ASSEMBLY, No. 893

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Permits counties to establish a central municipal drug court.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the municipal courts, authorizing the establishment of a court of limited jurisdiction, and supplementing and amending various parts of the statutory law.

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

1. N.J.S.2B:12-1 is amended to read as follows:

2B:12-1. Establishment of municipal courts.

a. Every municipality shall establish a municipal court. If a municipality fails to maintain a municipal court or does not enter into an agreement pursuant to subsection b. or c. of this section, the Assignment Judge of the vicinage shall order violations occurring within its boundaries heard in any other municipal court in the county until such time as the municipality establishes and maintains a municipal court. The municipality without a municipal court shall be responsible for all administrative costs specified in the order of the Assignment Judge pending the establishment of its municipal court.

b. Two or more municipalities, by ordinance, may enter into an agreement establishing a single joint municipal court and providing for its administration. A copy of the agreement shall be filed with the Administrative Director of the Courts. As used in this act, "municipal court" includes a joint municipal court.

c. Two or more municipalities, by ordinance or resolution, may agree to provide jointly for courtrooms, chambers, equipment, supplies and employees for their municipal courts and agree to appoint judges and administrators without establishing a joint municipal court. Where municipal courts share facilities in this manner, the identities of the individual courts shall continue to be expressed in the captions of orders and process.

d. An agreement pursuant to subsection b. or c. of this section may be terminated as provided in the agreement. If the agreement makes no provision for termination, it may be terminated by any party with reasonable notices and terms as determined by the Assignment Judge of the vicinage.

e. Any county of the first class with a population of over 900,000 and a population density of less than 4,000 persons per square mile according to the 2010 federal decennial census may establish, by ordinance, a central municipal court, which shall be an inferior court of limited jurisdiction, to adjudicate cases filed by agents of the county health department, agents of the county office of consumer affairs, members of the county police department and force, county park police system, or sheriff's office, or other cases within its jurisdiction referred by the vicinage Assignment Judge

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.

pursuant to the Rules of Court, and provide for its administration. A copy of that ordinance shall be filed with the Administrative Director of the Courts. As used in this act, "municipal court" includes a central municipal court.

f. Nothing in P.L.2015, c.103 shall require a county that has established and maintained a central municipal court in accordance with subsection e. of N.J.S.2B:12-1 prior to the date of the enactment of P.L.2015, c.103 to re-establish that court.

g. Any county may establish, by ordinance, a central municipal drug court, which shall be an inferior court of limited jurisdiction, to adjudicate cases within its jurisdiction and cases referred by the vicinage Assignment Judge pursuant to the Rules of Court, and provide for its administration. A copy of that ordinance shall be filed with the Administrative Director of the Courts. As used in this act, "municipal court" includes a central municipal drug court.

(cf: P.L.2015, c.103, s.1)

2. N.J.S.2B:12-2 is amended to read as follows:

2B:12-2. Name of court. The name of a municipal court of a single municipality shall be the "Municipal Court of (insert name of municipality)." The name of a joint municipal court shall be specified in the ordinances establishing the court. The name of a central municipal court shall be the "Central Municipal Court of the County of (insert name of county)" and shall be specified in the ordinance establishing the court. The name of a central municipal drug court shall be the "Central Municipal Drug Court of the County of (insert name of county)" and shall be specified in the ordinance establishing the court.

(cf: P.L.1996, c.95, s.2)

3. N.J.S.2B:12-4 is amended to read as follows:

2B:12-4. Judge of municipal court; term of office; appointment.

a. Each judge of a municipal court shall serve for a term of three years from the date of appointment and until a successor is appointed and qualified. Any appointment to fill a vacancy not caused by the expiration of term shall be made for the unexpired term only. However, if a county or municipality requires by ordinance that the judge of the municipal court devote full time to judicial duties or limit the practice of law to non-litigated matters, the first appointment after the establishment of that requirement shall be for a full term of three years.

b. In municipalities governed by a mayor-council form of government, the municipal court judge shall be appointed by the mayor with the advice and consent of the council. Each judge of a joint municipal court shall be nominated and appointed by the Governor with the advice and consent of the Senate. In all other municipalities, the municipal judge shall be appointed by the governing body of the municipality.

