

2C:45-5
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2015 **CHAPTER:** 93

NJSA: 2C:45-5 (Permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment.)

BILL NO: S2381 (Substituted for A3723 (ACS))

SPONSOR(S) Lesniak, Raymond J., and others

DATE INTRODUCED: September 22, 2014

COMMITTEE: **ASSEMBLY:** ---

SENATE: Health, Human Services and Senior Citizens
Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 25, 2015

SENATE: March 16, 2015

DATE OF APPROVAL: August 10, 2015

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL
(Senate Committee Substitute enacted) Yes

S2381

INTRODUCED BILL:
(Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes Health, Human Services and Senior Citizens
Budget and Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

LEGISLATIVE FISCAL NOTE: Yes

A3723 (ACS)

INTRODUCED BILL:

(Includes sponsor(s) statement)

Yes

COMMITTEE STATEMENT:

ASSEMBLY:

Yes

Health & Senior Services
Appropriations

SENATE:

No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

end

P.L.2015, CHAPTER 93, *approved August 10, 2015*
Senate Committee Substitute for
Senate, No. 2381

1 AN ACT concerning medication-assisted treatment for certain
2 persons, amending N.J.S.2C:35-14, 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. N.J.S.2C:35-14 is amended to read as follows:

9 2C:35-14. Rehabilitation Program for Drug and Alcohol
10 Dependent Persons Subject to a Presumption of Incarceration or a
11 Mandatory Minimum Period of Parole Ineligibility; Criteria for
12 Imposing Special Probation; Ineligible Offenders; **【Prosecutorial**
13 **Objections;】** Commitment to Residential Treatment Facilities or
14 Participation in a Nonresidential Treatment Program; Presumption
15 of Revocation; Brief Incarceration in Lieu of Permanent
16 Revocation.

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

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

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

Matter underlined thus is new matter.

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

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

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

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

16 (6) the person has not been previously convicted on two or more
17 separate occasions of crimes of the first or second degree, other
18 than those listed in paragraph (7); or the person has not been
19 previously convicted on two or more separate occasions, where one
20 of the offenses is a crime of the third degree, other than crimes
21 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
22 first or second degree; and

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

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

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

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

46 As a condition of special probation, the court shall order the
47 person to enter a residential treatment program at a facility licensed

1 and approved by [the Division of Addiction Services in] the
2 Department of Human Services or a program of nonresidential
3 treatment by a licensed and approved treatment provider, which
4 program may include the use of medication-assisted treatment as
5 defined in paragraph (7) of subsection f. of this section, to comply
6 with program rules and the requirements of the course of treatment,
7 to cooperate fully with the treatment provider, and to comply with
8 such other reasonable terms and conditions as may be required by
9 the court or by law, pursuant to N.J.S.2C:45-1, and which shall
10 include periodic urine testing for drug or alcohol usage throughout
11 the period of special probation. In determining whether to order the
12 person to participate in a nonresidential rather than a residential
13 treatment program, the court shall follow the procedure set forth in
14 subsection j. of this section. Subject to the requirements of
15 subsection d. of this section, the conditions of special probation
16 may include different methods and levels of community-based or
17 residential supervision.

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

21 (1) a crime of the first degree;

22 (2) a crime of the first or second degree enumerated in
23 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
24 than a crime of the second degree involving N.J.S.2C:15-1
25 (robbery) or N.J.S.2C:18-2 (burglary);

26 (3) a crime, other than that defined in section 1 of P.L.1987,
27 c.101 (C.2C:35-7), for which a mandatory minimum period of
28 incarceration is prescribed under chapter 35 of this Title or any
29 other law; or

30 (4) an offense that involved the distribution or the conspiracy or
31 attempt to distribute a controlled dangerous substance or controlled
32 substance analog to a juvenile near or on school property.

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

34 d. Except as otherwise provided in subsection j. of this section,
35 a person convicted of or adjudicated delinquent for a crime of the
36 second degree or of a violation of section 1 of P.L.1987,
37 c.101 (C.2C:35-7), or who previously has been convicted of or
38 adjudicated delinquent for an offense under subsection a. of
39 N.J.S.2C:35-5 or a similar offense under any other law of this State,
40 any other state, or the United States, who is placed on special
41 probation under this section shall be committed to the custody of a
42 residential substance use disorders treatment facility licensed and
43 approved by [the Division of Addiction Services in] the
44 Department of Human Services. Subject to the authority of the
45 court to temporarily suspend imposition of all or any portion of the
46 term of commitment to a residential treatment facility pursuant to
47 subsection j. of this section, the person shall be committed to the

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

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

46 f. (1) Upon a first violation of any term or condition of the
47 special probation authorized by this section or of any requirements

1 of the course of treatment, the court in its discretion may
2 permanently revoke the person's special probation.

3 (2) Upon a second or subsequent violation of any term or
4 condition of the special probation authorized by this section or of
5 any requirements of the course of treatment, the court shall, subject
6 only to the provisions of subsection g. of this section, permanently
7 revoke the person's special probation unless the court finds on the
8 record that there is a substantial likelihood that the person will
9 successfully complete the treatment program if permitted to
10 continue on special probation, and the court is clearly convinced,
11 considering the nature and seriousness of the violations, that no
12 danger to the community will result from permitting the person to
13 continue on special probation pursuant to this section. The court's
14 determination to permit the person to continue on special probation
15 following a second or subsequent violation pursuant to this
16 paragraph may be appealed by the prosecution.

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

28 (4) If the court permanently revokes the person's special
29 probation pursuant to this subsection, the court shall impose any
30 sentence that might have been imposed, or that would have been
31 required to be imposed, originally for the offense for which the
32 person was convicted or adjudicated delinquent. The court shall
33 conduct a de novo review of any aggravating and mitigating factors
34 present at the time of both original sentencing and resentencing. If
35 the court determines or is required pursuant to any other provision
36 of this chapter or any other law to impose a term of imprisonment,
37 the person shall receive credit for any time served in custody
38 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
39 treatment facility pursuant to this section, and for each day during
40 which the person satisfactorily complied with the terms and
41 conditions of special probation while committed pursuant to this
42 section to a residential treatment facility. The court, in determining
43 the number of credits for time spent in a residential treatment
44 facility, shall consider the recommendations of the treatment
45 provider.

46 (5) Following a violation, if the court permits the person to
47 continue on special probation pursuant to this section, the court

1 shall order the person to comply with such additional terms and
2 conditions, including but not limited to more frequent drug or
3 alcohol testing, as are necessary to deter and promptly detect any
4 further violation.

5 (6) Notwithstanding any other provision of this subsection, if
6 the person at any time refuses to undergo urine testing for drug or
7 alcohol usage as provided in subsection a. of this section, the court
8 shall, subject only to the provisions of subsection g. of this section,
9 permanently revoke the person's special probation.
10 Notwithstanding any other provision of this section, if the person at
11 any time while committed to the custody of a residential treatment
12 facility pursuant to this section commits an act that would constitute
13 an escape, the court shall forthwith permanently revoke the person's
14 special probation.

15 (7) An action for a violation under this section may be brought
16 by a probation officer or prosecutor or on the court's own motion.
17 Failure to complete successfully the required treatment program
18 shall constitute a violation of the person's special probation. In the
19 case of the temporary or continued management of a person's drug
20 or alcohol dependency by means of medication-assisted treatment
21 as defined herein, whenever supported by a report from the
22 treatment provider of existing satisfactory progress and reasonably
23 predictable long-term success with or without further medication-
24 assisted treatment, the person's use of the medication-assisted
25 treatment, even if continuing, shall not be the basis to constitute a
26 failure to complete successfully the treatment program. A person
27 who fails to comply with the terms of **[his]** the person's special
28 probation pursuant to this section and is thereafter sentenced to
29 imprisonment in accordance with this subsection shall thereafter be
30 ineligible for entry into the Intensive Supervision Program,
31 provided however that this provision shall not affect the person's
32 eligibility for entry into the Intensive Supervision Program for a
33 subsequent conviction.

34 As used in this section, the term "medication-assisted treatment"
35 means the use of any medications approved by the federal Food and
36 Drug Administration to treat substance use disorders, including
37 extended-release naltrexone, methadone, and buprenorphine, in
38 combination with counseling and behavioral therapies, to provide a
39 whole-patient approach to the treatment of substance use disorders.

40 g. When a person on special probation is subject to a
41 presumption of revocation on a second or subsequent violation
42 pursuant to paragraph (2) of subsection f. of this section, or when
43 the person refuses to undergo drug or alcohol testing pursuant to
44 paragraph (6) of subsection f. of this section, the court may, in lieu
45 of permanently revoking the person's special probation, impose a
46 term of incarceration for a period of not less than 30 days nor more
47 than six months, after which the person's term of special probation

1 pursuant to this section may be reinstated. In determining whether
2 to order a period of incarceration in lieu of permanent revocation
3 pursuant to this subsection, the court shall consider the
4 recommendations of the treatment provider with respect to the
5 likelihood that such confinement would serve to motivate the
6 person to make satisfactory progress in treatment once special
7 probation is reinstated. This disposition may occur only once with
8 respect to any person unless the court is clearly convinced that there
9 are compelling and extraordinary reasons to justify reimposing this
10 disposition with respect to the person. Any such determination by
11 the court to reimpose this disposition may be appealed by the
12 prosecution. Nothing in this subsection shall be construed to limit
13 the authority of the court at any time during the period of special
14 probation to order a person on special probation who is not subject
15 to a presumption of revocation pursuant to paragraph (2) of
16 subsection f. of this section to be incarcerated over the course of a
17 weekend, or for any other reasonable period of time, when the court
18 in its discretion determines that such incarceration would help to
19 motivate the person to make satisfactory progress in treatment.

20 h. The court, as a condition of its order, and after considering
21 the person's financial resources, shall require the person to pay that
22 portion of the costs associated with **[his] the person's** participation
23 in any **[rehabilitation program,] residential or nonresidential**
24 **treatment program [or period of residential treatment]** imposed
25 pursuant to this section which, in the opinion of the court, is
26 consistent with the person's ability to pay, taking into account the
27 court's authority to order payment or reimbursement to be made
28 over time and in installments.

29 i. The court shall impose, as a condition of the special
30 probation, any fine, penalty, fee, or restitution applicable to the
31 offense for which the person was convicted or adjudicated
32 delinquent.

