



**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 1999, CHAPTER 376, *approved January 14, 2000*  
Senate, No. 1253 (*Second Reprint*)

1 **AN ACT** concerning the sentencing and treatment of drug and alcohol  
2 dependent persons and amending N.J.S.2C:35-2, N.J.S.2C:35-14,  
3 and N.J.S.2C:35-15.

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:35-2 is amended to read as follows:

9 2C:35-2. Definitions. As used in this chapter:

10 "Administer" means the direct application of a controlled dangerous  
11 substance or controlled substance analog, whether by injection,  
12 inhalation, ingestion, or any other means, to the body of a patient or  
13 research subject by: (1) a practitioner (or, in his presence, by his  
14 lawfully authorized agent), or (2) the patient or research subject at the  
15 lawful direction and in the presence of the practitioner.

16 "Agent" means an authorized person who acts on behalf of or at the  
17 direction of a manufacturer, distributor, or dispenser but does not  
18 include a common or contract carrier, public warehouseman, or  
19 employee thereof.

20 "Controlled dangerous substance" means a drug, substance, or  
21 immediate precursor in Schedules I through V <sup>2</sup>, any substance the  
22 distribution of which is specifically prohibited in N.J.S.2C:35-3, in  
23 section 3 of P.L. 1997, c.194 (C.2C:35-5.2) or in section 5 of P.L.  
24 1997, c. 194 (C.2C:35-5.3) and any drug or substance which, when  
25 ingested, is metabolized or otherwise becomes a controlled dangerous  
26 substance in the human body. When any statute refers to controlled  
27 dangerous substances, or to a specific controlled dangerous substance,  
28 it shall also be deemed to refer to any drug or substance which, when  
29 ingested, is metabolized or otherwise becomes a controlled dangerous  
30 substance or the specific controlled dangerous substance, and to any  
31 substance that is an immediate precursor of a controlled dangerous  
32 substance or the specific controlled dangerous substance<sup>2</sup>. The term  
33 shall not include distilled spirits, wine, malt beverages, as those terms  
34 are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco  
35 products. The term, wherever it appears in any law or administrative  
36 regulation of this State, shall include controlled substance analogs.

37 "Controlled substance analog" means a substance that has a  
38 chemical structure substantially similar to that of a controlled  
39 dangerous substance and that was specifically designed to produce an

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SLP committee amendments adopted January 25, 1999.

<sup>2</sup> Assembly ALP committee amendments adopted December 2, 1999.

1 effect substantially similar to that of a controlled dangerous substance.  
2 The term shall not include a substance manufactured or distributed in  
3 conformance with the provisions of an approved new drug application  
4 or an exemption for investigational use within the meaning of section  
5 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052  
6 (21 U.S.C. s. 355).

7 "Counterfeit substance" means a controlled dangerous substance or  
8 controlled substance analog which, or the container or labeling of  
9 which, without authorization, bears the trademark, trade name, or  
10 other identifying mark, imprint, number or device, or any likeness  
11 thereof, of a manufacturer, distributor, or dispenser other than the  
12 person or persons who in fact manufactured, distributed or dispensed  
13 such substance and which thereby falsely purports or is represented to  
14 be the product of, or to have been distributed by, such other  
15 manufacturer, distributor, or dispenser.

16 "Deliver" or "delivery" means the actual, constructive, or attempted  
17 transfer from one person to another of a controlled dangerous  
18 substance or controlled substance analog, whether or not there is an  
19 agency relationship.

20 "Dispense" means to deliver a controlled dangerous substance or  
21 controlled substance analog to an ultimate user or research subject by  
22 or pursuant to the lawful order of a practitioner, including the  
23 prescribing, administering, packaging, labeling, or compounding  
24 necessary to prepare the substance for that delivery. "Dispenser"  
25 means a practitioner who dispenses.

26 "Distribute" means to deliver other than by administering or  
27 dispensing a controlled dangerous substance or controlled substance  
28 analog. "Distributor" means a person who distributes.

29 "Drugs" means (a) substances recognized in the official United  
30 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
31 United States, or official National Formulary, or any supplement to  
32 any of them; and (b) substances intended for use in the diagnosis, cure,  
33 mitigation, treatment, or prevention of disease in man or other animals;  
34 and (c) substances (other than food) intended to affect the structure or  
35 any function of the body of man or other animals; and (d) substances  
36 intended for use as a component of any article specified in subsections  
37 (a), (b) and (c) of this section; but does not include devices or their  
38 components, parts or accessories.

39 "Drug or alcohol dependent person" means a person who <sup>1</sup>**[is]** as  
40 a result of<sup>1</sup> using a controlled dangerous substance or controlled  
41 substance analog or alcohol <sup>1</sup>**[and who is]** has been<sup>1</sup> in a state of  
42 psychic or physical dependence, or both, arising from the use of that  
43 controlled dangerous substance or controlled substance analog or  
44 alcohol on a continuous <sup>1</sup>or repetitive<sup>1</sup> basis. Drug or alcohol  
45 dependence is characterized by behavioral and other responses,  
46 including but not limited to a strong compulsion to take the substance

1 on a recurring basis in order to experience its psychic effects, or to  
2 avoid the discomfort of its absence.

3 "Hashish" means the resin extracted from any part of the plant  
4 Genus Cannabis L. and any compound, manufacture, salt, derivative,  
5 mixture, or preparation of such resin.

6 "Manufacture" means the production, preparation, propagation,  
7 compounding, conversion or processing of a controlled dangerous  
8 substance or controlled substance analog, either directly or by  
9 extraction from substances of natural origin, or independently by  
10 means of chemical synthesis, or by a combination of extraction and  
11 chemical synthesis, and includes any packaging or repackaging of the  
12 substance or labeling or relabeling of its container, except that this  
13 term does not include the preparation or compounding of a controlled  
14 dangerous substance or controlled substance analog by an individual  
15 for his own use or the preparation, compounding, packaging, or  
16 labeling of a controlled dangerous substance: (1) by a practitioner as  
17 an incident to his administering or dispensing of a controlled  
18 dangerous substance or controlled substance analog in the course of  
19 his professional practice, or (2) by a practitioner (or under his  
20 supervision) for the purpose of, or as an incident to, research,  
21 teaching, or chemical analysis and not for sale.

22 "Marijuana" means all parts of the plant Genus Cannabis L.,  
23 whether growing or not; the seeds thereof, and every compound,  
24 manufacture, salt, derivative, mixture, or preparation of such plant or  
25 its seeds, except those containing resin extracted from such plant; but  
26 shall not include the mature stalks of such plant, fiber produced from  
27 such stalks, oil or cake made from the seeds of such plant, any other  
28 compound, manufacture, salt, derivative, mixture, or preparation of  
29 such mature stalks, fiber, oil, or cake, or the sterilized seed of such  
30 plant which is incapable of germination.

31 "Narcotic drug" means any of the following, whether produced  
32 directly or indirectly by extraction from substances of vegetable origin,  
33 or independently by means of chemical synthesis, or by a combination  
34 of extraction and chemical synthesis:

35 (a) Opium, coca leaves, and opiates;

36 (b) A compound, manufacture, salt, derivative, or preparation of  
37 opium, coca leaves, or opiates;

38 (c) A substance (and any compound, manufacture, salt, derivative,  
39 or preparation thereof) which is chemically identical with any of the  
40 substances referred to in subsections (a) and (b), except that the words  
41 "narcotic drug" as used in this act shall not include decocainized coca  
42 leaves or extracts of coca leaves, which extracts do not contain  
43 cocaine or ecogine.

44 "Opiate" means any dangerous substance having an  
45 addiction-forming or addiction-sustaining liability similar to morphine  
46 or being capable of conversion into a drug having such

1 addiction-forming or addiction-sustaining liability. It does not include,  
2 unless specifically designated as controlled pursuant to the provisions  
3 of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer  
4 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
5 It does include its racemic and levorotatory forms.

