

SENATE, No. 686

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Creates Mental Illness Diversion Program to divert eligible persons away from criminal justice system and into appropriate case management and mental health services.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning offenders with mental health concerns,
2 amending various sections of the law and supplementing Title 2C
3 of the New Jersey Statutes.

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

7
8 1. (New section) As used in this act:

9 a. "Eligible offense" means a non-violent petty disorderly
10 persons offense, disorderly persons offense, or crime of the third or
11 fourth degree.

12 c. "Eligible person" means a person who allegedly committed
13 an eligible offense and who has a prior diagnosis of mental illness
14 or for whom a law enforcement officer or prosecutor has a
15 reasonable belief that the person has a mental illness based on
16 behaviors and symptoms exhibited during the commission of the
17 offense or while in custody, or based on information provided by
18 family members or associates during the investigation of the
19 offense.

20 d. "Mental Illness Diversion Resource Entity" means a point of
21 access or referral to case management and mental health services
22 that are currently available from federal, State and local government
23 agencies to eligible persons. The Division of Mental Health and
24 Addiction Services in the Department of Health shall prepare and
25 disseminate a directory of New Jersey Diversion Resource entities
26 to facilitate the diversion of eligible persons from the criminal
27 justice system. The department shall not be responsible for
28 funding, developing or delivering case management or mental
29 health services to eligible persons under P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31 e. "Mentor" means a volunteer available to assist an eligible
32 person in accessing assistance to resolve the underlying problems
33 that led or contributed to the eligible person's involvement with the
34 criminal justice system.

35 f. "Mental illness" means a mental disorder classified within
36 the current version of the American Psychiatric Association
37 Diagnostic and Statistical Manual of Mental Disorders (DSM),
38 including, but not limited to, anxiety disorders, cognitive disorders,
39 adjustment disorders, schizophrenia and other psychotic disorders,
40 bipolar disorder, depression, and post-traumatic stress disorder
41 (PTSD).

42
43 2. (New section) a. There is hereby established a Statewide
44 Mental Illness Diversion Program that shall have the purpose of
45 diverting eligible persons away from the criminal justice system 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.

1 into appropriate case management and mental health services as
2 early as possible following an interaction with law enforcement
3 where the person is alleged to have committed an eligible offense.

4 b. The New Jersey Department of Human Services shall, in
5 conjunction with other federal, State, and local government
6 agencies prepare a directory of Diversion Resource entities within
7 New Jersey. Each Mental Illness Diversion Resource Entity shall
8 serve as a point of entry to facilitate the law enforcement diversion
9 or referral of eligible persons into existing case management and
10 mental health services offered by the New Jersey Department of
11 Human Services, or other appropriate case management and mental
12 health services that are available to persons with mental illness. A
13 Mental Illness Diversion Resource Entity, or an agency to which an
14 eligible person is referred by the Mental Illness Diversion Resource
15 Entity, shall be capable of providing screening, counseling,
16 treatment and case management for mental health issues and other
17 co-occurring health disorders to eligible persons, or coordinating
18 such services through the appropriate federal, State, and local
19 government agencies that offer assistance. To the extent feasible, a
20 Mental Illness Diversion Resource Entity, or an agency to which an
21 eligible person is referred to by the entity, shall be capable of
22 accepting emergent referrals of eligible persons who are being
23 diverted from the criminal justice system. A Mental Illness
24 Diversion Resource Entity, or an agency to which a eligible person
25 is referred by the Mental Illness Diversion Resource Entity, that
26 accepts the referral of an eligible person shall be capable of
27 providing law enforcement officials with periodic status reports
28 regarding the participation and recovery progress of an eligible
29 person, when the person consents to the release of such information,
30 as a condition of diversion from prosecution. The department shall
31 provide the Attorney General, the Administrative Director of the
32 Courts, the Commissioner of the Department of Corrections, and
33 the Chairman of the State Parole Board with a directory of
34 Diversion Resource entities available within the State or shall
35 publish the directory on its departmental Internet web site.

36
37 3. (New section) a. When a person is taken into custody for an
38 eligible offense, if the law enforcement officer determines that the
39 person exhibits behavior or symptoms that may be related to a
40 mental illness, the law enforcement officer may proceed in
41 accordance with P.L. , c. (C.) (pending before the Legislature
42 as this bill), but with a preference for diversion of an eligible person
43 to a Mental Illness Diversion Resource Entity or other community-
44 based mental health services, including a screening service
45 established pursuant to the provisions of P.L.1987, c.116 (C.30:4-
46 27.1 et seq.), in lieu of filing a criminal complaint. If the alleged
47 offense is not an eligible offense or the person is resistant to
48 diversion, the officer may file a criminal complaint.

1 b. Law enforcement officers may divert an eligible person who
2 appears to have a mental illness to a Mental Illness Diversion
3 Resource Entity or other community-based mental health services,
4 including a screening service established pursuant to the provisions
5 of P.L.1987, c.116 (C.30:4-27.1 et seq.), in lieu of filing a criminal
6 complaint against the person. A law enforcement officer shall not
7 divert an eligible person prior to the filing of a criminal complaint if
8 the crime or offense involves restitution for damages, if the crime or
9 offense involves violence or the threat of violence, if the crime or
10 offense involves the violation of any restraining order or protective
11 order involving another person, or where a victim of the offense
12 objects to the diversion. For the purposes of this subsection, a
13 crime or offense involves violence or the threat of violence if the
14 victim sustains bodily injury as defined in subsection a. of
15 N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon
16 or threatens by word or gesture to use a deadly weapon as defined
17 in subsection c. of N.J.S.2C:11-1, or threatens to inflict bodily
18 injury. If an eligible person is not diverted, the officer may proceed
19 with the filing of a complaint-summons or complaint-warrant
20 pursuant to law, the Rules of Court, and the directives of the
21 Attorney General.

22 c. If a law enforcement officer diverts an eligible person to a
23 Mental Illness Diversion Resource entity or other mental health
24 service provider without filing a criminal complaint, the law
25 enforcement officer may subsequently file the complaint, subject to
26 the time limitations of N.J.S.2C:1-6, if the person fails to cooperate
27 with the service provider or has subsequent interactions with law
28 enforcement.