33 j. Where the court finds that a person has satisfied all of the
34 eligibility criteria for special probation and would otherwise be
35 required to be committed to the custody of a residential substance
36 use disorders treatment facility pursuant to the provisions of
37 subsection d. of this section, the court may temporarily suspend
38 imposition of all or any portion of the term of commitment to a
39 residential treatment facility and may instead order the person to
40 enter a nonresidential treatment program, provided that the court
41 finds on the record that:

42 (1) the person conducting the diagnostic assessment required
43 pursuant to paragraph (1) of subsection a. of this section has
44 recommended in writing that the proposed course of nonresidential
45 treatment services is clinically appropriate and adequate to address
46 the person's treatment needs; and

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

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

6 If the prosecutor objects to the court's decision to suspend the
7 commitment of the person to a residential treatment facility
8 pursuant to this subsection, the sentence of special probation
9 imposed pursuant to this section shall not become final for ten days
10 in order to permit the appeal by the prosecution of the court's
11 decision.

12 After a period of six months of nonresidential treatment, if the
13 court, considering all available information including but not
14 limited to the recommendation of the treatment provider, finds that
15 the person has made satisfactory progress in treatment and that
16 there is a substantial likelihood that the person will successfully
17 complete the nonresidential treatment program and period of special
18 probation, the court, on notice to the prosecutor, may permanently
19 suspend the commitment of the person to the custody of a
20 residential treatment program, in which event the special
21 monitoring provisions set forth in subsection k. of this section shall
22 no longer apply.

23 Nothing in this subsection shall be construed to limit the
24 authority of the court at any time during the term of special
25 probation to order the person to be committed to a residential or
26 nonresidential treatment facility if the court determines that such
27 treatment is clinically appropriate and necessary to address the
28 person's present treatment needs.

29 k. (1) When the court temporarily suspends the commitment of
30 the person to a residential treatment facility pursuant to subsection
31 j. of this section, the court shall, in addition to ordering
32 participation in a prescribed course of nonresidential treatment and
33 any other appropriate terms or conditions authorized or required by
34 law, order the person to undergo urine testing for drug or alcohol
35 use not less than once per week unless otherwise ordered by the
36 court. The court-ordered testing shall be conducted by the
37 probation department or the treatment provider. The results of all
38 tests shall be reported promptly to the court and to the prosecutor.
39 If the person is involved with a program that is providing the person
40 medication-assisted treatment as defined in paragraph (7) of
41 subsection f. of this section, only a positive urine test for drug or
42 alcohol use unrelated to the medication-assisted treatment shall
43 constitute a violation of the terms and conditions of special
44 probation. In addition, the court shall impose appropriate curfews
45 or other restrictions on the person's movements, and may order the
46 person to wear electronic monitoring devices to enforce such
47 curfews or other restrictions as a condition of special probation.

1 (2) The probation department or other appropriate agency shall
2 immediately notify the court and the prosecutor in the event that the
3 person fails or refuses to submit to a drug or alcohol test, knowingly
4 defrauds the administration of a drug test, terminates **【his】** the
5 person's participation in the course of treatment, or commits any act
6 that would constitute absconding from parole. If the person at any
7 time while entered in a nonresidential treatment program pursuant
8 to subsection j. of this section knowingly defrauds the
9 administration of a drug test, goes into hiding, or leaves the State
10 with a purpose of avoiding supervision, the court shall permanently
11 revoke the person's special probation.

12 1. If the court finds that the person has made exemplary
13 progress in the course of treatment, the court may, upon
14 recommendation of the person's supervising probation officer or on
15 the court's own motion, and upon notice to the prosecutor, grant
16 early discharge from a term of special probation provided that the
17 person: (1) has satisfactorily completed the treatment program
18 ordered by the court; (2) has served at least two years of special
19 probation; (3) within the preceding 12 months, did not commit a
20 substantial violation of any term or condition of special probation,
21 including but not limited to a positive urine test, **【within the**
22 **preceding 12 months】** which shall only constitute a violation for a
23 person using medication-assisted treatment as defined in paragraph
24 (7) of subsection f. of this section if the positive test is unrelated to
25 the person's medication-assisted treatment; and (4) is not likely to
26 relapse or commit an offense if probation supervision and related
27 services are discontinued.

28 (cf: P.L.2012, c.23, s.5)

29

30 2. (New section) In the case of a person who is sentenced to
31 probation in accordance with N.J.S.2C:45-1, and who is ordered by
32 the court as a condition of probation to undergo treatment for a
33 substance use disorder involving drugs or alcohol, the temporary or
34 continued management of a person's drug or alcohol dependency by
35 means of medication-assisted treatment as defined herein, whenever
36 supported by a report from the treatment provider of existing
37 satisfactory progress and reasonably predictable long-term success
38 with or without further medication-assisted treatment, the person's
39 use of the medication-assisted treatment, even if continuing, shall
40 not be the basis to constitute a failure to complete successfully the
41 treatment program.

42 As used in this section, the term "medication-assisted treatment"
43 means the use of any medications approved by the federal Food and
44 Drug Administration to treat substance use disorders, including
45 extended-release naltrexone, methadone, and buprenorphine, in
46 combination with counseling and behavioral therapies, to provide a
47 whole-patient approach to the treatment of substance use disorders.

1 3. This act shall take effect immediately.

2

3

4

5

6 Permits successful completion of special probation drug court
7 program notwithstanding use of medication-assisted treatment.

SENATE, No. 2381

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2014

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senator Allen

SYNOPSIS

Requires certain drug treatment programs operating in State correctional facilities or county jails to offer medication-assisted treatment; permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/28/2014)

1 AN ACT concerning medication-assisted treatment for certain
2 persons, and amending P.L.2014, c.1 and N.J.S.2C:35-14.

3

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

6

7 1. Section 1 of P.L.2014, c.1 (C.26:2B-40) is amended to read
8 as follows:

9 1. a. A drug treatment program operating within a State
10 correctional facility or county jail which meets or substantially
11 meets the requirements for licensing as a residential drug treatment
12 program shall, if it includes medication-assisted treatment as one
13 means of treatment, be granted such license by the Division of
14 Mental Health and Addiction Services in the Department of Human
15 Services. The term “medication-assisted treatment” means the use
16 of medications, in combination with counseling and behavioral
17 therapies, to provide a whole-patient approach to the treatment of
18 substance abuse disorders.

19 b. (1) A drug treatment program which the Director of the
20 Division of Mental Health and Addiction Services determines does
21 not meet or substantially meet the requirements for licensing as a
22 residential drug treatment program shall be advised by the director,
23 within 60 days of the determination, specifically as to which
24 requirement or requirements the program failed to meet. If such
25 drug treatment program addresses the deficiency or deficiencies and
26 can meet or substantially meet the requirements, the program may
27 reapply for licensure as a residential drug treatment program.

28 (2) A drug treatment program which was already licensed as a
29 residential drug treatment program in accordance with this section
30 before the effective date of P.L. , c. (pending before the
31 Legislature as this bill), but does not offer medication-assisted
32 treatment as required for licensure on and after that effective date,
33 shall be advised by the director of the requirement no later than 30
34 days after the effective date. The previously licensed program shall
35 retain its license for an additional period of 90 days from the date of
36 notice, during which time it shall apply to the division, in a manner
37 prescribed by regulation, for approval of adding medication-assisted
38 treatment to its licensed program, which approval shall result in the
39 retention of the previously issued license. If the previously licensed
40 program does not receive approval for adding medication-assisted
41 treatment within the additional 90-day period, the license shall be
42 revoked, and thereafter the program may reapply for licensure as a
43 residential drug treatment program in accordance with this section.

44 c. The Commissioner of the Department of Human Services
45 may promulgate rules and regulations, pursuant to the

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 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), as may be necessary to effectuate the purposes of this act.
3 (P.L.2014, c.1, s.1)

4
5 2. N.J.S.2C:35-14 is amended to read as follows:

6 2C:35-14. Rehabilitation Program for Drug and Alcohol
7 Dependent Persons Subject to a Presumption of Incarceration or a
8 Mandatory Minimum Period of Parole Ineligibility; Criteria for
9 Imposing Special Probation; Ineligible Offenders; Prosecutorial
10 Objections; Commitment to Residential Treatment Facilities or
11 Participation in a Nonresidential Treatment Program; Presumption
12 of Revocation; Brief Incarceration in Lieu of Permanent
13 Revocation.

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

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

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

44 (3) the present offense was committed while the person was
45 under the influence of a controlled dangerous substance, controlled
46 substance analog or alcohol or was committed to acquire property
47 or monies in order to support the person's drug or alcohol
48 dependency; and

1 (4) substance abuse treatment and monitoring will serve to
2 benefit the person by addressing his drug or alcohol dependency
3 and will thereby reduce the likelihood that the person will thereafter
4 commit another offense; and

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

8 (6) the person has not been previously convicted on two or more
9 separate occasions of crimes of the first or second degree, other
10 than those listed in paragraph (7); or the person has not been
11 previously convicted on two or more separate occasions, where one
12 of the offenses is a crime of the third degree, other than crimes
13 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
14 first or second degree; and

15 (7) the person has not been previously convicted or adjudicated
16 delinquent for, and does not have a pending charge of murder,
17 aggravated manslaughter, manslaughter, kidnapping, aggravated
18 assault, aggravated sexual assault or sexual assault, or a similar
19 crime under the laws of any other state or the United States; and

20 (8) a suitable treatment facility licensed and approved by the
21 Division of Mental Health and Addiction Services in the
22 Department of Human Services is able and has agreed to provide
23 appropriate treatment services in accordance with the requirements
24 of this section; and

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

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

39 As a condition of special probation, the court shall order the
40 person to enter a residential treatment program at a facility licensed
41 and approved by the Division of Mental Health and Addiction
42 Services in the Department of Human Services or a program of
43 nonresidential treatment by a licensed and approved treatment
44 provider, which program may involve medication-assisted treatment
45 as defined in paragraph (7) of subsection f. of this section, to
46 comply with program rules and the requirements of the course of
47 treatment, to cooperate fully with the treatment provider, and to
48 comply with such other reasonable terms and conditions as may be

1 required by the court or by law, pursuant to N.J.S.2C:45-1, and
2 which shall include periodic urine testing for drug or alcohol usage
3 throughout the period of special probation. In determining whether
4 to order the person to participate in a nonresidential rather than a
5 residential treatment program, the court shall follow the procedure
6 set forth in subsection j. of this section. Subject to the requirements
7 of subsection d. of this section, the conditions of special probation
8 may include different methods and levels of community-based or
9 residential supervision.

