

# 2C:35-15

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 297  
**NJSA:** 2C:35-15            (Grants the court discretion regarding imposition of penalties for certain drug offenses and to allow "reformatory service" to satisfy a portion of such penalties when certain conditions are met)  
**BILL NO:** S2930            (Substituted for A4570)

**SPONSOR(S):** Girgenti and others

**DATE INTRODUCED:** November 8, 2007

**COMMITTEE:**            **ASSEMBLY:**  
**SENATE:** Law and Public Safety and Veterans' Affairs

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**            **ASSEMBLY:** January 7, 2008  
**SENATE:** January 3, 2008

**DATE OF APPROVAL:** January 13, 2008

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

**S2930**

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

**A4570**

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

LAW/IS 6/19/08

P.L. 2007, CHAPTER 297, *approved January 13, 2008*  
Senate, No. 2930

1 AN ACT concerning certain penalties and amending N.J.S.2C:35-15.

2

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

5

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

7 2C:35-15. a. (1) In addition to any disposition authorized by this  
8 title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43),  
9 or any other statute indicating the dispositions that can be ordered  
10 for an adjudication of delinquency, every person convicted of or  
11 adjudicated delinquent for a violation of any offense defined in this  
12 chapter or chapter 36 of this title shall be assessed for each such  
13 offense a penalty fixed at:

14 **[(1)]** (a) \$3,000.00 in the case of a crime of the first degree;

15 **[(2)]** (b) \$2,000.00 in the case of a crime of the second degree;

16 **[(3)]** (c) \$1,000.00 in the case of a crime of the third degree;

17 **[(4)]** (d) \$750.00 in the case of a crime of the fourth degree;

18 **[(5)]** (e) \$500.00 in the case of a disorderly persons or petty  
19 disorderly persons offense.

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

31 e. The court may suspend the collection of a penalty imposed  
32 pursuant to this section; provided the person is ordered by the court  
33 to participate in a drug or alcohol rehabilitation program approved  
34 by the court; and further provided that the person agrees to pay for  
35 all or some portion of the costs associated with the rehabilitation  
36 program. In this case, the collection of a penalty imposed pursuant  
37 to this section shall be suspended during the person's participation  
38 in the approved, court-ordered rehabilitation program. Upon  
39 successful completion of the program, as determined by the court  
40 upon the recommendation of the treatment provider, the person may  
41 apply to the court to reduce the penalty imposed pursuant to this  
42 section by any amount actually paid by the person for his  
43 participation in the program. The court shall not reduce the penalty  
44 pursuant to this subsection unless the person establishes to the  
45 satisfaction of the court that he has successfully completed the  
46 rehabilitation program. If the person's participation is for any  
47 reason terminated before his successful completion of the  
48 rehabilitation program, collection of the entire penalty imposed  
49 pursuant to this section shall be enforced. Nothing in this section

1 shall be deemed to affect or suspend any other criminal sanctions  
2 imposed pursuant to this chapter or chapter 36 of this title.

3 f. A person required to pay a penalty under this section may  
4 propose to the court and the prosecutor a plan to perform  
5 reformatory service in lieu of payment of up to one-half of the  
6 penalty amount imposed under this section. The reformatory  
7 service plan option shall not be available if the provisions of  
8 paragraph (2) of subsection a. of this section apply or if the person  
9 is placed in supervisory treatment pursuant to the provisions of  
10 N.J.S.2C:36A-1 or N.J.S.2C:43-12. For purposes of this section,  
11 “reformatory service” shall include training, education or work, in  
12 which regular attendance and participation is required, supervised,  
13 and recorded, and which would assist in the defendant’s  
14 rehabilitation and reintegration. “Reformatory service” shall  
15 include, but not be limited to, substance abuse treatment or services,  
16 other therapeutic treatment, educational or vocational services,  
17 employment training or services, family counseling, service to the  
18 community and volunteer work.

19 The court, in its discretion, shall determine whether to accept the  
20 plan, after considering the position of the prosecutor, the plan’s  
21 appropriateness and practicality, the defendant’s ability to pay and  
22 the effect of the proposed service on the defendant’s rehabilitation  
23 and reintegration into society. The court shall determine the amount  
24 of the credit that would be applied against the penalty upon  
25 successful completion of the reformatory service, not to exceed one-  
26 half of the amount assessed. The court shall not apply the credit  
27 against the penalty unless the person establishes to the satisfaction  
28 of the court that he has successfully completed the reformatory  
29 service. If the person's participation is for any reason terminated  
30 before his successful completion of the reformatory service,  
31 collection of the entire penalty imposed pursuant to this section  
32 shall be enforced. Nothing in this subsection shall be deemed to  
33 affect or suspend any other criminal sanctions imposed pursuant to  
34 this chapter or chapter 36 of this title.