c. In a county that has established a central municipal court, the judge of the central municipal court shall be nominated and appointed by the Governor with the advice and consent of the Senate. In those counties having a county executive, the county executive may submit the names of judicial candidates for judge of the central municipal court to the Governor. In all other counties, the governing body may submit the names of judicial candidates for judge of the central municipal court to the Governor.

d. In a county that has established a central municipal drug court, the judge of the central municipal drug court shall be nominated and appointed by the Governor with the advice and consent of the Senate. In those counties having a county executive, the county executive may submit the names of judicial candidates for judge of the central municipal drug court to the Governor. In all other counties, the governing body may submit the names of judicial candidates for judge of the central municipal drug court to the Governor.

(cf: P.L.1996, c.95, s.3)

4. N.J.S.2B:12-15 is amended to read as follows:

2B:12-15. Courtrooms and equipment. Suitable courtrooms, chambers, offices, equipment and supplies for the municipal court, its administrator's office and its violations bureau shall be provided by the municipality or by a county that has established a central municipal court or a central municipal drug court.

(cf: P.L.1996, c.95, s.10)

5. N.J.S.2B:12-16 is amended to read as follows:

2B:12-16. Territorial jurisdiction. a. A municipal court of a single municipality shall have jurisdiction over cases arising within the territory of that municipality except as provided in section 10 of P.L.1997, c.357 (C.27:25-5.15). A joint municipal court shall have jurisdiction over cases arising within the territory of any of the municipalities which the court serves. The territory of a municipality includes any premises or property located partly in and partly outside of the municipality. A central municipal court shall have jurisdiction over cases arising within the territorial boundaries of the county. A central municipal drug court shall have jurisdiction over cases arising within the territorial boundaries of the county as set forth in section 9 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. A municipal court judge, serving as an acting judge in any other municipal court in the county, may also hear matters arising out of that other court, while sitting in the court where the acting judge holds a regular appointment.

(cf: P.L.1997, c.357, s.13)

6. N.J.S.2B:12-17 is amended to read as follows:

2B:12-17. Jurisdiction of specified offenses. A municipal court has jurisdiction over the following cases within the territorial jurisdiction of the court:

a. Violations of county or municipal ordinances;

b. Violations of the motor vehicle and traffic laws;

c. Disorderly persons offenses, petty disorderly persons offenses, and other non-indictable offenses except where exclusive jurisdiction is given to the Superior Court or to a central municipal drug court established by a county where jurisdiction over certain disorderly persons offenses or petty disorderly persons offenses is given to the central municipal drug court pursuant to section 9 of P.L. , c. (C.)(pending before the Legislature as this bill);

d. Violations of the fish and game laws;

e. Proceedings to collect a penalty where jurisdiction is granted by statute;

f. Violations of laws regulating boating; and

g. Any other proceedings where jurisdiction is granted by statute.

(cf: P.L.1996, c.95, s.12)

7. N.J.S.2B:12 -18 is amended to read as follows:

2B:12-18. Jurisdiction of specified offenses where indictment and trial by jury are waived. A municipal court has jurisdiction over the following crimes occurring within the territorial jurisdiction of the court, where the person charged waives indictment and trial by jury in writing and the county prosecutor consents in writing:

a. Crimes of the fourth degree enumerated in chapters 17, 18, 20, and 21 of Title 2C of the New Jersey Statutes; or

b. Crimes where the term of imprisonment that may be imposed does not exceed one year unless the crime is related to an offense concerning controlled dangerous substances or controlled dangerous substance analogs, in which case a central municipal drug court, if established, shall have jurisdiction pursuant to section 9 of P.L. , c. (C.)(pending before the Legislature as this bill).

(cf: N.J.S.2B:12-18)

8. Section 14 of P.L.1996, c.95 (C.2B:12-27) is amended to read as follows:

14. The governing body of the county or municipality may employ an attorney-at-law as a prosecutor, under the supervision of the Attorney General or county prosecutor, who may represent the State, county, or municipality in any matter within the jurisdiction of the central municipal court, central municipal drug court, or any other municipal court in accordance with the provisions of P.L.1999, c.349 (C.2B:25-1 et al.).