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

13 (1) a crime of the first degree;

14 (2) a crime of the first or second degree enumerated in
15 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
16 than a crime of the second degree involving N.J.S.2C:15-1
17 (robbery) or N.J.S.2C:18-2 (burglary);

18 (3) a crime, other than that defined in section 1 of P.L.1987,
19 c.101 (C.2C:35-7), for which a mandatory minimum period of
20 incarceration is prescribed under chapter 35 of this Title or any
21 other law; or

22 (4) an offense that involved the distribution or the conspiracy or
23 attempt to distribute a controlled dangerous substance or controlled
24 substance analog to a juvenile near or on school property.

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

26 d. Except as otherwise provided in subsection j. of this section,
27 a person convicted of or adjudicated delinquent for a crime of the
28 second degree or of a violation of section 1 of P.L.1987, c.101
29 (C.2C:35-7), or who previously has been convicted of or
30 adjudicated delinquent for an offense under subsection a. of
31 N.J.S.2C:35-5 or a similar offense under any other law of this State,
32 any other state or the United States, who is placed on special
33 probation under this section shall be committed to the custody of a
34 residential treatment facility licensed and approved by the Division
35 of Mental Health and Addiction Services in the Department of
36 Human Services. Subject to the authority of the court to
37 temporarily suspend imposition of all or any portion of the term of
38 commitment to a residential treatment facility pursuant to
39 subsection j. of this section, the person shall be committed to the
40 residential treatment facility immediately, unless the facility cannot
41 accommodate the person, in which case the person shall be
42 incarcerated to await commitment to the residential treatment
43 facility. The term of such commitment shall be for a minimum of
44 six months, or until the court, upon recommendation of the
45 treatment provider, determines that the person has successfully
46 completed the residential treatment program, whichever is later,
47 except that no person shall remain in the custody of a residential
48 treatment facility pursuant to this section for a period in excess of

1 five years. Upon successful completion of the required residential
2 treatment program, the person shall complete the period of special
3 probation, as authorized by subsection a. of this section, with credit
4 for time served for any imprisonment served as a condition of
5 probation and credit for each day during which the person
6 satisfactorily complied with the terms and conditions of special
7 probation while committed pursuant to this section to a residential
8 treatment facility. Except as otherwise provided in subsection l. of
9 this section, the person shall not be eligible for early discharge of
10 special probation pursuant to N.J.S.2C:45-2, or any other provision
11 of the law. The court, in determining the number of credits for time
12 spent in residential treatment, shall consider the recommendations
13 of the treatment provider. A person placed into a residential
14 treatment facility pursuant to this section shall be deemed to be
15 subject to official detention for the purposes of N.J.S.2C:29-5
16 (escape).

17 e. The probation department or other appropriate agency
18 designated by the court to monitor or supervise the person's special
19 probation shall report periodically to the court as to the person's
20 progress in treatment and compliance with court-imposed terms and
21 conditions. The treatment provider shall promptly report to the
22 probation department or other appropriate agency all significant
23 failures by the person to comply with any court imposed term or
24 condition of special probation or any requirements of the course of
25 treatment, including but not limited to a positive drug or alcohol
26 test, which shall only constitute a violation for a person using
27 medication-assisted treatment as defined in paragraph (7) of
28 subsection f. of this section if the positive test is unrelated to the
29 person's treatment, or the unexcused failure to attend any session or
30 activity, and shall immediately report any act that would constitute
31 an escape. The probation department or other appropriate agency
32 shall immediately notify the court and the prosecutor in the event
33 that the person refuses to submit to a periodic drug or alcohol test or
34 for any reason terminates his participation in the course of
35 treatment, or commits any act that would constitute an escape.

36 f. (1) Upon a first violation of any term or condition of the
37 special probation authorized by this section or of any requirements
38 of the course of treatment, the court in its discretion may
39 permanently revoke the person's special probation.

40 (2) Upon a second or subsequent violation of any term or
41 condition of the special probation authorized by this section or of
42 any requirements of the course of treatment, the court shall, subject
43 only to the provisions of subsection g. of this section, permanently
44 revoke the person's special probation unless the court finds on the
45 record that there is a substantial likelihood that the person will
46 successfully complete the treatment program if permitted to
47 continue on special probation, and the court is clearly convinced,
48 considering the nature and seriousness of the violations, that no

1 danger to the community will result from permitting the person to
2 continue on special probation pursuant to this section. The court's
3 determination to permit the person to continue on special probation
4 following a second or subsequent violation pursuant to this
5 paragraph may be appealed by the prosecution.

6 (3) In making its determination whether to revoke special
7 probation, and whether to overcome the presumption of revocation
8 established in paragraph (2) of this subsection, the court shall
9 consider the nature and seriousness of the present infraction and any
10 past infractions in relation to the person's overall progress in the
11 course of treatment, and shall also consider the recommendations of
12 the treatment provider. The court shall give added weight to the
13 treatment provider's recommendation that the person's special
14 probation be permanently revoked, or to the treatment provider's
15 opinion that the person is not amenable to treatment or is not likely
16 to complete the treatment program successfully.

17 (4) If the court permanently revokes the person's special
18 probation pursuant to this subsection, the court shall impose any
19 sentence that might have been imposed, or that would have been
20 required to be imposed, originally for the offense for which the
21 person was convicted or adjudicated delinquent. The court shall
22 conduct a de novo review of any aggravating and mitigating factors
23 present at the time of both original sentencing and resentencing. If
24 the court determines or is required pursuant to any other provision
25 of this chapter or any other law to impose a term of imprisonment,
26 the person shall receive credit for any time served in custody
27 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
28 treatment facility pursuant to this section, and for each day during
29 which the person satisfactorily complied with the terms and
30 conditions of special probation while committed pursuant to this
31 section to a residential treatment facility. The court, in determining
32 the number of credits for time spent in a residential treatment
33 facility, shall consider the recommendations of the treatment
34 provider.

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

41 (6) Notwithstanding any other provision of this subsection, if
42 the person at any time refuses to undergo urine testing for drug or
43 alcohol usage as provided in subsection a. of this section, the court
44 shall, subject only to the provisions of subsection g. of this section,
45 permanently revoke the person's special probation.
46 Notwithstanding any other provision of this section, if the person at
47 any time while committed to the custody of a residential treatment
48 facility pursuant to this section commits an act that would constitute

1 an escape, the court shall forthwith permanently revoke the person's
2 special probation.

3 (7) An action for a violation under this section may be brought
4 by a probation officer or prosecutor or on the court's own motion.
5 Failure to complete successfully the required treatment program
6 shall constitute a violation of the person's special probation. In the
7 case of the temporary or continued management of a person's drug
8 or alcohol dependency by means of medication-assisted treatment
9 as defined herein, whenever supported by a report from the
10 treatment provider of existing satisfactory progress and reasonably
11 predictable long-term success with or without further medication-
12 assisted treatment, the person's use of the medication-assisted
13 treatment, even if continuing, shall not be the basis to constitute a
14 failure to complete successfully the treatment program. A person
15 who fails to comply with the terms of his special probation pursuant
16 to this section and is thereafter sentenced to imprisonment in
17 accordance with this subsection shall thereafter be ineligible for
18 entry into the Intensive Supervision Program, provided however
19 that this provision shall not affect the person's eligibility for entry
20 into the Intensive Supervision Program for a subsequent conviction.

21 The term "medication-assisted treatment," as used in this section,
22 means the use of medications, in combination with counseling and
23 behavioral therapies, to provide a whole-patient approach to the
24 treatment of substance abuse disorders related to drug or alcohol
25 dependency.

26 g. When a person on special probation is subject to a
27 presumption of revocation on a second or subsequent violation
28 pursuant to paragraph (2) of subsection f. of this section, or when
29 the person refuses to undergo drug or alcohol testing pursuant to
30 paragraph (6) of subsection f. of this section, the court may, in lieu
31 of permanently revoking the person's special probation, impose a
32 term of incarceration for a period of not less than 30 days nor more
33 than six months, after which the person's term of special probation
34 pursuant to this section may be reinstated. In determining whether
35 to order a period of incarceration in lieu of permanent revocation
36 pursuant to this subsection, the court shall consider the
37 recommendations of the treatment provider with respect to the
38 likelihood that such confinement would serve to motivate the
39 person to make satisfactory progress in treatment once special
40 probation is reinstated. This disposition may occur only once with
41 respect to any person unless the court is clearly convinced that there
42 are compelling and extraordinary reasons to justify reimposing this
43 disposition with respect to the person. Any such determination by
44 the court to reimpose this disposition may be appealed by the
45 prosecution. Nothing in this subsection shall be construed to limit
46 the authority of the court at any time during the period of special
47 probation to order a person on special probation who is not subject
48 to a presumption of revocation pursuant to paragraph (2) of

1 subsection f. of this section to be incarcerated over the course of a
2 weekend, or for any other reasonable period of time, when the court
3 in its discretion determines that such incarceration would help to
4 motivate the person to make satisfactory progress in treatment.

5 h. The court, as a condition of its order, and after considering
6 the person's financial resources, shall require the person to pay that
7 portion of the costs associated with his participation in any
8 rehabilitation program, nonresidential treatment program or period
9 of residential treatment imposed pursuant to this section which, in
10 the opinion of the court, is consistent with the person's ability to
11 pay, taking into account the court's authority to order payment or
12 reimbursement to be made over time and in installments.

13 i. The court shall impose, as a condition of the special
14 probation, any fine, penalty, fee or restitution applicable to the
15 offense for which the person was convicted or adjudicated
16 delinquent.

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

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

30 (2) no danger to the community would result from the person
31 participating in the proposed course of nonresidential treatment
32 services; and

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

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

41 After a period of six months of nonresidential treatment, if the
42 court, considering all available information including but not
43 limited to the recommendation of the treatment provider, finds that
44 the person has made satisfactory progress in treatment and that
45 there is a substantial likelihood that the person will successfully
46 complete the nonresidential treatment program and period of special
47 probation, the court, on notice to the prosecutor, may permanently
48 suspend the commitment of the person to the custody of a

1 residential treatment program, in which event the special
2 monitoring provisions set forth in subsection k. of this section shall
3 no longer apply.

4 Nothing in this subsection shall be construed to limit the
5 authority of the court at any time during the term of special
6 probation to order the person to be committed to a residential or
7 nonresidential treatment facility if the court determines that such
8 treatment is clinically appropriate and necessary to address the
9 person's present treatment needs.

