

ASSEMBLY, No. 1115

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman LANCE

1 AN ACT establishing a pilot program for the treatment of certain
2 juvenile sex offenders, amending P.L.1982, c.77 and making an
3 appropriation.

4

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

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

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

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

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

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

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

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

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

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

31 (8) Any other circumstances related to the offense and the
32 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 to
- 20 this section, the court may postpone, suspend, or revoke for a period
- 21 not to exceed two years the driver's license, registration certificate, or
- 22 both of any juvenile who used a motor vehicle in the course of
- 23 committing an act for which he was adjudicated delinquent. In
- 24 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
- 34 f a juvenile who has been adjudicated delinquent for an offense which,
- 35 if committed by an adult, would constitute the crime of theft of a
- 36 motor vehicle or unlawful taking of a motor vehicle to make
- 37 restitution to any person or entity who has suffered a loss as a result
- 38 of that offense. The court may determine the reasonable amount,
- 39 terms and conditions of restitution.
- 40 c. (1) Except as otherwise provided in subsections e. and f. of this
- 41 section, if the county in which the juvenile has been adjudicated
- 42 delinquent has a juvenile detention facility meeting the physical and
- 43 program standards established pursuant to this subsection by the
- 44 Department of Corrections, the court may, in addition to any of the
- 45 dispositions not involving placement out of the home enumerated in
- 46 this section, incarcerate the juvenile in the youth detention facility in

1 that county for a term not to exceed 60 consecutive days, except for
2 juveniles sentenced pursuant to section 2 of P.L. , c. (C.)(now
3 pending before the Legislature as this bill). Counties which do not
4 operate their own juvenile detention facilities may contract for the use
5 of approved commitment programs with counties with which they have
6 established agreements for the use of pre-disposition juvenile detention
7 facilities. The Department of Corrections shall promulgate such rules
8 and regulations from time to time as deemed necessary to establish
9 minimum physical facility and program standards for the use of
10 juvenile detention facilities pursuant to this subsection.

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

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

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

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

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

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

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

45 e. In addition to any disposition the court may impose pursuant to
46 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the

1 following orders shall be included in dispositions of the adjudications
2 set forth below:

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

12 (2) 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 which shall include a minimum term of 60 days during which the
15 juvenile shall be ineligible for parole, if the juvenile has been
16 adjudicated delinquent for an act which, if committed by an adult,
17 would constitute the crime of aggravated assault in violation of
18 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree
19 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or
20 theft of a motor vehicle, in a case in which the juvenile has previously
21 been adjudicated delinquent for an act, which if committed by an adult,
22 would constitute unlawful taking of a motor vehicle or theft of a motor
23 vehicle;

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

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

41 f. (1) The minimum terms of incarceration required pursuant to
42 subsection e. of this section shall be imposed regardless of the weight
43 or balance of factors set forth in this section or in section 25 of
44 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those
45 factors shall determine the length of the term of incarceration
46 appropriate, if any, beyond any mandatory minimum term required

1 pursuant to subsection e. of this section. No time spent in custody
2 prior to adjudication of delinquency shall be considered as time served
3 on a mandatory minimum term of incarceration pursuant to subsection
4 e. of this section.

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

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

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

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23 2. (New section) In addition to any disposition not involving
24 placement out of the home that the court may impose pursuant to
25 section 24 of P.L.1982, c.77 (C.2A:4A-43) or section 25 of P.L.1982,
26 c.77 (C.2A:4A-44), for juveniles adjudicated delinquent in a third class
27 county with a population of not less than 91,000 but not more than
28 135,000, according to the 1990 federal decennial census, for a first,
29 second or third degree sex offense or sex crime pursuant to chapter 14
30 of Title 2C of the New Jersey Statutes, the court may include in the
31 disposition of the adjudication an order of incarceration for a term not
32 to exceed 18 months in Warren Acres Detention Center. During the
33 term of incarceration, the juvenile shall participate in a juvenile sex
34 offender treatment program.

35 The Department of Corrections shall certify Warren Acres
36 Detention Center to receive juveniles for a pilot sex offender
37 treatment program, and shall promulgate rules and regulations to
38 establish program standards for the use of Warren Acres Detention
39 Center pursuant to this section, in accordance with the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

41 The department shall direct the Superintendent of Warren Acres
42 Detention Center to make available no less than six beds to
43 accommodate such juveniles.

44

45 3. (New section) The Superintendent of Warren Acres Detention
46 Center shall report annually to the Governor and the Legislature on the

1 progress of the juvenile sex offender treatment three year pilot
2 program established under this act in order to determine whether the
3 program should be continued and expanded to other counties
4 throughout the State.

5
6 4. (New section) The sum of \$282,350 is hereby appropriated to
7 the Department of Corrections for a grant to Warren County to
8 operate this program in its first year.

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10 5. This act shall take effect on the first day of the sixth month after
11 enactment and shall expire three years thereafter.

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14 STATEMENT

15
16 This bill would authorize juvenile sex offenders in certain counties
17 to be placed in a pilot sex offender treatment program for up to 18
18 months at Warren Acres Detention Center. Six beds at this county
19 facility would be set aside for offenders in the pilot program.

20 The bill would allow judges for the first time to commit youthful
21 sex offenders to a detention center for treatment. The treatment
22 program at Warren Acres Detention Center will be the first of its kind
23 in a detention facility in New Jersey. Youthful sex offenders can
24 benefit from a treatment program appropriately tailored to their needs
25 and offered by highly qualified staff. This program would be based
26 upon standards established by the Department of Corrections, and
27 would last approximately 36 months. The superintendent of Warren
28 Acres Detention Center would be required to report annually to the
29 Governor and the Legislature on the progress of the program.

30 This pilot program for juvenile sex offender treatment will cost
31 approximately \$282,850 to treat six youths in its first year of
32 operation, which includes \$208,050 for per diem costs and \$74,800 for
33 two master's level staff salaries. This bill appropriates \$282,350 to the
34 Department of Corrections for a grant to Warren County to operate
35 the program.

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40 _____
41 Creates pilot program for juvenile sex offenders; appropriates
\$282,350.