# SENATE, No. 2249

# STATE OF NEW JERSEY

## 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**
**Senator RONALD L. RICE**
**District 28 (Essex)**

**SYNOPSIS**

Establishes Juvenile Offender Community Conservation and Improvement Services Program.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** establishing a community conservation and improvement services program for certain juveniles, amending P.L.1982, c.77, and supplementing Title 2A of the New Jersey Statutes.

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

1. (New section) The Legislature finds and declares that:

a. in addition to the current community service disposition, the courts should have the option of a more structured and focused nonresidential program when sentencing non-violent juvenile offenders;

b. this program should be structured to develop vocational skills; encourage educational achievement; foster essential work habits including responsibility, cooperation, and discipline and stimulate the development of each participant's self-respect, self-control, and sense of self-worth; and

c. although primarily a rehabilitative program for juvenile offenders, this program also would serve the citizens and taxpayers of New Jersey by augmenting State and local efforts to preserve, conserve, and improve the public areas and communities of this State.

2. (New section) As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Juvenile offender" means a person under the age of 18 years who has been adjudicated delinquent for a non-violent offense, other than an offense involving the theft of an automobile, under the "New Jersey Code of Juvenile Justice," P.L.1982, c.77 (C.2A:4A-20 et seq.).

"Program" means the Juvenile Offender Community Conservation and Improvement Services Program established pursuant to this act.

3. (New section) The Department of Human Services, in consultation with the county probation departments of this State, shall establish a Juvenile Offender Community Conservation and Improvement Services Program.

The program shall be nonresidential and shall consist of a 90 day curriculum comprised of, but not limited to, the following components:

a. vocational, including employment training, the development of manual skills, and work experiences;

**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.**

b. educational, including basic skills proficiency assessments, study skills training and, if appropriate, remedial study programs;

c. physical, including exercise, recreation, and military-style drills to foster concepts of discipline, cooperation, and group dynamics; and

d. counseling, including sessions on substance abuse, offender rehabilitation, and personal development, to foster the participant's self-respect, self-control, and sense of self-worth.

To permit the juvenile to attend school and participate in approved school or community sponsored activities, the court may provide that the juvenile's participation in the program be completed by attendance at after school, evening, and weekend sessions. In these cases, the juvenile offender may be required to participate for more than 90 days in order to complete the curriculum.

4. (New section) As an element of the vocational component of the program, the juvenile offenders shall undertake community conservation and improvement projects, including cleaning, maintaining, and improving parks, recreation areas, and public buildings and grounds; repairing and rehabilitating playground equipment and recreational facilities; litter control; landscaping and lawn maintenance; and any other projects and activities as may contribute to the conservation and improvement of the communities of this State.

At the request of the Department of Environmental Protection, juvenile offenders in the program may undertake environmental and maintenance projects, including cleaning, maintaining, and improving public beaches and State parks; clearing streams, embankments, and watercourses; developing and restoring picnic and camping areas; improving, maintaining, and repairing recreational facilities and public access ways and trails; preserving and restoring wildlife habitat; assisting in reforestation projects; and any other projects and activities as may contribute to the conservation and improvement of the public parks and lands of this State.

5. (New section) A juvenile offender ordered to participate in the program shall adhere to the conditions, standards, and requirements of the program, as promulgated by the commissioner. The juvenile shall attend and participate in all scheduled activities. Any juvenile offender who fails to participate or is making unsatisfactory progress in the program, is a disruptive influence, or refuses to abide by the conditions, standards, or requirements promulgated by the commissioner shall be removed from the program and shall be subject to another disposition authorized under section 24 of P.L.1982, c.77 (C.2A:4A-43).

6. (New section) The commissioner, in consultation with all the county prosecutors of this State, shall promulgate, in accordance with the "Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to effectuate the purposes of this act.

7. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read as follows:

24. Disposition of delinquency cases. a. In determining the appropriate disposition for a juvenile adjudicated delinquent the court shall weigh the following factors:

(1) The nature and circumstances of the offense;

(2) The degree of injury to persons or damage to property caused by the juvenile's offense;

(3) The juvenile's age, previous record, prior social service received, and out-of-home placement history;

(4) Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;

(5) Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;

(6) Whether the disposition recognizes and treats the unique physical, psychological, and social characteristics and needs of the child;

(7) Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has intellectual disabilities or learning disabilities;

(8) Any other circumstances related to the offense and the juvenile's social history as deemed appropriate by the court;

(9) The impact of the offense on the victim or victims;

(10) The impact of the offense on the community; and

(11) The threat to the safety of the public or any individual posed by the child.