6 "Opium poppy" means the plant of the species *Papaver somniferum*  
7 L., except the seeds thereof.

8 "Person" means any corporation, association, partnership, trust,  
9 other institution or entity or one or more individuals.

10 "Plant" means an organism having leaves and a readily observable  
11 root formation, including, but not limited to, a cutting having roots, a  
12 rootball or root hairs.

13 "Poppy straw" means all parts, except the seeds, of the opium  
14 poppy, after mowing.

15 "Practitioner" means a physician, dentist, veterinarian, scientific  
16 investigator, laboratory, pharmacy, hospital or other person licensed,  
17 registered, or otherwise permitted to distribute, dispense, conduct  
18 research with respect to, or administer a controlled dangerous  
19 substance or controlled substance analog in the course of professional  
20 practice or research in this State.

21 (a) "Physician" means a physician authorized by law to practice  
22 medicine in this or any other state and any other person authorized by  
23 law to treat sick and injured human beings in this or any other state.

24 (b) "Veterinarian" means a veterinarian authorized by law to  
25 practice veterinary medicine in this State.

26 (c) "Dentist" means a dentist authorized by law to practice  
27 dentistry in this State.

28 (d) "Hospital" means any federal institution, or any institution for  
29 the care and treatment of the sick and injured, operated or approved  
30 by the appropriate State department as proper to be entrusted with the  
31 custody and professional use of controlled dangerous substances or  
32 controlled substance analogs.

33 (e) "Laboratory" means a laboratory to be entrusted with the  
34 custody of narcotic drugs and the use of controlled dangerous  
35 substances or controlled substance analogs for scientific, experimental  
36 and medical purposes and for purposes of instruction approved by the  
37 State Department of Health and Senior Services.

38 "Production" includes the manufacture, planting, cultivation,  
39 growing, or harvesting of a controlled dangerous substance or  
40 controlled substance analog.

41 "Immediate precursor" means a substance which the State  
42 Department of Health and Senior Services has found to be and by  
43 regulation designates as being the principal compound commonly used  
44 or produced primarily for use, and which is an immediate chemical  
45 intermediary used or likely to be used in the manufacture of a  
46 controlled dangerous substance or controlled substance analog, the

1 control of which is necessary to prevent, curtail, or limit such  
2 manufacture.

3 "Residential treatment facility" means any facility licensed and  
4 approved by the Department of Health and Senior Services and which  
5 is approved by any county probation department for the inpatient  
6 treatment and rehabilitation of drug or alcohol dependent persons.

7 "Schedules I, II, III, IV, and V" are the schedules set forth in  
8 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)  
9 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any  
10 regulations issued by the Commissioner of Health and Senior Services  
11 pursuant to his authority as provided in section 3 of P.L.1970, c.226  
12 (C.24:21-3).

13 "State" means the State of New Jersey.

14 "Ultimate user" means a person who lawfully possesses a controlled  
15 dangerous substance or controlled substance analog for his own use  
16 or for the use of a member of his household or for administration to an  
17 animal owned by him or by a member of his household.

18 <sup>2</sup> "Prescription legend drug" means any drug which under Federal  
19 or State law requires dispensing by prescription or order of a licensed  
20 physician, veterinarian or dentist and is required to bear the statement  
21 "Caution: Federal law prohibits dispensing without a prescription" and  
22 is not a controlled dangerous substance or stramonium preparation.

23 "Stramonium preparation" means a substance prepared from any  
24 part of the stramonium plant in the form of a powder, pipe mixture,  
25 cigarette, or any other form with or without other ingredients.

26 "Stramonium plant" means the plant Datura Stramonium Linne,  
27 including Datura Tatula Linne.<sup>2</sup>

28 (cf: P.L.1999, c.186, s.1)

29

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

31 2C:35-14. Rehabilitation Program for Drug and Alcohol  
32 Dependent Persons; Criteria for Imposing Special Probation; Ineligible  
33 Offenders; Prosecutorial Objections; Mandatory Commitment to  
34 Residential Treatment Facilities; Presumption of Revocation; Brief  
35 Incarceration in Lieu of Permanent Revocation.

36 a. Notwithstanding the presumption of incarceration pursuant to  
37 the provisions of subsection d. of N.J.S.2C:44-1, and except as  
38 provided in subsection **[b]** c. of this section, whenever a drug or  
39 alcohol dependent person is convicted of or adjudicated delinquent for  
40 an offense **[**under N.J.S.2C:35-5, N.J.S.2C:35-6, section 1 of  
41 P.L.1987, c. 101 (C.2C:35-7), N.J.S.2C:35-10, N.J.S.2C:35-11, or  
42 N.J.S.2C:35-13**]**, other than **[**a crime of the first degree**]** one  
43 described in subsection b. of this section, the court, upon notice to the  
44 prosecutor, may, on motion of the **[**defendant and where the court  
45 finds that no danger to the community will result and that the  
46 placement will serve to benefit the defendant by serving to correct his

1 or her dependency on controlled substances] person, or on the court's  
2 own motion, place [the defendant] the person on special probation,  
3 which shall be for a term of five years, provided that the court finds on  
4 the record that:

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

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

11 (3) the present offense was committed while the person was under  
12 the influence of a controlled dangerous substance, controlled  
13 substance analog or alcohol or was committed to acquire property or  
14 monies in order to support the person's drug or alcohol dependency;  
15 and

16 (4) substance abuse treatment and monitoring will serve to benefit  
17 the person by addressing his drug or alcohol dependency and will  
18 thereby reduce the likelihood that '[he or she] the person' will  
19 thereafter commit another offense; and

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

23 (6) the person has not been previously convicted on two or more  
24 separate occasions of crimes of the first, second or third degree, other  
25 than crimes defined in N.J.S.2C:35-10; and

26 (7) the person has not been previously convicted or adjudicated  
27 delinquent for, and does not have a pending charge of '[.]' murder,  
28 aggravated manslaughter, manslaughter, robbery, kidnapping,  
29 aggravated assault, aggravated sexual assault or sexual assault, or a  
30 similar crime under the laws of any other state or the United States;  
31 and

32 (8) a suitable treatment facility licensed and approved by the  
33 Department of Health and Senior Services is able and has agreed to  
34 provide appropriate treatment services in accordance with the  
35 requirements of this section; and

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

38 In determining whether to sentence the person pursuant to this  
39 section, the court shall consider all relevant circumstances, and shall  
40 take judicial notice of any evidence, testimony or information adduced  
41 at the trial, plea hearing or other court proceedings, and shall also  
42 consider the presentence report and the results of the professional  
43 diagnostic assessment to determine whether and to what extent the  
44 person is drug or alcohol dependent and would benefit from treatment.

45 As a condition of [that] special probation, the court shall order the  
46 [defendant] person to enter a [drug rehabilitation program, subject



1 to] treatment program at a facility licensed and approved by the  
2 Department of Health and Senior Services, to comply with program  
3 rules and the requirements of the course of treatment, to cooperate  
4 fully with the treatment provider, and to comply with such other  
5 reasonable terms and conditions as may be required by the court **[and]**  
6 or by law, pursuant to N.J.S.2C:45-1, and which shall include periodic  
7 urine testing for drug or alcohol usage throughout the period of  
8 special probation. Subject to the requirements of subsection d. of this  
9 section, the conditions of special probation may include different  
10 methods and levels of community-based or residential supervision.

