

1. A3598 Bill proposes a Conditional Dismissal Program in Municipal Court. I testified in favor of the passage before the Assembly Judiciary Committee in Trenton.

This bill establishes a conditional dismissal program in municipal court similar to the existing supervisory treatment programs for pre-trial intervention and conditional discharge.

Currently, the supervisory treatment programs for pre-trial intervention and conditional discharge allow the court to suspend proceedings against eligible defendants while the defendants participate in supervisory treatment. Persons who are charged with indictable offenses (crimes of the first, second, third, or fourth degree) may be eligible for pretrial intervention ("PTI") pursuant to N.J.S.2C:43-12 et seq. Persons charged with certain disorderly persons or petty disorderly persons drug offenses may be eligible for conditional discharge pursuant to N.J.S.2C:36A-1. If the defendant violates a term or condition of supervisory treatment, the court may enter a judgment of conviction or, where the defendant did not previously plead guilty and was not previously

found guilty, resume the criminal proceedings. If the defendant successfully completes the program, the criminal charges are dismissed.

CONDITIONAL DISMISSAL PROGRAM.

This bill establishes a similar diversion program in municipal court to be known as the conditional dismissal program. Under the provisions of the bill, a defendant who is charged with a petty disorderly persons offense or disorderly persons offense may apply to enter into the conditional dismissal program, provided the defendant has not been previously convicted of any offense or crime under any law of the United States, this State or any other state. A defendant may make an application to the conditional dismissal program after a plea of guilty or a finding of guilt, but prior to the entry of judgment of conviction.

FINGERPRINTING REQUIREMENT. To allow sufficient time for verification of the defendant's criminal history by the prosecutor and as a condition of the application, the defendant will be required to submit to the fingerprint identification procedures as provided in R.S.53:1-15 before making an application to the court.

CONDITIONAL DISMISSAL PROGRAM ELIGIBILITY. Conditional dismissal will not be available to any person who has previously participated in conditional discharge, conditional dismissal, or PTI. In addition, conditional dismissal will not be available if the offense for which the person is charged involved: organized criminal or gang activity; a continuing criminal business or enterprise; a breach of the public trust by a public officer or employee; domestic violence; an offense against an elderly, disabled or minor person; an offense involving driving or operating a motor vehicle while under the influence of alcohol, intoxicating liquor, narcotic, hallucinogenic or habit-producing drug; animal cruelty laws; or any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of the Criminal Code (drugs and drug paraphernalia). However, a person who is charged with a disorderly persons or petty disorderly persons offense involving drugs or drug paraphernalia may apply for a conditional discharge in accordance with N.J.S.2C:36A-1.

In addition to these eligibility criteria, the court

considering the application must also consider the following factors: the nature and circumstances of the offense; the facts surrounding the commission of the offense; the motivation, age, character and attitude of the defendant; the desire of the complainant or victim to forego prosecution; the needs and interests of the victim and the community; the extent to which the defendant's offense constitutes part of a continuing pattern of anti-social behavior; whether the offense is of an assaultive or violent nature, either in the act itself or in the possible injurious consequences of such behavior; whether the applicant's participation will adversely affect the prosecution of codefendants; whether diversion of the defendant from prosecution is consistent with the public interest; and any other factors deemed relevant by the court.

If the court approves a defendant's participation in the conditional dismissal program over the municipal prosecutor's objection, that order will, upon the request of the prosecutor, be stayed for a period of 10 days in order to permit the prosecutor to appeal the order to the Superior Court.

PROGRAM REQUIREMENTS. After taking into consideration the eligibility criteria, the defendant's criminal history and the prosecutor's recommendation, the court may approve the defendant's participation in the conditional dismissal program and place the defendant under a probation monitoring status for a period of one year. The court may also impose financial obligations and other terms and conditions in accordance with the bill. The bill permits the defendant to apply to the court for an extension of the term of conditional dismissal to allow sufficient time to pay financial obligations imposed by the court. In addition, a judge could extend the term for good cause.

If a defendant who is participating in conditional dismissal is convicted of any offense or crime under any law of the United States, this State or any other state, or otherwise fails to comply with the terms and conditions imposed by the court, the court can enter a judgment of conviction and impose a fine, penalty, or other assessment in accordance with the defendant's prior plea of guilty or prior finding of guilt.

If, at the end of the term, the defendant has not been convicted of any subsequent offense or crime under any law of the United States, this State or any other state, and has complied with any other terms and conditions imposed by the court, the court may terminate the probation monitoring and dismiss the proceedings against the defendant.

The bill provides that a conditional dismissal of a petty disorderly persons or disorderly persons offense granted pursuant to the program will not be deemed a conviction for purposes of disqualifications or disabilities, but shall be reported to the State Bureau of Identification criminal history record information files for purposes of determining future eligibility or exclusion from court diversion programs. A conditional dismissal granted will not be deemed a conviction for the purposes of determining whether a second or subsequent offense has occurred under any law of this State.

LIMITATION. A conditional dismissal can only be granted once with respect to any defendant.

