

ASSEMBLY, No. 330

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman PASCARELL

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 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read
7 as follows:

8 24. Disposition of delinquency cases. a. In determining the
9 appropriate disposition for a juvenile adjudicated delinquent the court
10 shall weigh the following factors:

11 (1) The nature and circumstances of the offense;

12 (2) The degree of injury to persons or damage to property caused
13 by the juvenile's offense;

14 (3) The juvenile's age, previous record, prior social service
15 received and out-of-home placement history;

16 (4) Whether the disposition supports family strength, responsibility
17 and unity and the well-being and physical safety of the juvenile;

18 (5) Whether the disposition provides for reasonable participation
19 by the child's parent, guardian, or custodian, provided, however, that
20 the failure of a parent or parents to cooperate in the disposition shall
21 not be weighed against the juvenile in arriving at an appropriate
22 disposition;

23 (6) Whether the disposition recognizes and treats the unique
24 physical, psychological and social characteristics and needs of the
25 child;

26 (7) Whether the disposition contributes to the developmental needs
27 of the child, including the academic and social needs of the child where
28 he has mental retardation or learning disabilities; and

29 (8) Any other circumstances related to the offense and the
30 juvenile's social history as deemed appropriate by the court.

31 b. If a juvenile is adjudged delinquent, and except to the extent that
32 an additional specific disposition is required pursuant to subsection e.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 or f. of this section, the court may order incarceration pursuant to
2 section 25 of this act or any one or more of the following dispositions:

3 (1) Adjourn formal entry of disposition of the case for a period not
4 to exceed 12 months for the purpose of determining whether the
5 juvenile makes a satisfactory adjustment, and if during the period of
6 continuance the juvenile makes such an adjustment, dismiss the
7 complaint; provided that if the court adjourns formal entry of
8 disposition of delinquency for a violation of an offense defined in
9 chapter 35 or 36 of Title 2C, of the New Jersey Statutes the court
10 shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but may
11 waive imposition of the penalty set forth in N.J.S.2C:35-16 for
12 juveniles adjudicated delinquent;

13 (2) Release the juvenile to the supervision of his or her parent or
14 guardian;

15 (3) Place the juvenile on probation to the chief probation officer of
16 the county or to any other suitable person who agrees to accept the
17 duty of probation supervision for a period not to exceed three years
18 upon such written conditions as the court deems will aid rehabilitation
19 of the juvenile;

20 (4) Transfer custody of the juvenile to any relative or other person
21 determined by the court to be qualified to care for the juvenile;

22 (5) Place the juvenile under the care of the Department of Human
23 Services under the responsibility of the Division of Youth and Family
24 Services pursuant to subsection (c) of P.L.1951, c.138, s.2
25 (C.30:4C-2) for the purpose of providing services in or out of the
26 home. Within 14 days, unless for good cause shown, but not later
27 than 30 days, the Department of Human Services shall submit to the
28 court a service plan, which shall be presumed valid, detailing the
29 specifics of any disposition order. The plan shall be developed within
30 the limits of fiscal and other resources available to the department. If
31 the court determines that the service plan is inappropriate, given
32 existing resources, the department may request a hearing on that
33 determination;

34 (6) Place the juvenile under the care and custody of the
35 Commissioner of the Department of Human Services for the purpose
36 of receiving the services of the Division of Mental Retardation of that
37 department, provided that the juvenile has been determined to be
38 eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);

39 (7) Commit the juvenile, pursuant to the laws governing civil
40 commitment, to the Department of Human Services under the
41 responsibility of the Division of Mental Health and Hospitals for the
42 purpose of placement in a suitable public or private hospital or other
43 residential facility for the treatment of persons who are mentally ill, on
44 the ground that the juvenile, if not committed, would be a probable
45 danger to himself or others or property by reason of mental illness;

