

ASSEMBLY, No. 3117

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblyman REGINALD W. ATKINS

District 20 (Union)

Co-Sponsored by:

Assemblywoman Jasey

SYNOPSIS

Clarifies juvenile's right to attorney representation; requires 12-month judicial review hearing when juvenile is placed out-of-home.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning juvenile justice and amending P.L.1982, c.77.

2

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

5

6 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to
7 read as follows:

8 20. a. A juvenile shall have the right, as provided by the Rules
9 of Court, to be represented by counsel at every critical stage **[in**
10 **the]** of a court proceeding [which, in the opinion of the court may
11 result in the institutional commitment of the juvenile]. For the
12 purposes of this act “critical stage of a court proceeding” shall
13 include but not be limited to every court appearance by the juvenile;
14 any interrogation, identification procedure, or other investigative
15 activity involving the juvenile undertaken by law enforcement or
16 prosecutorial personnel subsequent to the filing of the complaint;
17 and the duration of any dispositional order entered by the court.

18 b. During every critical stage of a court proceeding in a
19 delinquency case provided under subsection a. of this section, the
20 waiving of any right afforded to a juvenile shall be accomplished in
21 the following manner:

22 (1) A juvenile who is found to have mental capacity may not
23 waive any rights except in the presence of and after consultation
24 with counsel, and unless a parent has first been afforded a
25 reasonable opportunity to consult with the juvenile and the
26 juvenile's counsel regarding this decision. The parent or guardian
27 may not waive the rights of a juvenile found to have mental
28 capacity.

29 (2) Any such waiver shall be executed in writing or recorded.
30 Before the court may accept a waiver, the court shall question the
31 juvenile and the juvenile's counsel to determine if the juvenile is
32 knowingly, willingly, and voluntarily waiving any right. If the
33 court finds after questioning the juvenile that the waiver is not
34 being made voluntarily and intelligently, the waiver shall be denied.

35 (3) A juvenile who is found to lack mental capacity may not
36 waive any right. A guardian ad litem shall be appointed for the
37 juvenile who may waive rights after consultation with the juvenile
38 and the juvenile's counsel.

39 (4) Waivers shall be executed in the language regularly spoken
40 by the juvenile.

41 (cf: P.L.2013, c.103, s.1)

42

43 2. Section 26 of P.L.1982, c.77 (C.2A:4A-45) is amended to
44 read as follows:

45 26. Retention of jurisdiction.

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 procedure, or other investigative activity undertaken by law
2 enforcement or prosecutorial personnel subsequent to the filing of
3 the complaint; and the duration of any dispositional order entered
4 by the court.

5 In addition, this bill establishes that when a court requires out-of-
6 home placement of child in a delinquency case, the court shall
7 conduct a placement review hearing no later than 12 months after
8 entry of the dispositional order. Under current law, although young
9 people are routinely sentenced to serve three or more years in State
10 custody, there is no court oversight of out-of-home placements in
11 juvenile delinquency cases unless a specific request is made of the
12 court.

13 This provision would amend the current law in New Jersey to be
14 consistent with Key Principle No. 13 of the National Council of
15 Juvenile and Family Court Judges' *Juvenile Delinquency Guidelines*
16 (2005), which states: "Juvenile Delinquency Court Judges Should
17 Ensure Effective Post-Disposition Review Is Provided to Each
18 Delinquent Youth as Long as the Youth is Involved in any
19 Component of the Juvenile Justice System." Such reviews are
20 essential to monitor compliance with the court's dispositional
21 orders, to ascertain whether the difficulties that led young people
22 into state custody are being addressed by the placement agency, and
23 to ensure that out-of-home placement continues to be appropriate.
24 Such hearings are required in a number of other states, including
25 New York and Pennsylvania.

26 The bill provides that during the placement hearing, the court is
27 to review the treatment, care, and custody status of the juvenile;
28 determine whether the placement agency is providing those mental
29 health, substance abuse, educational, and other rehabilitative
30 services necessary to promote the juvenile's successful
31 reintegration into the community; and determine whether the
32 placement continues to be consistent with the factors weighed in
33 determining the original disposition of the juvenile. The bill allows
34 the court to modify the dispositional order based on the factors
35 considered during the placement review hearing. The bill further
36 requires that the court conduct subsequent placement review
37 hearings every 12 months throughout the duration of any out-of-
38 home placement ordered by the court.