11 b. **[Except upon the joint application of the defendant and the**  
12 **prosecuting attorney, no]** A person shall not be eligible for special  
13 probation pursuant to this section if the person is convicted <sup>1</sup>**[or] of<sup>1</sup>**  
14 or adjudicated delinquent for:

15 (1) a crime of the first degree;

16 (2) a crime of violence as defined in subsection d. of N.J.S.2C:43-  
17 7.2;

18 (3) a crime, other than that defined in N.J.S.2C:35-7, for which a  
19 mandatory minimum period of incarceration is prescribed under  
20 chapter 35 of this Title or any other law; or

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

24 c. A person convicted of or adjudicated delinquent for an offense  
25 under **[N.J.S.2C:35-6 or]** section 1 of P.L.1987, c.101 (C.2C:35-7),  
26 subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), or any  
27 crime for which there exists a presumption of imprisonment pursuant  
28 to subsection d. of N.J.S.2C:44-1 or any other statute, or who has  
29 been previously convicted of an offense under subsection a. of  
30 N.J.S.2C:35-5 or a similar offense under any other law of this State,  
31 any other state or the United States, shall not be eligible for sentence  
32 in accordance with this section if the prosecutor objects to the person  
33 being placed on special probation. The court shall not place a person  
34 on special probation over the prosecutor's objection except upon a  
35 finding by the court of a gross and patent abuse of prosecutorial  
36 discretion. If the court makes a finding of a gross and patent abuse of  
37 prosecutorial discretion and imposes a sentence of special probation  
38 notwithstanding the objection of the prosecutor, the sentence of  
39 special probation imposed pursuant to this section shall not become  
40 final for 10 days in order to permit the appeal of such sentence by the  
41 prosecution.

42 **[c]** d. A person convicted of or adjudicated delinquent for a crime  
43 of the second degree or of a violation of section 1 of P.L.1987, c.101  
44 (C.2C:35-7), or who previously has been convicted of or adjudicated  
45 delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a  
46 similar offense under any other law of this State, any other state or the

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

31 **[d.** Upon a first violation of any term or condition of the probation  
32 authorized by this section or of any term or condition of the applicable  
33 drug rehabilitation program, the court in its discretion may, and upon  
34 a subsequent violation shall, revoke the defendant's probation and  
35 impose on the defendant any sentence that might have been imposed  
36 originally for the offense of which he was convicted. In that event, the  
37 defendant shall receive credit for any time served pursuant to  
38 N.J.S.2C:45-1, and any time spent by the defendant in a residential  
39 treatment facility. An action for a violation under this subsection may  
40 be brought by a probation officer or prosecutor. Notwithstanding any  
41 other provision of this subsection, if a defendant at any time refuses to  
42 undergo urine testing for drug usage as provided in subsection a. of  
43 this section, the court shall, upon the application of the probation  
44 officer or prosecutor, revoke the defendant's probation. Failure to  
45 successfully complete the required drug rehabilitation program shall  
46 constitute a violation of the defendant's probation. A defendant who

1 fails to comply with the terms of his probation pursuant to this section  
2 and is thereafter sentenced to imprisonment in accordance with this  
3 subsection shall be ineligible for entry into the Intensive Supervision  
4 Program.】

5 e. The probation department or other appropriate agency  
6 designated by the court to monitor or supervise the person's special  
7 probation shall report periodically to the court as to the person's  
8 progress in treatment and compliance with court-imposed terms and  
9 conditions. The treatment provider shall promptly report to the  
10 probation department or other appropriate agency all significant  
11 failures by the person to comply with any court imposed <sup>1</sup>term or  
12 condition of special probation or any requirements of the course of <sup>1</sup>  
13 treatment, including but not limited to a positive drug <sup>1</sup>or alcohol<sup>1</sup> test  
14 or the unexcused failure to attend any session or activity, and shall  
15 immediately report any act that would constitute an escape. The  
16 probation department or other appropriate agency shall immediately  
17 notify the court and the prosecutor in the event that the person refuses  
18 to submit to a periodic drug <sup>1</sup>or alcohol<sup>1</sup> test or for any reason  
19 terminates his participation in the course of <sup>1</sup>【treatemnt】 treatment<sup>1</sup>,  
20 or commits any act that would constitute an escape.

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

25 (2) Upon a second or subsequent violation of any term or condition  
26 of the special probation authorized by this section or of any  
27 requirements of the course of treatment, the court shall, subject only  
28 to the provisions of subsection g. of this section, permanently revoke  
29 the person's special probation unless the court finds on the record that  
30 there is a substantial likelihood that the person will successfully  
31 complete the treatment program if permitted to continue on special  
32 probation, and the court is clearly convinced, considering the nature  
33 and seriousness of the violations, that no danger to the community  
34 <sup>1</sup>【witll】 will<sup>1</sup> result from permitting the person to continue on special  
35 probation pursuant to this section. The court's determination to permit  
36 the person to continue on special probation following a second or  
37 subsequent violation <sup>1</sup>【prusuant】 pursuant<sup>1</sup> to this paragraph may be  
38 appealed by the prosecution.

39 (3) In making its determination whether to revoke special  
40 probation, and whether to overcome the presumption of revocation  
41 established in paragraph (2) of this subsection, the court shall consider  
42 the nature and seriousness of the present infraction and any past  
43 infractions in relation to the person's overall progress in the course of  
44 treatment, and shall also consider the recommendations of the  
45 treatment provider. The court shall give added weight to the  
46 treatment provider's recommendation that the person be permanently

1 revoked, or to the treatment provider's opinion that the person is not  
2 amenable to treatment or is not likely to complete the treatment  
3 program successfully.

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

21 (5) Following a violation, if the court permits the person to  
22 continue on special <sup>1</sup>probation<sup>1</sup> pursuant to this section, the court shall  
23 order the person to comply with such additional terms and conditions,  
24 including but not limited to more frequent drug <sup>1</sup>or alcohol<sup>1</sup> testing,  
25 as are necessary to deter and promptly detect any further violation.

26 (6) Notwithstanding any other provision of this subsection, if the  
27 person at any time refuses to undergo urine testing for drug or alcohol  
28 usage as provided in subsection a. of this section, the court shall,  
29 subject only to the provisions of subsection g. of this section,  
30 permanently revoke the person's special probation. Notwithstanding  
31 any other provision of this section, if the person at any time while  
32 committed to the custody of a residential treatment facility pursuant  
33 to this section commits an act that would constitute an escape, the  
34 court shall forthwith permanently revoke the person's special  
35 probation.

36 (7) An action for <sup>11</sup>a<sup>11</sup> violation under this section may be brought  
37 by a probation officer or prosecutor or on the court's own motion.  
38 Failure to complete successfully the required treatment program shall  
39 constitute a violation of the person's special probation. A person who  
40 fails to comply with the terms of his special probation pursuant to this  
41 section and is thereafter sentenced to imprisonment in accordance with  
42 this subsection shall thereafter be ineligible for entry into the Intensive  
43 Supervision Program.

44 g. When a person on special probation is subject to a presumption  
45 of revocation on a second or subsequent violation pursuant to  
46 paragraph (2) of subsection f. of this section, or when the person

1 refuses to undergo drug <sup>2</sup>['<sup>1</sup>or alochol<sup>1</sup>'] or alcohol<sup>2</sup> testing pursuant  
2 to paragraph (6) of subsection f. of this section, the court may, in lieu  
3 of permanently revoking the person's special probation, impose a term  
4 of incarceration for a period of not less than 30 days nor more than 6  
5 months, after which the person's term of special probation pursuant to  
6 this section may be reinstated. In determining whether to order a  
7 period of incarceration in lieu of permanent revocation pursuant to this  
8 subsection, the court shall consider the recommendations of the  
9 treatment provider with respect to the likelihood that such  
10 confinement would serve to motivate the <sup>1</sup>['the']<sup>1</sup> person to make  
11 satisfactory progress in treatment once special probation is reinstated.  
12 This disposition may occur only once with respect to any person unless  
13 the court is clearly convinced that there are compelling and  
14 '[<sup>1</sup>extrordinary] extraordinary <sup>1</sup> reasons to justify [<sup>1</sup>imposing]  
15 reimposing<sup>1</sup> this disposition with respect to the person. Any such  
16 determination by the court to reimpose this disposition may be  
17 appealed by the prosecution. Nothing in this subsection shall be  
18 construed to limit the authority of the court at any time during the  
19 period of special probation to order a person on special probation who  
20 is not subject to a presumption of revocation pursuant to paragraph  
21 (2) of subsection f. of this section to be incarcerated over the course  
22 of a weekend, or for any other reasonable period of time, when the  
23 court in its discretion determines that such incarceration would help  
24 to motivate the person to make satisfactory progress in treatment.

