

ASSEMBLY, No. 1378

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen STEELE and PASCRELL

1 AN ACT establishing shock incarceration programs, amending
2 P.L.1982, c.77 and supplementing Title 30 of the Revised Statutes.

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

6
7 1. (New section) The Legislature finds and declares that there is
8 a need to provide a short term shock incarceration program for
9 non-violent juvenile offenders who have been previously adjudicated
10 delinquent or convicted of a criminal offense. The three to six month
11 program would stress highly structured routines of discipline, military
12 style drill and ceremony, exercise and work therapy, together with
13 substance abuse workshops, education, pre-release counseling and
14 self-improvement counseling.

15 The goal of the program is to divert non-violent juvenile offenders
16 who have been previously adjudicated delinquent or convicted of a
17 criminal offense from long-term incarceration by providing them with
18 a closely supervised, rigidly structured environment which fosters
19 self-control and self-respect.

20 Therefore, the Department of Corrections shall establish a shock
21 incarceration correctional facility and program pursuant to the
22 provisions of this act.

23
24 2. (New Section) a. The Adjutant General in the Department of
25 Military and Veterans Affairs, in consultation with the Commissioner
26 of the Department of Corrections and the governing bodies of the
27 appropriate municipalities, shall designate as shock incarceration
28 facilities several of the State-owned armories scheduled for closing,
29 provided that the armory sites are suitably located for such purposes.
30 The Adjutant General in the Department of Military and Veterans
31 Affairs, in consultation with the Commissioner of the Department of
32 Corrections, may also attempt to secure a lease from the Federal

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 government for the use of Fort Dix as a shock incarceration facility.

2 b. The Department of Corrections shall establish, staff and maintain
3 the shock incarceration facilities for juvenile offenders. The
4 Department of Corrections shall also develop the administrative,
5 custodial and supervisory guidelines for the facilities and shall provide
6 a structured daily program to be implemented by the staff. The
7 guidelines shall include, but shall not be limited to, conditions for
8 expulsion from the program and voluntary termination of the program
9 by the juvenile offender, and guidelines for discipline and punishment
10 for disciplinary violations.

11 c. The shock incarceration program shall consist of three to six
12 months of disciplined and regimented daily routine. The schedule for
13 the juvenile offenders at the shock incarceration facilities shall include,
14 but shall not be limited to, physical training, military style drill and
15 ceremony, group and individual counseling, high school equivalency
16 education, substance counseling and physical work, which shall include
17 community service related activities, daily.

18 d. A juvenile offender is required to adhere to the standards of
19 discipline developed by the Department of Corrections.

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21 3. (New section) a. The Commissioner of the Department of
22 Corrections shall establish a shock incarceration review committee.
23 The committee shall review the case of each non-violent juvenile
24 offender who has been adjudicated delinquent or convicted of a
25 criminal offense and ordered to participate in a shock incarceration
26 program. The committee shall determine through the review process
27 whether the juvenile offender meets the eligibility requirements for
28 participation in the shock incarceration program.

29 b. If the committee determines that the juvenile is eligible for the
30 program, the committee shall notify the juvenile and the Commissioner
31 of the Department of Corrections. The Commissioner shall make the
32 final determination for the placement of each juvenile offender.

33 c. As used in this section and in P.L. ,c. (C.)(now pending
34 before the Legislature as this bill), "non-violent offense" means those
35 offenses which do not involve the use or threat of personal injury to
36 or death of another person.

37

38 4. (New section) The Department of Corrections shall have a
39 health professional examine each eligible juvenile offender to
40 determine whether the juvenile is medically and psychologically fit to
41 participate in the shock incarceration program.

42

43 5. (New section) The Commissioner of the Department of
44 Corrections and the Adjutant General in the Department of Military
45 and Veterans Affairs shall promulgate rules and regulations pursuant
46 to the "Administration Procedure Act," P.L.1968, c.410 (C.52:14B-1

1 et seq.) to effectuate the purposes of this act.

2

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

5 24. Disposition of delinquency cases. a. In determining the
6 appropriate disposition for a juvenile adjudicated delinquent the court
7 shall weigh the following factors:

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

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

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

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

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

20 (6) Whether the disposition recognizes and treats the unique
21 physical, psychological and social characteristics and needs of the
22 child;

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

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

28 b. If a juvenile is adjudged delinquent the court may order
29 incarceration pursuant to section 25 of this act or any one or more of
30 the following dispositions:

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

41 (2) Release the juvenile to the supervision of his or her parent or
42 guardian;

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

1 of the juvenile;

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

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

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

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

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

36 (9) Order the juvenile to make restitution to a person or entity who
37 has suffered loss resulting from personal injuries or damage to
38 property as a result of the offense for which the juvenile has been
39 adjudicated delinquent. The court may determine the reasonable
40 amount, terms and conditions of restitution. If the juvenile
41 participated in the offense with other persons, the participants shall be
42 jointly and severally responsible for the payment of restitution. The
43 court shall not require a juvenile to make full or partial restitution if
44 the juvenile reasonably satisfies the court that he does not have the
45 means to make restitution and could not reasonably acquire the means
46 to pay restitution;

1 (10) Order that the juvenile perform community services under the
2 supervision of a probation department or other agency or individual
3 deemed appropriate by the court. Such services shall be compulsory
4 and reasonable in terms of nature and duration. Such services may be
5 performed without compensation, provided that any money earned by
6 the juvenile from the performance of community services may be
7 applied towards any payment of restitution or fine which the court has
8 ordered the juvenile to pay;