29
30 4. (New section) a. At any time after the filing of a criminal
31 complaint, but prior to the disposition of such complaint, an eligible
32 person, the public defender assigned to the eligible person, or the
33 person's own legal counsel may make an application to the
34 prosecutor to participate in the Mental Illness Diversion Program.
35 The prosecutor may approve or conditionally approve an eligible
36 person's admission into the Diversion Program. An eligible person
37 may be conditionally approved for admission into the program
38 pending review of the person's criminal history, and consideration
39 of the findings of a clinical assessment of the person's mental
40 health. Once admitted to the program, the prosecutor may move
41 before the court to postpone proceedings while an eligible person
42 obtains a mental health assessment or participates in case
43 management and mental health services. The court may grant the
44 postponement of proceedings and release the person on the person's
45 own recognizance subject to compliance with the conditions
46 specified in the prosecutor's diversion agreement. If the
47 prosecutor's review of the person's records and the clinical
48 assessment reveals that the person does not qualify for the program

1 or if the person does not comply with the requirements of the
2 diversion agreement, the prosecutor may notify the court that the
3 State is prepared to proceed with the prosecution of the offense and
4 the court shall schedule court proceedings as appropriate.

5 b. (1) Except as provided in paragraph (2) of this subsection, the
6 prosecutor shall have the sole discretion to determine if an eligible
7 person qualifies for and is admitted to the Mental Illness Diversion
8 Program pursuant to P.L. , c. (C.) (pending before the
9 Legislature as this bill) after consideration of the nature of the
10 eligible offense, the causative relationship between the person's
11 diagnosed or apparent mental illness and the commission of the
12 offense, the amenability of the person to participation in the
13 services of the program, the availability of case management and
14 mental health services, the desires of any victim, the person's
15 history of prior convictions, and the probability that diversion will
16 promote the person's recovery, prevent future criminal behavior,
17 and protect public safety. A prosecutor may also consider and
18 approve other diversion alternatives for persons in lieu of the
19 Mental Illness Diversion Program pursuant to P.L. , c. (C.)
20 (pending before the Legislature as this bill).

21 (2) No eligible person shall be admitted to the Mental Illness
22 Diversion Program if the person has criminal charges pending for a
23 crime of the second degree or higher, if the crime or offense
24 involved violence or the threat of violence, or if the person was
25 previously convicted of a violent crime enumerated in subsection d.
26 of section 2 of P.L.1997, c.117 (C.2C:43-7.2). There shall be a
27 presumption against admission into the Mental Illness Diversion
28 Program, subject to the discretion of the prosecutor after consulting
29 with any victim, for a person charged with any crime or offense
30 involving domestic violence, as defined in subsection a. of section 3
31 of P.L.1991, c.261 (C.2C:25-19) if the defendant committed the
32 crime or offense while subject to a temporary or permanent
33 restraining order issued pursuant to the provisions of the
34 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
35 (C.2C:25-17 et al.). For purposes of this paragraph, a crime or
36 offense involves violence or the threat of violence if the victim
37 sustains bodily injury as defined in subsection a. of N.J.S.2C:11-1,
38 or the actor is armed with and uses a deadly weapon or threatens by
39 word or gesture to use a deadly weapon as defined in subsection c.
40 of N.J.S.2C:11-1, or threatens to inflict bodily injury.

41 (3) The prosecutor shall consult with victims of an eligible
42 offense prior to approving an eligible person's admission into the
43 Mental Illness Diversion Program. Nothing in this subsection shall
44 be construed to alter or limit the authority or discretion of the
45 prosecutor to admit an eligible person into the Mental Illness
46 Diversion Program which the prosecutor deems appropriate.

47 c. The prosecutor's approval of an application for admission
48 into the Mental Illness Diversion Program pursuant to this section

1 shall not be conditioned on an admission or plea of guilt by an
2 eligible person.

3 d. To qualify for prosecutorial diversion under this section, an
4 eligible person shall agree in writing to the following terms, where
5 relevant to the eligible offense:

6 (1) Participate in case management and mental health services
7 initiated through the Mental Illness Diversion Resource Entity or
8 other similar services and to cooperate with any recommended
9 course of treatment, including the use of medications as prescribed
10 and participation in counseling;

11 (2) Authorize the case management or mental health service
12 provider to release to the prosecutor periodic status reports
13 regarding the person's participation, cooperation, and recovery
14 progress with case management and mental health services;

15 (3) Cooperate with case management service providers to
16 procure housing, education, and employment services, where
17 appropriate;

18 (4) Pay restitution for damages that have resulted from the
19 offense;

20 (5) Refrain from the use of alcohol or illegal drugs or frequent
21 any place where alcohol or illegal drugs are sold and used;

22 (6) Refrain from the possession or use of firearms or other
23 weapons;

24 (7) Refrain from further criminal activity;

25 (8) Refrain from any contact with a victim of the offense;

26 (9) Cooperate with a mentor, where assigned;

27 (10) Suspend the tolling of time for the purposes of the person's
28 right to a speedy trial while the person is participating in the
29 program;

30 (11) Advise the prosecutor of any change in the person's
31 residential address or any change in the provider of case
32 management and mental health services; and

33 (12) Any other terms and conditions related to the person's
34 recovery and public safety deemed appropriate by the prosecutor.

35 e. The prosecutor shall determine the duration of the person's
36 participation in the Mental Illness Diversion Program, except that
37 the person's participation in the program shall not exceed two years
38 from the date of the diversion agreement. The term of the person's
39 participation shall be based on the initial clinical evaluation and
40 recommendations, status reports of the person's participation, and
41 progress reports from the case management and mental health
42 service providers, and, where assigned, the person's mentor.

43 f. The eligible person shall be responsible for coordinating
44 with the Mental Illness Diversion Resource Entity or other case
45 management and mental health service provider to ensure that the
46 prosecutor receives periodic reports on the person's participation,
47 cooperation and recovery progress. The person shall contact the
48 Mental Illness Diversion Resource Entity or other case management

1 and mental health service provider within seven days of the date of
2 the diversion agreement.

3 g. The court shall review the status of the deferred prosecution
4 of the person no later than six months from the date on which the
5 court approved the prosecutor's initial request for a postponement of
6 the proceedings, and, thereafter, every six months from the most
7 recent review, to consider, based on information provided by the
8 prosecutor, whether the postponement of court proceedings as
9 requested by the prosecutor should continue.

10 h. To the extent that a sufficient number of mentors are
11 available, the prosecutor or the case management provider on behalf
12 of the prosecutor, shall assign a mentor to the eligible person.

