

ASSEMBLY, No. 1018

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen CONNORS and MORAN

1 AN ACT concerning certain juveniles 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:

5

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

1 with which they have established agreements for the use of  
2 pre-disposition juvenile detention facilities. The Department of  
3 Corrections shall promulgate such rules and regulations from time to  
4 time as deemed necessary to establish minimum physical facility and  
5 program standards for the use of juvenile detention facilities pursuant  
6 to this subsection.

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

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

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

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

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

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

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

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

45 (1) An order of incarceration for a term of the duration authorized  
46 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)

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

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

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

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

37 (5) An order of incarceration which shall include the imposition of  
38 a minimum term which shall be fixed at, or between, one-third and  
39 one-half of the sentence imposed by the court or three years,  
40 whichever is greater, or 18 months in the case of an act which, if  
41 committed by an adult, would constitute a crime of the fourth degree,  
42 during which the juvenile shall be ineligible for parole, if the juvenile  
43 has been adjudicated delinquent for an act which, if committed by an  
44 adult, would constitute a crime under 2C:39-4a., possession of a  
45 firearm with intent to use it against the person of another, or an act  
46 which would constitute a crime under any of the following sections:

1 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a.,  
2 2C:15-1, 2C:18-2, 2C:29-5, if the juvenile while in the course of  
3 committing or attempting to commit the act, including the immediate  
4 flight therefrom, used or was in possession of a firearm as defined in  
5 2C:39-1f.

6 The court shall not impose a mandatory sentence pursuant to this  
7 paragraph unless the ground therefor has been established at a hearing.  
8 At the hearing, which may occur at the time of sentencing, the  
9 prosecutor shall establish by a preponderance of the evidence that the  
10 weapon used or possessed was a firearm. In making its finding, the  
11 court shall take judicial notice of any evidence, testimony or  
12 information adduced at the trial, plea hearing, or other court  
13 proceedings and shall also consider the predisposition report and any  
14 other relevant information.

15 (6) An order of incarceration which shall include the imposition of  
16 a minimum term fixed at 10 years for a crime of the first or second  
17 degree, five years for a crime of the third degree, or 18 months in the  
18 case of a fourth degree crime, if the juvenile has been adjudicated  
19 delinquent for an act which, if committed by an adult, would constitute  
20 a crime under subsection a. of N.J.S.2C:39-4, possessing a machine  
21 gun or assault firearm with intent to use it against the person of  
22 another, or an act which would constitute a crime under any of the  
23 following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b.,  
24 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,  
25 N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 if the juvenile, while in  
26 the course of committing or attempting to commit the act, including  
27 the immediate flight therefrom, used or was in possession of a machine  
28 gun or assault firearm.

29 The court shall not impose a mandatory sentence pursuant to this  
30 paragraph unless the ground therefor has been established at a hearing.  
31 At the hearing, which may occur at the time of sentencing, the  
32 prosecutor shall establish by a preponderance of the evidence that the  
33 weapon used or possessed was a machine gun or assault firearm. In  
34 making its finding, the court shall take judicial notice of any evidence,  
35 testimony or information adduced at the trial, plea hearing, or other  
36 court proceedings and shall also consider the predisposition report and  
37 any other relevant information.

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

1 e. of this section.

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

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

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

19

20 2. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read  
21 as follows:

22 25. Incarceration--Aggravating and Mitigating Factors

23 a. (1) Except as provided in subsections e. and f. of section 24 of  
24 P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is  
25 an appropriate disposition, the court shall consider the following  
26 aggravating circumstances:

27 (a) The fact that the nature and circumstances of the act, and the  
28 role of the juvenile therein, was committed in an especially heinous,  
29 cruel, or depraved manner;

30 (b) The fact that there was grave and serious harm inflicted on the  
31 victim and that based upon his age or mental capacity the juvenile  
32 knew or reasonably should have known that the victim was particularly  
33 vulnerable or incapable of resistance due to advanced age, disability,  
34 ill-health, or extreme youth, or was for any other reason substantially  
35 incapable;

36 (c) The character and attitude of the juvenile indicate that he is  
37 likely to commit another delinquent or criminal act;

38 (d) The juvenile's prior record and the seriousness of any acts for  
39 which he has been adjudicated delinquent;

40 (e) The fact that the juvenile committed the act pursuant to an  
41 agreement that he either pay or be paid for the commission of the act  
42 and that the pecuniary incentive was beyond that inherent in the act  
43 itself;

44 (f) The fact that the juvenile committed the act against a policeman  
45 or other law enforcement officer, correctional employee or fireman,  
46 acting in the performance of his duties while in uniform or exhibiting