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

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

40 1. If the court finds that the person has made exemplary
41 progress in the course of treatment, the court may, upon
42 recommendation of the person's supervising probation officer or on
43 the court's own motion, and upon notice to the prosecutor, grant
44 early discharge from a term of special probation provided that the
45 person: (1) has satisfactorily completed the treatment program
46 ordered by the court; (2) has served at least two years of special
47 probation; (3) within the preceding 12 months, did not commit a
48 substantial violation of any term or condition of special probation,

1 including but not limited to a positive urine test, **【within the**
2 **preceding 12 months】** which shall only constitute a violation for a
3 person using medication-assisted treatment as defined in paragraph
4 (7) of subsection f. of this section if the positive test is unrelated to
5 the person's treatment; and (4) is not likely to relapse or commit an
6 offense if probation supervision and related services are
7 discontinued.

8 (cf: P.L.2012, c.23, s.5)

9
10 3. This act shall take effect on the first day of the third month
11 next following enactment, except that the Commission of Human
12 Services, in consultation with the Commission of Corrections, and
13 the Administrative Office of the Courts may take any anticipatory
14 administrative action in advance thereof as necessary for the
15 implementation of this act.

16
17
18 STATEMENT

19
20 This bill concerns the use of medication-assisted treatment by
21 individuals involved in the criminal justice system, either while
22 incarcerated in a State correctional facility or county jail or while
23 participating in the State's special probation drug court program as
24 an alternative to incarceration. Medication-assisted treatment is the
25 use of medications, in combination with counseling and behavioral
26 therapies, to provide a whole-patient approach to the treatment of
27 substance abuse disorders. It is an evidence-based practice
28 recognized by the State's Department of Human Services, Division
29 of Mental Health and Addiction Services and the United State's
30 Department of Human Services, Substance Abuse and Mental
31 Health Services Administration.

32 For incarcerated individuals, the bill would require any drug
33 treatment program operating within a State correctional facility or
34 county jail that, pursuant to section 1 of P.L.2014, c.1 (C.26:2B-
35 40), seeks to qualify for licensing as a residential drug treatment
36 program and thus become eligible for certain grants and additional
37 benefits, include medication-assisted treatment as one means of
38 treatment offered. For any such drug treatment program already
39 licensed in accordance with that law, but which does not offer
40 medication-assisted treatment, the bill would provide a 90-day
41 license extension, during which time the program would be required
42 to add medication-assisted treatment as a means of treatment; a
43 failure to successfully add medication-assisted treatment would
44 result in the program's license being revoked.

45 For participants in special probation drug court, the bill would
46 expressly permit medication-assisted treatment as a form of
47 treatment. To this end, the bill would clarify that any urine test for
48 drug or alcohol use conducted in the course of the drug court

1 program which came up positive for an individual using
2 medication-assisted treatment would not constitute a program
3 violation unless the positive test was unrelated to the individual's
4 medication-assisted treatment. Further, an individual's temporary
5 or continued management of drug or alcohol dependency by means
6 of medication-assisted treatment, whenever supported by a report
7 from the treatment provider of existing satisfactory progress and
8 reasonably predictable long-term success with or without further
9 medication-assisted treatment, could not be used as the basis to
10 declare a violation of the drug court program or unsuccessful
11 completion of the required program treatment.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 2381

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 27, 2014

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 2381.

This bill concerns the use of medication-assisted treatment by individuals involved in the criminal justice system, either while incarcerated in a State correctional facility or county jail, or while participating in the State's special probation drug court program as an alternative to incarceration. Medication-assisted treatment is the use of any FDA-approved medications for the treatment of opioid dependence; the treatment of alcohol dependence; or the prevention of relapse to opioid or alcohol dependence, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance abuse disorders. It is an evidence-based practice recognized by the State's Department of Human Services, Division of Mental Health and Addiction Services and the United States' Department of Human Services, Substance Abuse and Mental Health Services Administration.

For incarcerated individuals, the bill would require any drug treatment program operating within a State correctional facility or county jail that, pursuant to section 1 of P.L.2014, c.1 (C.26:2B-40), seeks to qualify for licensing as a residential drug treatment program and thus become eligible for certain grants and additional benefits, to include medication-assisted treatment as one means of treatment offered. For any such drug treatment program already licensed in accordance with that law, but which does not offer medication-assisted treatment, the bill would provide a 90-day license extension, during which time the program would be required to add medication-assisted treatment as a means of treatment. A failure to successfully add medication-assisted treatment would result in the program's license being revoked.

For participants in special probation drug court, the bill would expressly permit medication-assisted treatment as a form of treatment. To this end, the bill would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which

shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual's medication-assisted treatment. Further, an individual's temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, could not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required program treatment.

The committee amended the bill to clarify that medication-assisted treatment includes the use of any FDA-approved medications for the treatment of opioid dependence; the treatment of alcohol dependence; or the prevention of relapse to opioid or alcohol dependence.

FISCAL NOTE
 [First Reprint]
SENATE, No. 2381
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: MARCH 9, 2015

SUMMARY

- Synopsis:** Requires certain drug treatment programs operating in State correctional facilities or county jails to offer medication-assisted treatment; permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment.
- Type of Impact:** General Fund expenditure, Local government expenditure.
- Agencies Affected:** Department of Corrections, County Jails, Department of Human Services.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		
Local Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) **concurs** in part with the executive estimate and notes that there are alternate medications available which could decrease the overall cost of implementing this program.
- The OLS also notes that there would be an added undetermined cost to the county jails for the treatment of local inmates, as well as to the Department of Human Services which is responsible for the treatment of drug court participants.
- The Department of Corrections (DOC) indicates that currently there are 1,332 residential substance use treatment beds and projects that approximately 15 percent of these individuals would require medication assisted treatment at a cost of \$1.9 million in the first full year of enactment.

- The DOC currently has no supporting statistics to calculate other costs such as biopsychosocial support and drug testing which would be impacted by the enactment of this bill.

BILL DESCRIPTION

Senate Bill No. 2381 (1R) of 2014 concerns the use of medication-assisted treatment by individuals involved in the criminal justice system, either while incarcerated in a State correctional facility or county jail, or while participating in the State's special probation drug court program as an alternative to incarceration. Medication-assisted treatment is the use of any FDA-approved medications for the treatment of opioid dependence; the treatment of alcohol dependence; or the prevention of relapse to opioid or alcohol dependence, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance abuse disorders. It is an evidence-based practice recognized by the State's Department of Human Services, Division of Mental Health and Addiction Services and the United States' Department of Human Services, Substance Abuse and Mental Health Services Administration.

For incarcerated individuals, the bill would require any drug treatment program operating within a State correctional facility or county jail that, pursuant to section 1 of P.L.2014, c.1 (C.26:2B-40), seeks to qualify for licensing as a residential drug treatment program and thus become eligible for certain grants and additional benefits, to include medication-assisted treatment as one means of treatment offered. For any such drug treatment program already licensed in accordance with that law, but which does not offer medication-assisted treatment, the bill would provide a 90-day license extension, during which time the program would be required to add medication-assisted treatment as a means of treatment. A failure to successfully add medication-assisted treatment would result in the program's license being revoked.

For participants in special probation drug court, the bill would expressly permit medication-assisted treatment as a form of treatment. To this end, the bill would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual's medication-assisted treatment. Further, an individual's temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, could not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required program treatment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

DOC Certification/Training

The DOC states that the Addiction Treatment Act (DATA) 2000 Waiver provides authority to physicians who dispense or prescribe certain narcotic drugs for maintenance treatment or

detoxification treatment. DATA 2000-qualifying training must include not less than eight hours of instruction on the treatment and management of opioid-addicted patients. DATA 2000 training permits qualified physicians to obtain a waiver from the separate registration requirements of the Narcotic Addict Treatment Act to treat opioid addiction with Schedule III, IV, and V opioid medications or combinations of such medications that have been specifically approved by the Food and Drug Administration (FDA) for that indication. Upon completion of the training, such medications may be prescribed and dispensed.

The DOC projects that it would cost approximately \$24,000 to train 120 physicians at an estimated cost of \$200 per physician.

Medication Costs

The DOC states that medication costs include the drug cost plus additional associated service costs for medication counseling, urine screens and other lab tests, and a dispensing cost. Based on Department of Mental Health and Addiction Services (DMHAS), the MAT program for ongoing medical and treatment cost of providing Suboxone treatment is an average cost of approximately \$9,503 per client annually. Suboxone is a “maintenance” medication and clients continue on them for several years or potentially for life. There are other medical treatments that potentially could be available, however, without assessing on a case-by-case basis the DOC is unable to determine the best treatment method. For purposes of this fiscal analysis, the DOC selected the treatment that would be the most costly with the assumption that the cost would not be more than this amount during the first three years of enactment.

The DOC currently has 1,332 residential substance use treatment beds and projects that approximately 15 percent of these individuals would require medication assisted treatment at a cost of \$1.9 million in the first full year of enactment.

This analysis does not include outpatient treatment, which may be required or other variables such as biopsychosocial support services required for MAT. Those support services include costs for mental health services and substance use counseling psychotherapy to address the patients’ use of alcohol and drugs, medical concerns, co-occurring disorders, legal problems, basic needs (housing, education, and vocational training), family relationships and social supports with a specific target of relapse prevention that includes individual and family counseling and education. There are no supporting statistics to calculate the amount of money that it would cost for biopsychosocial support at this time.

Residential Drug Treatment Program

The DOC states that the bill requires any correctional residential treatment program that is licensed now or will be licensed in the future, to offer MAT as part of the criteria to be licensed. Based on the provisions, the bill is primarily aimed at including MAT in Drug Court treatment facilities currently licensed by DMHAS. However, the bill also includes language to apply this mandate to DOC prisons and county jails that seek to be licensed in the future. The bill also specifies that positive drug testing, if done within the MAT program, not be considered a treatment violation under certain conditions. The DOC, through its contract with Rutgers, offers MAT to a very specific and limited population of inmates who have both mental illness and an alcohol dependence problem. However, from a business model, MAT for opiate addiction cases is 100 fold more costly and can lead to numerous security and training issues for custody and clinical staff regarding diversion and access. Furthermore, the DOC is currently seeking licensing for the Therapeutic Community Program run by Gateway which does NOT include MAT. It is unclear if the treatment offered by Rutgers would meet the new criteria.

Summary

The DOC states that it would cost the department approximately \$1.9 million in the first full year after the bill's enactment. Additional funding would potentially be needed to support the program based on the needs of the department in their responsibility for the safety and security of the correctional facilities. Cost beyond this fiscal note analysis is dependent on variables that can only be assessed on a client case-by-case basis.

ITEM	COUNT	PROJECTED COST
Projected Number of Patients	200	\$1,900,600
Physician Training	120	\$24,000
TOTAL COST		\$1,924,600

The DOC currently has no supporting statistics to calculate other costs such as biopsychosocial support and drug testing which would be impacted by the enactment of this bill.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs in part with the Executive estimate and notes that there are alternate medications available which could decrease the overall cost of implementing this program.