25 [e] h. The court, as a condition of its order, and after considering  
26 the [<sup>1</sup>defendant's] person's financial resources, [may at any time] shall  
27 require the [<sup>1</sup>defendant] person to pay [for all or some] that portion  
28 of the costs associated with his [or her] participation in any  
29 rehabilitation program or period of residential treatment [authorized  
30 by] imposed pursuant to this section which, in the opinion of the  
31 court, is consistent with the person's ability to pay, taking into account  
32 the court's authority to order payment or reimbursement to be made  
33 over time and in installments.

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

37 (cf: P.L.1987, c.106, s.1)

38

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

40 2C:35-15. a. In addition to any disposition authorized by this title,  
41 the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any  
42 other statute indicating the dispositions that can be ordered for an  
43 adjudication of delinquency, every person convicted of or adjudicated  
44 delinquent for a violation of any offense defined in this chapter or  
45 chapter 36 of this title shall be assessed for each such offense a penalty

1 fixed at:

- 2 (1) \$3,000.00 in the case of a crime of the first degree;
- 3 (2) \$2,000.00 in the case of a crime of the second degree;
- 4 (3) \$1,000.00 in the case of a crime of the third degree;
- 5 (4) \$750.00 in the case of a crime of the fourth degree;
- 6 (5) \$500.00 in the case of a disorderly persons or petty disorderly  
7 persons offense.

8 Every person placed in supervisory treatment pursuant to the  
9 provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12 for a violation of any  
10 offense defined in this chapter or chapter 36 of this title shall be  
11 assessed the penalty prescribed herein and applicable to the degree of  
12 the offense charged, except that the court shall not impose more than  
13 one such penalty regardless of the number of offenses charged. If the  
14 person is charged with more than one offense, the court shall impose  
15 as a condition of supervisory treatment the penalty applicable to the  
16 highest degree offense for which the person is charged.

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

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

25 c. All moneys collected pursuant to this section shall be forwarded  
26 to the Department of the Treasury to be deposited in a nonlapsing  
27 revolving fund to be known as the "Drug Enforcement and Demand  
28 Reduction Fund." Moneys in the fund shall be appropriated by the  
29 Legislature on an annual basis for the purposes of funding in the  
30 following order of priority: (1) the Alliance to Prevent Alcoholism and  
31 Drug Abuse and its administration by the Governor's Council on  
32 Alcoholism and Drug Abuse; (2) the "Alcoholism and Drug Abuse  
33 Program for the Deaf, Hard of Hearing and Disabled" established  
34 pursuant to section 2 of P.L.1995, c.318 (C.26:2B-37); (3) the  
35 "Partnership for a Drug Free New Jersey," the State affiliate of the  
36 "Partnership for a Drug Free America"; and (4) other alcohol and drug  
37 abuse programs.

38 Moneys appropriated for the purpose of funding the "Alcoholism  
39 and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled"  
40 shall not be used to supplant moneys that are available to the  
41 Department of Health and Senior Services as of the effective date of  
42 P.L.1995, c.316 (C.26:2B-36 et al.), and that would otherwise have  
43 been made available to provide alcoholism and drug abuse services for  
44 the deaf, hard of hearing and disabled, nor shall the moneys be used  
45 for the administrative costs of the program.

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

1 e. The court may suspend the collection of a penalty imposed  
2 pursuant to this section; provided the **【defendant agrees to enter a**  
3 **residential】** person is ordered by the court to participate in a drug or  
4 alcohol rehabilitation program approved by the court; and further  
5 provided that the **【defendant】** person agrees to pay for all or some  
6 portion of the costs associated with the rehabilitation program. In this  
7 case, the collection of a penalty imposed pursuant to this section shall  
8 be suspended during the person's **【defendant's】** participation in the  
9 approved, court-ordered rehabilitation program. Upon successful  
10 completion of the program, as determined by the court upon the  
11 recommendation of the treatment provider, the **【defendant】** person  
12 may apply to the court to reduce the penalty imposed pursuant to this  
13 section by any amount actually paid by the **【defendant】** person for his  
14 participation in the program. The court shall not reduce the penalty  
15 pursuant to this subsection unless the **【defendant】** person establishes  
16 to the satisfaction of the court that he has successfully completed the  
17 rehabilitation program. If the **【defendant's】** person's participation is  
18 for any reason terminated before his successful completion of the  
19 rehabilitation program, collection of the entire penalty imposed  
20 pursuant to this section shall be enforced. Nothing in this section shall  
21 be deemed to affect or suspend any other criminal sanctions imposed  
22 pursuant to this chapter or chapter 36 of this title.

23 (cf: P.L.1997, c.174, s.1)

24

25 4. This act shall take effect immediately.

26

27

28

29

30 Provides for treatment for drug or alcohol dependent offenders.

**SENATE, No. 1253**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED JUNE 22, 1998

**Sponsored by:**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**SYNOPSIS**

Provides for treatment for drug or alcohol dependent offenders.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/26/1999)**



S1253 BUCCO, ALLEN

2

1 AN ACT concerning the sentencing and treatment of drug and alcohol  
2 dependent persons and amending N.J.S. 2C:35-2, N.J.S.2C:35-14,  
3 and N.J.S.2C:35-15.

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:35-2 is amended to read as follows:

9 2C:35-2. Definitions. As used in this chapter:

10 "Administer" means the direct application of a controlled dangerous  
11 substance or controlled substance analog, whether by injection,  
12 inhalation, ingestion, or any other means, to the body of a patient or  
13 research subject by: (1) a practitioner (or, in his presence, by his  
14 lawfully authorized agent), or (2) the patient or research subject at the  
15 lawful direction and in the presence of the practitioner.

16 "Agent" means an authorized person who acts on behalf of or at the  
17 direction of a manufacturer, distributor, or dispenser but does not  
18 include a common or contract carrier, public warehouseman, or  
19 employee thereof.

20 "Controlled dangerous substance" means a drug, substance, or  
21 immediate precursor in Schedules I through V. The term shall not  
22 include distilled spirits, wine, malt beverages, as those terms are  
23 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco  
24 products. The term, wherever it appears in any law or administrative  
25 regulation of this State, shall include controlled substance analogs.

26 "Controlled substance analog" means a substance that has a  
27 chemical structure substantially similar to that of a controlled  
28 dangerous substance and that was specifically designed to produce an  
29 effect substantially similar to that of a controlled dangerous substance.  
30 The term shall not include a substance manufactured or distributed in  
31 conformance with the provisions of an approved new drug application  
32 or an exemption for investigational use within the meaning of section  
33 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052  
34 (21 U.S.C. s. 355).

35 "Counterfeit substance" means a controlled dangerous substance or  
36 controlled substance analog which, or the container or labeling of  
37 which, without authorization, bears the trademark, trade name, or  
38 other identifying mark, imprint, number or device, or any likeness  
39 thereof, of a manufacturer, distributor, or dispenser other than the  
40 person or persons who in fact manufactured, distributed or dispensed  
41 such substance and which thereby falsely purports or is represented to  
42 be the product of, or to have been distributed by, such other  
43 manufacturer, distributor, or dispenser.

