

ASSEMBLY, No. 5018

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED NOVEMBER 14, 2024

Sponsored by:

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

SYNOPSIS

Concerns rights of juvenile defendants who elect to be tried as adults.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/19/2024)

1 AN ACT concerning rights of juvenile defendants who elect to be
2 tried as adults, and amending P.L.1982, c.77.

3

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

6

7 1. Section 8 of P.L.1982, c.77 (C.2A:4A-27), is amended to
8 read as follows:

9 8. a. Any juvenile 14 years of age or older charged with
10 delinquency may elect, subject to court approval, to have the case
11 transferred to the appropriate court having jurisdiction. Any
12 juvenile under 14 years of age charged with an offense which, if
13 committed by an adult, would constitute murder under N.J.S.2C:11-
14 3 may elect, subject to court approval, to have the case transferred
15 to the appropriate court having jurisdiction.

16 b. In all cases where such election is sought, the court shall
17 conduct a hearing pursuant to paragraph (2) of subsection b. of
18 section 20 of P.L.1982, c.77 (C.2A:4A-39), to:

19 (1) inform the juvenile of the differences in the maximum
20 sentence or disposition, and the differences in the consequences of
21 magnitude, between the New Jersey Code of Criminal Justice and
22 the New Jersey Code of Juvenile Justice, for the crimes, offenses,
23 and delinquencies charged; and

24 (2) determine that an election under this section is made
25 knowingly, willingly, and voluntarily.

26 c. Upon the granting of an election made under this section and
27 transfer to the appropriate court having jurisdiction:

28 (1) the case shall proceed as if it originated in that court and
29 shall be subject to the sentencing provisions available to that court;
30 provided, however, there shall be a presumption that the juvenile
31 shall serve any custodial sentence imposed in a State juvenile
32 facility operated by the Juvenile Justice Commission until the
33 juvenile reaches the age of 21, except that:

34 (a) a juvenile who has not reached the age of 21 may, in the
35 discretion of the Juvenile Justice Commission, be transferred to the
36 Department of Corrections in accordance with the plan established
37 pursuant to subsection e. of section 7 of P.L.1995, c.284 (C.52:17B-
38 175) and regulations adopted pursuant to that section; and

39 (b) a juvenile who has reached or exceeds the age of 21 may
40 continue to serve a sentence in a State juvenile facility operated by
41 the Juvenile Justice Commission in the discretion of the Juvenile
42 Justice Commission and if the juvenile so consents; otherwise the
43 juvenile shall serve the remainder of the custodial sentence in a
44 State correctional facility;

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 (2) with the consent of the juvenile and the prosecutor, at any
 2 point in the proceedings subsequent to the election made pursuant
 3 to this section, the court may remand the case to the Superior Court,
 4 Chancery Division, Family Part if it appears that:

5 (a) the interests of the public and the best interests of the
 6 juvenile require access to programs or procedures uniquely
 7 available to that court; and

8 (b) the interests of the public are no longer served by the
 9 election.

10 (cf: P.L.1982, c.77, s.8)

11
 12 2. This act shall take effect immediately.

13
 14
 15 STATEMENT

16
 17 This bill provides that juvenile defendants who voluntarily elect to
 18 move their cases from the Family Part to the Criminal Part of the
 19 Superior Court in order to be tried as adults, pursuant to the waiver
 20 process set forth in section 8 of P.L.1982, c.77 (C.2A:4A-27), shall be
 21 granted the following procedural rights:

22 - a case would proceed as if it originated in the Criminal Part and
 23 be subject to applicable adult sentencing provisions, provided there
 24 would be a presumption that a convicted juvenile serve any custodial
 25 sentence imposed in a State juvenile facility operated by the Juvenile
 26 Justice Commission until reaching 21 years of age, except that: (1) a
 27 confined juvenile who has reached 18 years of age and whose
 28 continued presence in the juvenile facility threatens the safety of
 29 others, including other juvenile offenders, or the ability of the
 30 commission to operate juvenile programs at the facility, could be
 31 transferred to a State adult correctional facility; and (2) a juvenile who
 32 has reached or exceeds 21 years of age could continue to serve a
 33 sentence in the State juvenile facility at the discretion of the
 34 commission and with the consent of the juvenile; and

35 - at any point during the proceedings of the case, with the consent
 36 of the juvenile and prosecutor, the court could remand the case to the
 37 Family Part to continue as a juvenile adjudication if it appears that the
 38 interests of the public and the best interests of the juvenile require
 39 access to programs and procedures uniquely available through the
 40 juvenile adjudication process, and the interests of the public are no
 41 longer served by the juvenile's original voluntary waiver to the
 42 Criminal Part.

43 The above are similar to the procedural rights provided to juvenile
 44 defendants who are involuntarily waived by the prosecutor from the
 45 Family Part to the Criminal Part. See P.L.2015, c.89, s.1 (C.2A:4A-
 46 26.1).

47 Additionally, the bill would require the court to approve the
 48 juvenile's voluntary waiver, which it could do only after conducting a

A5018 PARK, KARABINCHAK

1 hearing. At the hearing, the court would inform the juvenile of the
2 differences in the maximum sentencing or disposition between adults
3 and juveniles for the offenses charged, and the differences “in the
4 consequences of magnitude” between proceeding under the “New
5 Jersey Code of Juvenile Justice” and the “New Jersey Code of
6 Criminal Justice.” A determination to approve the voluntary waiver
7 would also require that the juvenile’s action be found to be
8 “knowingly, willingly, and voluntarily” made.