

CHAPTER 297

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

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

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

Mandatory drug enforcement and demand reduction penalties; collection; disposition; suspension.

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

- (a) \$3,000.00 in the case of a crime of the first degree;
- (b) \$2,000.00 in the case of a crime of the second degree;
- (c) \$1,000.00 in the case of a crime of the third degree;
- (d) \$750.00 in the case of a crime of the fourth degree;
- (e) \$500.00 in the case of a disorderly persons or petty disorderly persons offense.

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

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

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

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

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

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

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

affiliate of the "Partnership for a Drug Free America"; and (4) other alcohol and drug abuse programs.

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

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

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

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

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

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

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

Approved January 13, 2008.