13 i. If, after a minimum of six months from the date of the
14 diversion agreement, the prosecutor is satisfied that the person has
15 complied with the terms and conditions of the diversion agreement,
16 has not been the subject of any subsequent criminal charges, and,
17 based on clinical reports, continues to make progress with case
18 management services and mental health recovery, the prosecutor
19 may move before the court for the dismissal of the criminal charge
20 pending against the person and terminate the person's participation
21 in the Mental Illness Diversion Program. Alternatively, the
22 prosecutor may require that the person continue participation in the
23 program until sufficient evidence of progress toward recovery is
24 available, except that continued participation shall not exceed the
25 two-year time limit as provided in subsection e. of this section.

26 j. If, at any time, the prosecutor finds that the person has failed
27 to comply with any term or condition of the diversion agreement,
28 the prosecutor may notify the court that the State is prepared to
29 proceed with the prosecution of the offense and the court shall
30 schedule court proceedings as appropriate.

31 k. No fee shall be assessed to a person for participation in the
32 Mental Illness Diversion Program.

33 l. An eligible person may be admitted to the Mental Illness
34 Diversion Program one or more times at the discretion of the
35 prosecutor, subject to the restrictions in this section, if such
36 diversion promotes the person's recovery, prevents the commission
37 of future offenses, and protects the safety of the public. Nothing in
38 P.L. , c. (C.) (pending before the Legislature as this bill) shall
39 preclude an eligible person from applying for admission to a
40 criminal justice diversion program, including a program of
41 supervisory treatment pursuant to N.J.S.2C:43-12, conditional
42 discharge pursuant to N.J.S.2C:36A-1, or conditional dismissal
43 pursuant to section 1 of P.L.2013, c.158 (C.2C:43-13.1), as an
44 alternative to the Mental Illness Diversion Program to the extent
45 that the person meets the eligibility criteria and qualifies for those
46 programs. A dismissal of a criminal complaint resulting from
47 successful participation in a Mental Illness Diversion Program
48 pursuant to this section shall bar a person's subsequent eligibility

1 for a program of supervisory treatment pursuant to N.J.S.2C:43-12,
2 conditional discharge pursuant to N.J.S.2C:36A-1, or conditional
3 dismissal pursuant to section 1 of P.L.2013, c.158 (C.2C:43-13.1);
4 however an eligible person may seek subsequent admission to the
5 Mental Illness Diversion Program and may be admitted at the sole
6 discretion of the prosecutor.

7 m. The dismissal of charges based on a person's successful
8 participation in the Mental Illness Diversion Program pursuant to
9 this section shall not be deemed:

10 (1) a conviction for purposes of disqualifications or disabilities,
11 if any, imposed by law upon conviction of a petty disorderly
12 persons or disorderly persons offense or a crime, but shall be
13 reported to the State Bureau of Identification criminal history
14 record information files for purposes of determining future
15 eligibility or exclusion from other diversion programs; or

16 (2) a conviction for the purpose of determining whether a
17 second or subsequent offense has occurred under any law of this
18 State.

19
20 5. (New section) Nothing in P.L. , c. (C.) (pending before
21 the Legislature as this bill) shall be construed to limit or constrain
22 in any way the authority or discretion of a prosecutor to divert,
23 prosecute or pursue any other disposition of a criminal matter
24 involving a defendant who is an eligible person. When considering
25 the diversion of an eligible person from the criminal justice system,
26 a prosecutor may use the Mental Illness Diversion Program
27 established pursuant to P.L. , c. (C.) (pending before the
28 Legislature as this bill), any other diversion mechanism authorized
29 by law, or a county-based law enforcement diversion program after
30 considering each program's restrictions, the relief available to the
31 person, and the safety of any victim and the public.

32
33 6. (New section) The Administrative Director of the Courts
34 shall develop a differentiated mental health supervision case type
35 within the Probation Division of the Superior Court for eligible
36 persons who are sentenced to a term of probation supervision. To
37 the extent that sufficient resources are available, probation officers
38 assigned to the specialized caseload shall be experienced in
39 behavioral health and evidence-based therapeutic interventions and
40 shall coordinate with mentors as well as federal and State case
41 management and health care providers available to persons to
42 promote their recovery, compliance with the terms of probation and
43 re-integration into the community. Eligible persons who are
44 sentenced to a term of probation supervision shall be screened and
45 assigned to a differentiated mental health supervision case type
46 pursuant to procedures developed by the Administrative Director of
47 the Courts. A person who is assigned to a differentiated mental
48 health supervision case type shall provide written authorization for

1 any case management or mental health service provider to release to
2 the Probation Division and the court periodic status reports
3 regarding the person's participation, cooperation, and recovery
4 progress.

5
6 7. N.J.S.2C:52-6 is amended to read as follows:

7 2C:52-6. Arrest not resulting in conviction. a. When a person
8 has been arrested or held to answer for a crime, disorderly persons
9 offense, petty disorderly persons offense, or municipal ordinance
10 violation under the laws of this State or of any governmental entity
11 thereof and proceedings against the person were dismissed, the
12 person was acquitted, or the person was discharged without a
13 conviction or finding of guilt, the Superior Court shall, at the time
14 of dismissal, acquittal, or discharge, or, in any case set forth in
15 paragraph (1) of this subsection, upon receipt of an application from
16 the person, order the expungement of all records and information
17 relating to the arrest or charge.

18 (1) If proceedings took place in municipal court, the municipal
19 court shall provide the person, upon request, with appropriate
20 documentation to transmit to the Superior Court to request
21 expungement pursuant to procedures developed by the
22 Administrative Office of the Courts. Upon receipt of the
23 documentation, the Superior Court shall enter an ex parte order
24 expunging all records and information relating to the person's arrest
25 or charge.

26 (2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14
27 shall not apply to an expungement pursuant to this subsection and
28 no fee shall be charged to the person making such application.

29 (3) An expungement under this subsection shall not be ordered
30 where the dismissal, acquittal, or discharge resulted from a plea
31 bargaining agreement involving the conviction of other charges.
32 This bar, however, shall not apply once the conviction is itself
33 expunged.

34 (4) The Superior Court shall forward a copy of the expungement
35 order to the appropriate court and to the prosecutor. The prosecutor
36 shall promptly distribute copies of the expungement order to
37 appropriate law enforcement agencies and correctional institutions
38 who have custody and control of the records specified in the order
39 so that they may comply with the requirements of N.J.S.2C:52-15.

40 (5) An expungement related to a dismissal, acquittal, or
41 discharge ordered pursuant to this subsection shall not bar any
42 future expungement.

43 (6) Where a dismissal of an offense is based on an eligible
44 servicemember's successful participation in a Veterans Diversion
45 Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), the county
46 prosecutor, on behalf of the eligible servicemember, may move
47 before the court for the expungement of all records and information

1 relating to the arrest or charge, and the diversion at the time of
2 dismissal pursuant to this section.