**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 "Deliver" or "delivery" means the actual, constructive, or attempted  
2 transfer from one person to another of a controlled dangerous  
3 substance or controlled substance analog, whether or not there is an  
4 agency relationship.

5 "Dispense" means to deliver a controlled dangerous substance or  
6 controlled substance analog to an ultimate user or research subject by  
7 or pursuant to the lawful order of a practitioner, including the  
8 prescribing, administering, packaging, labeling, or compounding  
9 necessary to prepare the substance for that delivery. "Dispenser"  
10 means a practitioner who dispenses.

11 "Distribute" means to deliver other than by administering or  
12 dispensing a controlled dangerous substance or controlled substance  
13 analog. "Distributor" means a person who distributes.

14 "Drugs" means (a) substances recognized in the official United  
15 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
16 United States, or official National Formulary, or any supplement to  
17 any of them; and (b) substances intended for use in the diagnosis, cure,  
18 mitigation, treatment, or prevention of disease in man or other animals;  
19 and (c) substances (other than food) intended to affect the structure or  
20 any function of the body of man or other animals; and (d) substances  
21 intended for use as a component of any article specified in subsections  
22 (a), (b) and (c) of this section; but does not include devices or their  
23 components, parts or accessories.

24 "Drug or alcohol dependent person" means a person who is using  
25 a controlled dangerous substance or controlled substance analog or  
26 alcohol and who is in a state of psychic or physical dependence, or  
27 both, arising from the use of that controlled dangerous substance or  
28 controlled substance analog or alcohol on a continuous basis. Drug or  
29 alcohol dependence is characterized by behavioral and other responses,  
30 including but not limited to a strong compulsion to take the substance  
31 on a recurring basis in order to experience its psychic effects, or to  
32 avoid the discomfort of its absence.

33 "Hashish" means the resin extracted from any part of the plant  
34 Genus Cannabis L. and any compound, manufacture, salt, derivative,  
35 mixture, or preparation of such resin.

36 "Manufacture" means the production, preparation, propagation,  
37 compounding, conversion or processing of a controlled dangerous  
38 substance or controlled substance analog, either directly or by  
39 extraction from substances of natural origin, or independently by  
40 means of chemical synthesis, or by a combination of extraction and  
41 chemical synthesis, and includes any packaging or repackaging of the  
42 substance or labeling or relabeling of its container, except that this  
43 term does not include the preparation or compounding of a controlled  
44 dangerous substance or controlled substance analog by an individual  
45 for his own use or the preparation, compounding, packaging, or  
46 labeling of a controlled dangerous substance: (1) by a practitioner as

1 an incident to his administering or dispensing of a controlled  
2 dangerous substance or controlled substance analog in the course of  
3 his professional practice, or (2) by a practitioner (or under his  
4 supervision) for the purpose of, or as an incident to, research,  
5 teaching, or chemical analysis and not for sale.

6 "Marijuana" means all parts of the plant Genus Cannabis L.,  
7 whether growing or not; the seeds thereof, and every compound,  
8 manufacture, salt, derivative, mixture, or preparation of such plant or  
9 its seeds, except those containing resin extracted from such plant; but  
10 shall not include the mature stalks of such plant, fiber produced from  
11 such stalks, oil or cake made from the seeds of such plant, any other  
12 compound, manufacture, salt, derivative, mixture, or preparation of  
13 such mature stalks, fiber, oil, or cake, or the sterilized seed of such  
14 plant which is incapable of germination.

15 "Narcotic drug" means any of the following, whether produced  
16 directly or indirectly by extraction from substances of vegetable origin,  
17 or independently by means of chemical synthesis, or by a combination  
18 of extraction and chemical synthesis:

19 (a) Opium, coca leaves, and opiates;

20 (b) A compound, manufacture, salt, derivative, or preparation of  
21 opium, coca leaves, or opiates;

22 (c) A substance (and any compound, manufacture, salt, derivative,  
23 or preparation thereof) which is chemically identical with any of the  
24 substances referred to in subsections (a) and (b), except that the words  
25 "narcotic drug" as used in this act shall not include decocainized coca  
26 leaves or extracts of coca leaves, which extracts do not contain  
27 cocaine or ecogine.

28 "Opiate" means any dangerous substance having an  
29 addiction-forming or addiction-sustaining liability similar to morphine  
30 or being capable of conversion into a drug having such  
31 addiction-forming or addiction-sustaining liability. It does not include,  
32 unless specifically designated as controlled pursuant to the provisions  
33 of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer  
34 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
35 It does include its racemic and levorotatory forms.

36 "Opium poppy" means the plant of the species *Papaver somniferum*  
37 L., except the seeds thereof.

38 "Person" means any corporation, association, partnership, trust,  
39 other institution or entity or one or more individuals.

40 "Plant" means an organism having leaves and a readily observable  
41 root formation, including, but not limited to, a cutting having roots, a  
42 rootball or root hairs.

43 "Poppy straw" means all parts, except the seeds, of the opium  
44 poppy, after mowing.

45 "Practitioner" means a physician, dentist, veterinarian, scientific  
46 investigator, laboratory, pharmacy, hospital or other person licensed,

1 registered, or otherwise permitted to distribute, dispense, conduct  
2 research with respect to, or administer a controlled dangerous  
3 substance or controlled substance analog in the course of professional  
4 practice or research in this State.

5 (a) "Physician" means a physician authorized by law to practice  
6 medicine in this or any other state and any other person authorized by  
7 law to treat sick and injured human beings in this or any other state.

8 (b) "Veterinarian" means a veterinarian authorized by law to  
9 practice veterinary medicine in this State.

10 (c) "Dentist" means a dentist authorized by law to practice  
11 dentistry in this State.

12 (d) "Hospital" means any federal institution, or any institution for  
13 the care and treatment of the sick and injured, operated or approved  
14 by the appropriate State department as proper to be entrusted with the  
15 custody and professional use of controlled dangerous substances or  
16 controlled substance analogs.

17 (e) "Laboratory" means a laboratory to be entrusted with the  
18 custody of narcotic drugs and the use of controlled dangerous  
19 substances or controlled substance analogs for scientific, experimental  
20 and medical purposes and for purposes of instruction approved by the  
21 State Department of Health and Senior Services.

22 "Production" includes the manufacture, planting, cultivation,  
23 growing, or harvesting of a controlled dangerous substance or  
24 controlled substance analog.

25 "Immediate precursor" means a substance which the State  
26 Department of Health and Senior Services has found to be and by  
27 regulation designates as being the principal compound commonly used  
28 or produced primarily for use, and which is an immediate chemical  
29 intermediary used or likely to be used in the manufacture of a  
30 controlled dangerous substance or controlled substance analog, the  
31 control of which is necessary to prevent, curtail, or limit such  
32 manufacture.

33 "Residential treatment facility" means any facility licensed and  
34 approved by the Department of Health and Senior Services and which  
35 is approved by any county probation department for the inpatient  
36 treatment and rehabilitation of drug or alcohol dependent persons.

37 "Schedules I, II, III, IV, and V" are the schedules set forth in  
38 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)  
39 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any  
40 regulations issued by the Commissioner of Health and Senior Services  
41 pursuant to his authority as provided in section 3 of P.L.1970, c.226  
42 (C.24:21-3).

43 "State" means the State of New Jersey.