The OLS notes that The National Survey of Substance Abuse Treatment Services (N-SSATS) is an annual survey conducted by the Substance Abuse and Mental Health Services Administration (SAMHSA) and as noted in its New Jersey 2012 State Profile of the reported opioid treatment programs (OTPs) in New Jersey, 92.3 percent of the clients were prescribed Methadone and only 2.5 percent used Buprenorphine. Clients in facilities without OTP's used Buprenophere 5.2 percent.

Suboxone was approved for addiction treatment in 2002. The active ingredient in Suboxone is Buprenorphine. Suboxone is much harder to abuse but for people with heavy opiate habits, it cannot provide effective relief from withdrawal symptoms.

The OLS further notes that according to a report issued on February 25, 2014 by the Vermont Department of Health, the difference in price between the two medications (Suboxone and Methadone) is substantial. According to Vermont's state figures, a four-week regimen of Suboxone costs \$406, while four weeks of methadone costs only \$10.50. The retail cost of Suboxone ranges from \$480 to \$560 a month. With a service delivery fee of \$11 to \$12 a day the annual cost of treatment for Suboxone could be \$9,503, the amount projected by the DOC.

Methadone costs are substantially lower, averaging around \$43 a month. Using the same delivery cost as Suboxone of \$11 or \$12 per day, the average treatment cost of Methadone is around \$4,264. This is an estimated weekly fee of \$82.

The OLS also notes that there would be an added undetermined cost to the county jails for the treatment of local inmates, as well as to the Department of Human Services which is responsible for the treatment of drug court participants.

FN to S2381 [1R]

5

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst
Diane Hansen
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2381**

STATE OF NEW JERSEY

DATED: MARCH 9, 2015

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2381.

This substitute bill concerns the use of medication-assisted treatment by individuals involved in the State's special probation drug court program as an alternative to incarceration. The substitute defines "medication-assisted treatment" as the use of any medications approved by the federal Food and Drug Administration to treat substance use disorders, including extended-release naltrexone, methadone, and buprenorphine, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

The substitute would expressly permit medication-assisted treatment as a form of treatment in drug court treatment programs. To this end, the substitute would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual's medication-assisted treatment. Further, an individual's temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, could not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required program treatment.

FISCAL IMPACT:

The OLS notes that current special probation drug court participants would be in violation of the program and unable to graduate if a urine test shows that drugs are present in their systems, including drugs that are a part of a medication-assisted treatment program. The committee substitute permits special probation drug court participants to graduate from drug court even if they are still undergoing medication-assisted drug treatment (for example,

methadone treatment). The OLS notes that there may be an unknown savings to the State if individuals undergoing State-subsidized treatment that includes medication-assisted treatment are allowed to graduate from the drug court treatment program earlier than they would have graduated in the absence of the bill. Upon graduation, it is possible that an individual's State-subsidized treatment may be terminated, whether by the individual, the provider, or the State.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2381
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: MARCH 18, 2015

SUMMARY

Synopsis: Permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment.

Type of Impact: General Fund savings.

Agencies Affected: Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate - General Fund savings		

- The Office of Legislative Services (OLS) notes that there may be an unknown savings to the State if individuals undergoing State-subsidized treatment that includes medication-assisted treatment are allowed to graduate from the drug court treatment program earlier than they would have graduated in the absence of the bill. Upon graduation, it is possible that an individual’s State-subsidized treatment may be terminated, whether by the individual, the provider, or the State.
- The substitute would expressly permit medication-assisted treatment as a form of treatment in drug court treatment programs. To this end, the substitute would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual’s medication-assisted treatment.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill No. 2381 of 2014 concerns the use of medication-assisted treatment by individuals involved in the State’s special probation drug court program as an alternative to incarceration. The substitute defines “medication-assisted



treatment” as the use of any medications approved by the federal Food and Drug Administration to treat substance use disorders, including extended-release naltrexone, methadone, and buprenorphine, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

The substitute would expressly permit medication-assisted treatment as a form of treatment in drug court treatment programs. To this end, the substitute would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual’s medication-assisted treatment. Further, an individual’s temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, could not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required program treatment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that current special probation drug court participants would be in violation of the program and unable to graduate if a urine test shows that drugs are present in their systems, including drugs that are a part of a medication-assisted treatment program. The committee substitute permits special probation drug court participants to graduate from drug court even if they are still undergoing medication-assisted drug treatment (for example, methadone treatment). The OLS notes that there may be an unknown savings to the State if individuals undergoing State-subsidized treatment that includes medication-assisted treatment are allowed to graduate from the drug court treatment program earlier than they would have graduated in the absence of the bill. Upon graduation, it is possible that an individual’s State-subsidized treatment may be terminated, whether by the individual, the provider, or the State.

Section: *Judiciary*

Analyst: *Anne Raughley*
 Principal Fiscal Analyst

Approved: *David J. Rosen*
 Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3723

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2014

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Co-Sponsored by:

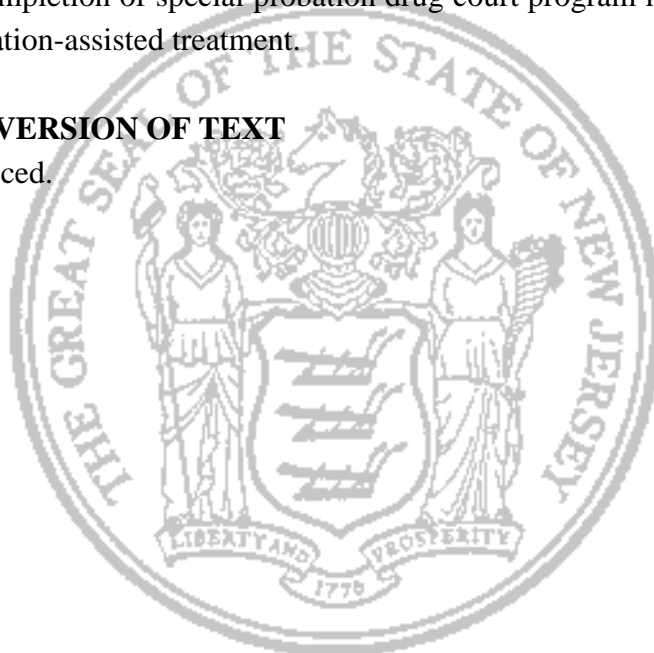
Assemblymen Wimberly and Johnson

SYNOPSIS

Requires certain drug treatment programs operating in State correctional facilities or county jails to offer medication-assisted treatment; permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/5/2014)

1 AN ACT concerning medication-assisted treatment for certain
2 persons, and amending P.L.2014, c.1 and N.J.S.2C:35-14.

3

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

6

7 1. Section 1 of P.L.2014, c.1 (C.26:2B-40) is amended to read
8 as follows:

9 1. a. A drug treatment program operating within a State
10 correctional facility or county jail which meets or substantially
11 meets the requirements for licensing as a residential drug treatment
12 program shall, if it includes medication-assisted treatment as one
13 means of treatment, be granted such license by the Division of
14 Mental Health and Addiction Services in the Department of Human
15 Services. The term “medication-assisted treatment” means the use
16 of medications, in combination with counseling and behavioral
17 therapies, to provide a whole-patient approach to the treatment of
18 substance abuse disorders.

19 b. (1) A drug treatment program which the Director of the
20 Division of Mental Health and Addiction Services determines does
21 not meet or substantially meet the requirements for licensing as a
22 residential drug treatment program shall be advised by the director,
23 within 60 days of the determination, specifically as to which
24 requirement or requirements the program failed to meet. If such
25 drug treatment program addresses the deficiency or deficiencies and
26 can meet or substantially meet the requirements, the program may
27 reapply for licensure as a residential drug treatment program.

28 (2) A drug treatment program which was already licensed as a
29 residential drug treatment program in accordance with this section
30 before the effective date of P.L. , c. (pending before the
31 Legislature as this bill), but does not offer medication-assisted
32 treatment as required for licensure on and after that effective date,
33 shall be advised by the director of the requirement no later than 30
34 days after the effective date. The previously licensed program shall
35 retain its license for an additional period of 90 days from the date of
36 notice, during which time it shall apply to the division, in a manner
37 prescribed by regulation, for approval of adding medication-assisted
38 treatment to its licensed program, which approval shall result in the
39 retention of the previously issued license. If the previously licensed
40 program does not receive approval for adding medication-assisted
41 treatment within the additional 90-day period, the license shall be
42 revoked, and thereafter the program may reapply for licensure as a
43 residential drug treatment program in accordance with this section.

44 c. The Commissioner of the Department of Human Services
45 may promulgate rules and regulations, pursuant to the

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 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), as may be necessary to effectuate the purposes of this act.
3 (P.L.2014, c.1, s.1)

4
5 2. N.J.S.2C:35-14 is amended to read as follows:

6 2C:35-14. Rehabilitation Program for Drug and Alcohol
7 Dependent Persons Subject to a Presumption of Incarceration or a
8 Mandatory Minimum Period of Parole Ineligibility; Criteria for
9 Imposing Special Probation; Ineligible Offenders; Prosecutorial
10 Objections; Commitment to Residential Treatment Facilities or
11 Participation in a Nonresidential Treatment Program; Presumption
12 of Revocation; Brief Incarceration in Lieu of Permanent
13 Revocation.

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

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

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

44 (3) the present offense was committed while the person was
45 under the influence of a controlled dangerous substance, controlled
46 substance analog or alcohol or was committed to acquire property
47 or monies in order to support the person's drug or alcohol
48 dependency; and

1 (4) substance abuse treatment and monitoring will serve to
2 benefit the person by addressing his drug or alcohol dependency
3 and will thereby reduce the likelihood that the person will thereafter
4 commit another offense; and

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

8 (6) the person has not been previously convicted on two or more
9 separate occasions of crimes of the first or second degree, other
10 than those listed in paragraph (7); or the person has not been
11 previously convicted on two or more separate occasions, where one
12 of the offenses is a crime of the third degree, other than crimes
13 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
14 first or second degree; and

15 (7) the person has not been previously convicted or adjudicated
16 delinquent for, and does not have a pending charge of murder,
17 aggravated manslaughter, manslaughter, kidnapping, aggravated
18 assault, aggravated sexual assault or sexual assault, or a similar
19 crime under the laws of any other state or the United States; and

20 (8) a suitable treatment facility licensed and approved by the
21 Division of Mental Health and Addiction Services in the
22 Department of Human Services is able and has agreed to provide
23 appropriate treatment services in accordance with the requirements
24 of this section; and

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

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

39 As a condition of special probation, the court shall order the
40 person to enter a residential treatment program at a facility licensed
41 and approved by the Division of Mental Health and Addiction
42 Services in the Department of Human Services or a program of
43 nonresidential treatment by a licensed and approved treatment
44 provider, which program may involve medication-assisted treatment
45 as defined in paragraph (7) of subsection f. of this section, to
46 comply with program rules and the requirements of the course of
47 treatment, to cooperate fully with the treatment provider, and to
48 comply with such other reasonable terms and conditions as may be

1 required by the court or by law, pursuant to N.J.S.2C:45-1, and
2 which shall include periodic urine testing for drug or alcohol usage
3 throughout the period of special probation. In determining whether
4 to order the person to participate in a nonresidential rather than a
5 residential treatment program, the court shall follow the procedure
6 set forth in subsection j. of this section. Subject to the requirements
7 of subsection d. of this section, the conditions of special probation
8 may include different methods and levels of community-based or
9 residential supervision.

