

ASSEMBLY, No. 644

STATE OF NEW JERSEY

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 24. Disposition of delinquency cases. a. In determining the  
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 property caused  
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  
25 physical, psychological and social characteristics and needs of the  
26 child;

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 the child has mental retardation or learning disabilities; and

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

32 b. If a juvenile is adjudged delinquent, and except to the extent that  
33 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 P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
3 following dispositions:

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

14 (2) Release the juvenile to the supervision of the juvenile's parent  
15 or guardian;

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

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

23 (5) Place the juvenile under the care of the Department of Human  
24 Services under the responsibility of the Division of Youth and Family  
25 Services pursuant to P.L.1951, c.138(C.30:4C-1 et seq.) for the  
26 purpose of providing services in or out of the home. Within 14 days,  
27 unless for good cause shown, but not later than 30 days, the  
28 Department of Human Services shall submit to the court a service  
29 plan, which shall be presumed valid, detailing the specifics of any  
30 disposition order. The plan shall be developed within the limits of  
31 fiscal and other resources available to the department. If the court  
32 determines that the service plan is inappropriate, given existing  
33 resources, the department may request a hearing on that  
34 determination;

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

40 (7) Commit the juvenile, pursuant to applicable laws and the rules  
41 of court governing civil commitment, to the Department of Human  
42 Services under the responsibility of the Division of Mental Health  
43 Services for the purpose of placement in a suitable public or private  
44 hospital or other residential facility for the treatment of persons who  
45 are mentally ill, on the ground that the juvenile, is in need of  
46 involuntary commitment;.

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

21 (10) Order that the juvenile perform community services under the  
22 supervision of a probation division 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 Juvenile Justice  
16 Commission established pursuant to section 2 of P.L.1995, c.280 for  
17 placement with any private group home or private residential facility  
18 with which the commission has entered into a purchase of service  
19 contract;

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

31 (18) Order that the juvenile satisfy any other conditions reasonably  
32 related to the rehabilitation of the juvenile; or

33 (19) Order a parent or guardian who has failed or neglected to  
34 exercise reasonable supervision or control of a juvenile who has been  
35 adjudicated delinquent to make restitution to any person or entity who  
36 has suffered a loss as a result of that offense. The court may  
37 determine the reasonable amount, terms and conditions of restitution.

38 c. (1) Except as otherwise provided in subsections e. and f. of this  
39 section, if the county in which the juvenile has been adjudicated  
40 delinquent has a juvenile detention facility meeting the physical and  
41 program standards established pursuant to this subsection by the  
42 Juvenile Justice Commission, the court may, in addition to any of the  
43 dispositions not involving placement out of the home enumerated in  
44 this section, incarcerate the juvenile in the youth detention facility in  
45 that county for a term not to exceed 60 consecutive days. Counties  
46 which do not operate their own juvenile detention facilities may

1 contract for the use of approved commitment programs with counties  
2 with which they have established agreements for the use of  
3 pre-disposition juvenile detention facilities. The Juvenile Justice  
4 Commission, shall promulgate such rules and regulations from time to  
5 time as deemed necessary to establish minimum physical facility and  
6 program standards for the use of juvenile detention facilities pursuant  
7 to this subsection.

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

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

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

23 (b) Incarceration of the juvenile is consistent with the goals of  
24 public safety, accountability and rehabilitation and the court is clearly  
25 convinced that the aggravating factors substantially outweigh the  
26 mitigating factors as set forth in section 25 of P.L.1982, c.77  
27 (C.2A:4A-44) 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 Juvenile Justice Commission.

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 the juvenile been committed to a term of  
42 incarceration..

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.

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

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

24 (cf: P.L.1995,c.280,s.10)

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29 Imposes mandatory penalties on juveniles adjudicated delinquent for  
30 promoting gambling.