(cf: P.L.1999, c.349, s.11)

9. (New section) A central municipal drug court has jurisdiction over the following cases within the territorial jurisdiction of the court:

a. Crimes of the fourth degree enumerated in chapters 35 or 36 of Title 2C of the New Jersey Statutes; or

b. Crimes where the term of imprisonment that may be imposed does not exceed one year and the crime is related to an offense concerning controlled dangerous substances or controlled dangerous substance analogs; or

c. Disorderly persons offenses or petty disorderly persons offenses where the offense is related to an offense concerning controlled dangerous substances or controlled dangerous substance analogs.

10. (New section) A juvenile who commits an act which, if committed by an adult, would constitute any of the offenses set forth in section 9 of P.L. , c. (C.)(pending before the Legislature as this bill) may be referred to the central municipal drug court by the Presiding Judge of the Family Part of the Superior Court for the vicinage in which the central municipal drug court is established.

11. (New section) a. A person sentenced by a central municipal drug court may be ordered to perform community service in lieu of incarceration or other modification of the sentence, with the person's consent. The county or municipal official in charge of the community service program shall report to the central municipal drug court any failure of a person subject to a court work order to report for work or to perform the assigned work. Upon receipt of the report, the central municipal drug court may revoke its community service order and impose any sentence consistent with the original sentence.

b. A person sentenced by a central municipal drug court may be ordered to a treatment program in lieu of incarceration, with the person's consent. The director of the drug treatment program shall report to the central municipal drug court any failure of a person subject to a court order to successfully complete the treatment program. Upon receipt of the report, the central municipal drug court may revoke its order for treatment and impose any sentence consistent with the original sentence.

12. (New section) a. A county or municipality may employ attorneys-at-law on a full-time, part-time, or per-case basis to provide for the representation of persons entitled by law to appointment of counsel in a central municipal drug court.

b. A county or municipality may, by ordinance, require a person applying for representation by a municipal public defender to pay an application fee of not more than $50 . The central

municipal drug court may waive any required application fee, in whole or in part, if the court determines, in its discretion, that the application fee represents an unreasonable burden on the person seeking representation.

13. Section 2 of P.L.1999, c.349 (C.2B:25-2) is amended to read as follows:

2. As used in this act:

a. "Municipal prosecutor" means a person appointed to prosecute all offenses over which the municipal court has jurisdiction.

b. "Governing body" of a county or municipality means the officer or body that is the appropriate appointing authority for county counsel, municipal attorney or corporation counsel under the laws applicable to the form of county or municipal government established in the county or municipality pursuant to law, provided that the municipal corporation counsel shall be the appointing authority in any city of the first class with a population greater than 270,000, according to the latest federal decennial census and in any city of the second class with a population of greater than 30,000 but less than 43,000, according to the latest decennial census, which city of the second class is located in a county of the first class with a population less than 600,000 according to the latest federal decennial census.

c. "Municipal court" means any municipal **[**or**]** , joint municipal **[**or**]** , central municipal , or central municipal drug court established pursuant to statute.

d. "Attorney General" includes the Attorney General of New Jersey and any assistants or deputies who may be designated to carry out the responsibilities conferred on the Attorney General by this act or the laws of this State.

e. "County prosecutor" shall mean the prosecutor of the county in which the municipal court is situated and any assistant prosecutors of that county who may be designated by this act.