35 Any reformatory service ordered pursuant to this section shall be  
36 in addition to and not in lieu of any community service imposed by  
37 the court or otherwise required by law. Nothing in this section shall  
38 limit the court’s authority to order a person to participate in any  
39 activity, program or treatment in addition to those proposed in a  
40 reformatory service plan.

41 (cf: P.L.1999, c.376, s.3)

42

43 2. This act shall take effect on the 90th day following  
44 enactment.

45

46

#### STATEMENT

47

48 This bill would grant the court the discretion to lessen the  
49 penalties for certain drug offenses and to allow certain defendants

1 to perform “reformatory service” in lieu of a portion of such  
2 penalties.

3 Under current law, set out in N.J.S.2C:35-15, in addition to any  
4 other disposition ordered by the court, every person convicted of or  
5 adjudicated delinquent for an offense involving a controlled  
6 dangerous substance, controlled substance analog, counterfeit  
7 substance or drug paraphernalia is assessed a mandatory penalty for  
8 each such offense. The penalties are \$3,000 in the case of a crime  
9 of the first degree; \$2,000 in the case of a crime of the second  
10 degree; \$1,000 in the case of a crime of the third degree; \$750 in  
11 the case of a crime of the fourth degree, and \$500 in the case of a  
12 disorderly persons or petty disorderly persons offense. The  
13 penalties generally are required to be imposed for each conviction,  
14 even if other aspects of the sentence are ordered to be run  
15 concurrently. These penalties are informally known as “DEDR”  
16 penalties because they are deposited in the “Drug Enforcement and  
17 Demand Reduction Fund” (“DEDR”). The funds are appropriated  
18 for use in programs to prevent and treat drug and alcohol abuse.

19 The bill would expand the circumstances under which the court  
20 has discretion to allow imposition of a single penalty, instead of  
21 multiple penalties. Specifically, the bill would authorize the court  
22 to impose the penalty applicable to the highest degree offense for  
23 which the person is convicted or adjudicated delinquent under the  
24 following circumstances:

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

28 (2) the imposition of a single penalty would foster the  
29 defendant’s rehabilitation.

30 The bill also provides that, in the alternative, the defendant may  
31 propose to the court and the prosecutor a plan to perform  
32 “reformatory service” in lieu of payment of up to one-half of the  
33 DEDR penalty in appropriate cases. The bill provides that  
34 “reformatory service” includes training, education or work, in which  
35 regular attendance and participation is required, supervised, and  
36 recorded, and which would assist in the defendant’s rehabilitation  
37 and reintegration. “Reformatory service” includes, but is not  
38 limited to, substance abuse treatment or services, other therapeutic  
39 treatment, educational or vocational services, employment training  
40 or services, family counseling, service to the community and  
41 volunteer work.

42 Under the bill, the court, in its discretion, would determine  
43 whether to accept the plan, after considering the position of the  
44 prosecutor, the plan’s appropriateness and practicality, the  
45 defendant’s ability to pay and the effect of the proposed service on  
46 the defendant’s rehabilitation and reintegration into society. The  
47 court would determine the amount of the credit that would be  
48 applied against the penalty upon successful completion of the

1 service. The credit could not exceed one-half of the penalty amount  
2 assessed.

3 Any reformatory service plan ordered under the bill would be in  
4 addition to and not in lieu of any community service imposed by the  
5 court or otherwise required by law. The bill provides that the  
6 court's authority to order a person to participate in any activity,  
7 program or treatment in addition to those proposed in a reformatory  
8 service plan would not be limited.

9 The defendant would be entitled to the credit against the DEDR  
10 penalty when he provides the court with proof of successful  
11 completion of the reformatory service.

12 This bill embodies a recommendation of the Governor's *Strategy*  
13 *for Safe Streets and Neighborhoods*, announced earlier this year.

14

15

16

17

18 Grants the court discretion regarding imposition of penalties for  
19 certain drug offenses and to allow "reformatory service" to satisfy a  
20 portion of such penalties when certain conditions are met.

# SENATE, No. 2930

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 8, 2007

**Sponsored by:**

**Senator JOHN A. GIRGENTI**

**District 35 (Bergen and Passaic)**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**SYNOPSIS**

Grants the court discretion regarding imposition of penalties for certain drug offenses and to allow “reformatory service” to satisfy a portion of such penalties when certain conditions are met.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/8/2008)



S2930 GIRGENTI, SACCO

2

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

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37 to this section shall be suspended during the person's participation  
38 in the approved, court-ordered rehabilitation program. Upon  
39 successful completion of the program, as determined by the court  
40 upon the recommendation of the treatment provider, the person may  
41 apply to the court to reduce the penalty imposed pursuant to this  
42 section by any amount actually paid by the person for his  
43 participation in the program. The court shall not reduce the penalty  
44 pursuant to this subsection unless the person establishes to the  
45 satisfaction of the court that he has successfully completed the  
46 rehabilitation program. If the person's participation is for any  
47 reason terminated before his successful completion of the  
48 rehabilitation program, collection of the entire penalty imposed  
49 pursuant to this section shall be enforced. Nothing in this section

1 shall be deemed to affect or suspend any other criminal sanctions  
2 imposed pursuant to this chapter or chapter 36 of this title.

