required to pay any form of court-imposed financial obligation resulting from a conviction or charge for a violation of any offense defined under Title 2C of the New Jersey Statutes or other applicable law shall be eligible to perform reformative service, when ordered by the court as a condition for admission into special probation pursuant to N.J.S.2C:35-14, conditional discharge pursuant to N.J.S.2C:36A-1, supervisory treatment pursuant to N.J.S.2C:43-12, or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.) for treatment of alcohol or drug dependency, in order to earn credit against the amount owed on the court-imposed financial obligation, other than restitution or child support or other support or maintenance ordered by a court. "Reformative service" shall include, but not be limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer or other work.

b. The court shall determine the amount of the credit that would be applied against the court-imposed financial obligation upon successful completion of the supervisory treatment program. If the person's participation is for any reason terminated before the person's successful completion of the supervisory treatment program, collection of the entire court-imposed financial obligation shall be enforced.

3. This act shall take effect immediately and shall apply to any person convicted of or charged with a violation of any offense defined under Title 2C of the New Jersey Statutes or other applicable law.

STATEMENT

This bill would permit a person admitted into a court-ordered supervisory treatment program for drug or alcohol dependency, such as Drug Court, to earn credit against the amount owed on any court-imposed financial obligations, other than restitution or child support, or other support or maintenance ordered by a court. The credit would be based upon the performance of reformative service ordered by the court as a condition for admission into the

supervisory treatment program, and could include such activities as substance abuse treatment or services, educational or vocational services, employment training or services, family counseling, and volunteer or other work.

The court would determine the amount of credit that would be applied against the court-imposed financial obligation upon successful completion of the supervisory treatment program. If a person's participation is terminated before the person's successful completion of the supervisory treatment program, collection of the entire court-imposed financial obligation would be enforced.

This bill embodies Recommendation No. 9 of the Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees, issued June 2018. As indicated in the report, providing a mechanism for persons participating in supervisory treatment programs to eliminate or reduce outstanding court-ordered financial obligations further incentivizes their participation and successful completion of such programs.