b. If a juvenile is adjudged delinquent, and except to the extent that an additional specific disposition is required pursuant to this section, the court, in accordance with subsection i. of section 2 of P.L.1982, c.77 (C.2A:4A-21), may order incarceration pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) or the court may order any one or more of the following dispositions:

(1) Adjourn formal entry of disposition of the case for a period not to exceed 12 months for the purpose of determining whether the juvenile makes a satisfactory adjustment, and if during the period of continuance the juvenile makes such an adjustment, dismiss the complaint; provided that if the court adjourns formal entry of

disposition of delinquency for a violation of an offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but may waive imposition of the penalty set forth in N.J.S.2C:35-16 for juveniles adjudicated delinquent;

(2) Release the juvenile to the supervision of the juvenile's parent or guardian;

(3) Place the juvenile on probation to the chief probation officer of the county or to any other suitable person who agrees to accept the duty of probation supervision for a period not to exceed three years upon such written conditions as the court deems will aid rehabilitation of the juvenile;

(4) Transfer custody of the juvenile to any relative or other person determined by the court to be qualified to care for the juvenile;

(5) Place the juvenile under the care and responsibility of the Department of Children and Families so that the commissioner may designate a division or organizational unit in the department pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing services in or out of the home. Within 14 days, unless for good cause shown, but not later than 30 days, the Department of Children and Families shall submit to the court a service plan, which shall be presumed valid, detailing the specifics of any disposition order. The plan shall be developed within the limits of fiscal and other resources available to the department. If the court determines that the service plan is inappropriate, given existing resources, the department may request a hearing on that determination;

(6) Place the juvenile under the care and custody of the Commissioner of Children and Families for the purpose of receiving the services of the Division of Children's System of Care of that department, provided that the juvenile has been determined to be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);

(7) Commit the juvenile, pursuant to applicable laws and the Rules of Court governing civil commitment, to the Department of Children and Families under the responsibility of the Division of Children's System of Care for the purpose of placement in a suitable public or private hospital or other residential facility for the treatment of persons who are mentally ill, on the ground that the juvenile is in need of involuntary commitment;

(8) (Deleted by amendment, P.L.2019, c.363)

(9) Order the juvenile to make restitution to a person or entity who has suffered loss resulting from personal injuries or damage to property as a result of the offense for which the juvenile has been adjudicated delinquent. The court may determine the reasonable amount, terms, and conditions of restitution. If the juvenile participated in the offense with other persons, the participants shall

be jointly and severally responsible for the payment of restitution. The court shall not require a juvenile to make full or partial restitution if the juvenile reasonably satisfies the court that the juvenile does not have the means to make restitution and could not reasonably acquire the means to pay restitution;

(10) Order that the juvenile perform community services under the supervision of a probation division or other agency or individual deemed appropriate by the court, or participate in the Juvenile Offender Community Conservation and Improvement Services Program established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill). Such services shall be compulsory and reasonable in terms of nature and duration. Such services may be performed without compensation, provided that any money earned by the juvenile from the performance of community services may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(11) Order that the juvenile participate in work programs which are designed to provide job skills and specific employment training to enhance the employability of job participants. Such programs may be without compensation, provided that any money earned by the juvenile from participation in a work program may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(12) Order that the juvenile participate in programs emphasizing self-reliance, such as intensive outdoor programs teaching survival skills, including but not limited to camping, hiking, and other appropriate activities;

(13) Order that the juvenile participate in a program of academic or vocational education or counseling, such as a youth service bureau, requiring attendance at sessions designed to afford access to opportunities for normal growth and development. This may require attendance after school, evenings, and weekends;

(14) Place the juvenile in a suitable residential or nonresidential program for the treatment of alcohol or narcotic abuse, provided that the juvenile has been determined to be in need of such services;

(15) Order the parent or guardian of the juvenile to participate in appropriate programs or services when the court has found either that such person's omission or conduct was a significant contributing factor towards the commission of the delinquent act, or, under its authority to enforce litigant's rights, that such person's omission or conduct has been a significant contributing factor towards the ineffective implementation of a court order previously entered in relation to the juvenile;

(16) (a) Place the juvenile in a nonresidential program operated by a public or private agency, providing intensive services to juveniles for specified hours, which may include education, counseling to the juvenile and the juvenile's family if appropriate,

vocational training, employment counseling, work, or other services;

(b) Place the juvenile under the custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) for placement with any private group home or private residential facility with which the commission has entered into a purchase of service contract;

(17) Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two years the driver's license, registration certificate, or both of any juvenile who used a motor vehicle in the course of committing an act for which the juvenile was adjudicated delinquent. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the circumstances of the act for which the juvenile was adjudicated delinquent and the potential effect of the loss of driving privileges on the juvenile's ability to be rehabilitated. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial commitment;