3 f. A person required to pay a penalty under this section may  
4 propose to the court and the prosecutor a plan to perform  
5 reformatory service in lieu of payment of up to one-half of the  
6 penalty amount imposed under this section. The reformatory  
7 service plan option shall not be available if the provisions of  
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11 “reformatory service” shall include training, education or work, in  
12 which regular attendance and participation is required, supervised,  
13 and recorded, and which would assist in the defendant’s  
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19 The court, in its discretion, shall determine whether to accept the  
20 plan, after considering the position of the prosecutor, the plan’s  
21 appropriateness and practicality, the defendant’s ability to pay and  
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23 and reintegration into society. The court shall determine the amount  
24 of the credit that would be applied against the penalty upon  
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34 this chapter or chapter 36 of this title.

35 Any reformatory service ordered pursuant to this section shall be  
36 in addition to and not in lieu of any community service imposed by  
37 the court or otherwise required by law. Nothing in this section shall  
38 limit the court’s authority to order a person to participate in any  
39 activity, program or treatment in addition to those proposed in a  
40 reformatory service plan.

41 (cf: P.L.1999, c.376, s.3)

42

43 2. This act shall take effect on the 90th day following  
44 enactment.

45

46

47

STATEMENT

48

1 This bill would grant the court the discretion to lessen the  
2 penalties for certain drug offenses and to allow certain defendants  
3 to perform “reformatory service” in lieu of a portion of such  
4 penalties.

5 Under current law, set out in N.J.S.2C:35-15, in addition to any  
6 other disposition ordered by the court, every person convicted of or  
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17 concurrently. These penalties are informally known as “DEDR”  
18 penalties because they are deposited in the “Drug Enforcement and  
19 Demand Reduction Fund” (“DEDR”). The funds are appropriated  
20 for use in programs to prevent and treat drug and alcohol abuse.

21 The bill would expand the circumstances under which the court  
22 has discretion to allow imposition of a single penalty, instead of  
23 multiple penalties. Specifically, the bill would authorize the court  
24 to impose the penalty applicable to the highest degree offense for  
25 which the person is convicted or adjudicated delinquent under the  
26 following circumstances:

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

30 (2) the imposition of a single penalty would foster the  
31 defendant’s rehabilitation.

32 The bill also provides that, in the alternative, the defendant may  
33 propose to the court and the prosecutor a plan to perform  
34 “reformatory service” in lieu of payment of up to one-half of the  
35 DEDR penalty in appropriate cases. The bill provides that  
36 “reformatory service” includes training, education or work, in which  
37 regular attendance and participation is required, supervised, and  
38 recorded, and which would assist in the defendant’s rehabilitation  
39 and reintegration. “Reformatory service” includes, but is not  
40 limited to, substance abuse treatment or services, other therapeutic  
41 treatment, educational or vocational services, employment training  
42 or services, family counseling, service to the community and  
43 volunteer work.

44 Under the bill, the court, in its discretion, would determine  
45 whether to accept the plan, after considering the position of the  
46 prosecutor, the plan’s appropriateness and practicality, the  
47 defendant’s ability to pay and the effect of the proposed service on  
48 the defendant’s rehabilitation and reintegration into society. The  
49 court would determine the amount of the credit that would be

**S2930 GIRGENTI, SACCO**

6

1 applied against the penalty upon successful completion of the  
2 service. The credit could not exceed one-half of the penalty amount  
3 assessed.

4 Any reformatory service plan ordered under the bill would be in  
5 addition to and not in lieu of any community service imposed by the  
6 court or otherwise required by law. The bill provides that the  
7 court's authority to order a person to participate in any activity,  
8 program or treatment in addition to those proposed in a reformatory  
9 service plan would not be limited.

10 The defendant would be entitled to the credit against the DEDR  
11 penalty when he provides the court with proof of successful  
12 completion of the reformatory service.

13 This bill embodies a recommendation of the Governor's *Strategy*  
14 *for Safe Streets and Neighborhoods*, announced earlier this year.

SENATE LAW AND PUBLIC SAFETY AND VETERANS  
AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 2930**

**STATE OF NEW JERSEY**

DATED: DECEMBER 17, 2007

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably Senate Bill No. 2930.