3 (7) Where a dismissal of an offense is based on an eligible
4 person's successful participation in a Mental Illness Diversion
5 Program pursuant to P.L. , c. (C.) (pending before the
6 Legislature as this bill), the county prosecutor, on behalf of the
7 eligible person, may move before the court for the expungement of
8 all records and information relating to the arrest or charge, and the
9 diversion at the time of dismissal pursuant to this section.

10 b. When a person did not apply or a prosecutor did not move
11 on behalf of an eligible person or eligible servicemember for an
12 expungement of an arrest or charge not resulting in a conviction
13 pursuant to subsection a. of this section, the person may at any time
14 following the disposition of proceedings, present a duly verified
15 petition as provided in N.J.S.2C:52-7 to the Superior Court in the
16 county in which the disposition occurred praying that records of
17 such arrest and all records and information pertaining thereto be
18 expunged. No fee shall be charged to the person for applying for an
19 expungement of an arrest or charge not resulting in a conviction
20 pursuant to this subsection.

21 c. (1) Any person who has had charges dismissed against him
22 pursuant to a program of supervisory treatment pursuant to
23 N.J.S.2C:43-12, or conditional discharge pursuant to N.J.S.2C:36A-
24 1, or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-
25 13.1 et al.), shall be barred from the relief provided in this section
26 until six months after the entry of the order of dismissal.

27 (2) A servicemember who has successfully participated in a
28 Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-
29 23 et al.) may apply for expungement pursuant to this section at any
30 time following the order of dismissal if an expungement was not
31 granted at the time of dismissal.

32 (3) An eligible person who has successfully participated in a
33 Mental Illness Diversion Program pursuant to P.L. , c. (C.)
34 (pending before the Legislature as this bill), may apply for
35 expungement pursuant to this section at any time following the
36 order of dismissal if an expungement was not granted at the time of
37 dismissal.

38 d. Any person who has been arrested or held to answer for a
39 crime shall be barred from the relief provided in this section where
40 the dismissal, discharge, or acquittal resulted from a determination
41 that the person was insane or lacked the mental capacity to commit
42 the crime charged.

43 (cf: P.L. 2017, c.42, s.7)

44

45 8. Section1 of P.L.2013, c.158 (C.2C:43-13.1) is amended to
46 read as follows:

47 1. Eligibility and Application. a. Whenever any defendant who
48 has not been previously convicted of any petty disorderly persons

1 offense, disorderly persons offense or crime under any law of the
2 United States, this State or any other state, and who has not
3 previously participated in conditional discharge under
4 N.J.S.2C:36A-1, supervisory treatment under N.J.S.2C:43-12, or
5 conditional dismissal under P.L.2013, c.158 (C.2C:43-13.1 et al.),
6 **【or】** a Veterans Diversion Program pursuant to P.L.2017, c.42
7 (C.2C:43-23 et al.), or a Mental Illness Diversion Program pursuant
8 to P.L. , c. (C.) (pending before the Legislature as this bill), is
9 charged with a petty disorderly offense or disorderly persons
10 offense except as provided in subsection b. of this section, the
11 defendant may, after a plea of guilty or a finding of guilt, but prior
12 to the entry of a judgment of conviction and with appropriate notice
13 to the prosecutor, apply to the court for entry into the conditional
14 dismissal program pursuant to the requirements of P.L.2013, c.158
15 (C.2C:43-13.1 et al.). As a condition of such application, the
16 defendant shall submit to the fingerprint identification procedures
17 as provided in R.S.53:1-15 before making such application to the
18 court to allow sufficient time for verification of the defendant's
19 criminal history by the prosecutor.

20 b. (1) A defendant shall not be eligible for participation in the
21 conditional dismissal program if the offense for which the person is
22 charged involved: (a) organized criminal or gang activity; (b) a
23 continuing criminal business or enterprise; (c) a breach of the public
24 trust by a public officer or employee; (d) domestic violence as
25 defined by subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-
26 19); (e) an offense against an elderly, disabled or minor person; (f)
27 an offense involving driving or operating a motor vehicle while
28 under the influence of alcohol, intoxicating liquor, narcotic,
29 hallucinogenic or habit-producing drug; (g) a violation of animal
30 cruelty laws; or (h) any disorderly persons offense or petty
31 disorderly persons offense under chapter 35 or 36 of Title 2C.

32 (2) Nothing in this act shall preclude a defendant charged with
33 any disorderly persons offense or petty disorderly persons offense
34 under chapter 35 or 36 of Title 2C from applying to the court for
35 admission into the conditional discharge program in accordance
36 with N.J.S.2C:36A-1.

37 c. In addition to the eligibility criteria enumerated in this
38 section, the court shall consider the following factors:

- 39 (1) The nature and circumstances of the offense;
40 (2) The facts surrounding the commission of the offense;
41 (3) The motivation, age, character and attitude of the defendant;
42 (4) The desire of the complainant or victim to forego
43 prosecution;
44 (5) The needs and interests of the victim and the community;
45 (6) The extent to which the defendant's offense constitutes part
46 of a continuing pattern of anti-social behavior;

1 (7) Whether the offense is of an assaultive or violent nature,
2 whether in the act itself or in the possible injurious consequences of
3 such behavior;

4 (8) Whether the applicant's participation will adversely affect
5 the prosecution of codefendants;

6 (9) Whether diversion of the defendant from prosecution is
7 consistent with the public interest; and

8 (10) Any other factors deemed relevant by the court.
9 (cf: P.L.2017, c.42, s.8)

10
11 9. N.J.S.2C:36A-1 is amended to read as follows:

12 2C:36A-1. Conditional discharge for certain first offenses.

13 a. Whenever any person who has not previously been convicted
14 of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or
15 a disorderly persons or petty disorderly persons offense defined in
16 chapter 35 or 36 of this title or, subsequent to the effective date of
17 this title, under any law of the United States, this State or any other
18 state relating to marijuana, or stimulant, depressant, or
19 hallucinogenic drugs, and who has not previously participated in a
20 program of supervisory treatment pursuant to N.J.S.2C:43-12 or
21 conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et
22 al.), **【or】** a Veterans Diversion Program pursuant to P.L.2017, c.42
23 (C.2C:43-23 et al.), or a Mental Illness Diversion Program pursuant
24 to P.L. , c. (C.) (pending before the Legislature as this bill), is
25 charged with or convicted of any disorderly persons offense or petty
26 disorderly persons offense under chapter 35 or 36 of this title, the
27 court upon notice to the prosecutor and subject to subsection c. of
28 this section, may on motion of the defendant or the court:

29 (1) Suspend further proceedings and with the consent of the
30 person after reference to the State Bureau of Identification criminal
31 history record information files, place him under supervisory
32 treatment upon such reasonable terms and conditions as it may
33 require; or

34 (2) After a plea of guilty or finding of guilty, and without
35 entering a judgment of conviction, and with the consent of the
36 person after proper reference to the State Bureau of Identification
37 criminal history record information files, place him on supervisory
38 treatment upon reasonable terms and conditions as it may require,
39 or as otherwise provided by law.