44 "Ultimate user" means a person who lawfully possesses a controlled  
45 dangerous substance or controlled substance analog for his own use  
46 or for the use of a member of his household or for administration to an

1 animal owned by him or by a member of his household.  
2 (cf: P.L.1997, c.186, s.1)

3  
4 2. N.J.S.2C:35-14 is amended to read as follows:

5 2C:35-14. Rehabilitation Program for Drug and Alcohol  
6 Dependent Persons; Criteria for Imposing Special Probation; Ineligible  
7 Offenders; Prosecutorial Objections; Mandatory Commitment to  
8 Residential Treatment Facilities; Presumption of Revocation; Brief  
9 Incarceration in Lieu of Permanent Revocation.

10 a. Notwithstanding the presumption of incarceration pursuant to  
11 the provisions of subsection d. of N.J.S.2C:44-1, and except as  
12 provided in subsection **[b]c.** of this section, whenever a drug or  
13 alcohol dependent person is convicted of or adjudicated delinquent for  
14 an offense **[under N.J.S.2C:35-5, N.J.S.2C:35-6, section 1 of**  
15 **P.L.1987, c. 101 (C.2C:35-7), N.J.S.2C:35-10, N.J.S.2C:35-11, or**  
16 **N.J.S.2C:35-13]**, other than **[a crime of the first degree]** one  
17 described in subsection b. of this section, the court, upon notice to the  
18 prosecutor, may, on motion of the **[defendant and where the court**  
19 **finds that no danger to the community will result and that the**  
20 **placement will serve to benefit the defendant by serving to correct his**  
21 **or her dependency on controlled substances]**person, or on the court's  
22 own motion, place **[the defendant]** the person on special probation,  
23 which shall be for a term of five years, provided that the court finds on  
24 the record that:

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

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

31 (3) the present offense was committed while the person was under  
32 the influence of a controlled dangerous substance, controlled  
33 substance analog or alcohol or was committed to acquire property or  
34 monies in order to support the person's drug or alcohol dependency;  
35 and

36 (4) substance abuse treatment and monitoring will serve to benefit  
37 the person by addressing his drug or alcohol dependency and will  
38 thereby reduce the likelihood that he or she will thereafter commit  
39 another offense; and

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

43 (6) the person has not been previously convicted on two or more  
44 separate occasions of crimes of the first, second or third degree, other  
45 than crimes defined in N.J.S.2C:35-10; and

46 (7) the person has not been previously convicted or adjudicated

1 delinquent for, and does not have a pending charge of, murder,  
2 aggravated manslaughter, manslaughter, robbery, kidnapping,  
3 aggravated assault, aggravated sexual assault or sexual assault, or a  
4 similar crime under the laws of any other state or the United States;  
5 and

6 (8) a suitable treatment facility licensed and approved by the  
7 Department of Health and Senior Services is able and has agreed to  
8 provide appropriate treatment services in accordance with the  
9 requirements of this section; and

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

12 In determining whether to sentence the person pursuant to this  
13 section, the court shall consider all relevant circumstances, and shall  
14 take judicial notice of any evidence, testimony or information adduced  
15 at the trial, plea hearing or other court proceedings, and shall also  
16 consider the presentence report and the results of the professional  
17 diagnostic assessment to determine whether and to what extent the  
18 person is drug or alcohol dependent and would benefit from treatment.

19 As a condition of **[that]** special probation, the court shall order the  
20 **[defendant]** person to enter a [drug rehabilitation program, subject  
21 to] treatment program at a facility licensed and approved by the  
22 Department of Health and Senior Services, to comply with program  
23 rules and the requirements of the course of treatment, to cooperate  
24 fully with the treatment provider, and to comply with such other  
25 reasonable terms and conditions as may be required by the court [and]  
26 or by law, pursuant to N.J.S.2C:45-1, and which shall include periodic  
27 urine testing for drug or alcohol usage throughout the period of  
28 special probation. Subject to the requirements of subsection d. of this  
29 section, the conditions of special probation may include different  
30 methods and levels of community-based or residential supervision.

31 b. **[Except upon the joint application of the defendant and the**  
32 **prosecuting attorney, no]** A person shall not be eligible for special  
33 probation pursuant to this section if the person is convicted or or  
34 adjudicated delinquent for:

35 (1) a crime of the first degree;

36 (2) a crime of violence as defined in subsection d. of N.J.S.2C:43-  
37 7.2;

38 (3) a crime, other than that defined in N.J.S.2C:35-7, for which a  
39 mandatory minimum period of incarceration is prescribed under  
40 chapter 35 of this Title or any other law; or

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

44 c. A person convicted of or adjudicated delinquent for an offense  
45 under [N.J.S.2C:35-6 or] section 1 of P.L.1987, c.101 (C.2C:35-7),  
46 subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), or any

1 crime for which there exists a presumption of imprisonment pursuant  
2 to subsection d. of N.J.S.2C:44-1 or any other statute, or who has  
3 been previously convicted of an offense under subsection a. of  
4 N.J.S.2C:35-5 or a similar offense under any other law of this State,  
5 any other state or the United States, shall not be eligible for sentence  
6 in accordance with this section if the prosecutor objects to the person  
7 being placed on special probation. The court shall not place a person  
8 on special probation over the prosecutor's objection except upon a  
9 finding by the court of a gross and patent abuse of prosecutorial  
10 discretion. If the court makes a finding of a gross and patent abuse of  
11 prosecutorial discretion and imposes a sentence of special probation  
12 notwithstanding the objection of the prosecutor, the sentence of  
13 special probation imposed pursuant to this section shall not become  
14 final for 10 days in order to permit the appeal of such sentence by the  
15 prosecution.

16 **[c] d.** A person convicted of or adjudicated delinquent for a crime  
17 of the second degree or of a violation of section 1 of P.L.1987, c.101  
18 (C.2C:35-7), or who previously has been convicted of or adjudicated  
19 delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a  
20 similar offense under any other law of this State, any other state or the  
21 United States, who is placed [in a drug rehabilitation program]on  
22 special probation under this section shall be committed to the custody  
23 of a residential treatment facility licensed and approved by the  
24 Department of Health and Senior Services, whether or not residential  
25 treatment was recommended by the person conducting the diagnostic  
26 assessment. The person shall be committed to the residential  
27 treatment facility immediately, unless the facility cannot accommodate  
28 the person, in which case the person shall be incarcerated to await  
29 commitment to the residential treatment facility. The term of such  
30 commitment shall be for a minimum of six months, or until the court,  
31 upon recommendation of the treatment provider, determines that the  
32 person has successfully completed [defendant successfully completes]  
33 the residential treatment program, whichever is later, except that no  
34 person shall remain in the custody of a residential treatment facility  
35 pursuant to this section for a period in excess of five years. Upon  
36 successful completion of the required residential treatment program,  
37 the [defendant] person shall complete the period of special probation,  
38 as authorized by subsection a. of this section, with credit for time  
39 served [in the residential treatment facility and] for any imprisonment  
40 served as a condition of probation and credit for each day during  
41 which the person satisfactorily complied with the terms and conditions  
42 of special probation while committed pursuant to this section to a  
43 residential treatment facility. The person shall not be eligible for early  
44 discharge of special probation pursuant to N.J.S.2C:45-2, or any other  
45 provision of the law. The court, in determining the number of credits  
46 for time spent in residential treatment, shall consider the

1 recommendations of the treatment provider. A person placed into a  
2 residential treatment facility 【under this subsection】 pursuant to this  
3 section shall be deemed to be subject to official detention for the  
4 purposes of N.J.S.2C:29-5 (escape).