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

13 (1) a crime of the first degree;

14 (2) a crime of the first or second degree enumerated in
15 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
16 than a crime of the second degree involving N.J.S.2C:15-1
17 (robbery) or N.J.S.2C:18-2 (burglary);

18 (3) a crime, other than that defined in section 1 of P.L.1987,
19 c.101 (C.2C:35-7), for which a mandatory minimum period of
20 incarceration is prescribed under chapter 35 of this Title or any
21 other law; or

22 (4) an offense that involved the distribution or the conspiracy or
23 attempt to distribute a controlled dangerous substance or controlled
24 substance analog to a juvenile near or on school property.

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

26 d. Except as otherwise provided in subsection j. of this section,
27 a person convicted of or adjudicated delinquent for a crime of the
28 second degree or of a violation of section 1 of P.L.1987, c.101
29 (C.2C:35-7), or who previously has been convicted of or
30 adjudicated delinquent for an offense under subsection a. of
31 N.J.S.2C:35-5 or a similar offense under any other law of this State,
32 any other state or the United States, who is placed on special
33 probation under this section shall be committed to the custody of a
34 residential treatment facility licensed and approved by the Division
35 of Mental Health and Addiction Services in the Department of
36 Human Services. Subject to the authority of the court to
37 temporarily suspend imposition of all or any portion of the term of
38 commitment to a residential treatment facility pursuant to
39 subsection j. of this section, the person shall be committed to the
40 residential treatment facility immediately, unless the facility cannot
41 accommodate the person, in which case the person shall be
42 incarcerated to await commitment to the residential treatment
43 facility. The term of such commitment shall be for a minimum of
44 six months, or until the court, upon recommendation of the
45 treatment provider, determines that the person has successfully
46 completed the residential treatment program, whichever is later,
47 except that no person shall remain in the custody of a residential
48 treatment facility pursuant to this section for a period in excess of

1 five years. Upon successful completion of the required residential
2 treatment program, the person shall complete the period of special
3 probation, as authorized by subsection a. of this section, with credit
4 for time served for any imprisonment served as a condition of
5 probation and credit for each day during which the person
6 satisfactorily complied with the terms and conditions of special
7 probation while committed pursuant to this section to a residential
8 treatment facility. Except as otherwise provided in subsection l. of
9 this section, the person shall not be eligible for early discharge of
10 special probation pursuant to N.J.S.2C:45-2, or any other provision
11 of the law. The court, in determining the number of credits for time
12 spent in residential treatment, shall consider the recommendations
13 of the treatment provider. A person placed into a residential
14 treatment facility pursuant to this section shall be deemed to be
15 subject to official detention for the purposes of N.J.S.2C:29-5
16 (escape).

17 e. The probation department or other appropriate agency
18 designated by the court to monitor or supervise the person's special
19 probation shall report periodically to the court as to the person's
20 progress in treatment and compliance with court-imposed terms and
21 conditions. The treatment provider shall promptly report to the
22 probation department or other appropriate agency all significant
23 failures by the person to comply with any court imposed term or
24 condition of special probation or any requirements of the course of
25 treatment, including but not limited to a positive drug or alcohol
26 test, which shall only constitute a violation for a person using
27 medication-assisted treatment as defined in paragraph (7) of
28 subsection f. of this section if the positive test is unrelated to the
29 person's treatment, or the unexcused failure to attend any session or
30 activity, and shall immediately report any act that would constitute
31 an escape. The probation department or other appropriate agency
32 shall immediately notify the court and the prosecutor in the event
33 that the person refuses to submit to a periodic drug or alcohol test or
34 for any reason terminates his participation in the course of
35 treatment, or commits any act that would constitute an escape.

36 f. (1) Upon a first violation of any term or condition of the
37 special probation authorized by this section or of any requirements
38 of the course of treatment, the court in its discretion may
39 permanently revoke the person's special probation.

40 (2) Upon a second or subsequent violation of any term or
41 condition of the special probation authorized by this section or of
42 any requirements of the course of treatment, the court shall, subject
43 only to the provisions of subsection g. of this section, permanently
44 revoke the person's special probation unless the court finds on the
45 record that there is a substantial likelihood that the person will
46 successfully complete the treatment program if permitted to
47 continue on special probation, and the court is clearly convinced,
48 considering the nature and seriousness of the violations, that no

1 danger to the community will result from permitting the person to
2 continue on special probation pursuant to this section. The court's
3 determination to permit the person to continue on special probation
4 following a second or subsequent violation pursuant to this
5 paragraph may be appealed by the prosecution.

6 (3) In making its determination whether to revoke special
7 probation, and whether to overcome the presumption of revocation
8 established in paragraph (2) of this subsection, the court shall
9 consider the nature and seriousness of the present infraction and any
10 past infractions in relation to the person's overall progress in the
11 course of treatment, and shall also consider the recommendations of
12 the treatment provider. The court shall give added weight to the
13 treatment provider's recommendation that the person's special
14 probation be permanently revoked, or to the treatment provider's
15 opinion that the person is not amenable to treatment or is not likely
16 to complete the treatment program successfully.

17 (4) If the court permanently revokes the person's special
18 probation pursuant to this subsection, the court shall impose any
19 sentence that might have been imposed, or that would have been
20 required to be imposed, originally for the offense for which the
21 person was convicted or adjudicated delinquent. The court shall
22 conduct a de novo review of any aggravating and mitigating factors
23 present at the time of both original sentencing and resentencing. If
24 the court determines or is required pursuant to any other provision
25 of this chapter or any other law to impose a term of imprisonment,
26 the person shall receive credit for any time served in custody
27 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
28 treatment facility pursuant to this section, and for each day during
29 which the person satisfactorily complied with the terms and
30 conditions of special probation while committed pursuant to this
31 section to a residential treatment facility. The court, in determining
32 the number of credits for time spent in a residential treatment
33 facility, shall consider the recommendations of the treatment
34 provider.

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

41 (6) Notwithstanding any other provision of this subsection, if
42 the person at any time refuses to undergo urine testing for drug or
43 alcohol usage as provided in subsection a. of this section, the court
44 shall, subject only to the provisions of subsection g. of this section,
45 permanently revoke the person's special probation.
46 Notwithstanding any other provision of this section, if the person at
47 any time while committed to the custody of a residential treatment
48 facility pursuant to this section commits an act that would constitute

1 an escape, the court shall forthwith permanently revoke the person's
2 special probation.

3 (7) An action for a violation under this section may be brought
4 by a probation officer or prosecutor or on the court's own motion.
5 Failure to complete successfully the required treatment program
6 shall constitute a violation of the person's special probation. In the
7 case of the temporary or continued management of a person's drug
8 or alcohol dependency by means of medication-assisted treatment
9 as defined herein, whenever supported by a report from the
10 treatment provider of existing satisfactory progress and reasonably
11 predictable long-term success with or without further medication-
12 assisted treatment, the person's use of the medication-assisted
13 treatment, even if continuing, shall not be the basis to constitute a
14 failure to complete successfully the treatment program. A person
15 who fails to comply with the terms of his special probation pursuant
16 to this section and is thereafter sentenced to imprisonment in
17 accordance with this subsection shall thereafter be ineligible for
18 entry into the Intensive Supervision Program, provided however
19 that this provision shall not affect the person's eligibility for entry
20 into the Intensive Supervision Program for a subsequent conviction.

21 The term "medication-assisted treatment," as used in this section,
22 means the use of medications, in combination with counseling and
23 behavioral therapies, to provide a whole-patient approach to the
24 treatment of substance abuse disorders related to drug or alcohol
25 dependency.

26 g. When a person on special probation is subject to a
27 presumption of revocation on a second or subsequent violation
28 pursuant to paragraph (2) of subsection f. of this section, or when
29 the person refuses to undergo drug or alcohol testing pursuant to
30 paragraph (6) of subsection f. of this section, the court may, in lieu
31 of permanently revoking the person's special probation, impose a
32 term of incarceration for a period of not less than 30 days nor more
33 than six months, after which the person's term of special probation
34 pursuant to this section may be reinstated. In determining whether
35 to order a period of incarceration in lieu of permanent revocation
36 pursuant to this subsection, the court shall consider the
37 recommendations of the treatment provider with respect to the
38 likelihood that such confinement would serve to motivate the
39 person to make satisfactory progress in treatment once special
40 probation is reinstated. This disposition may occur only once with
41 respect to any person unless the court is clearly convinced that there
42 are compelling and extraordinary reasons to justify reimposing this
43 disposition with respect to the person. Any such determination by
44 the court to reimpose this disposition may be appealed by the
45 prosecution. Nothing in this subsection shall be construed to limit
46 the authority of the court at any time during the period of special
47 probation to order a person on special probation who is not subject
48 to a presumption of revocation pursuant to paragraph (2) of

1 subsection f. of this section to be incarcerated over the course of a
2 weekend, or for any other reasonable period of time, when the court
3 in its discretion determines that such incarceration would help to
4 motivate the person to make satisfactory progress in treatment.

5 h. The court, as a condition of its order, and after considering
6 the person's financial resources, shall require the person to pay that
7 portion of the costs associated with his participation in any
8 rehabilitation program, nonresidential treatment program or period
9 of residential treatment imposed pursuant to this section which, in
10 the opinion of the court, is consistent with the person's ability to
11 pay, taking into account the court's authority to order payment or
12 reimbursement to be made over time and in installments.

13 i. The court shall impose, as a condition of the special
14 probation, any fine, penalty, fee or restitution applicable to the
15 offense for which the person was convicted or adjudicated
16 delinquent.