(18) Order that the juvenile satisfy any other conditions reasonably related to the rehabilitation of the juvenile;

(19) Order a parent or guardian who has failed or neglected to exercise reasonable supervision or control of a juvenile who has been adjudicated delinquent to make restitution to any person or entity who has suffered a loss as a result of that offense. The court may determine the reasonable amount, terms, and conditions of restitution; or

(20) Place the juvenile, if eligible, in an appropriate juvenile offender program established pursuant to P.L.1997, c.81 (C.30:8-61 et al.).

c. (1) If the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Juvenile Justice Commission, the court may, in addition to any of the dispositions not involving placement out of the home enumerated in this section, incarcerate the juvenile in the youth detention facility in that county for a term not to exceed 60 consecutive days. The decision by the court to incarcerate a juvenile shall be made in accordance with subsection i. of section 2 of P.L.1982, c.77 (C.2A:4A-21). Counties which do not operate their own juvenile detention facilities may contract for the use of approved commitment programs with counties with which they have established agreements for the use of pre-disposition juvenile detention facilities. The Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection.

(2) A juvenile shall not be incarcerated in any county detention facility unless the county has entered into an agreement with the Juvenile Justice Commission concerning the use of the facility for sentenced juveniles. Upon agreement with the county, the Juvenile Justice Commission shall certify detention facilities which may receive juveniles sentenced pursuant to this subsection and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to this subsection exceed 50% of the maximum capacity of the facility.

(3) The court may fix a term of incarceration under this subsection that is in accordance with subsection i. of section 2 of P.L.1982, c.77 (C.2A:4A-21) and:

(a) The act for which the juvenile was adjudicated delinquent, if committed by an adult, would have constituted a crime or repetitive disorderly persons offense;

(b) Incarceration of the juvenile is consistent with the goals of public safety, accountability, and rehabilitation and the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors as set forth in section 25 of P.L.1982, c.77 (C.2A:4A-44); and

(c) The detention facility has been certified for admission of adjudicated juveniles pursuant to paragraph (2).

(4) If as a result of incarceration of adjudicated juveniles pursuant to this subsection, a county is required to transport a predisposition juvenile to a juvenile detention facility in another county, the costs of such transportation shall be borne by the Juvenile Justice Commission.

d. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section other than subsection c., the duration of the juvenile's mandatory participation in such alternative programs shall extend for a period consistent with the program goal for the juvenile and shall in no event exceed one year beyond the maximum duration permissible for the delinquent if the juvenile had been committed to a term of incarceration.

e. In addition to any disposition the court may impose pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the following orders shall be included in dispositions of the adjudications set forth below:

(1) An order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 60 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of theft of a motor vehicle, or the crime of unlawful taking of a motor vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third

degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2; and

(2) (Deleted by amendment, P.L.2019, c.363)

(3) An order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 30 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the fourth degree crime of unlawful taking of a motor vehicle in violation of subsection b. of N.J.S.2C:20-10.

(4) (Deleted by amendment, P.L.2019, c.363)

f. (1) (Deleted by amendment, P.L.2019, c.363)

(2) (Deleted by amendment, P.L.2019, c.363

(3) Deleted by amendment, P.L.2019, c.363)

g. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section, the order shall include provisions which provide balanced attention to the protection of the community, accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the child to become a responsible and productive member of the community.

(cf: P.L.2019, c.363, s.2)

8. This act shall take effect on the first day of the fifth month next following enactment, except that section 6 shall take effect immediately.

STATEMENT

This bill supplements the "New Jersey Code of Juvenile Justice," P.L.1982, c.77 (C.2A:4A-20 et seq.), to establish a Juvenile Offender Community Conservation and Improvement Services Program. The program, which is designed as a more structured and focused version of the current community service program, would offer the courts another option when sentencing non-violent juvenile offenders.

The 90-day nonresidential program, which consists of vocational, educational, counseling, and physical components, is structured to develop employment skills; encourage educational achievement; foster essential work habits like responsibility, cooperation, and discipline; and stimulate the development of each participant's self-respect, self-control, and sense of self-worth.

Although primarily rehabilitative, this program also would serve the taxpayers of the State by assigning juvenile offenders to local community service projects, such as maintaining and repairing

playground and recreation equipment; litter collection and control activities; and preserving, conserving, and improving public areas. Upon the request of the Department of Environmental Protection, these juvenile offenders may be assigned to improvement, maintenance, and conservation projects at State parks and beaches.