46 (8) Fine the juvenile an amount not to exceed the maximum

1 provided by law for such a crime or offense if committed by an adult
2 and which is consistent with the juvenile's income or ability to pay and
3 financial responsibility to his family, provided that the fine is specially
4 adapted to the rehabilitation of the juvenile or to the deterrence of the
5 type of crime or offense. If the fine is not paid due to financial
6 limitations, the fine may be satisfied by requiring the juvenile to submit
7 to any other appropriate disposition provided for in this section;

8 (9) Order the juvenile to make restitution to a person or entity who
9 has suffered loss resulting from personal injuries or damage to
10 property as a result of the offense for which the juvenile has been
11 adjudicated delinquent. The court may determine the reasonable
12 amount, terms and conditions of restitution. If the juvenile
13 participated in the offense with other persons, the participants shall be
14 jointly and severally responsible for the payment of restitution. The
15 court shall not require a juvenile to make full or partial restitution if
16 the juvenile reasonably satisfies the court that he does not have the
17 means to make restitution and could not reasonably acquire the means
18 to pay restitution;

19 (10) Order that the juvenile perform community services under the
20 supervision of a probation department or other agency or individual
21 deemed appropriate by the court. Such services shall be compulsory
22 and reasonable in terms of nature and duration. Such services may be
23 performed without compensation, provided that any money earned by
24 the juvenile from the performance of community services may be
25 applied towards any payment of restitution or fine which the court has
26 ordered the juvenile to pay;

27 (11) Order that the juvenile participate in work programs which are
28 designed to provide job skills and specific employment training to
29 enhance the employability of job participants. Such programs may be
30 without compensation, provided that any money earned by the juvenile
31 from participation in a work program may be applied towards any
32 payment of restitution or fine which the court has ordered the juvenile
33 to pay;

34 (12) Order that the juvenile participate in programs emphasizing
35 self-reliance, such as intensive outdoor programs teaching survival
36 skills, including but not limited to camping, hiking and other
37 appropriate activities;

38 (13) Order that the juvenile participate in a program of academic or
39 vocational education or counseling, such as a youth service bureau,
40 requiring attendance at sessions designed to afford access to
41 opportunities for normal growth and development. This may require
42 attendance after school, evenings and weekends;

43 (14) Place the juvenile in a suitable residential or nonresidential
44 program for the treatment of alcohol or narcotic abuse, provided that
45 the juvenile has been determined to be in need of such services; [or]

46 (15) Order the parent or guardian of the juvenile to participate in

1 appropriate programs or services when the court has found either that
2 such person's omission or conduct was a significant contributing factor
3 towards the commission of the delinquent act, or, under its authority
4 to enforce litigant's rights, that such person's omission or conduct has
5 been a significant contributing factor towards the ineffective
6 implementation of a court order previously entered in relation to the
7 juvenile;

8 (16) (a) Place the juvenile in a nonresidential program operated by
9 a public or private agency, providing intensive services to juveniles for
10 specified hours, which may include education, counseling to the
11 juvenile and the juvenile's family if appropriate, vocational training,
12 employment counseling, work or other services; or

13 (b) Place the juvenile under the custody of the Department of
14 Corrections for placement with any private group home or private
15 residential facility with which the department has entered into a
16 purchase of service contract;

17 (17) Instead of or in addition to any disposition made according to
18 this section, the court may postpone, suspend, or revoke for a period
19 not to exceed two years the driver's license, registration certificate, or
20 both of any juvenile who used a motor vehicle in the course of
21 committing an act for which he was adjudicated delinquent. In
22 imposing this disposition and in deciding the duration of the
23 postponement, suspension, or revocation, the court shall consider the
24 severity of the delinquent act and the potential effect of the loss of
25 driving privileges on the juvenile's ability to be rehabilitated. Any
26 postponement, suspension, or revocation shall be imposed
27 consecutively with any custodial commitment;

28 (18) Order that the juvenile satisfy any other conditions reasonably
29 related to the rehabilitation of the juvenile; [or]

30 (19) Order a parent or guardian who has failed or neglected to
31 exercise reasonable supervision or control of a juvenile who has been
32 adjudicated delinquent for an offense which, if committed by an adult,
33 would constitute the crime of theft of a motor vehicle or unlawful
34 taking of a motor vehicle to make restitution to any person or entity
35 who has suffered a loss as a result of that offense. The court may
36 determine the reasonable amount, terms and conditions of restitution;
37 or