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

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

30 (2) no danger to the community would result from the person
31 participating in the proposed course of nonresidential treatment
32 services; and

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

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

41 After a period of six months of nonresidential treatment, if the
42 court, considering all available information including but not
43 limited to the recommendation of the treatment provider, finds that
44 the person has made satisfactory progress in treatment and that
45 there is a substantial likelihood that the person will successfully
46 complete the nonresidential treatment program and period of special
47 probation, the court, on notice to the prosecutor, may permanently
48 suspend the commitment of the person to the custody of a

1 residential treatment program, in which event the special
2 monitoring provisions set forth in subsection k. of this section shall
3 no longer apply.

4 Nothing in this subsection shall be construed to limit the
5 authority of the court at any time during the term of special
6 probation to order the person to be committed to a residential or
7 nonresidential treatment facility if the court determines that such
8 treatment is clinically appropriate and necessary to address the
9 person's present treatment needs.

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

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

40 1. If the court finds that the person has made exemplary
41 progress in the course of treatment, the court may, upon
42 recommendation of the person's supervising probation officer or on
43 the court's own motion, and upon notice to the prosecutor, grant
44 early discharge from a term of special probation provided that the
45 person: (1) has satisfactorily completed the treatment program
46 ordered by the court; (2) has served at least two years of special
47 probation; (3) within the preceding 12 months, did not commit a
48 substantial violation of any term or condition of special probation,

1 including but not limited to a positive urine test, **【within the**
2 **preceding 12 months】** which shall only constitute a violation for a
3 person using medication-assisted treatment as defined in paragraph
4 (7) of subsection f. of this section if the positive test is unrelated to
5 the person's treatment; and (4) is not likely to relapse or commit an
6 offense if probation supervision and related services are
7 discontinued.

8 (cf: P.L.2012, c.23, s.5)

9
10 3. This act shall take effect on the first day of the third month
11 next following enactment, except that the Commission of Human
12 Services, in consultation with the Commission of Corrections, and
13 the Administrative Office of the Courts may take any anticipatory
14 administrative action in advance thereof as necessary for the
15 implementation of this act.

16

17

18 STATEMENT

19

20 This bill concerns the use of medication-assisted treatment by
21 individuals involved in the criminal justice system, either while
22 incarcerated in a State correctional facility or county jail or while
23 participating in the State's special probation drug court program as
24 an alternative to incarceration. Medication-assisted treatment is the
25 use of medications, in combination with counseling and behavioral
26 therapies, to provide a whole-patient approach to the treatment of
27 substance abuse disorders. It is an evidence-based practice
28 recognized by the State's Department of Human Services, Division
29 of Mental Health and Addiction Services and the United States
30 Department of Human Services, Substance Abuse and Mental
31 Health Services Administration.

32 For incarcerated individuals, the bill would require any drug
33 treatment program operating within a State correctional facility or
34 county jail that, pursuant to section 1 of P.L.2014, c.1 (C.26:2B-
35 40), seeks to qualify for licensing as a residential drug treatment
36 program and thus become eligible for certain grants and additional
37 benefits, to include medication-assisted treatment as one means of
38 treatment offered. For any such drug treatment program already
39 licensed in accordance with that law, but which does not offer
40 medication-assisted treatment, the bill would provide a 90-day
41 license extension, during which time the program would be required
42 to add medication-assisted treatment as a means of treatment; a
43 failure to successfully add medication-assisted treatment would
44 result in the program's license being revoked.

45 For participants in special probation drug court, the bill would
46 expressly permit medication-assisted treatment as a form of
47 treatment. To this end, the bill would clarify that any urine test for
48 drug or alcohol use conducted in the course of the drug court

1 program which came up positive for an individual using
2 medication-assisted treatment would not constitute a program
3 violation unless the positive test was unrelated to the individual's
4 medication-assisted treatment. Further, an individual's temporary
5 or continued management of drug or alcohol dependency by means
6 of medication-assisted treatment, whenever supported by a report
7 from the treatment provider of existing satisfactory progress and
8 reasonably predictable long-term success with or without further
9 medication-assisted treatment, could not be used as the basis to
10 declare a violation of the drug court program or unsuccessful
11 completion of the required program treatment.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3723

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2014

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 3723.

This bill concerns the use of medication-assisted treatment by individuals involved in the criminal justice system, either while incarcerated in a State correctional facility or county jail, or while participating in the State's special probation drug court program as an alternative to incarceration.

As amended, the bill defines medication-assisted treatment to include the use of any medication approved by the United States Food and Drug Administration for the treatment of opioid dependence; the treatment of alcohol dependence; or the prevention of relapse to opioid or alcohol dependence, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance abuse disorders. Medication-assisted treatment is an evidence-based practice recognized by both the Division of Mental Health and Addiction Services in the New Jersey Department of Human Services and the Substance Abuse and Mental Health Services Administration in the United States Department of Health and Human Services.

For incarcerated individuals, the bill would require any drug treatment program operating within a State correctional facility or county jail that seeks to qualify for licensing as a residential drug treatment program pursuant to section 1 of P.L.2014, c.1 (C.26:2B-40), and thus become eligible for certain grants and additional benefits, must include medication-assisted treatment as one means of treatment offered. In the case of a drug treatment program that is licensed as a residential drug treatment program as of the effective date of the bill, but which does not offer medication-assisted treatment, the bill would require the Director of the Division of Mental Health and Addiction Services to provide the program with notice of the deficiency no later than 30 days after the effective date of the bill, and to provide a 90-day license extension to allow the program the opportunity to obtain approval to add medication-assisted treatment as a means of treatment. If a program fails to successfully obtain approval to add medication-assisted treatment within this time frame, the program's license will be

revoked and the program will be required to have included medication-assisted treatment in the program, in addition to meeting any other requirements for licensure, before a new license to operate as a residential drug treatment program may be issued.

For participants in special probation drug court, the bill would expressly permit medication-assisted treatment as a form of treatment. To this end, the bill clarifies that, if an individual's urine test for drug or alcohol use indicates the individual has used drugs or alcohol, such test result would not constitute a program violation unless the positive test result is for substances unrelated to the individual's medication-assisted treatment. Further, an individual's temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the individual's treatment provider of existing satisfactory progress and reasonably predictable long-term success, with or without further medication-assisted treatment, could not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required treatment program.

COMMITTEE AMENDMENTS

The committee amendments clarify that medication-assisted treatment includes the use of any medications that have been approved by the United States Food and Drug Administration for: the treatment of opioid dependence; the treatment of alcohol dependence; or the prevention of relapse to opioid or alcohol dependence.

The committee amendments make a technical correction to the effective date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3723

STATE OF NEW JERSEY

DATED: MARCH 16, 2015

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3723.

This substitute concerns the use of medication-assisted treatment by individuals involved in the State's special probation drug court program as an alternative to incarceration. The substitute defines "medication-assisted treatment" as the use of any medications approved by the federal Food and Drug Administration to treat substance use disorders, including extended-release naltrexone, methadone, and buprenorphine, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

The substitute expressly permits medication-assisted treatment as a form of treatment in drug court treatment programs. To this end, the substitute clarifies that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment does not constitute a program violation unless the positive test result is for substances unrelated to the individual's medication-assisted treatment.

Additionally, the substitute provides that an individual's temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, can not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required program treatment.

The substitute takes effect immediately upon enactment.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that current special probation drug court participants are in violation of the program and unable to graduate if a urine test shows that drugs are present in their systems, including drugs that are a part of a medication-assisted treatment program. The substitute permits special probation drug court

participants to graduate from drug court even if they are still undergoing medication-assisted drug treatment.

The OLS notes that there may be an unknown savings to the State if individuals undergoing State-subsidized treatment that includes medication-assisted treatment are allowed to graduate from the drug court treatment program earlier than they would have graduated in the absence of the bill. Upon graduation, it is possible that an individual's State-subsidized treatment may be terminated, whether by the individual, the provider, or the State.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3723
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: JUNE 29, 2015

SUMMARY

Synopsis: Permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment.

Type of Impact: General Fund savings.

Agencies Affected: Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate General Fund savings. See comments below		

- The Office of Legislative Services (OLS) notes that there may be an unknown savings to the State if individuals undergoing State-subsidized treatment that includes medication-assisted treatment are allowed to graduate from the drug court treatment program earlier than they would have graduated in the absence of the bill. Upon graduation, it is possible that an individual’s State-subsidized treatment may be terminated, whether by the individual, the provider, or the State.
- The substitute would expressly permit medication-assisted treatment as a form of treatment in drug court treatment programs. To this end, the substitute would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual’s medication-assisted treatment.

BILL DESCRIPTION

The Assembly Committee Substitute for Assembly Bill No. 3723 of 2015 concerns the use of medication-assisted treatment by individuals involved in the State’s special probation drug court program as an alternative to incarceration. The substitute defines “medication-assisted treatment” as the use of any medications approved by the federal Food and Drug Administration



to treat substance use disorders, including extended-release naltrexone, methadone, and buprenorphine, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

The substitute would expressly permit medication-assisted treatment as a form of treatment in drug court treatment programs. To this end, the substitute would clarify that any urine test for drug or alcohol use conducted in the course of the drug court program which shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual's medication-assisted treatment. Further, an individual's temporary or continued management of drug or alcohol dependency by means of medication-assisted treatment, whenever supported by a report from the treatment provider of existing satisfactory progress and reasonably predictable long-term success with or without further medication-assisted treatment, could not be used as the basis to declare a violation of the drug court program or unsuccessful completion of the required program treatment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that current special probation drug court participants would be in violation of the program and unable to graduate if a urine test shows that drugs are present in their systems, including drugs that are a part of a medication-assisted treatment program. The committee substitute permits special probation drug court participants to graduate from drug court even if they are still undergoing medication-assisted drug treatment (for example, methadone treatment). The OLS notes that there may be an unknown savings to the State if individuals undergoing State-subsidized treatment that includes medication-assisted treatment are allowed to graduate from the drug court treatment program earlier than they would have graduated in the absence of the bill. Upon graduation, it is possible that an individual's State-subsidized treatment may be terminated, whether by the individual, the provider, or the State.

Section: *Judiciary*

Analyst: *Anne Raughley*
 Principal Fiscal Analyst

Approved: *David J. Rosen*
 Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Chris Christie Signs Bills To Expand Substance Abuse Recovery Efforts

Monday, August 10, 2015

Tags: [Addiction Taskforce](#)



Governor Christie Also Takes Action On Other Pending Legislation

Trenton, NJ – Affirming the administration’s commitment to helping those impacted by drug abuse and addiction reclaim their lives, Governor Chris Christie has signed measures to further assist the treatment and recovery process.

