

SENATE, No. 437

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator ANTHONY R. BUCCO

District 25 (Morris)

SYNOPSIS

Establishes Juvenile Offender Community Conservation and Improvement Services Program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/22/2007)

1 AN ACT establishing a community conservation and improvement
2 program for certain juvenile offenders and supplementing and
3 amending P.L.1982, c.77.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

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

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

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

18 c. Although primarily a rehabilitative program for juvenile
19 offenders, this program also would serve the citizens and taxpayers
20 of New Jersey by augmenting State and local efforts to preserve,
21 conserve, and improve the public areas and communities of this
22 State.
23

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

25 "Commissioner" means the Commissioner of Human Services.

26 "Department" means the Department of Human Services.

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

32 "Program" means the juvenile offender community conservation
33 and improvement services program established pursuant to this act.
34

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

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

41 a. Vocational, including employment training, the development
42 of manual skills and work experiences;

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

45 c. Physical, including exercise, recreation and military-style drill

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 to foster concepts of discipline, cooperation and group dynamics;
2 and

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

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

13

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

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

34

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

45

46 6. (New section) The commissioner, in consultation with the
47 several county prosecutors of this State, shall promulgate, in
48 accordance with the "Administrative Procedure Act, P.L.1968,

1 c.410 (C.52:14B-1 et seq.), rules and regulations to effectuate the
2 purposes of this act.

3

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

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

9 (1) The nature and circumstances of the offense;

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

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

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

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

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

25 (7) Whether the disposition contributes to the developmental
26 needs of the child, including the academic and social needs of the
27 child where the child has mental retardation or learning disabilities;

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

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

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

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

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

39 (1) Adjourn formal entry of disposition of the case for a period
40 not to exceed 12 months for the purpose of determining whether the
41 juvenile makes a satisfactory adjustment, and if during the period of
42 continuance the juvenile makes such an adjustment, dismiss the
43 complaint; provided that if the court adjourns formal entry of
44 disposition of delinquency for a violation of an offense defined in
45 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court
46 shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but
47 may waive imposition of the penalty set forth in N.J.S.2C:35-16 for
48 juveniles adjudicated delinquent;

- 1 (2) Release the juvenile to the supervision of the juvenile's
2 parent or guardian;
- 3 (3) Place the juvenile on probation to the chief probation officer
4 of the county or to any other suitable person who agrees to accept
5 the duty of probation supervision for a period not to exceed three
6 years upon such written conditions as the court deems will aid
7 rehabilitation of the juvenile;
- 8 (4) Transfer custody of the juvenile to any relative or other
9 person determined by the court to be qualified to care for the
10 juvenile;
- 11 (5) Place the juvenile under the care of the Department of
12 Human Services under the responsibility of the Division of Youth
13 and Family Services pursuant to P.L.1951, c.138 (C.30:4C-1 et
14 seq.) for the purpose of providing services in or out of the home.
15 Within 14 days, unless for good cause shown, but not later than 30
16 days, the Department of Human Services shall submit to the court a
17 service plan, which shall be presumed valid, detailing the specifics
18 of any disposition order. The plan shall be developed within the
19 limits of fiscal and other resources available to the department. If
20 the court determines that the service plan is inappropriate, given
21 existing resources, the department may request a hearing on that
22 determination;
- 23 (6) Place the juvenile under the care and custody of the
24 Commissioner of the Department of Human Services for the
25 purpose of receiving the services of the Division of Developmental
26 Disabilities of that department, provided that the juvenile has been
27 determined to be eligible for those services under P.L.1965, c.59,
28 s.16 (C.30:4-25.4);
- 29 (7) Commit the juvenile, pursuant to applicable laws and the
30 Rules of Court governing civil commitment, to the Department of
31 Human Services under the responsibility of the Division of Mental
32 Health Services for the purpose of placement in a suitable public or
33 private hospital or other residential facility for the treatment of
34 persons who are mentally ill, on the ground that the juvenile is in
35 need of involuntary commitment;
- 36 (8) Fine the juvenile an amount not to exceed the maximum
37 provided by law for such a crime or offense if committed by an
38 adult and which is consistent with the juvenile's income or ability to
39 pay and financial responsibility to the juvenile's family, provided
40 that the fine is specially adapted to the rehabilitation of the juvenile
41 or to the deterrence of the type of crime or offense. If the fine is
42 not paid due to financial limitations, the fine may be satisfied by
43 requiring the juvenile to submit to any other appropriate disposition
44 provided for in this section;
- 45 (9) Order the juvenile to make restitution to a person or entity
46 who has suffered loss resulting from personal injuries or damage to
47 property as a result of the offense for which the juvenile has been
48 adjudicated delinquent. The court may determine the reasonable

1 amount, terms and conditions of restitution. If the juvenile
2 participated in the offense with other persons, the participants shall
3 be jointly and severally responsible for the payment of restitution.
4 The court shall not require a juvenile to make full or partial
5 restitution if the juvenile reasonably satisfies the court that the
6 juvenile does not have the means to make restitution and could not
7 reasonably acquire the means to pay restitution;

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

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

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

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

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

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

46 (16) (a) Place the juvenile in a nonresidential program operated
47 by a public or private agency, providing intensive services to
48 juveniles for specified hours, which may include education,

1 counseling to the juvenile and the juvenile's family if appropriate,
2 vocational training, employment counseling, work or other services;