38 (20) Order a parent or guardian who has failed or neglected to
39 exercise reasonable supervision or control of a juvenile who has been
40 adjudicated delinquent for an offense which, if committed by an adult,
41 would constitute a violation of N.J.S.2C:17-3 or section 1 or section
42 2 of P.L.1981, c.282 (C.2C:33-10 or C.2C:33-11) involving the
43 commission of an act of graffiti to perform community service
44 alongside the juvenile under the supervision of the probation
45 department or other agency or individual deemed appropriate by the
46 court. The duration of community service imposed on the parent or

1 guardian shall be at least one-half of the duration of community service
2 imposed on the juvenile pursuant to paragraph (5) of subsection e. of
3 this section.

4 c. (1) Except as otherwise provided in subsections e. and f. of this
5 section, if the county in which the juvenile has been adjudicated
6 delinquent has a juvenile detention facility meeting the physical and
7 program standards established pursuant to this subsection by the
8 Department of Corrections, the court may, in addition to any of the
9 dispositions not involving placement out of the home enumerated in
10 this section, incarcerate the juvenile in the youth detention facility in
11 that county for a term not to exceed 60 consecutive days. Counties
12 which do not operate their own juvenile detention facilities may
13 contract for the use of approved commitment programs with counties
14 with which they have established agreements for the use of
15 pre-disposition juvenile detention facilities. The Department of
16 Corrections shall promulgate such rules and regulations from time to
17 time as deemed necessary to establish minimum physical facility and
18 program standards for the use of juvenile detention facilities pursuant
19 to this subsection.

20 (2) No juvenile may be incarcerated in any county detention facility
21 unless the county has entered into an agreement with the Department
22 of Corrections concerning the use of the facility for sentenced
23 juveniles. Upon agreement with the county, the Department of
24 Corrections shall certify detention facilities which may receive
25 juveniles sentenced pursuant to this subsection and shall specify the
26 capacity of the facility that may be made available to receive such
27 juveniles; provided, however, that in no event shall the number of
28 juveniles incarcerated pursuant to this subsection exceed 50% of the
29 maximum capacity of the facility.

30 (3) The court may fix a term of incarceration under this subsection
31 where:

32 (a) The act for which the juvenile was adjudicated delinquent, if
33 committed by an adult, would have constituted a crime or repetitive
34 disorderly persons offense;

35 (b) Incarceration of the juvenile is consistent with the rehabilitative
36 goals of this act and the court is clearly convinced that the aggravating
37 factors substantially outweigh the mitigating factors as set forth in
38 section 25 of this act; and

39 (c) The detention facility has been certified for admission of
40 adjudicated juveniles pursuant to paragraph (2).

41 (4) If as a result of incarceration of adjudicated juveniles pursuant
42 to this subsection, a county is required to transport a predisposition
43 juvenile to a juvenile detention facility in another county, the costs of
44 such transportation shall be borne by the Department of Corrections.

45 d. Whenever the court imposes a disposition upon an adjudicated
46 delinquent which requires the juvenile to perform a community service,

1 restitution, or to participate in any other program provided for in this
2 section other than subsection c., the duration of the juvenile's
3 mandatory participation in such alternative programs shall extend for
4 a period consistent with the program goal for the juvenile and shall in
5 no event exceed one year beyond the maximum duration permissible
6 for the delinquent if he has been committed to a correctional
7 institution.