“We remain firmly committed to confronting the stigma of drug abuse and addiction in the Garden State,” said Governor Christie. “The legislation I have signed continues our efforts on these important fronts by providing a substance abuse housing recovery program for impacted students at our public colleges and universities as well as allowing medication-assisted treatment as part of our larger drug court treatment programs. These measures are another bold step to help people reclaim their lives and I want to thank Senator Vitale for his advocacy on these issues.”

S-2377/A-3719 (Senators Barnes, Vitale/Assemblymembers Pinkin, Mukherji) requires four-year public colleges and universities to establish a substance abuse recovery housing program within four years. The college may designate a floor, wing, or other area within a dormitory for the program, rather than an entire dorm. The legislation applies to Rutgers New Brunswick, Ramapo College, The College of New Jersey, Montclair State University, Rowan University, and Richard Stockton College of New Jersey. The Rutgers New Brunswick campus already has implemented a similar policy. Additionally, in December, the College of New Jersey received grant funding to establish a recovery housing program.

“New Jersey created the nation’s first college-based recovery housing programs and they have been a great success. Now, with the Governor’s signature, many more New Jersey college students in recovery will have a much greater opportunity to maintain their sobriety and to succeed in school and in life,” said Senator Joseph F. Vitale.

The second bill, S-2381/A-3723 (Senators Lesniak, Vitale/Assemblymembers Conaway, Mukherjee, Sumter, and Jimenez), allows for the completion of a special probation drug court program with use of medication-assisted treatment (MAT). The legislation further clarifies that any urine test for drug or alcohol use conducted in the course of the drug court program that shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual’s MAT. Through this bill, the treatment provider rather than a judge can now decide whether narcotic-based treatment should be permitted for convicted offenders who have been admitted to the Drug Court program for drug abuse.

“Medication assisted treatment for Drug Court attendees, like all other clinical decisions made by a provider for their patient, is a critical component in a person’s treatment and recovery plan. I thank the Governor for his support of this legislation and his continued leadership and support of Drug Court programs,” Vitale added.

The Governor also took the following action on other pending legislation:

BILL SIGNINGS:

S-122/A-4149 (A.R. Bucco, Addiego/Angelini, Simon, Vainieri Huttle, Wimberly) – Expands number of safe havens for leaving newborn infants

SCS for S-573/ACS for A-2443 (Smith, Sweeney/Burzichelli, Space, McHose) – Establishes apprentice firearm hunting license and apprentice bow and arrow license

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S-685/A-4306 (Lesniak, Whelan/Burzichelli, O'Scanlon) – Reduces number of voters for whom person can serve as messenger; limits to three number of voted mail-in ballots transmittable by bearer; modifies conviction standard under vote by mail law

S-736/ACS for A-3037, 2547, 3596, 2422 (T. Kean, Lesniak/Andrzejczak, Mukherji, Munoz, Lagana, Garcia, Jimenez, Dancer, Webber) – Establishes crimes of dog fighting and leader of a dog fighting network, and updates crime of animal fighting; amends RICO concerning dog fighting

S-756/A-3151 (Sarlo/Prieto, Jimenez) – Creates sporting facility license governing sale of alcoholic beverages under certain circumstances

S-1760/A-4212 (Allen, Ruiz, Turner/Vainieri Huttle, Angelini, Jasey) – Recognizes American Sign Language as a world language for meeting high school graduation requirements

S-1813/A-3123 (Whelan, Oroho/Burzichelli, Eustace, Andrzejczak, Mazzeo, Webber) – Requires each State agency to review permits issued by agency and make necessary changes to expedite and facilitate permitting

S-2003/ACS for A-4299 (Pou/Sumter, Mainor, Wimberly, Rodriguez-Gregg) – Makes certain reforms to juvenile justice system

S-2109/A-3344 (Oroho, O'Toole/McHose, Space) – Clarifies that county sheriff may simultaneously hold position of emergency management coordinator

S-2165/A-4374 (Cunningham, Pou/Sumter, Jasey) – Requires Secretary of Higher Education to adopt new comprehensive master plan within six months and every seven years thereafter

S-2377/A-3719 (Barnes, Vitale/Pinkin, Mukherji) – Directs certain four-year public institutions of higher education to establish substance abuse recovery housing program

SCS for S-2381/ACS for A-3723 (Lesniak, Vitale/Conaway, Mukherji, Sumter, Jimenez) – Permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment

S-2420/A-3838 (Smith, Bateman/McKeon, Eustace, Gusciora, Benson) – Increases electric power net metering capacity threshold to 2.9 percent of total annual kilowatt-hours sold in State

S-2454/A-3791 (Van Drew, Oroho/Stender, Auth, Andrzejczak, Clifton, Eustace, Garcia) – Streamlines responsibilities of Division of Local Government Services and local governments; designated as the Division of Local Government Services Modernization and Local Mandate Relief Act of 2015

S-2484/A-3845 (Codey, Turner/Jasey, Benson, Vainieri Huttle, McKeon) – Requires DOE to conduct study on options and benefits of instituting later school start time in middle school and high school

S-2508/A-3798 (Oroho, Whelan/McHose, Space) – Authorizes certain county veteran identification cards to serve as proof of status for veteran designation on driver's license or identification card

S-2559/A-4016 (Sweeney, Weinberg, O'Toole/Lagana, Mazzeo, Mosquera, Vainieri Huttle) – Removes presumption of nonimprisonment in certain assault cases involving domestic violence victims; expands criminal coercion statute; revises Pretrial Intervention procedures in certain criminal cases

SCS for S-2567/AS for A-4025 (Sweeney, Oroho, Smith, Greenstein, Thompson/Mazzeo, Andrzejczak, Space, McHose, Pinkin) – Creates "Fishing Buddy License"

S-2583/A-3836 (Allen, Bateman/Coughlin, Webber, Pinkin, Wilson, A.M. Bucco, Mukherji) – Upgrades simple assault to aggravated assault if committed against certain law enforcement officers and employees because of job status

S-2599/A-4121 (Bateman, Smith/Spencer, Schepisi) – Provides certain definitions for biofuels under "Motor Fuel Tax Act"

S-2825/A-4316 (Sweeney, Greenstein/Mazzeo) – Increases efficiency and transparency in distribution of Superstorm Sandy aid money

S-2995/A-3959 (Gordon/Eustace, Johnson, Caride, Vainieri Huttle) – Revises requirements for establishment of central municipal courts

S-3023/A-4558 (Ruiz, Oroho/McKeon, Spencer, Wimberly) – Appropriates \$4,750,000 from various Green Acres funds for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes

SJR-17/AJR-79 (Beck, T. Kean/Angelini, Vainieri Huttle, McKeon, Mosquera, Pinkin, Coughlin, Wimberly) – Designates September of each year as "Hunger Action Month" in New Jersey

SJR-40/AJR-44 (Beach, Doherty/Wilson, McHose, Mazzeo, Tucker, DeAngelo) – Designates September as "Gold Star Mothers Appreciation Month"

SJR-60/AJR-83 (Beach/DeAngelo, Space) – Designates October of each year as "Lineman Appreciation Month"

A-4559/S-3022 (McKeon, Spencer, Wimberly/Codey, Doherty) – Appropriates \$88,592,361 from "Garden State Green Acres Preservation Trust Fund" and various Green Acres bond funds for local government open space acquisition and park development projects

BILLS VETOED:

S-300/A-4119 (Rice, Greenstein/Jasey, Quijano, DeCroce, Sumter, Wimberly) – CONDITIONAL – Establishes "New Jersey Out-of-School Time Advisory Commission" to review before-school, after-school, and summer programs

S-1195/A-2659 (Vitale, Allen, Weinberg/Vainieri Huttie, Gusciora, Jasey, Mosquera, McKeon) – ABSOLUTE - Revises procedure for issuance of amended birth certificate for person who has undergone change in sex

S-1593/A-213 (Turner, Ruiz/Gusciora, Eustace, Jasey, Quijano, Wimberly, Muoio) – ABSOLUTE – Establishes "Police Officer, Firefighter, Public School Teacher, Corrections Officer, and Sanitation Worker Home-buyer Assistance Act"; appropriates \$5 million

S-1621/A-2926 (Sweeney, Barnes/Lagana, Coughlin, Mosquera, Webber, Pinkin, Danielsen) – CONDITIONAL – Gives priority in training programs to long-term unemployed

S-1857/A-2699 (Codey, Turner/Vainieri Huttie, Jasey, Caputo, Wimberly) – CONDITIONAL – Establishes measures to deter steroid use among students; appropriates \$45,000 to DOE for New Jersey State Interscholastic Athletic Association testing of student-athletes for steroids and other performance enhancing substances

S-2049/A-3635 (Rice/Tucker, Caputo) – ABSOLUTE – Requires chairs of certain ward political party committees to have same rights and responsibilities as chairs of municipal political party committees; specifies certain cities not required to have municipal chairs

S-2058/A-3738 (Lesniak/Diegnan, Sumter) – CONDITIONAL – Authorizes establishment of three pilot recovery alternative high schools that provide high school education and substance dependency plan of recovery to test the effectiveness of this model

S-2360/A-3593 (Madden, Holzapfel/Johnson, Lagana, Bramnick, Danielsen, Wimberly, Jimenez) – CONDITIONAL – Requires notification of local law enforcement prior to expungement of certain mental health records of prospective firearms purchasers

S-2489/ACS for A-3859 (Sweeney, Whelan, Oroho/Greenwald, Coughlin, Bramnick, Singleton, Rible, Lagana) - CONDITIONAL – Permits public-private partnership agreements for certain building and highway infrastructure projects; provides for EDA oversight

S-2784/A-3856 (Van Drew, Whelan/Andrzejczak, Johnson) – CONDITIONAL – Provides maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for imposition of use tax on certain boats and vessels used by resident purchasers

S-2787/A-4273 (Sweeney/Singleton, Burzichelli, Giblin, Wilson, Prieto, Wimberly) – CONDITIONAL – Establishes vocational training pilot program in DOC; provides for inmate compensation for education and workforce training participation

S-3100/A-4605 (Gordon, Greenstein/Wimberly, Lagana, Singleton, Mazzeo) – ABSOLUTE – Requires State to pay its pension contributions on quarterly basis by August 1, November 1, February 1 and May 1 of each year

S-3107/A-4606 (Sweeney, Greenstein/Prieto, Singleton) – ABSOLUTE – Makes FY 2015 supplemental State appropriations totaling \$300,000,000 for prepayment of portion of FY 2016 employer contributions to State-administered public employee defined benefit retirement systems

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