

# SENATE, No. 357

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator VINCENT J. POLISTINA**

**District 2 (Atlantic)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/14/2024)**

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  
18 to be tried as adults shall have the same procedural rights as  
19 juvenile defendants who are involuntarily waived by the prosecutor  
20 from the Family Part to the Criminal Part of the Superior Court. A  
21 juvenile may voluntarily choose to be tried as an adult as part of a  
22 plea agreement, or if the juvenile insists on a trial by jury.

23       Under current law, in cases in which a prosecutor seeks to have a  
24 juvenile tried as an adult, the juvenile still retains some of the rights  
25 afforded by the New Jersey Code of Juvenile Justice, such as the  
26 right to be housed in a juvenile facility if convicted and sentenced  
27 to imprisonment, the right to seek remand of the case back to the  
28 Family Part if it is in the interests of justice, and, except for certain  
29 violent crimes, the right to have the case remanded back to the  
30 Family Part for sentencing after conviction. However, it is not clear  
31 whether a juvenile who voluntarily chooses to be tried as an adult  
32 retains those same rights.

33       In addition to clarifying the rights of juvenile defendants, this  
34 bill requires the court to determine that an election by a juvenile to  
35 be tried as an adult is made knowingly, willingly, and voluntarily,  
36 given the differential treatment under the law between juveniles  
37 adjudicated delinquent and adults convicted of crimes. As part of  
38 making that determination, the court would be required to conduct a  
39 hearing during which the juvenile would be informed of the  
40 differences in sentencing or disposition between adults and  
41 juveniles for the offenses charged.