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

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

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

25 (14) Place the juvenile in a suitable residential or nonresidential
26 program for the treatment of alcohol or narcotic abuse, provided that
27 the juvenile has been determined to be in need of such services; or

28 (15) Order the parent or guardian of the juvenile to participate in
29 appropriate programs or services when the court has found either that
30 such person's omission or conduct was a significant contributing factor
31 towards the commission of the delinquent act, or, under its authority
32 to enforce litigant's rights, that such person's omission or conduct has
33 been a significant contributing factor towards the ineffective
34 implementation of a court order previously entered in relation to the
35 juvenile;

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

41 (b) Place the juvenile under the custody of the Department of
42 Corrections for placement with any private group home or private
43 residential facility with which the department has entered into a
44 purchase of service contract;

45 (17) Instead of or in addition to any disposition made according to
46 this section, the court may postpone, suspend, or revoke for a period

1 not to exceed two years the driver's license, registration certificate, or
2 both of any juvenile who used a motor vehicle in the course of
3 committing an act for which he was adjudicated delinquent. In
4 imposing this disposition and in deciding the duration of the
5 postponement, suspension, or revocation, the court shall consider the
6 severity of the delinquent act and the potential effect of the loss of
7 driving privileges on the juvenile's ability to be rehabilitated. Any
8 postponement, suspension, or revocation shall be imposed
9 consecutively with any custodial commitment; [or]

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

12 (19) Place the juvenile in the custody of the Department of
13 Corrections for placement in a shock incarceration program
14 established pursuant to P.L. c. (C.)(now pending before the
15 Legislature as this bill), provided the juvenile has been previously
16 adjudicated delinquent or convicted of a non-violent criminal offense.

17 As used in this paragraph, "non-violent offense" means those
18 offenses which do involve the use or threat of personal injury to or
19 death of another person.

20 c. (1) If the county in which the juvenile has been adjudicated
21 delinquent has a juvenile detention facility meeting the physical and
22 program standards established pursuant to this subsection by the
23 Department of Corrections, the court may, in addition to any of the
24 dispositions not involving placement out of the home enumerated in
25 this section, incarcerate the juvenile in the youth detention facility in
26 that county for a term not to exceed 60 consecutive days. Counties
27 which do not operate their own juvenile detention facilities may
28 contract for the use of approved commitment programs with counties
29 with which they have established agreements for the use of
30 pre-disposition juvenile detention facilities. The Department of
31 Corrections shall promulgate such rules and regulations from time to
32 time as deemed necessary to establish minimum physical facility and
33 program standards for the use of juvenile detention facilities pursuant
34 to this subsection.

35 (2) No juvenile may be incarcerated in any county detention facility
36 unless the county has entered into an agreement with the Department
37 of Corrections concerning the use of the facility for sentenced
38 juveniles. Upon agreement with the county, the Department of
39 Corrections shall certify detention facilities which may receive
40 juveniles sentenced pursuant to this subsection and shall specify the
41 capacity of the facility that may be made available to receive such
42 juveniles; provided, however, that in no event shall the number of
43 juveniles incarcerated pursuant to this subsection exceed 50% of the
44 maximum capacity of the facility.

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

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

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

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

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

14 d. Whenever the court imposes a disposition upon an adjudicated
15 delinquent which requires the juvenile to perform a community service,
16 restitution, or to participate in any other program provided for in this
17 section other than subsection c., the duration of the juvenile's
18 mandatory participation in such alternative programs shall extend for
19 a period consistent with the program goal for the juvenile and shall in
20 no event exceed one year beyond the maximum duration permissible
21 for the delinquent if he has been committed to a correctional
22 institution.

23 (cf: P.L.1988, c.72, s.1.)

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25 7. This act shall take effect immediately.
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28 STATEMENT

29
30 The bill would amend the "New Jersey Code of Juvenile Justice,"
31 N.J.S.A.2A:4A-20 et seq., to allow the court to place juvenile
32 offenders who have been previously adjudicated delinquent or
33 convicted of a non-violent criminal offense in the custody of the
34 Department of Corrections for placement in a shock incarceration
35 program as an alternative to incarceration.

36 The bill would require the Adjutant General in the Department of
37 Military and Veterans Affairs, in consultation with the Commissioner
38 of the Department of Corrections, and the governing bodies of the
39 appropriate municipalities to designate as shock incarceration facilities
40 several of the State owned armories scheduled for closing. The
41 facilities are intended for non-violent juvenile offenders who have been
42 previously adjudicated delinquent or convicted of a criminal offense
43 and ordered by the court to participate in a shock incarceration
44 program. The bill would also provide that the Department of Military
45 and Veterans Affairs, in consultation with the Commissioner of the
46 Department of Corrections, may also attempt also to secure a lease

1 from the Federal government for the use of Fort Dix as a shock
2 incarceration facility.

3 The Department of Corrections would be required to establish, staff
4 and maintain the shock incarceration facilities. The Department of
5 Corrections would also be required to develop administrative,
6 custodial and supervisory guidelines for the facilities. The program
7 would consist of a three to six month structured program stressing
8 military style drill and ceremony, exercise and work therapy, together
9 with substance abuse workshops, education, pre-release counseling
10 and self-improvement counseling.

11 The goal of the program would be to divert certain juvenile
12 offenders from long-term incarceration by providing them with a
13 closely supervised, rigidly structured environment which fosters
14 self-control and self-respect.

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19 Establishes shock incarceration programs.