40 b. In no event shall the court require as a term or condition of
41 supervisory treatment under this section, referral to any residential
42 treatment facility for a period exceeding the maximum period of
43 confinement prescribed by law for the offense for which the
44 individual has been charged or convicted, nor shall any term of
45 supervisory treatment imposed under this subsection exceed a
46 period of three years. If a person is placed under supervisory
47 treatment under this section after a plea of guilty or finding of guilt,
48 the court as a term and condition of supervisory treatment shall

1 suspend the person's driving privileges for a period to be fixed by
2 the court at not less than six months or more than two years unless
3 the court finds compelling circumstances warranting an exception.
4 For the purposes of this subsection, compelling circumstances
5 warranting an exception exist if the suspension of the person's
6 driving privileges will result in extreme hardship and alternative
7 means of transportation are not available. In the case of a person
8 who at the time of placement under supervisory treatment under this
9 section is less than 17 years of age, the period of suspension of
10 driving privileges authorized herein, including a suspension of the
11 privilege of operating a motorized bicycle, shall commence on the
12 day the person is placed on supervisory treatment and shall run for a
13 period as fixed by the court of not less than six months or more than
14 two years after the day the person reaches the age of 17 years.

15 If the driving privilege of a person is under revocation,
16 suspension, or postponement for a violation of this title or Title 39
17 of the Revised Statutes at the time of the person's placement on
18 supervisory treatment under this section, the revocation, suspension
19 or postponement period imposed herein shall commence as of the
20 date of the termination of the existing revocation, suspension or
21 postponement. The court which places a person on supervisory
22 treatment under this section shall collect and forward the person's
23 driver's license to the New Jersey Motor Vehicle Commission and
24 file an appropriate report with the commission in accordance with
25 the procedure set forth in N.J.S.2C:35-16. The court shall also
26 inform the person of the penalties for operating a motor vehicle
27 during the period of license suspension or postponement as required
28 in N.J.S.2C:35-16.

29 Upon violation of a term or condition of supervisory treatment
30 the court may enter a judgment of conviction and proceed as
31 otherwise provided, or where there has been no plea of guilty or
32 finding of guilty, resume proceedings. Upon fulfillment of the terms
33 and conditions of supervisory treatment the court shall terminate the
34 supervisory treatment and dismiss the proceedings against him.
35 Termination of supervisory treatment and dismissal under this
36 section shall be without court adjudication of guilt and shall not be
37 deemed a conviction for purposes of disqualifications or
38 disabilities, if any, imposed by law upon conviction of a crime or
39 disorderly persons offense but shall be reported by the clerk of the
40 court to the State Bureau of Identification criminal history record
41 information files. Termination of supervisory treatment and
42 dismissal under this section may occur only once with respect to
43 any person. Imposition of supervisory treatment under this section
44 shall not be deemed a conviction for the purposes of determining
45 whether a second or subsequent offense has occurred under section
46 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this title or
47 any law of this State.

1 c. Proceedings under this section shall not be available to any
2 defendant unless the court in its discretion concludes that:

3 (1) The defendant's continued presence in the community, or in
4 a civil treatment center or program, will not pose a danger to the
5 community; or

6 (2) That the terms and conditions of supervisory treatment will
7 be adequate to protect the public and will benefit the defendant by
8 serving to correct any dependence on or use of controlled
9 substances which he may manifest; and

10 (3) The person has not previously received supervisory
11 treatment under section 27 of P.L.1970, c.226 (C.24:21-27),
12 N.J.S.2C:43-12, or the provisions of this chapter.

13 d. A person seeking conditional discharge pursuant to this
14 section shall pay to the court a fee of \$75 which shall be paid to the
15 Treasurer of the State of New Jersey for deposit in the General
16 Fund. The defendant shall also be required to pay restitution, costs
17 and other assessments as provided by law. A person may apply for a
18 waiver of this fee, by reason of poverty, pursuant to the Rules
19 Governing the Courts of the State of New Jersey, or the court may
20 permit the defendant to pay the conditional discharge fee and other
21 assessments in installments or may order other alternatives pursuant
22 to section 1 of P.L.2009, c.317 (C.2B:12-23.1).
23 (cf: P.L.2017, c.42, s.9)

24
25 10. N.J.S.2C:43-12 is amended to read as follows:

26 2C:43-12. Supervisory Treatment--Pretrial Intervention.

27 a. Public policy. The purpose of N.J.S.2C:43-12 through
28 N.J.S.2C:43-22 is to effectuate a Statewide program of Pretrial
29 Intervention. It is the policy of the State of New Jersey that
30 supervisory treatment should ordinarily be limited to persons who
31 have not previously been convicted of any criminal offense under
32 the laws of New Jersey, or under any criminal law of the United
33 States, or any other state when supervisory treatment would:

34 (1) Provide applicants, on an equal basis, with opportunities to
35 avoid ordinary prosecution by receiving early rehabilitative services
36 or supervision, when such services or supervision can reasonably be
37 expected to deter future criminal behavior by an applicant, and
38 when there is apparent causal connection between the offense
39 charged and the rehabilitative or supervisory need, without which
40 cause both the alleged offense and the need to prosecute might not
41 have occurred; or

42 (2) Provide an alternative to prosecution for applicants who
43 might be harmed by the imposition of criminal sanctions as
44 presently administered, when such an alternative can be expected to
45 serve as sufficient sanction to deter criminal conduct; or

46 (3) Provide a mechanism for permitting the least burdensome
47 form of prosecution possible for defendants charged with
48 "victimless" offenses, other than defendants who were public