8 e. In addition to any disposition the court may impose pursuant to
9 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
10 following orders shall be included in dispositions of the adjudications
11 set forth below:

12 (1) An order of incarceration for a term of the duration authorized
13 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
14 or an order to perform community service pursuant to paragraph (10)
15 of subsection b. of this section for a period of at least 60 days, if the
16 juvenile has been adjudicated delinquent for an act which, if committed
17 by an adult, would constitute the crime of theft of a motor vehicle, or
18 the crime of unlawful taking of a motor vehicle in violation of
19 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding
20 in violation of subsection b. of N.J.S.2C:29-2;

21 (2) An order of incarceration for a term of the duration authorized
22 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
23 which shall include a minimum term of 60 days during which the
24 juvenile shall be ineligible for parole, if the juvenile has been
25 adjudicated delinquent for an act which, if committed by an adult,
26 would constitute the crime of aggravated assault in violation of
27 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree
28 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or
29 theft of a motor vehicle, in a case in which the juvenile has previously
30 been adjudicated delinquent for an act, which if committed by an adult,
31 would constitute unlawful taking of a motor vehicle or theft of a motor
32 vehicle;

33 (3) An order to perform community service pursuant to paragraph
34 (10) of subsection b. of this section for a period of at least 30 days, if
35 the juvenile has been adjudicated delinquent for an act which, if
36 committed by an adult, would constitute the fourth degree crime of
37 unlawful taking of a motor vehicle in violation of subsection b. of
38 N.J.S.2C:20-10;

39 (4) An order of incarceration for a term of the duration authorized
40 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
41 which shall include a minimum term of 30 days during which the
42 juvenile shall be ineligible for parole, if the juvenile has been
43 adjudicated delinquent for an act which, if committed by an adult,
44 would constitute the crime of unlawful taking of a motor vehicle in
45 violation of N.J.S.2C:20-10 or the third degree crime of eluding in
46 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has

1 previously been adjudicated delinquent for an act which, if committed
2 by an adult, would constitute either theft of a motor vehicle, the
3 unlawful taking of a motor vehicle or eluding;

4 (5) An order to perform community service pursuant to paragraph
5 (10) of subsection b. of this section for a period of at least three days,
6 if the juvenile has been adjudicated delinquent for an act which, if
7 committed by an adult, would constitute a violation of N.J.S.2C:17-3
8 or section 1 or section 2 of P.L.1981, c.282 (C.2C:33-10 or
9 C.2C:33-11) involving the commission of an act of graffiti.

10 f. (1) The minimum terms of incarceration required pursuant to
11 subsection e. of this section shall be imposed regardless of the weight
12 or balance of factors set forth in this section or in section 25 of
13 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those
14 factors shall determine the length of the term of incarceration
15 appropriate, if any, beyond any mandatory minimum term required
16 pursuant to subsection e. of this section. No time spent in custody
17 prior to adjudication of delinquency shall be considered as time served
18 on a mandatory minimum term of incarceration pursuant to subsection
19 e. of this section.

20 (2) When a court in a county that does not have a juvenile
21 detention facility or a contractual relationship permitting incarceration
22 pursuant to subsection c. of this section is required to impose a term
23 of incarceration pursuant to subsection e. of this section, the court
24 may, subject to limitations on commitment to State correctional
25 facilities of juveniles who under the age of 11 or developmentally
26 disabled, set a term of incarceration consistent with subsection c.
27 which shall be served in a State correctional facility. When a juvenile
28 who because of age or developmental disability cannot be committed
29 to a State correctional facility or cannot be incarcerated in a county
30 facility, the court shall order a disposition appropriate as an alternative
31 to any incarceration required pursuant to subsection e.

32 (3) For purposes of subsection e. of this section, in the event that
33 a "boot camp" program for juvenile offenders should be developed
34 and is available, a term of commitment to such a program shall be
35 considered a term of incarceration.

36 (cf: P.L.1993, c.133, s.1)

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38 2. This act shall take effect immediately.
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41 STATEMENT

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43 This bill requires a juvenile who is adjudicated delinquent for
44 committing an act of graffiti to serve at least three days of community
45 service. The bill also authorizes the court to order a parent or
46 guardian who has failed or neglected to exercise reasonable

1 supervision or control of a juvenile to perform community service
2 alongside the juvenile. The duration of community service imposed on
3 the parent would be at least one-half the duration imposed on the
4 juvenile.

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9 Authorizes court to order community service for juvenile and parent
10 if juvenile commits act of graffiti.