5 【d. Upon a first violation of any term or condition of the probation  
6 authorized by this section or of any term or condition of the applicable  
7 drug rehabilitation program, the court in its discretion may, and upon  
8 a subsequent violation shall, revoke the defendant's probation and  
9 impose on the defendant any sentence that might have been imposed  
10 originally for the offense of which he was convicted. In that event, the  
11 defendant shall receive credit for any time served pursuant to  
12 N.J.S.2C:45-1, and any time spent by the defendant in a residential  
13 treatment facility. An action for a violation under this subsection may  
14 be brought by a probation officer or prosecutor. Notwithstanding any  
15 other provision of this subsection, if a defendant at any time refuses to  
16 undergo urine testing for drug usage as provided in subsection a. of  
17 this section, the court shall, upon the application of the probation  
18 officer or prosecutor, revoke the defendant's probation. Failure to  
19 successfully complete the required drug rehabilitation program shall  
20 constitute a violation of the defendant's probation. A defendant who  
21 fails to comply with the terms of his probation pursuant to this section  
22 and is thereafter sentenced to imprisonment in accordance with this  
23 subsection shall be ineligible for entry into the Intensive Supervision  
24 Program.】

25 e. The probation department or other appropriate agency  
26 designated by the court to monitor or supervise the person's special  
27 probation shall report periodically to the court as to the person's  
28 progress in treatment and compliance with court-imposed terms and  
29 conditions. The treatment provider shall promptly report to the  
30 probation department or other appropriate agency all significant  
31 failures by the person to comply with any court imposed treatment,  
32 including but not limited to a positive drug test or the unexcused  
33 failure to attend any session or activity, and shall immediately report  
34 any act that would constitute an escape. The probation department or  
35 other appropriate agency shall immediately notify the court and the  
36 prosecutor in the event that the person refuses to submit to a periodic  
37 drug test or for any reason terminates his participation in the course  
38 of treatemnt, or commits any act that would constitute an escape.

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

43 (2) Upon a second or subsequent violation of any term or condition  
44 of the special probation authorized by this section or of any  
45 requirements of the course of treatment, the court shall, subject only  
46 to the provisions of subsection g. of this section, permanently revoke



1 the person's special probation unless the court finds on the record that  
2 there is a substantial likelihood that the person will successfully  
3 complete the treatment program if permitted to continue on special  
4 probation, and the court is clearly convinced, considering the nature  
5 and seriousness of the violations, that no danger to the community  
6 witll result from permitting the person to continue on special probation  
7 pursuant to this section. The court's determination to permit the  
8 person to continue on special probation following a second or  
9 subsequent violation prusuant to this paragraph may be appealed by  
10 the prosecution.

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

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

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

44 (6) Notwithstanding any other provision of this subsection, if the  
45 person at any time refuses to undergo urine testing for drug or alcohol  
46 usage as provided in subsection a. of this section, the court shall,

1 subject only to the provisions of subsection g. of this section,  
2 permanently revoke the person's special probation. Notwithstanding  
3 any other provision of this section, if the person at any time while  
4 committed to the custody of a residential treatment facility pursuant  
5 to this section commits an act that would constitute an escape, the  
6 court shall forthwith permanently revoke the person's special  
7 probation.

8 (7) An action for violation under this section may be brought by a  
9 probation officer or prosecutor or on the court's own motion. Failure  
10 to complete successfully the required treatment program shall  
11 constitute a violation of the person's special probation. A person who  
12 fails to comply with the terms of his special probation pursuant to this  
13 section and is thereafter sentenced to imprisonment in accordance with  
14 this subsection shall thereafter be ineligible for entry into the Intensive  
15 Supervision Program.

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

43 [e] h. The court, as a condition of its order, and after considering  
44 the [defendant's] person's financial resources, [may at any time] shall  
45 require the [defendant]person to pay [for all or some] that portion of  
46 the costs associated with his [or her] participation in any

1 rehabilitation program or period of residential treatment ~~【authorized~~  
2 ~~by】imposed pursuant to this section which, in the opinion of the court,~~  
3 ~~is consistent with the person's ability to pay, taking into account the~~  
4 ~~court's authority to order payment or reimbursement to be made over~~  
5 ~~time and in installments.~~

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

9 (cf: P.L.1987, c.106, s.1)

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

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

- 19 (1) \$3,000.00 in the case of a crime of the first degree;  
20 (2) \$2,000.00 in the case of a crime of the second degree;  
21 (3) \$1,000.00 in the case of a crime of the third degree;  
22 (4) \$750.00 in the case of a crime of the fourth degree;  
23 (5) \$500.00 in the case of a disorderly persons or petty disorderly  
24 persons offense.

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

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

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

42 c. All moneys collected pursuant to this section shall be forwarded  
43 to the Department of the Treasury to be deposited in a nonlapsing  
44 revolving fund to be known as the "Drug Enforcement and Demand  
45 Reduction Fund." Moneys in the fund shall be appropriated by the  
46 Legislature on an annual basis for the purposes of funding in the

1 following order of priority: (1) the Alliance to Prevent Alcoholism and  
2 Drug Abuse and its administration by the Governor's Council on  
3 Alcoholism and Drug Abuse; (2) the "Alcoholism and Drug Abuse  
4 Program for the Deaf, Hard of Hearing and Disabled" established  
5 pursuant to section 2 of P.L.1995, c.318 (C.26:2B-37); (3) the  
6 "Partnership for a Drug Free New Jersey," the State affiliate of the  
7 "Partnership for a Drug Free America"; and (4) other alcohol and drug  
8 abuse programs.

9 Moneys appropriated for the purpose of funding the "Alcoholism  
10 and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled"  
11 shall not be used to supplant moneys that are available to the  
12 Department of Health and Senior Services as of the effective date of  
13 P.L.1995, c.316 (C.26:2B-36 et al.), and that would otherwise have  
14 been made available to provide alcoholism and drug abuse services for  
15 the deaf, hard of hearing and disabled, nor shall the moneys be used  
16 for the administrative costs of the program.

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

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

39 (cf: P.L.1997, c.174, s.1)

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41  
42 4. This act shall take effect immediately.

STATEMENT

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This bill implements the recommendations of the Attorney General Report to the Governor to reform the provisions of the Comprehensive Drug Reform Act of 1987.

This bill is designed to break the cycle of crime and addiction by authorizing courts to compel drug and alcohol dependent persons to submit to the rigors of treatment. Under the provisions of the bill the court would be authorize to place a person on "special probation". A person who has been placed on "special probation" would be required to enter a treatment program at a facility which has been licensed and approved by the Department of Health and Senior Services.

The bill establishes strict eligibility requirements for the compulsory treatment sentencing option. Persons who possessed a firearm at the time of the offense, or who have two or more prior convictions for crimes of the first, second or third degree, or a prior conviction for certain serious crimes would not be eligible. Furthermore, persons convicted of violent crimes, crimes of the first degree, and crimes for which a mandatory sentence of incarceration must be imposed, other than pursuant to N.J.S.2C:35-7, will not be eligible. In addition, offenses involving the distribution, attempt to distribute or conspiracy to distribute a controlled dangerous substance or analog to a juvenile near or on school property will not be eligible for sentencing pursuant to N.J.S.2C:35-14. Nor would a court be authorized to sentence a defendant convicted of an offense subject to the presumption of imprisonment or N.J.S.2C:35-12 to special probation pursuant to this section in the face of a prosecutor's objection, unless the court determines that the prosecutor's objection constitutes a patent and gross abuse of discretion. This formulation codifies the current standard of review used to determine whether a prosecutor inappropriately refused to join the defendant's application under current law.

In order to ensure public safety, this bill retains all of the existing requirements in N.J.S.2C:35-14, and also incorporates the public safety features recommended by the Attorney General. Under the provisions of the bill, if the person sentenced to residential treatment commits an act that would constitute an escape, the court, in its discretion, may revoke the person's special probation permanently. Upon a second or subsequent violation of any term or condition of special probation, or of any requirements of the course of treatment, a person's special probation would be permanently revoked unless the court finds that there is a substantial likelihood that the person will successfully complete the treatment program, and the court is clearly convinced that no danger to the community will result from permitting the person to continue on special probation pursuant to this section. In making this determination, the court must consider the

1 recommendations of the treatment provider and shall give added  
2 weight to the treatment provider's recommendation that the person be  
3 permanently revoked, or to the treatment provider's opinion that the  
4 person is not amenable to treatment or is not likely to successfully  
5 complete the treatment program.

