

## **ASSEMBLY, No. 644**

# STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

**By Assemblymen IMPREVEDUTO and MORAN**

1   **AN ACT** concerning certain juvenile offenders and amending P.L.1982,  
2       c.77.

3

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

6

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

9

10 appropriate disposition for a juvenile adjudicated delinquent the court  
11 shall weigh the following factors:  
12 (1) The nature and circumstances of the offense;

13 (2) The degree of injury to persons or damage to

14 by the juvenile's offense;  
15 (3) The juvenile's age, previous record, prior social service

16 received and out-of-home placement history;  
17 (4) Whether the disposition supports family strength, responsibility,

18 and unity and the well-being and physical safety of the juvenile;  
19 (5) Whether the disposition provides for reasonable participation

20 by the child's parent, guardian, or custodian, provided, however, that  
21 the failure of a parent or parents to cooperate in the disposition shall  
22 not be weighed against the juvenile in arriving at an appropriate  
23 disposition;

24 (6) Whether the disposition recognizes and treats the unique

(8) Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child;

(7) Whether the disposition contributes to the developmental needs

27        (7) Whether the disposition contributes to the developmental needs  
28      of the child, including the academic and social needs of the child where  
29      he has mental retardation or learning disabilities; and  
30        (8) Any other circumstances related to the offense and the

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

**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        b. If a juvenile is adjudged delinquent, and except to the extent that  
2 an additional specific disposition is required pursuant to subsection e.  
3 or f. of this section, the court may order incarceration pursuant to  
4 section 25 of this act or any one or more of the following dispositions:

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

15            (2) Release the juvenile to the supervision of his or her parent or  
16 guardian;

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

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

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

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

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

1 danger to himself or others or property by reason of mental illness;

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

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

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

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

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

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

45     (14) Place the juvenile in a suitable residential or nonresidential  
46 program for the treatment of alcohol or narcotic abuse, provided that

- 1       the juvenile has been determined to be in need of such services; or  
2           (15) Order the parent or guardian of the juvenile to participate in  
3       appropriate programs or services when the court has found either that  
4       such person's omission or conduct was a significant contributing factor  
5       towards the commission of the delinquent act, or, under its authority  
6       to enforce litigant's rights, that such person's omission or conduct has  
7       been a significant contributing factor towards the ineffective  
8       implementation of a court order previously entered in relation to the  
9       juvenile;
- 10          (16) (a) Place the juvenile in a nonresidential program operated by  
11       a public or private agency, providing intensive services to juveniles for  
12       specified hours, which may include education, counseling to the  
13       juvenile and the juvenile's family if appropriate, vocational training,  
14       employment counseling, work or other services; or  
15           (b) Place the juvenile under the custody of the Department of  
16       Corrections for placement with any private group home or private  
17       residential facility with which the department has entered into a  
18       purchase of service contract;
- 19          (17) Instead of or in addition to any disposition made according  
20       to this section, the court may postpone, suspend, or revoke for a  
21       period not to exceed two years the driver's license, registration  
22       certificate, or both of any juvenile who used a motor vehicle in the  
23       course of committing an act for which he was adjudicated delinquent.  
24       In imposing this disposition and in deciding the duration of the  
25       postponement, suspension, or revocation, the court shall consider the  
26       severity of the delinquent act and the potential effect of the loss of  
27       driving privileges on the juvenile's ability to be rehabilitated. Any  
28       postponement, suspension, or revocation shall be imposed  
29       consecutively with any custodial commitment;
- 30          (18) Order that the juvenile satisfy any other conditions reasonably  
31       related to the rehabilitation of the juvenile; or  
32          (19) Order a parent or guardian who has failed or neglected to  
33       exercise reasonable supervision or control of a juvenile who has been  
34       adjudicated delinquent for an offense which, if committed by an adult,  
35       would constitute the crime of theft of a motor vehicle or unlawful  
36       taking of a motor vehicle to make restitution to any person or entity  
37       who has suffered a loss as a result of that offense. The court may  
38       determine the reasonable amount, terms and conditions of restitution.
- 39           c. (1) Except as otherwise provided in subsections e. and f. of this  
40       section, if the county in which the juvenile has been adjudicated  
41       delinquent has a juvenile detention facility meeting the physical and  
42       program standards established pursuant to this subsection by the  
43       Department of Corrections, the court may, in addition to any of the  
44       dispositions not involving placement out of the home enumerated in  
45       this section, incarcerate the juvenile in the youth detention facility in  
46       that county for a term not to exceed 60 consecutive days. Counties

1 which do not operate their own juvenile detention facilities may  
2 contract for the use of approved commitment programs with counties  
3 with which they have established agreements for the use of  
4 pre-disposition juvenile detention facilities. The Department of  
5 Corrections shall promulgate such rules and regulations from time to  
6 time as deemed necessary to establish minimum physical facility and  
7 program standards for the use of juvenile detention facilities pursuant  
8 to this subsection.

9 (2) No juvenile may be incarcerated in any county detention facility  
10 unless the county has entered into an agreement with the Department  
11 of Corrections concerning the use of the facility for sentenced  
12 juveniles. Upon agreement with the county, the Department of  
13 Corrections shall certify detention facilities which may receive  
14 juveniles sentenced pursuant to this subsection and shall specify the  
15 capacity of the facility that may be made available to receive such  
16 juveniles; provided, however, that in no event shall the number of  
17 juveniles incarcerated pursuant to this subsection exceed 50% of the  
18 maximum capacity of the facility.

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

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

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

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

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

34 d. Whenever the court imposes a disposition upon an adjudicated  
35 delinquent which requires the juvenile to perform a community service,  
36 restitution, or to participate in any other program provided for in this  
37 section other than subsection c., the duration of the juvenile's  
38 mandatory participation in such alternative programs shall extend for  
39 a period consistent with the program goal for the juvenile and shall in  
40 no event exceed one year beyond the maximum duration permissible  
41 for the delinquent if he has been committed to a correctional  
42 institution.

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

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

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

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

28     (4) An order of incarceration for a term of the duration authorized  
29 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
30 which shall include a minimum term of 30 days during which the  
31 juvenile shall be ineligible for parole, if the juvenile has been  
32 adjudicated delinquent for an act which, if committed by an adult,  
33 would constitute the crime of unlawful taking of a motor vehicle in  
34 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
35 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
36 previously been adjudicated delinquent for an act which, if committed  
37 by an adult, would constitute either theft of a motor vehicle, the  
38 unlawful taking of a motor vehicle or eluding;

39     (5) (a) An order to postpone, suspend, or revoke the juvenile's  
40 driver's license for a period of one year, and (b) an order to perform  
41 community service pursuant to paragraph (10) of subsection b. of this  
42 section for a period of at least 100 hours, to be served over a 20-week  
43 period.

44     if the juvenile has been adjudicated delinquent for an act which, if  
45 committed by an adult, would constitute the crime of promoting  
46 gambling in violation of N.J.S.2C:37-2.

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

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

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

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

28

29        2. This act shall take effect immediately.

30

## STATEMENT

34 This bill would impose mandatory penalties on a juvenile  
35 adjudicated delinquent for an act which, if committed by an adult,  
36 would constitute the crime of promoting gambling. The bill provides  
37 that the juvenile would be required to perform at least 100 hours of  
38 community service, to be served over a 20-week period, and would  
39 lose his driver's license for at least one year.

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44 Imposes mandatory penalties on juveniles adjudicated delinquent for  
45 promoting gambling.