

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 269

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED MAY 18, 2023

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Clarifies juvenile's right to attorney representation.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Law and Public Safety Committee.



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:*

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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: every court appearance by the juvenile, including all post
14 dispositional appearances; and any interrogation, identification
15 procedure, or other investigative activity involving the juvenile
16 undertaken by law enforcement or prosecutorial personnel
17 subsequent to the filing of the complaint.

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. This act shall take effect immediately.

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.