- 1 officers or employees charged with offenses that involved or
2 touched their office or employment; or
- 3 (4) Provide assistance to criminal calendars in order to focus
4 expenditure of criminal justice resources on matters involving
5 serious criminality and severe correctional problems; or
- 6 (5) Provide deterrence of future criminal or disorderly behavior
7 by an applicant in a program of supervisory treatment.
- 8 b. (1) Admission of an applicant into a program of supervisory
9 treatment shall be measured according to the applicant's amenability
10 to correction, responsiveness to rehabilitation and the nature of the
11 offense.
- 12 (2) There shall be a presumption against admission into a
13 program of supervisory treatment for:
- 14 (a) a defendant who was a public officer or employee whose
15 offense involved or touched upon his public office or employment;
16 and
- 17 (b) a defendant charged with any crime or offense involving
18 domestic violence, as defined in subsection a. of section 3 of
19 P.L.1991, c.261 (C.2C:25-19) if the defendant committed the crime
20 or offense while subject to a temporary or permanent restraining
21 order issued pursuant to the provisions of the "Prevention of
22 Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et
23 al.) or if the crime or offense charged involved violence or the
24 threat of violence. For purposes of this subparagraph, a crime or
25 offense involves violence or the threat of violence if the victim
26 sustains serious or significant bodily injury as defined in subsection
27 b. or d. of N.J.S.2C:11-1, or the actor is armed with and uses a
28 deadly weapon or threatens by word or gesture to use a deadly
29 weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to
30 inflict serious or significant bodily injury.
- 31 c. The decision and reasons therefor made by the designated
32 judges (or assignment judges), prosecutors and program directors in
33 granting or denying applications for supervisory treatment, in
34 recommending and ordering termination from the program or
35 dismissal of charges, in all cases shall be reduced to writing and
36 disclosed to the applicant.
- 37 d. If an applicant desires to challenge the decision of the
38 prosecutor or program director not to recommend enrollment in a
39 program of supervisory treatment the proceedings prescribed under
40 N.J.S.2C:43-14 and in accordance with the Rules of Court shall be
41 followed.
- 42 e. Referral. At any time prior to trial but after the filing of a
43 criminal complaint, or the filing of an accusation or the return of an
44 indictment, with the consent of the prosecutor and upon written
45 recommendation of the program director, the assignment judge or a
46 judge designated by him may postpone all further proceedings
47 against an applicant and refer said applicant to a program of
48 supervisory treatment approved by the Supreme Court. Prosecutors

1 and program directors shall consider in formulating their
2 recommendation of an applicant's participation in a supervisory
3 treatment program, among others, the following criteria:

- 4 (1) The nature of the offense;
- 5 (2) The facts of the case;
- 6 (3) The motivation and age of the defendant;
- 7 (4) The desire of the complainant or victim to forego
8 prosecution;
- 9 (5) The existence of personal problems and character traits
10 which may be related to the applicant's crime and for which services
11 are unavailable within the criminal justice system, or which may be
12 provided more effectively through supervisory treatment and the
13 probability that the causes of criminal behavior can be controlled by
14 proper treatment;
- 15 (6) The likelihood that the applicant's crime is related to a
16 condition or situation that would be conducive to change through
17 his participation in supervisory treatment;
- 18 (7) The needs and interests of the victim and society;
- 19 (8) The extent to which the applicant's crime constitutes part of
20 a continuing pattern of anti-social behavior;
- 21 (9) The applicant's record of criminal and penal violations and
22 the extent to which he may present a substantial danger to others;
- 23 (10) Whether or not the crime is of an assaultive or violent
24 nature, whether in the criminal act itself or in the possible injurious
25 consequences of such behavior;
- 26 (11) Consideration of whether or not prosecution would
27 exacerbate the social problem that led to the applicant's criminal
28 act;
- 29 (12) The history of the use of physical violence toward others;
- 30 (13) Any involvement of the applicant with organized crime;
- 31 (14) Whether or not the crime is of such a nature that the value
32 of supervisory treatment would be outweighed by the public need
33 for prosecution;
- 34 (15) Whether or not the applicant's involvement with other
35 people in the crime charged or in other crime is such that the
36 interest of the State would be best served by processing his case
37 through traditional criminal justice system procedures;
- 38 (16) Whether or not the applicant's participation in pretrial
39 intervention will adversely affect the prosecution of codefendants;
40 and
- 41 (17) Whether or not the harm done to society by abandoning
42 criminal prosecution would outweigh the benefits to society from
43 channeling an offender into a supervisory treatment program.

44 The prosecutor and the court, in formulating their
45 recommendations or decisions regarding an applicant's participation
46 in a supervisory treatment program, shall give due consideration to
47 the victim's position on whether the defendant should be admitted.

1 f. Review of Supervisory Treatment Applications; Procedure
2 Upon Denial. Each applicant for supervisory treatment shall be
3 entitled to full and fair consideration of his application. If an
4 application is denied, the program director or the prosecutor shall
5 precisely state his findings and conclusion which shall include the
6 facts upon which the application is based and the reasons offered
7 for the denial. If the applicant desires to challenge the decision of a
8 program director not to recommend, or of a prosecutor not to
9 consent to, enrollment into a supervisory treatment program, a
10 motion shall be filed before the designated judge (or assignment
11 judge) authorized pursuant to the Rules of Court to enter orders.

12 g. Limitations. (1) Supervisory treatment may occur only once
13 with respect to any defendant and any person who has previously
14 received supervisory treatment under section 27 of P.L.1970, c.226
15 (C.24:21-27), a conditional discharge pursuant to N.J.S.2C:36A-1, a
16 conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-
17 13.1 et al.), or was granted a dismissal due to successful
18 participation in the Veterans Diversion Program pursuant to
19 P.L.2017, c.42 (C.2C:43-23 et al.), or the Mental Illness Diversion
20 Program pursuant to P.L. , c. (C.) (pending before the
21 Legislature as this bill), shall not be eligible for supervisory
22 treatment under this section.

23 (2) Except as otherwise provided in paragraph (3) of this
24 subsection, supervisory treatment, as provided herein, shall be
25 available to a defendant irrespective of whether the defendant
26 contests his guilt of the charge or charges against him.

27 (3) Admission into supervisory treatment shall be available to
28 the following defendants only upon entering a plea of guilty: (a) a
29 defendant charged with a first or second degree crime; (b) a
30 defendant charged with any crime if the defendant had previously
31 been convicted of a first or second degree crime; (c) a defendant
32 charged with a third or fourth degree crime involving domestic
33 violence, as defined in subsection a. of section 3 of P.L.1991, c.261
34 (C.2C:25-19); or (d) a defendant charged with any disorderly
35 persons or petty disorderly persons offense involving domestic
36 violence, as defined in subsection a. of section 3 of P.L.1991, c.261
37 (C.2C:25-19) if the defendant committed the offense while subject
38 to a temporary or permanent restraining order issued pursuant to the
39 provisions of the "Prevention of Domestic Violence Act of 1991,"
40 P.L.1991, c.261 (C.2C:25-17 et al.). For any such defendant,
41 following the plea of guilty the plea shall be held in an inactive
42 status pending termination of supervisory treatment pursuant to
43 subsection d. or e. of N.J.S.2C:43-13. Upon successful completion
44 of the program of supervisory treatment the charges shall be
45 dismissed.

