

[Second 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:

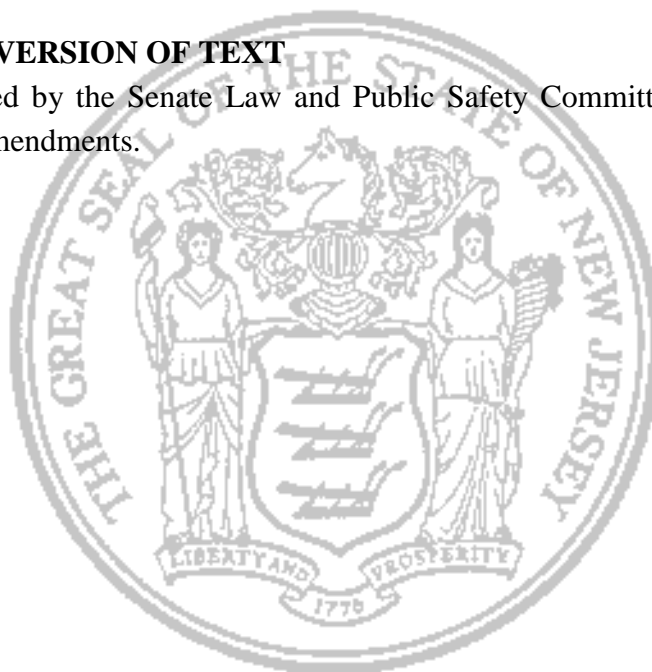
Assemblywoman Jasey, Assemblyman Stanley, Assemblywomen Park and McKnight

SYNOPSIS

Clarifies juvenile's right to attorney representation.

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on May 18, 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 ¹[but not be limited to]¹ : every court appearance by the
14 juvenile ¹, including all post dispositional appearances¹; ¹and¹ 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 complaint¹;
18 and the duration of any dispositional order entered by the court]¹.

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[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:

¹Assembly AAP committee amendments adopted February 23, 2023.

²Senate SLP committee amendments adopted May 18, 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 ¹[hearing]¹ no later than 12 months after entry
24 of the dispositional order ¹and may conduct a formal hearing if so
25 requested by the juvenile or ordered by the court¹. During this
26 ¹[hearing] review,¹ the court shall, at a minimum, review the
27 treatment, care, and custody status of the juvenile ¹; determine
28 whether the placement agency is providing those ¹, including the¹
29 mental health, substance abuse, educational, and other rehabilitative
30 services ¹[necessary] provided¹ 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 ¹[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).¹ in accordance with
38 those factors. Subsequent placement ¹[review hearings shall]
39 reviews may¹ 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 ¹if so requested by the juvenile¹.

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)]²

46

47 ²[3.] 2.² This act shall take effect immediately.