(cf: P.L.1999, c.349, s.2)

14. Section 4 of P.L.1999, c.349 (C.2B:25-4) is amended to read as follows:

4. a. Each municipal court in this State shall have at least one municipal prosecutor appointed by the governing body of the municipality, municipalities or county in accordance with applicable laws, ordinances and resolutions.

b. A municipal prosecutor shall be an attorney-at-law of this State in good standing, and shall serve for a term of one year from the date of his or her appointment, except as determined by the governing body of a county or a city of the first class with a population greater than 270,000, according to the latest federal decennial census, or the governing body of a city of the second

class with a population of greater than 30,000 but less than 43,000, according to the latest decennial census, which city of the second class is located in a county of the first class with a population less than 600,000 according to the latest federal decennial census, and may continue to serve in office pending re-appointment or appointment of a successor. A municipal prosecutor may be appointed to that position in one or more municipal courts. The provisions of this act shall apply to each such position held.

c. (1) A municipal prosecutor of a joint municipal court shall be appointed upon the concurrence of the governing bodies of each of the municipalities in accordance with applicable laws, ordinances or resolutions.

(2) A municipal prosecutor of a central municipal court or central municipal drug court shall be appointed by the governing body of the county.

d. Municipal prosecutors shall be compensated either on an hourly, per diem, annual or other basis as the county, municipality or municipalities provide. In the case of a joint municipal court, municipalities shall, by similar ordinances, enter into an agreement fixing the compensation of the municipal prosecutor and providing for its payment. In the case of a central municipal court or central municipal drug court, the county shall fix the compensation of the municipal prosecutor and provide for its payment.

The compensation of municipal prosecutors shall be in lieu of any and all other fees; provided, however that when a municipal prosecutor is assigned to prosecute a de novo appeal in the Superior Court, the prosecutor shall be entitled to additional compensation unless the municipality expressly provides otherwise at the time the compensation is fixed.

e. In accordance with applicable laws, ordinances and resolutions, a municipality may appoint additional municipal prosecutors as necessary to administer justice in a timely and effective manner in its municipal court. Such appointments shall be subject to this act. This subsection also applies to joint municipal courts [and] , central municipal courts , and central municipal drug courts.

f. Any municipal court having two or more municipal prosecutors shall have a "chief municipal prosecutor" who shall be appointed by the governing body of the county or the municipality. The chief municipal prosecutor of a joint municipal court shall be appointed upon the concurrence of the governing bodies of each municipality. The chief municipal prosecutor shall have authority over other prosecutors serving that court with respect to the performance of their duties.

g. (1) Nothing in this act shall affect the appointment of municipal attorneys in accordance with N.J.S.40A:9-139; provided, however, that a person appointed to the positions of both municipal prosecutor and municipal attorney shall be subject to all of the

provisions of this act while serving in the capacity of municipal prosecutor.

(2) In addition to any other duties proscribed by the provisions of this act, a person serving as both a municipal prosecutor and a municipal attorney may prosecute county or municipal ordinance violations.

(cf: P.L.1999, c.349, s.4)

15. This act shall take effect on the 120th day after enactment.

STATEMENT

This bill permits counties to establish, by ordinance, a central municipal drug court. This court would have jurisdiction to hear cases arising in the county involving crimes of the fourth degree, disorderly persons offenses, or petty disorderly persons offenses related to controlled dangerous substances. Juveniles may be referred by the Presiding Judge of the Family Part of the Superior Court for the vicinage in which a central municipal drug court is established.

The provisions of the bill establish procedures for the appointment of judges to a central municipal drug court. In counties that have established a central municipal drug court, the judge is to be nominated and appointed by the Governor with the advice and consent of the Senate. In counties that have a county executive, the county executive may submit the names of judicial candidates to the Governor. In all other counties, the governing body may submit the names of judicial candidates to the Governor.

The bill makes community service or sentencing to a drug treatment program an option in lieu of incarceration. The county or municipal official in charge of the community service program, or the director of the drug treatment program, is required to report to the central municipal drug court any failure of a person subject to a court order to complete community service or treatment. Upon receipt of a report, the central municipal drug court may revoke its order and impose any sentence consistent with the original sentence.

The bill also permits a county or municipality to employ an attorney-at-law as a prosecutor, under the supervision of the Attorney General or county prosecutor, who may represent the State, county, or municipality in any matter within the jurisdiction of the central municipal drug court. Under the bill, compensation for a municipal prosecutor of a central municipal drug court is to be fixed by the county. The bill also provides for the representation of indigent defendants in a central municipal drug court.