- 1 evidence of his authority, or the juvenile committed the act because of  
2 the status of the victim as a public servant;
- 3 (g) The need for deterring the juvenile and others from violating  
4 the law;
- 5 (h) The fact that the juvenile knowingly conspired with others as  
6 an organizer, supervisor, or manager to commit continuing criminal  
7 activity in concert with two or more persons and the circumstances of  
8 the crime show that he has knowingly devoted himself to criminal  
9 activity as part of an ongoing business activity;
- 10 (i) The fact that the juvenile on two separate occasions was  
11 adjudged a delinquent on the basis of acts which if committed by an  
12 adult would constitute crimes.
- 13 (2) In determining whether incarceration is an appropriate  
14 disposition the court shall consider the following mitigating  
15 circumstances:
- 16 (a) The child is under the age of 14;
- 17 (b) The juvenile's conduct neither caused nor threatened serious  
18 harm;
- 19 (c) The juvenile did not contemplate that his conduct would cause  
20 or threaten serious harm;
- 21 (d) The juvenile acted under a strong provocation;
- 22 (e) There were substantial grounds tending to excuse or justify the  
23 juvenile's conduct, though failing to establish a defense;
- 24 (f) The victim of the juvenile's conduct induced or facilitated its  
25 commission;
- 26 (g) The juvenile has compensated or will compensate the victim for  
27 the damage or injury that the victim has sustained, or will participate  
28 in a program of community service;
- 29 (h) The juvenile has no history of prior delinquency or criminal  
30 activity or has led a law-abiding life for a substantial period of time  
31 before the commission of the present act;
- 32 (i) The juvenile's conduct was the result of circumstances unlikely  
33 to recur;
- 34 (j) The character and attitude of the juvenile indicate that he is  
35 unlikely to commit another delinquent or criminal act;
- 36 (k) The juvenile is particularly likely to respond affirmatively to  
37 noncustodial treatment;
- 38 (l) The separation of the juvenile from his family by incarceration  
39 of the juvenile would entail excessive hardship to himself or his family;
- 40 (m) The willingness of the juvenile to cooperate with law  
41 enforcement authorities;
- 42 (n) The conduct of the juvenile was substantially influenced by  
43 another person more mature than the juvenile.
- 44 b. (1) [There] Except as provided in paragraph (5) or paragraph  
45 (6) of subsection e. of section 24 of P.L.1982, c.77 (C.2A:4A-43),  
46 there shall be a presumption of nonincarceration for any crime or

1 offense of the fourth degree or less committed by a juvenile who has  
 2 not previously been adjudicated delinquent or convicted of a crime or  
 3 offense.

4 (2) Where incarceration is imposed, the court shall consider the  
 5 juvenile's eligibility for release under the law governing parole.

6 c. The following juveniles shall not be committed to a State  
 7 correctional facility:

8 (1) Juveniles age 11 or under unless adjudicated delinquent for the  
 9 crime of arson or a crime which, if committed by an adult, would be  
 10 a crime of the first or second degree; and

11 (2) Juveniles who are developmentally disabled as defined in  
 12 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82  
 13 (C.30:6D-3).

14 d. (1) When the court determines that, based on the consideration  
 15 of all the factors set forth in subsection a., the juvenile shall be  
 16 incarcerated, unless it orders the incarceration pursuant to subsection  
 17 c. of section 24 of this act, it shall state on the record the reasons for  
 18 imposing incarceration, including any findings with regard to these  
 19 factors, and commit the juvenile to a suitable institution maintained by  
 20 the Department of Corrections for the rehabilitation of delinquents  
 21 pursuant to the conditions set forth in this subsection and, except as  
 22 provided in paragraph (5) or paragraph (6) of subsection e. of section  
 23 24 of P.L.1982, c.77 (C.2A:4A-43), for terms not to exceed the  
 24 maximum terms as provided herein for what would constitute the  
 25 following crimes if committed by an adult:

26 (a) Murder under 2C:11-3a(1) or (2) ..... 20 years

27 (b) Murder under 2C:11-3a(3) .....10 years

28 (c) Crime of the first degree, except murder ...4 years

29 (d) Crime of the second degree .....3 years

30 (e) Crime of the third degree .....2 years

31 (f) Crime of the fourth degree .....1 year

32 (g) Disorderly persons offense .....6 months

33 (2) Except as provided in subsection e. of section 24 of P.L.1982,  
 34 c.77 (C.2A:4A-43), the period of confinement shall continue until the  
 35 appropriate paroling authority determines that such a person should be  
 36 paroled; except that in no case shall the period of confinement and  
 37 parole exceed the maximum provided by law for such offense.  
 38 However, if a juvenile is approved for parole prior to serving one-third  
 39 of any term imposed for any crime of the first, second or third degree,  
 40 including any extended term imposed pursuant to paragraph (3) or (4)  
 41 of this subsection, or one-fourth of any term imposed for any other  
 42 crime the granting of parole shall be subject to approval of the  
 43 sentencing court. Prior to approving parole, the court shall give the  
 44 prosecuting attorney notice and an opportunity to be heard. If the  
 45 court denies the parole of a juvenile pursuant to this paragraph it shall  
 46 state its reasons in writing and notify the parole board, the juvenile and