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

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

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

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

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

30 c. (1) Except as otherwise provided in subsections e. and f. of
31 this section, if the county in which the juvenile has been adjudicated
32 delinquent has a juvenile detention facility meeting the physical and
33 program standards established pursuant to this subsection by the
34 Juvenile Justice Commission, the court may, in addition to any of
35 the dispositions not involving placement out of the home
36 enumerated in this section, incarcerate the juvenile in the youth
37 detention facility in that county for a term not to exceed 60
38 consecutive days. Counties which do not operate their own juvenile
39 detention facilities may contract for the use of approved
40 commitment programs with counties with which they have
41 established agreements for the use of pre-disposition juvenile
42 detention facilities. The Juvenile Justice Commission shall
43 promulgate such rules and regulations from time to time as deemed
44 necessary to establish minimum physical facility and program
45 standards for the use of juvenile detention facilities pursuant to this
46 subsection.

47 (2) No juvenile may be incarcerated in any county detention
48 facility unless the county has entered into an agreement with the

1 Juvenile Justice Commission concerning the use of the facility for
2 sentenced juveniles. Upon agreement with the county, the Juvenile
3 Justice Commission shall certify detention facilities which may
4 receive juveniles sentenced pursuant to this subsection and shall
5 specify the capacity of the facility that may be made available to
6 receive such juveniles; provided, however, that in no event shall the
7 number of juveniles incarcerated pursuant to this subsection exceed
8 50% of the maximum capacity of the facility.

9 (3) The court may fix a term of incarceration under this
10 subsection where:

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

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

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

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

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

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

39 (1) An order of incarceration for a term of the duration
40 authorized pursuant to this section or section 25 of P.L.1982, c.77
41 (C.2A:4A-44) or an order to perform community service pursuant to
42 paragraph (10) of subsection b. of this section for a period of at
43 least 60 days, if the juvenile has been adjudicated delinquent for an
44 act which, if committed by an adult, would constitute the crime of
45 theft of a motor vehicle, or the crime of unlawful taking of a motor
46 vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third
47 degree crime of eluding in violation of subsection b. of
48 N.J.S.2C:29-2;

1 (2) An order of incarceration for a term of the duration
2 authorized pursuant to this section or section 25 of P.L.1982, c.77
3 (C.2A:4A-44) which shall include a minimum term of 60 days
4 during which the juvenile shall be ineligible for parole, if the
5 juvenile has been adjudicated delinquent for an act which, if
6 committed by an adult, would constitute the crime of aggravated
7 assault in violation of paragraph (6) of subsection b. of
8 N.J.S.2C:12-1, the second degree crime of eluding in violation of
9 subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a case
10 in which the juvenile has previously been adjudicated delinquent for
11 an act, which if committed by an adult, would constitute unlawful
12 taking of a motor vehicle or theft of a motor vehicle;

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

19 (4) An order of incarceration for a term of the duration
20 authorized pursuant to this section or section 25 of P.L.1982, c.77
21 (C.2A:4A-44) which shall include a minimum term of 30 days
22 during which the juvenile shall be ineligible for parole, if the
23 juvenile has been adjudicated delinquent for an act which, if
24 committed by an adult, would constitute the crime of unlawful
25 taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third
26 degree crime of eluding in violation of subsection b. of
27 N.J.S.2C:29-2, and if the juvenile has previously been adjudicated
28 delinquent for an act which, if committed by an adult, would
29 constitute either theft of a motor vehicle, the unlawful taking of a
30 motor vehicle or eluding.

31 f. (1) The minimum terms of incarceration required pursuant to
32 subsection e. of this section shall be imposed regardless of the
33 weight or balance of factors set forth in this section or in section 25
34 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of
35 those factors shall determine the length of the term of incarceration
36 appropriate, if any, beyond any mandatory minimum term required
37 pursuant to subsection e. of this section.

38 (2) When a court in a county that does not have a juvenile
39 detention facility or a contractual relationship permitting
40 incarceration pursuant to subsection c. of this section is required to
41 impose a term of incarceration pursuant to subsection e. of this
42 section, the court may, subject to limitations on commitment to
43 State correctional facilities of juveniles who are under the age of 11
44 or developmentally disabled, set a term of incarceration consistent
45 with subsection c. which shall be served in a State correctional
46 facility. When a juvenile who because of age or developmental
47 disability cannot be committed to a State correctional facility or
48 cannot be incarcerated in a county facility, the court shall order a

1 disposition appropriate as an alternative to any incarceration
2 required pursuant to subsection e.

3 (3) For purposes of subsection e. of this section, in the event that
4 a "boot camp" program for juvenile offenders should be developed
5 and is available, a term of commitment to such a program shall be
6 considered a term of incarceration.

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

17 (cf: P.L.2001, c.408, s.3)

18

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

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23

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STATEMENT

25

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

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

39 Although primarily rehabilitative, this program also would serve
40 the taxpayers of the State by assigning juvenile offenders to local
41 community service projects such as maintaining and repairing
42 playground and recreation equipment; litter collection and control
43 activities; and preserving, conserving and improving public areas.
44 Upon the request of the Department of Environmental Protection
45 and Energy, these juvenile offenders may be assigned to
46 improvement, maintenance and conservation projects at State parks
47 and beaches.