This bill would grant the court the discretion to lessen the penalties for certain drug offenses and to allow certain defendants to perform "reformatory service" in lieu of a portion of such penalties.

Under current law, set forth in N.J.S.2C:35-15, in addition to any other disposition ordered by the court, every person convicted of or adjudicated delinquent for an offense involving a controlled dangerous substance, controlled substance analog, counterfeit substance or drug paraphernalia is assessed a mandatory penalty for each such offense. The penalties are \$3,000 in the case of a crime of the first degree; \$2,000 in the case of a crime of the second degree; \$1,000 in the case of a crime of the third degree; \$750 in the case of a crime of the fourth degree, and \$500 in the case of a disorderly persons or petty disorderly persons offense. The penalties generally are required to be imposed for each conviction, even if other aspects of the sentence are ordered to be run concurrently. These penalties are informally known as "DEDR" penalties because they are deposited in the "Drug Enforcement and Demand Reduction Fund" ("DEDR"). The funds are appropriated for use in programs to prevent and treat drug and alcohol abuse.

The bill would expand the circumstances under which the court has discretion to allow imposition of a single penalty, instead of multiple penalties. Specifically, the bill would authorize the court to impose the penalty applicable to the highest degree offense for which the person is convicted or adjudicated delinquent under the following circumstances:

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

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

The bill also provides that, in the alternative, the defendant may propose to the court and the prosecutor a plan to perform "reformatory service" in lieu of payment of up to one-half of the DEDR penalty in appropriate cases. The bill provides that "reformatory service"

includes training, education or work, in which regular attendance and participation is required, supervised, and recorded, and which would assist in the defendant's rehabilitation and reintegration. "Reformative service" includes, but is not limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer work.

Under the bill, the court, in its discretion, would determine whether to accept the plan, after considering the position of the prosecutor, the plan's appropriateness and practicality, the defendant's ability to pay and the effect of the proposed service on the defendant's rehabilitation and reintegration into society. The court would determine the amount of the credit that would be applied against the penalty upon successful completion of the service. The credit could not exceed one-half of the penalty amount assessed.

Any reformative service plan ordered under the bill would be in addition to and not in lieu of any community service imposed by the court or otherwise required by law. The bill provides that the court's authority to order a person to participate in any activity, program or treatment in addition to those proposed in a reformative service plan would not be limited.

The defendant would be entitled to the credit against the DEDR penalty when he provides the court with proof of successful completion of the reformative service.

This bill embodies a recommendation of the Governor's *Strategy for Safe Streets and Neighborhoods*, announced earlier this year.

**FISCAL NOTE**  
**SENATE, No. 2930**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JANUARY 14, 2008

**SUMMARY**

**Synopsis:** Grants the court discretion regarding imposition of penalties for certain drug offenses and to allow "reformatory service" to satisfy a portion of such penalties when certain conditions are met.

**Type of Impact:** Drug Enforcement and Demand Reduction Fund revenue reduction.

**Agencies Affected:** Judiciary, Drug Enforcement and Demand Reduction Fund.

**Executive Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	\$0	\$0	\$0
<b>Drug Enforcement &amp; Demand Reduction Revenue Fund</b>	Indeterminate Reduction – See comments below		

- The Office of Legislative Services **concurs** with the Executive estimate.
- The bill would grant the court the discretion to lessen the penalties for certain drug offenses and to allow certain defendants to perform “reformatory service” in lieu of a portion of such penalties.
- The Administrative Office of the Courts (AOC) states that the legislation will not create any additional expenditure to the Judiciary.
- The AOC states that although it is not feasible for the Judiciary to reliably estimate the true fiscal impact of the legislation it is anticipated that this change in the law may reduce the amount of DEDR penalties available to be collected annually. For example, if it is assumed that this bill would result in a 10 percent reduction in the amount of money earmarked for the DEDR Fund, that would amount to \$2,557,625 less available funding prospectively.



## BILL DESCRIPTION

Senate Bill No. 2930 of 2007 would grant the court the discretion to lessen the penalties for certain drug offenses and to allow certain defendants to perform “reformatory service” in lieu of a portion of such penalties.

Under current law, set forth in N.J.S.2C:35-15, in addition to any other disposition ordered by the court, every person convicted of or adjudicated delinquent for an offense involving a controlled dangerous substance, controlled substance analog, counterfeit substance or drug paraphernalia is assessed a mandatory penalty for each such offense. The penalties are \$3,000 in the case of a crime of the first degree; \$2,000 in the case of a crime of the second degree; \$1,000 in the case of a crime of the third degree; \$750 in the case of a crime of the fourth degree, and \$500 in the case of a disorderly persons or petty disorderly persons offense. The penalties generally are required to be imposed for each conviction, even if other aspects of the sentence are ordered to be run concurrently. These penalties are informally known as “DEDR” penalties because they are deposited in the “Drug Enforcement and Demand Reduction Fund” (“DEDR”). The funds are appropriated for use in programs to prevent and treat drug and alcohol abuse.