CONDITIONAL DISMISSAL APPLICATION FEE AND ASSESSMENT. A person applying for admission to the conditional dismissal program will pay to the court an application fee of \$75. The fee would be deposited in the newly created "Municipal Court Diversion Fund" established under the bill. Monies in this new fund will be used to offset the cost of intake and monitoring services related to the conditional dismissal program. If admitted into the program, the defendant would also be required to pay any restitution, costs, and other mandatory assessments that would have been imposed by law for a conviction of the offense charged.

A municipal court judge may impose an assessment, based on the nature of the offense and the character of the defendant, that shall not exceed the amount of a fine that would have been imposed for conviction of the offense charged. Such assessment would be distributed in the same manner as a fine for the offense.

A defendant would be advised of these financial conditions prior to seeking entry into the program.

The bill allows the defendant to apply for a waiver of the fee by reason of poverty. The court may also permit the defendant to pay the conditional dismissal fee and other assessments in installments or order other alternatives pursuant to section 1 of P.L.2009, c.317 (C.2B:12-23.1). Under the provisions of that enactment, the court has several options available if it finds that a person does not have the ability to pay a penalty in full or has failed to pay a previously imposed penalty. The court may reduce, suspend, or modify the installment plan; order that credit be given against the amount owed for each day of confinement if the court finds that the person has served jail time for the default; revoke any unpaid portion of the penalty; order the person to perform community service in lieu of payment of the penalty; or impose any other alternative permitted by law.

MUNICIPAL COURT DIVERSION FUND. The bill establishes a new dedicated, non-lapsing fund to be known as the "Municipal Court Diversion Fund," which will be administered by the Administrative Office of the Courts. The fund will

be the depository of the \$75 application fee for the conditional dismissal program. Monies in the fund will be used to offset the cost of intake and monitoring services for defendants under the conditional dismissal program.

CONDITIONAL DISCHARGE. Currently, the conditional discharge statute, N.J.S.2C:36A-1, provides that the \$75 fee which is charged for this program is used to defray the costs of juror compensation. However, this provision is outdated since these monies are no longer used to defray the costs of juror compensation, but instead are paid to the State Treasurer to for deposit in the General Fund. This bill updates this section of law accordingly.

Under the current provisions of the conditional discharge statute, a person is not eligible for conditional discharge if that person has committed disorderly persons or petty disorderly persons drug offense under any law of the United States, this State or any other state. The bill amends section a. of N.J.S.2C:36A-1 to also provide that a person who has participated in any supervisory treatment program or the conditional dismissal program

established under the bill will not be eligible for participation in the conditional discharge program.

SUPERVISORY TREATMENT

(PTI). Similar to the conditional discharge statute, the PTI statute, N.J.S.2C:43-12, provides that the \$75 fee charged for the program is used to defray the costs of juror compensation. Since these monies are no longer used to defray the costs of juror compensation, the bill updates this section of law accordingly.

Under the current provisions of N.J.S.2C:43-12, PTI may only occur once and any person who has previously received PTI is not eligible for subsequent PTI. This bill expands this provision by providing that a person who has participated in either conditional dismissal or conditional discharge will not be eligible for PTI.

The bill amends the conditional discharge and PTI statutes to provide that the court may allow the payment of the fees and other financial obligations in installments.

EXPUNGEMENT. The bill amends N.J.S.2C:52-

6 concerning expungement of arrests not resulting in conviction to allow for expungement of charges dismissed pursuant to conditional discharge or conditional dismissal six months after the entry of the order of dismissal. Currently, this section allows for expungement for a person who has had charges dismissed as a result of participation in a supervisory treatment program.

The bill was voted on favorably by the Assembly Judiciary Committee, chaired by Peter Barnes III, Widener Law School Class of 1985.

2. Ken Vercammen has been reappointed as the Metuchen Public Defender.

I serve as Public Defender in Metuchen on Wednesday nights at 6:30 and every other Friday at 9am. If attorneys are in a jam and need help with a Metuchen case, I may be able to help.

3. Free Office Space for New Attorney and go to Court- Edison, NJ available Feb 10

Kenneth Vercammen's Law Office has space sharing opportunity for new lawyer or recent free agent to get experience and go to court and learn

NJ Law office procedures. We serve as a Public Defender and handle many Municipal court and Criminal matters This is a mentoring experience where you can learn NJ Law Office Procedure.

We need someone for Friday 9am-2pm to help handle Public Defender cases and client calls, and another new attorney for other Municipal court and Criminal matters on other days.

Attorney will be provided with use of desk on main floor, plus if needed private office space in furnished basement to start their practice, rent-free. They can see clients in first floor office rooms. In return they will handle municipal court appearances, Telephone communications with courts, prosecutors, clients, etc, Will signings and other legal work and criminal law website updates in lieu of rent for maximum 5 hours per week.

Go to court and get trial experience. Excellent opportunity to jump-start your career. You will get to represent people in Municipal Courts in Middlesex, Union and Monmouth County and meet the top Prosecutors and Judges. Must be admitted in NJ and have a car.

Learn to interview potential Municipal Court/Criminal clients. Also learn to draft Wills and work on Litigation files. Attorney may also

help provide legal assistance to members of prepaid legal plans and public defender clients. Follow up contact calls with clients, courts, prosecutors and bar associations.

Excellent mentoring position for the right attorney. Are you hardworking and aggressive?

Visit our website: www.njlaws.com to learn about our office. If interested, fax email or mail a resume and cover letter to:

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