6 In the event that the court permanently revokes special probation,  
7 it must conduct a de novo weighing of the aggravating and mitigating  
8 factors that were present at the time of the original proceeding, as well  
9 as those new factors that are present at the time of resentencing, and  
10 shall impose any sentence or disposition that might have been imposed,  
11 or that would have been required to be imposed, at the time of the first  
12 sentencing or disposition if the person had not been placed on special  
13 probation.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 1253**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 2, 1999

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1253 (1R).

Senate Bill No. 1253(1R) implements the recommendations of the Attorney General Report to the Governor to reform the provisions of the Comprehensive Drug Reform Act of 1987.

The bill is designed to break the cycle of crime and addiction by authorizing courts to compel drug and alcohol dependent persons to submit to the rigors of treatment. Under the provisions of the bill, the court would be authorized to place a person on "special probation." A person who has been placed on "special probation" would be required to enter a treatment program at a facility which has been licensed and approved by the Department of Health and Senior Services.

The bill establishes strict eligibility requirements for the compulsory treatment sentencing option. Persons who possessed a firearm at the time of the offense, or who have two or more prior convictions for crimes of the first, second or third degree, or a prior conviction for certain serious crimes would not be eligible. Furthermore, persons convicted of violent crimes, crimes of the first degree, and crimes for which a mandatory sentence of incarceration must be imposed, other than pursuant to N.J.S.2C:35-7, will not be eligible. In addition, offenses involving the distribution, attempt to distribute or conspiracy to distribute a controlled dangerous substance or analog to a juvenile near or on school property will not be eligible for sentencing pursuant to N.J.S.2C:35-14. Nor would a court be authorized to sentence a defendant convicted of an offense subject to the presumption of imprisonment or N.J.S.2C:35-12 to special probation in the face of a prosecutor's objection, unless the court determines that the objection constitutes a patent and gross abuse of discretion. This formulation codifies the current standard of review used to determine whether a prosecutor inappropriately refused to join the defendant's application under current law.

In order to ensure public safety, this bill retains all of the existing requirements in N.J.S.2C:35-14, and also incorporates the public safety features recommended by the Attorney General. Under the provisions of the bill, if the person sentenced to residential treatment commits an act that would constitute an escape, the court must revoke the person's special probation permanently. Upon a second or subsequent violation of any term or condition of special probation, or of any requirements of the course of treatment, a person's special probation would be permanently revoked unless the court finds that there is a substantial likelihood that the person will successfully complete the treatment program, and the court is clearly convinced that no danger to the community will result from permitting the person to continue on special probation. In making this determination, the court must consider the recommendations of the treatment provider and give added weight to the treatment provider's recommendation that the person be permanently revoked, or to the treatment provider's opinion that the person is not amenable to treatment or is not likely to successfully complete the treatment program.

In the event that the court permanently revokes special probation, it must conduct a de novo weighing of the aggravating and mitigating factors that were present at the time of the original proceeding, as well as those new factors that are present at the time of resentencing, and shall impose any sentence or disposition that might have been imposed, or that would have been required to be imposed, at the time of the first sentencing or disposition if the person had not been placed on special probation.

The bill clarifies that a person who is drug or alcohol dependent at the time of the commission of the offense would be deemed to be a drug or alcohol dependent person at the time of sentencing, even though the person has made progress toward rehabilitation while awaiting disposition of the charges and is no longer actively using a controlled dangerous substance, controlled dangerous substance analog or alcohol.

The committee amendments conform the bill to the provisions of P.L.1999, c.90 and P.L.1999, c.186. The other amendment is technical in nature.



# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 1253**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 25, 1999

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1253.

This bill implements the recommendations of the Attorney General Report to the Governor to reform the provisions of the Comprehensive Drug Reform Act of 1987.

This bill is designed to break the cycle of crime and addiction by authorizing courts to compel drug and alcohol dependent persons to submit to the rigors of treatment. Under the provisions of the bill, the court would be authorized to place a person on "special probation." A person who has been placed on "special probation" would be required to enter a treatment program at a facility which has been licensed and approved by the Department of Health and Senior Services.

The bill establishes strict eligibility requirements for the compulsory treatment sentencing option. Persons who possessed a firearm at the time of the offense, or who have two or more prior convictions for crimes of the first, second or third degree, or a prior conviction for certain serious crimes would not be eligible. Furthermore, persons convicted of violent crimes, crimes of the first degree, and crimes for which a mandatory sentence of incarceration must be imposed, other than pursuant to N.J.S.2C:35-7, will not be eligible. In addition, offenses involving the distribution, attempt to distribute or conspiracy to distribute a controlled dangerous substance or analog to a juvenile near or on school property will not be eligible for sentencing pursuant to N.J.S.2C:35-14. Nor would a court be authorized to sentence a defendant convicted of an offense subject to the presumption of imprisonment or N.J.S.2C:35-12 to special probation in the face of a prosecutor's objection, unless the court determines that the objection constitutes a patent and gross abuse of discretion. This formulation codifies the current standard of review used to determine whether a prosecutor inappropriately refused to join the defendant's application under current law.

In order to ensure public safety, this bill retains all of the existing requirements in N.J.S.2C:35-14, and also incorporates the public

safety features recommended by the Attorney General. Under the provisions of the bill, if the person sentenced to residential treatment commits an act that would constitute an escape, the court must revoke the person's special probation permanently. Upon a second or subsequent violation of any term or condition of special probation, or of any requirements of the course of treatment, a person's special probation would be permanently revoked unless the court finds that there is a substantial likelihood that the person will successfully complete the treatment program, and the court is clearly convinced that no danger to the community will result from permitting the person to continue on special probation. In making this determination, the court must consider the recommendations of the treatment provider and give added weight to the treatment provider's recommendation that the person be permanently revoked, or to the treatment provider's opinion that the person is not amenable to treatment or is not likely to successfully complete the treatment program.

In the event that the court permanently revokes special probation, it must conduct a *de novo* weighing of the aggravating and mitigating factors that were present at the time of the original proceeding, as well as those new factors that are present at the time of resentencing, and shall impose any sentence or disposition that might have been imposed, or that would have been required to be imposed, at the time of the first sentencing or disposition if the person had not been placed on special probation.

The committee amended the bill to clarify that a person who is drug or alcohol dependent at the time of the commission of the offense would be deemed to be a drug or alcohol dependent person at the time of sentencing, even though the person has made progress toward rehabilitation while awaiting disposition of the charges and is no longer actively using a controlled dangerous substance, controlled dangerous substance analog or alcohol. It is the committee's understanding that this amendment is necessary because the disease of drug or alcohol dependence is a chronic, relapsing disorder. Other committee amendments are technical in nature.

## FISCAL NOTE

[First Reprint]

### **SENATE, No. 1253**

# **STATE OF NEW JERSEY**

## **208th LEGISLATURE**

DATED: JANUARY 18, 2000

Senate Bill No. 1253 (1R) of 1998 provides for the treatment of certain drug or alcohol dependent offenders. Under the bill, the court would be authorized to place a person on "special probation." A person who has been placed on "special probation" would be required to enter a treatment program at a facility which has been licensed and approved by the Department of Health and Senior Services. The bill establishes strict eligibility requirements for the compulsory treatment sentencing option.

The Administrative Office of the Courts states that information concerning the number of individuals who would be eligible for the special probation program is not readily available.

The Department of Health and Senior Services states that while it cannot determine how many additional clients would be sentenced under the bill, the current annual cost for a client is \$21,000.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L.1980, c.67.