The bill would expand the circumstances under which the court has discretion to allow imposition of a single penalty, instead of multiple penalties. Specifically, the bill would authorize the court to impose the penalty applicable to the highest degree offense for which the person is convicted or adjudicated delinquent under the following circumstances:

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

(2) the imposition of a single penalty would foster the defendant’s rehabilitation.

The bill also provides that, in the alternative, the defendant may propose to the court and the prosecutor a plan to perform “reformatory service” in lieu of payment of up to one-half of the DEDR penalty in appropriate cases. The bill provides that “reformatory service” includes training, education or work, in which regular attendance and participation is required, supervised, and recorded, and which would assist in the defendant’s rehabilitation and reintegration. “Reformatory service” includes, but is not limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer work.

Under the bill, the court, in its discretion, would determine whether to accept the plan, after considering the position of the prosecutor, the plan’s appropriateness and practicality, the defendant’s ability to pay and the effect of the proposed service on the defendant’s rehabilitation and reintegration into society. The court would determine the amount of the credit that would be applied against the penalty upon successful completion of the service. The credit could not exceed one-half of the penalty amount assessed.

Any reformatory service plan ordered under the bill would be in addition to and not in lieu of any community service imposed by the court or otherwise required by law. The bill provides that the court’s authority to order a person to participate in any activity, program or treatment in addition to those proposed in a reformatory service plan would not be limited.

The defendant would be entitled to the credit against the DEDR penalty when he provides the court with proof of successful completion of the reformatory service.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

The Administrative Office of the Courts (AOC) states that the legislation will not create any additional expenditure to the Judiciary.

The AOC notes that for the period July 1, 2006 through June 30, 2007, there were a total of 30,220 convictions for crimes or offenses where a DEDR penalty is required to be paid. This number includes: 259 convictions for first degree crimes; 1,228 convictions for second degree crimes; 15,604 convictions for third degree crimes; 741 convictions for fourth degree crimes; and, 12,367 for disorderly and petty disorderly persons offenses. The AOC states that if every DEDR penalty were paid in full, this would have resulted in a total of \$25,576,250 deposited in the Drug Enforcement and Demand Reduction Fund. The current collection rate for probationers is approximately 75 percent of all penalties and fines owed. The Judiciary does not have data on Parole's collection rate.

The AOC states that although it is not feasible for the Judiciary to reliably estimate the true fiscal impact of the legislation it is anticipated that this change in the law may reduce the amount of DEDR penalties available to be collected annually. For example, if it is assumed that this bill would result in a 10 percent reduction in the amount of money earmarked for the DEDR Fund, that would amount to \$2,557,625 less available funding prospectively.

### *OFFICE OF LEGISLATIVE SERVICES*

The Office of Legislative Services concurs with the Executive estimate.

*Section:           Judiciary*  
*Analyst:         Anne Raughley*  
*Principal 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-1 et seq.).

# ASSEMBLY, No. 4570

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 19, 2007

**Sponsored by:**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**SYNOPSIS**

Grants the court discretion regarding imposition of penalties for certain drug offenses and to allow “reformatory service” to satisfy a portion of such penalties when certain conditions are met.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/8/2008)**

1 AN ACT concerning certain penalties and amending N.J.S.2C:35-15.

2

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

5

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

7 2C:35-15. a. (1) In addition to any disposition authorized by this  
8 title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43),  
9 or any other statute indicating the dispositions that can be ordered  
10 for an adjudication of delinquency, every person convicted of or  
11 adjudicated delinquent for a violation of any offense defined in this  
12 chapter or chapter 36 of this title shall be assessed for each such  
13 offense a penalty fixed at:

14 **[(1)]** (a) \$3,000.00 in the case of a crime of the first degree;

15 **[(2)]** (b) \$2,000.00 in the case of a crime of the second degree;

16 **[(3)]** (c) \$1,000.00 in the case of a crime of the third degree;

17 **[(4)]** (d) \$750.00 in the case of a crime of the fourth degree;

18 **[(5)]** (e) \$500.00 in the case of a disorderly persons or petty  
19 disorderly persons offense.

