

[First Reprint]

## **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:**

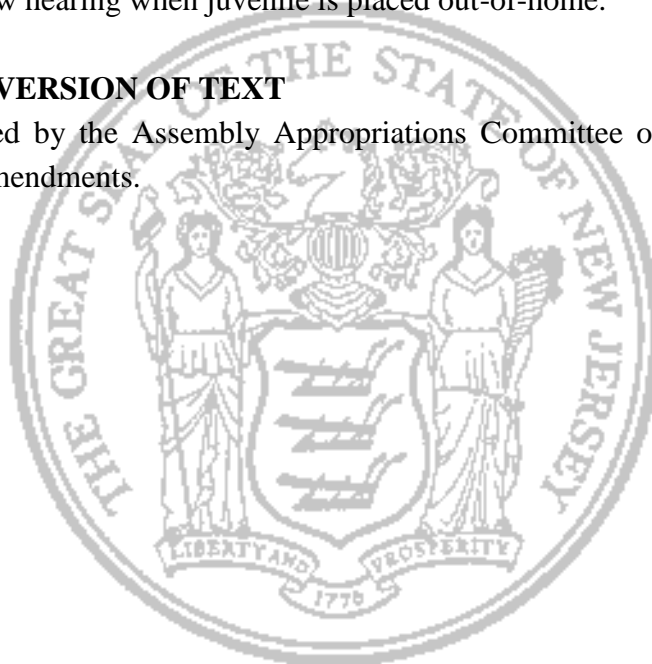
**Assemblywoman Jasey, Assemblyman Stanley, Assemblywomen Park and McKnight**

### **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 reported by the Assembly Appropriations Committee on February 23, 2023, with amendments.



**(Sponsorship Updated As Of: 2/27/2023)**

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 <sup>1</sup>**[but not be limited to]** : every court appearance by the  
14 juvenile <sup>1</sup>, including all post dispositional appearances<sup>1</sup>; <sup>1</sup>and<sup>1</sup> any  
15 interrogation, identification procedure, or other investigative  
16 activity involving the juvenile undertaken by law enforcement or  
17 prosecutorial personnel subsequent to the filing of the complaint<sup>1</sup>;  
18 and the duration of any dispositional order entered by the court]<sup>1</sup>.

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

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

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

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

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

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

43

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

**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>Assembly AAP committee amendments adopted February 23, 2023.

1       26. Retention of jurisdiction.

2       a. The court shall retain jurisdiction over any case in which it  
3 has entered a disposition under paragraph 7 of subsection b. or  
4 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or under  
5 section 25 of P.L.1982, c.77 (C.2A:4A-44) for the duration of that  
6 disposition of commitment or incarceration and may substitute any  
7 disposition otherwise available to it under section 24 of  
8 P.L.1982, c.77 (C.2A:4A-43) other than incarceration.

9       b. Except as provided for in subsection a., the court shall retain  
10 jurisdiction over any case in which it has entered a disposition  
11 under section 24 of P.L.1982, c.77 (C.2A:4A-43) and may at any  
12 time for the duration of that disposition, if after hearing, and notice  
13 to the prosecuting attorney, it finds violation of the conditions of  
14 the order of disposition, substitute any other disposition which it  
15 might have made originally.

16       c. The court may by its order retain jurisdiction in any other  
17 case.

18       d. Notwithstanding the provisions of subsection a. of this  
19 section, whenever the court has entered a disposition directing the  
20 out-of-home placement of the juvenile pursuant to subsection b. or  
21 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or  
22 section 25 of P.L.1982, c.77 (C.2A:4A-44), the court shall conduct  
23 a placement review '【hearing】' no later than 12 months after entry  
24 of the dispositional order 'and may conduct a formal hearing if so  
25 requested by the juvenile or ordered by the court'. During this  
26 '【hearing】 review,' the court shall, at a minimum, review the  
27 treatment, care, and custody status of the juvenile '【; determine  
28 whether the placement agency is providing those】 , including the'  
29 mental health, substance abuse, educational, and other rehabilitative  
30 services '【necessary】 provided' to promote the juvenile's  
31 successful reintegration into the community; determine whether the  
32 placement continues to be consistent with the factors enumerated in  
33 subsection a. of section 24 of P.L.1982, c.77 (C.2A:4A-43); and, if  
34 necessary, modify the '【dispositional order】 disposition to either  
35 reduce the term of incarceration or substitute the placement with  
36 any other disposition provided for pursuant to subsection b. of  
37 section 24 of P.L.1982, c.77 (C.2A:4A-43),' in accordance with  
38 those factors. Subsequent placement '【review hearings shall】  
39 reviews may' be conducted by the court at least once every 12  
40 months throughout the duration of any out-of-home placement  
41 ordered by the court 'if so requested by the juvenile'.

42       e. The Supreme Court of New Jersey may adopt Rules of Court  
43 governing the conduct of the placement review hearings mandated  
44 by subsection d. of this section.

45 (cf: P.L.1995, c.280, s.13)

46

47       3. This act shall take effect immediately.