1 the juvenile's attorney. The court shall have 30 days from the date of  
2 notice of the pending parole to exercise the power granted under this  
3 paragraph. If the court does not respond within that time period, the  
4 parole will be deemed approved.

5 Any juvenile committed under this act who is released on parole  
6 prior to the expiration of his maximum term may be retained under  
7 parole supervision for a period not exceeding the unserved portion of  
8 the term. The Parole Board, the juvenile, his attorney, his parent or  
9 guardian or, with leave of the court any other interested party, may  
10 make a motion to the court, with notice to the prosecuting attorney,  
11 for the return of the child from a correctional institution prior to his  
12 parole and provide for an alternative disposition which would not  
13 exceed the duration of the original time to be served in the institution.  
14 Nothing contained in this paragraph shall be construed to limit the  
15 authority of the Parole Board as set forth in Section 15 of P.L.1979,  
16 c.441 (C.30:4-123.59).

17 (3) Upon application by the prosecutor, the court may sentence a  
18 juvenile who has been convicted of a crime of the first, second, or  
19 third degree if committed by an adult, to an extended term of  
20 incarceration beyond the maximum set forth in paragraph (1) of this  
21 subsection, if it finds that the juvenile was adjudged delinquent on at  
22 least two separate occasions, for offenses which, if committed by an  
23 adult, would constitute a crime of the first or second degree, and was  
24 previously committed to an adult or juvenile State correctional facility.  
25 The extended term shall not exceed five additional years for an act  
26 which would constitute murder and shall not exceed two additional  
27 years for all other crimes of the first degree or second degree, if  
28 committed by an adult, and one additional year for a crime of the third  
29 degree, if committed by an adult. An extended term imposed pursuant  
30 to this paragraph shall be imposed in addition to any mandatory  
31 minimum term of incarceration imposed pursuant to paragraph (5) or  
32 paragraph (6) of subsection e. of section 24 of P.L.1982, c.77  
33 (C.2A:4A-43) and shall be served consecutively thereto.

34 (4) Upon application by the prosecutor, when a juvenile is before  
35 the court at one time for disposition of three or more unrelated  
36 offenses which, if committed by an adult, would constitute crimes of  
37 the first, second or third degree and which are not part of the same  
38 transaction, the court may sentence the juvenile to an extended term  
39 of incarceration not to exceed the maximum of the permissible term  
40 for the most serious offense for which the juvenile has been  
41 adjudicated plus two additional years. An extended term imposed  
42 pursuant to this paragraph shall be imposed in addition to any  
43 mandatory minimum term of incarceration imposed pursuant to  
44 paragraph (5) or paragraph (6) of subsection e. of section 24 of

1 P.L.1982, c.77 (C.2A:4A-43) and shall be served consecutively  
2 thereto.

3 (cf: P.L.1993, c.133, s.2)

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5 3. This act shall take effect immediately.

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STATEMENT

9

10 This bill provides that juveniles who use guns to commit crimes  
11 will be subject to the same mandatory terms of incarceration imposed  
12 on adults under the "Graves Act" (N.J.S.A.2C:43-6).

13 Under the bill, a juvenile who unlawfully possesses a firearm with  
14 intent to use it against another person or who uses or possesses a  
15 firearm in the course of committing an act which, if committed by an  
16 adult, would constitute a serious crime, would be sentenced to a term  
17 of incarceration of between one-third and one-half of the sentence  
18 imposed or three years, whichever is greater, or 18 months in the case  
19 of a fourth degree crime. The juvenile would not be eligible for parole  
20 during that term.

21 The bill encompasses the following acts, if committed by a juvenile  
22 who is in possession of a firearm, as triggering the mandatory  
23 incarceration terms: murder, manslaughter, kidnapping, sexual assault,  
24 aggravated criminal sexual contact, aggravated assault, robbery,  
25 burglary and escape.

26

27

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29

30 Imposes mandatory minimum terms of incarceration on juveniles who  
31 use guns to commit acts which, if committed by adults, would  
32 constitute serious crimes.