46 h. Termination. Termination of supervisory treatment under
47 this section shall be immediately reported to the assignment judge

1 of the county who shall forward such information to the
2 Administrative Director of the Courts.

3 i. Appointment of Program Directors; Authorized Referrals.
4 Programs of supervisory treatment and appointment of the program
5 directors require approval by the Supreme Court with the consent of
6 the assignment judge and prosecutor. Referrals of participants from
7 supervisory treatment programs may be to any public or private
8 office or agency, including but not limited to, programs within the
9 probation service of the court, offering counseling or any other
10 social service likely to aid in the rehabilitation of the participant
11 and to deter the commission of other offenses.

12 j. Health Care Professional Licensing Board Notification. The
13 program director shall promptly notify the State Board of Medical
14 Examiners when a State licensed physician or podiatrist has been
15 enrolled in a supervisory treatment program after he has been
16 charged with an offense involving drugs or alcohol.

17 The Attorney General shall develop guidelines to ensure the
18 uniform exercise of discretion by prosecutors in formulating their
19 recommendations on participation in a supervisory treatment
20 program by an applicant charged with a crime or offense involving
21 domestic violence, as defined in subsection a. of section 3 of
22 P.L.1991, c.261 (C.2C:25-19).
23 (cf: P.L.2017, c.42, s.10)
24

25 11. (New section) a. The Department of Human Services shall
26 provide county prosecutors with a registry of volunteer mentors to
27 facilitate the assignment of mentors to eligible persons who have
28 been admitted by the prosecutor into the Mental Health Diversion
29 Program established pursuant to P.L. , c. (C.) (pending before
30 the Legislature as this bill). A copy of the registry shall also be
31 provided to the Administrative Director of the Courts to facilitate
32 the assignment of mentors to eligible persons who have been
33 sentenced to a term of probation supervision. The registry of
34 mentors shall be periodically updated by the Department of Human
35 Services.

36 b. The Department of Human Services shall also prepare and
37 disseminate a directory of Mental Illness Diversion Resource
38 Program entities currently available within New Jersey.
39

40 12. (New section) The Attorney General, in cooperation with
41 the Administrative Director of the Courts, shall prepare an annual
42 report to the Governor and, pursuant to section 2 of P.L.1991, c.164
43 (C.52:14-19.1), to the Legislature regarding the Mental Health
44 Diversion Program and other statutory and county-based law
45 enforcement programs used to divert eligible persons from the
46 criminal justice system. The report shall assist policymakers in
47 determining whether these diversion programs should be modified
48 or expanded to achieve the goals of recovery for eligible persons

1 and public safety. The report shall include statistics regarding the
2 number of arrests where the person indicates mental illness status;
3 the number of eligible persons accepted into the Mental Illness
4 Diversion Program or other diversion programs; the number of
5 eligible persons who successfully completed these programs; the
6 number of eligible persons who were found guilty at court
7 proceedings; the number of eligible persons who, subsequent to
8 admission in the Mental Health Diversion Program or other
9 diversion programs, were sentenced to a term of incarceration or
10 probation; and other relevant information and recommendations at
11 the discretion of the Attorney General.

12
13 13. (New section) The Attorney General and the Administrative
14 Director of the Courts shall publish on their respective websites
15 information regarding diversion programs and government-based
16 resources available to assist justice-involved eligible persons.

17
18 14. This act shall take effect on the first day of the seventh
19 month next following enactment, except that the Attorney General
20 and the Administrative Director of the Courts may take any
21 anticipatory administrative action in advance as shall be necessary
22 for the implementation of this act.

23 24 25 STATEMENT

26
27 In 2004 a Special Offenders Unit was created in the Union
28 County Prosecutor's Office to deal with mentally ill criminal
29 defendants. The unit has helped to initiate "a jail diversion
30 program, a court based mental health program and an ongoing
31 training program for law enforcement." The jail diversion program,
32 begun in 2006 has diverted individuals with mental illness away
33 from the criminal justice system and into appropriate treatment.
34 Since that time, county prosecutor's offices in several New Jersey
35 counties, including Ocean, Essex and as recently as 2015,
36 Gloucester, Hunterdon and Warren Counties, have initiated similar
37 diversion programs.

38 To facilitate the expansion and growth of programming for
39 individuals with mental illness involved in the criminal justice
40 system, this bill establishes a Statewide Mental Illness Diversion
41 Program to divert eligible persons who have committed certain
42 offenses away from the criminal justice system and into appropriate
43 case management and mental health services.

44 The Department of Human Services is directed, in conjunction
45 with other federal, State, and local government agencies, to prepare
46 and disseminate a directory of Mental Health Diversion Resource
47 entities within New Jersey to facilitate the diversion of eligible
48 persons from the criminal justice system. Each Mental Illness

1 Diversion Resource Entity would serve as a point of entry to
2 facilitate the law enforcement diversion or referral of eligible
3 persons into existing case management and mental health services
4 offered by the New Jersey Department of Human Services or other
5 appropriate case management and mental health services available
6 to persons with mental illness.

7 Eligibility. The bill provides that a person is eligible for
8 admission into the program if he committed an eligible offense and
9 has a prior diagnosis of mental illness or other indications of mental
10 illness. An eligible offense is defined by the bill as a non-violent
11 petty disorderly persons offense, disorderly persons offense, or
12 crime of the third or fourth degree.

13 Each Mental Illness Diversion Resource Entity would serve as a
14 point of entry to facilitate the diversion or referral of eligible
15 persons into existing case management and mental health services
16 offered to persons with mental illness. Under the bill, the Mental
17 Illness Diversion Resource Entity or any other agency to which an
18 eligible person is referred should be capable of providing screening,
19 counseling, treatment and case management for mental health issues
20 and other co-occurring health disorders to or coordinating these
21 services through the appropriate federal, State and local government
22 agencies that offer assistance.

23 A Mental Illness Diversion Resource Entity or an agency which
24 accepts the referral of an eligible person would be required to
25 provide law enforcement officials with periodic status reports
26 regarding the eligible person's participation and recovery progress,
27 provided the person consents to the release of such information.