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

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

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

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

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

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

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

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

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

28       e. The court may suspend the collection of a penalty imposed  
29 pursuant to this section; provided the person is ordered by the court  
30 to participate in a drug or alcohol rehabilitation program approved  
31 by the court; and further provided that the person agrees to pay for  
32 all or some portion of the costs associated with the rehabilitation  
33 program. In this case, the collection of a penalty imposed pursuant  
34 to this section shall be suspended during the person's participation  
35 in the approved, court-ordered rehabilitation program. Upon  
36 successful completion of the program, as determined by the court  
37 upon the recommendation of the treatment provider, the person may  
38 apply to the court to reduce the penalty imposed pursuant to this  
39 section by any amount actually paid by the person for his  
40 participation in the program. The court shall not reduce the penalty  
41 pursuant to this subsection unless the person establishes to the  
42 satisfaction of the court that he has successfully completed the  
43 rehabilitation program. If the person's participation is for any  
44 reason terminated before his successful completion of the  
45 rehabilitation program, collection of the entire penalty imposed  
46 pursuant to this section shall be enforced. Nothing in this section  
47 shall be deemed to affect or suspend any other criminal sanctions  
48 imposed pursuant to this chapter or chapter 36 of this title.

1       f. A person required to pay a penalty under this section may  
2 propose to the court and the prosecutor a plan to perform  
3 reformatory service in lieu of payment of up to one-half of the  
4 penalty amount imposed under this section. The reformatory  
5 service plan option shall not be available if the provisions of  
6 paragraph (2) of subsection a. of this section apply or if the person  
7 is placed in supervisory treatment pursuant to the provisions of  
8 N.J.S.2C:36A-1 or N.J.S.2C:43-12. For purposes of this section,  
9 “reformatory service” shall include training, education or work, in  
10 which regular attendance and participation is required, supervised,  
11 and recorded, and which would assist in the defendant’s  
12 rehabilitation and reintegration. “Reformatory service” shall  
13 include, but not be limited to, substance abuse treatment or services,  
14 other therapeutic treatment, educational or vocational services,  
15 employment training or services, family counseling, service to the  
16 community and volunteer work.

17       The court, in its discretion, shall determine whether to accept the  
18 plan, after considering the position of the prosecutor, the plan’s  
19 appropriateness and practicality, the defendant’s ability to pay and  
20 the effect of the proposed service on the defendant’s rehabilitation  
21 and reintegration into society. The court shall determine the amount  
22 of the credit that would be applied against the penalty upon  
23 successful completion of the reformatory service, not to exceed one-  
24 half of the amount assessed. The court shall not apply the credit  
25 against the penalty unless the person establishes to the satisfaction  
26 of the court that he has successfully completed the reformatory  
27 service. If the person's participation is for any reason terminated  
28 before his successful completion of the reformatory service,  
29 collection of the entire penalty imposed pursuant to this section  
30 shall be enforced. Nothing in this subsection shall be deemed to  
31 affect or suspend any other criminal sanctions imposed pursuant to  
32 this chapter or chapter 36 of this title.

33       Any reformatory service ordered pursuant to this section shall be  
34 in addition to and not in lieu of any community service imposed by  
35 the court or otherwise required by law. Nothing in this section shall  
36 limit the court’s authority to order a person to participate in any  
37 activity, program or treatment in addition to those proposed in a  
38 reformatory service plan.

39 (cf: P.L.1999, c.376, s.3)

40

41       2. This act shall take effect on the 90th day following enactment.

42

43

44

STATEMENT

45

46       This bill would grant the court the discretion to lessen the  
47 penalties for certain drug offenses and to allow certain defendants

1 to perform “reformatory service” in lieu of a portion of such  
2 penalties.

3 Under current law, set out in N.J.S.2C:35-15, in addition to any  
4 other disposition ordered by the court, every person convicted of or  
5 adjudicated delinquent for an offense involving a controlled  
6 dangerous substance, controlled substance analog, counterfeit  
7 substance or drug paraphernalia is assessed a mandatory penalty for  
8 each such offense. The penalties are \$3,000 in the case of a crime  
9 of the first degree; \$2,000 in the case of a crime of the second  
10 degree; \$1,000 in the case of a crime of the third degree; \$750 in  
11 the case of a crime of the fourth degree, and \$500 in the case of a  
12 disorderly persons or petty disorderly persons offense. The  
13 penalties generally are required to be imposed for each conviction,  
14 even if other aspects of the sentence are ordered to be run  
15 concurrently. These penalties are informally known as “DEDR”  
16 penalties because they are deposited in the “Drug Enforcement and  
17 Demand Reduction Fund” (“DEDR”). The funds are appropriated  
18 for use in programs to prevent and treat drug and alcohol abuse.

19 The bill would expand the circumstances under which the court  
20 has discretion to allow imposition of a single penalty, instead of  
21 multiple penalties. Specifically, the bill would authorize the court  
22 to impose the penalty applicable to the highest degree offense for  
23 which the person is convicted or adjudicated delinquent under the  
24 following circumstances:

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

28 (2) the imposition of a single penalty would foster the  
29 defendant’s rehabilitation.