28 Intake procedures. Under the bill, when a person is taken into
29 custody for an eligible offense, if the person exhibits behavior that
30 may be related to a mental illness, the law enforcement officer may
31 continue processing the individual with a preference for diversion
32 to a Mental Illness Diversion Resource Entity or other community-
33 based mental health services in lieu of filing a criminal complaint.
34 If the alleged offense is not an eligible offense or the person is
35 resistant to diversion, the officer may file a criminal complaint.
36 Under the bill, a law enforcement officer cannot divert an eligible
37 person prior to the filing of a criminal complaint if the crime or
38 offense involves restitution for damages, if the crime or offense
39 involves violence or the threat of violence, if the crime or offense
40 involves the violation of any restraining order or protective order of
41 another person, or where a victim of the offense objects to the
42 diversion. If the person is not diverted, the law enforcement officer
43 may proceed with the filing of a criminal complaint and indicate the
44 person's status as an eligible person.

45 At any time after the filing of a criminal complaint, but prior to
46 the disposition of such complaint, an eligible person, the assigned
47 public defender, or the individual's own legal counsel may make an
48 application to the prosecutor to participate in the Mental Illness

1 Diversion Program. The prosecutor may approve or conditionally
2 approve an eligible person's admission into the Mental Illness
3 Diversion Program. The prosecutor would have the sole discretion
4 to determine if an eligible person qualifies for and is admitted to the
5 Mental Illness Diversion Program after consideration of the nature
6 of the eligible offense, the causative relationship between the
7 person's diagnosed or apparent mental illness and the commission
8 of the offense, the amenability of the person to participation in the
9 services of the program, the availability of case management and
10 mental health services, the desires of any victim, the person's
11 history of prior convictions and the probability that diversion will
12 promote the person's recovery, prevent future criminal behavior and
13 protect public safety. The prosecutor would consult with the victim
14 prior to approving an admission into the program. The prosecutor's
15 approval of an application would not be conditioned on an
16 admission or guilty plea.

17 Disqualification. The bill prohibits admission into the Mental
18 Illness Diversion Program: (1) if the person has criminal charges
19 pending for a crime of the second degree or higher; (2) if the crime
20 or offense involved violence or the threat of violence; or (3) if the
21 person was previously convicted of a violent crime enumerated in
22 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2) such as
23 murder, vehicular homicide, kidnapping, aggravated assault, sexual
24 assault, robbery, carjacking, or firearms trafficking. In addition, the
25 bill provides a presumption against admission into the Mental
26 Illness Diversion Program if the person is charged with any crime
27 or offense involving domestic violence or if the person committed
28 the crime or offense while subject to a temporary or permanent
29 restraining order.

30 Program requirements. To qualify for the Mental Illness
31 Diversion Program, an eligible person shall agree in writing to
32 certain terms and conditions. The prosecutor would determine the
33 duration of the person's participation in the program, except that the
34 participation in the program could not exceed two years from the
35 date of the diversion agreement.

36 The bill requires the eligible person to be responsible for
37 coordinating with the Mental Illness Diversion Resource entities to
38 ensure that the prosecutor receives periodic reports on the person's
39 participation, cooperation, and recovery progress. The person
40 would be required to contact the Mental Illness Diversion Resource
41 Entity or other case management and mental health service provider
42 within seven days of the date of the diversion agreement.

43 The court would review the status of the deferred prosecution no
44 later than six months from the date on which the court approved the
45 prosecutor's initial request for a postponement of the proceedings,
46 and, thereafter, every six months from the most recent review, to
47 consider whether the postponement of court proceedings should
48 continue. If, after a minimum of six months from the date of the

1 diversion agreement, the prosecutor is satisfied that the eligible
2 person has complied with the diversion agreement, has not been the
3 subject of any subsequent criminal charges, and continues to make
4 progress with case management services and mental health
5 recovery, the prosecutor may move for the dismissal of the criminal
6 charge and terminate the eligible person's participation. If, at any
7 time, the prosecutor finds that the eligible person has failed to
8 comply with the diversion agreement, the prosecutor may notify the
9 court that the State is prepared to proceed with the prosecution.
10 The bill provides that no fee would be assessed to an eligible person
11 for participation in the Mental Illness Diversion Program. An
12 eligible person may be admitted to the Mental Illness Diversion
13 Program one or more times at the discretion of the prosecutor.

14 The dismissal of charges based on successful participation in the
15 Mental Illness Diversion Program would not be deemed: (1) a
16 conviction for purposes of disqualifications or disabilities but would
17 be reported to the State Bureau of Identification criminal history
18 record information files for purposes of determining future
19 eligibility or exclusion from other diversion programs; or (2) a
20 conviction for the purpose of determining whether a second or
21 subsequent offense has occurred under any law of this State.

22 When considering the diversion of an eligible person from the
23 criminal justice system, a prosecutor may use the Mental Illness
24 Diversion Program established under the bill, any other diversion
25 mechanism authorized by law, or a county-based law enforcement
26 diversion program after considering each program's restrictions, the
27 relief available to the eligible person, and the safety of any victim
28 and the public.

29 Training. The bill would require the Administrative Director of
30 the Courts to develop a differentiated mental health supervision
31 case type within the Probation Division of the Superior Court for
32 eligible persons who are sentenced to a term of probation
33 supervision. To the extent that sufficient resources are available,
34 probation officers assigned to the specialized caseload should be
35 experienced in behavioral health and evidence-based therapeutic
36 interventions. The probation officers would coordinate with
37 mentors as well as federal and State case management and health
38 care providers to promote their recovery, compliance with the terms
39 of probation.

40 Amendatory sections. The bill amends N.J.S.2C:52-6 to allow
41 for expungement of all records and information relating to the arrest
42 or charge dismissed based on an eligible person's successful
43 participation in the Mental Illness Diversion Program. In addition,
44 the bill amends the PTI statute (N.J.S.2C:43-12), conditional
45 discharge statute (N.J.S.2C:36A-1) and the conditional dismissal
46 statute (section 1 of P.L.2013, c.158 (C.2C:43-13.1)) to cross
47 reference the Mental Illness Diversion Program established by the
48 bill. Under the bill, successful completion of the Mental Illness

- 1 Diversion Program bars the person's eligibility for PTI, conditional
- 2 dismissal and conditional discharge programs; however an eligible
- 3 person may seek subsequent admission to the Mental Illness
- 4 Diversion Program and may be admitted at the sole discretion of the
- 5 prosecutor.