30 The bill also provides that, in the alternative, the defendant may  
31 propose to the court and the prosecutor a plan to perform  
32 “reformatory service” in lieu of payment of up to one-half of the  
33 DEDR penalty in appropriate cases. The bill provides that  
34 “reformatory service” includes training, education or work, in which  
35 regular attendance and participation is required, supervised, and  
36 recorded, and which would assist in the defendant’s rehabilitation  
37 and reintegration. “Reformatory service” includes, but is not  
38 limited to, substance abuse treatment or services, other therapeutic  
39 treatment, educational or vocational services, employment training  
40 or services, family counseling, service to the community and  
41 volunteer work.

42 Under the bill, the court, in its discretion, would determine  
43 whether to accept the plan, after considering the position of the  
44 prosecutor, the plan’s appropriateness and practicality, the  
45 defendant’s ability to pay and the effect of the proposed service on  
46 the defendant’s rehabilitation and reintegration into society. The  
47 court would determine the amount of the credit that would be  
48 applied against the penalty upon successful completion of the

1 service. The credit could not exceed one-half of the penalty amount  
2 assessed.

3 Any reformatory service plan ordered under the bill would be in  
4 addition to and not in lieu of any community service imposed by the  
5 court or otherwise required by law. The bill provides that the  
6 court's authority to order a person to participate in any activity,  
7 program or treatment in addition to those proposed in a reformatory  
8 service plan would not be limited.

9 The defendant would be entitled to the credit against the DEDR  
10 penalty when he provides the court with proof of successful  
11 completion of the reformatory service.

12 This bill embodies a recommendation of the Governor's *Strategy*  
13 *for Safe Streets and Neighborhoods*, announced earlier this year.



# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4570

# STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Judiciary Committee reports favorably Assembly Bill No.4570.

This bill would grant the court the discretion to lessen the penalties for certain drug offenses and to allow certain defendants to perform “reformatory service” in lieu of a portion of such penalties.

Under current law, set out in N.J.S.2C:35-15, in addition to any other disposition ordered by the court, every person convicted of or adjudicated delinquent for an offense involving a controlled dangerous substance, controlled substance analog, counterfeit substance or drug paraphernalia is assessed a mandatory penalty for each such offense. The penalties are \$3,000 in the case of a crime of the first degree; \$2,000 in the case of a crime of the second degree; \$1,000 in the case of a crime of the third degree; \$750 in the case of a crime of the fourth degree, and \$500 in the case of a disorderly persons or petty disorderly persons offense. The penalties generally are required to be imposed for each conviction, even if other aspects of the sentence are ordered to be run concurrently. These penalties are informally known as “DEDR” penalties because they are deposited in the “Drug Enforcement and Demand Reduction Fund” (“DEDR”). The funds are appropriated for use in programs to prevent and treat drug and alcohol abuse.

The bill would expand the circumstances under which the court has discretion to allow imposition of a single penalty, instead of multiple penalties. Specifically, the bill would authorize the court to impose the penalty applicable to the highest degree offense for which the person is convicted or adjudicated delinquent under the following circumstances:

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

(2) the imposition of a single penalty would foster the defendant’s rehabilitation.

The bill also provides that, in the alternative, the defendant may propose to the court and the prosecutor a plan to perform “reformatory service” in lieu of payment of up to one-half of the DEDR penalty in appropriate cases. The bill provides that “reformatory service” includes training, education or work, in which regular attendance and participation is required, supervised, and recorded, and which would

assist in the defendant's rehabilitation and reintegration. "Reformatory service" includes, but is not limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer work.

Under the bill, the court, in its discretion, would determine whether to accept the plan, after considering the position of the prosecutor, the plan's appropriateness and practicality, the defendant's ability to pay and the effect of the proposed service on the defendant's rehabilitation and reintegration into society. The court would determine the amount of the credit that would be applied against the penalty upon successful completion of the service. The credit could not exceed one-half of the penalty amount assessed.

Any reformatory service plan ordered under the bill would be in addition to and not in lieu of any community service imposed by the court or otherwise required by law. The bill provides that the court's authority to order a person to participate in any activity, program or treatment in addition to those proposed in a reformatory service plan would not be limited.

The defendant would be entitled to the credit against the DEDR penalty when he provides the court with proof of successful completion of the reformatory service.

This bill embodies a recommendation of the Governor's *Strategy for Safe Streets and Neighborhoods*, announced earlier this year.

This bill is identical to Senate Bill No. 2930.

**FISCAL NOTE**  
**ASSEMBLY, No. 4570**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JANUARY 14, 2008

**SUMMARY**

**Synopsis:** Grants the court discretion regarding imposition of penalties for certain drug offenses and to allow "reformatory service" to satisfy a portion of such penalties when certain conditions are met.

**Type of Impact:** Drug Enforcement and Demand Reduction Fund revenue reduction.

**Agencies Affected:** Judiciary, Drug Enforcement and Demand Reduction Fund.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$0	\$0	\$0
<b>Drug Enforcement &amp; Demand Reduction Revenue Fund</b>	Indeterminate Reduction – See comments below		

- The Office of Legislative Services **concurs** with the Executive estimate.
- The bill would grant the court the discretion to lessen the penalties for certain drug offenses and to allow certain defendants to perform “reformatory service” in lieu of a portion of such penalties.
- The Administrative Office of the Courts (AOC) states that the legislation will not create any additional expenditure to the Judiciary.
- The AOC states that although it is not feasible for the Judiciary to reliably estimate the true fiscal impact of the legislation it is anticipated that this change in the law may reduce the amount of DEDR penalties available to be collected annually. For example, if it is assumed that this bill would result in a 10 percent reduction in the amount of money earmarked for the DEDR Fund, that would amount to \$2,557,625 less available funding prospectively.

## **BILL DESCRIPTION**

Assembly Bill No. 4570 of 2007 would grant the court the discretion to lessen the penalties for certain drug offenses and to allow certain defendants to perform “reformatory service” in lieu of a portion of such penalties.

Under current law, set forth in N.J.S.2C:35-15, in addition to any other disposition ordered by the court, every person convicted of or adjudicated delinquent for an offense involving a controlled dangerous substance, controlled substance analog, counterfeit substance or drug paraphernalia is assessed a mandatory penalty for each such offense. The penalties are \$3,000 in the case of a crime of the first degree; \$2,000 in the case of a crime of the second degree; \$1,000 in the case of a crime of the third degree; \$750 in the case of a crime of the fourth degree, and \$500 in the case of a disorderly persons or petty disorderly persons offense. The penalties generally are required to be imposed for each conviction, even if other aspects of the sentence are ordered to be run concurrently. These penalties are informally known as “DEDR” penalties. The funds are appropriated for use in programs to prevent and treat drug and alcohol abuse.

The bill would expand the circumstances under which the court has discretion to allow imposition of a single penalty, instead of multiple penalties. Specifically, the bill would authorize the court to impose the penalty applicable to the highest degree offense for which the person is convicted or adjudicated delinquent under the following circumstances:

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

(2) the imposition of a single penalty would foster the defendant’s rehabilitation.

The bill also provides that, in the alternative, the defendant may propose to the court and the prosecutor a plan to perform “reformatory service” in lieu of payment of up to one-half of the DEDR penalty in appropriate cases. The bill provides that “reformatory service” includes training, education or work, in which regular attendance and participation is required, supervised, and recorded, and which would assist in the defendant’s rehabilitation and reintegration. “Reformatory service” includes, but is not limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer work.

Under the bill, the court, in its discretion, would determine whether to accept the plan, after considering the position of the prosecutor, the plan’s appropriateness and practicality, the defendant’s ability to pay and the effect of the proposed service on the defendant’s rehabilitation and reintegration into society. The court would determine the amount of the credit that would be applied against the penalty upon successful completion of the service. The credit could not exceed one-half of the penalty amount assessed.

Any reformatory service plan ordered under the bill would be in addition to and not in lieu of any community service imposed by the court or otherwise required by law. The bill provides that the court’s authority to order a person to participate in any activity, program or treatment in addition to those proposed in a reformatory service plan would not be limited.

The defendant would be entitled to the credit against the DEDR penalty when he provides the court with proof of successful completion of the reformatory service.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

The Administrative Office of the Courts (AOC) states that the legislation will not create any additional expenditure to the Judiciary.

The AOC notes that for the period July 1, 2006 through June 30, 2007, there were a total of 30,220 convictions for crimes or offenses where a DEDR penalty is required to be paid. This number includes: 259 convictions for first degree crimes; 1,228 convictions for second degree crimes; 15,604 convictions for third degree crimes; 741 convictions for fourth degree crimes; and, 12,367 for disorderly and petty disorderly persons offenses. The AOC states that if every DEDR penalty were paid in full, this would have resulted in a total of \$25,576,250 deposited in the Drug Enforcement and Demand Reduction Fund. The current collection rate for probationers is approximately 75 percent of all penalties and fines owed. The Judiciary does not have data on Parole's collection rate.

The AOC states that although it is not feasible for the Judiciary to reliably estimate the true fiscal impact of the legislation it is anticipated that this change in the law may reduce the amount of DEDR penalties available to be collected annually. For example, if it is assumed that this bill would result in a 10 percent reduction in the amount of money earmarked for the DEDR Fund, that would amount to \$2,557,625 less available funding prospectively.

### *OFFICE OF LEGISLATIVE SERVICES*

The Office of Legislative Services concurs with the Executive estimate.

*Section: Judiciary*  
*Analyst: Anne Raughley*  
*Principal 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-1 et seq.).