

ASSEMBLY, No. 1919

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblymen BLEE and LeFEVRE

1 AN ACT concerning the waiver of juvenile cases and amending
2 P.L.1982, c.77.

3

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

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7 1. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as
8 follows:

9 7. Referral to another court without juvenile's consent.

10 a. **[On]** Except as provided in subsection e., on motion of the
11 prosecutor, the court shall, without the consent of the juvenile, waive
12 jurisdiction over a case and refer that case from the Superior Court,
13 Chancery Division, Family Part to the appropriate court and
14 prosecuting authority having jurisdiction if it finds, after hearing, that:

15 (1) The juvenile was 14 years of age or older at the time of the
16 charged delinquent act; and

17 (2) There is probable cause to believe that the juvenile committed
18 a delinquent act or acts which if committed by an adult would
19 constitute:

20 (a) Criminal homicide other than death by auto, strict liability for
21 drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would
22 constitute a crime of the first degree, aggravated sexual assault, sexual
23 assault, aggravated assault which would constitute a crime of the
24 second degree, kidnapping or aggravated arson; or

25 (b) A crime committed at a time when the juvenile had previously
26 been adjudicated delinquent, or convicted, on the basis of any of the
27 offenses enumerated in subsection a.(2)(a);

28 (c) A crime committed at a time when the juvenile had previously
29 been sentenced and confined in an adult penal institution; or

30 (d) An offense against a person committed in an aggressive, violent
31 and willful manner, other than an offense enumerated in subsection
32 a.(2)(a) of this section, or the unlawful possession of a firearm,
33 destructive device or other prohibited weapon, arson or death by auto
34 if the juvenile was operating the vehicle under the influence of an

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 intoxicating liquor, narcotic, hallucinogenic or habit producing drug;
2 or

3 (e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5;
4 or

5 (f) Crimes which are a part of a continuing criminal activity in
6 concert with two or more persons and the circumstances of the crimes
7 show the juvenile has knowingly devoted himself to criminal activity
8 as a source of livelihood; or

9 (g) An attempt or conspiracy to commit any of the acts enumerated
10 in paragraph (a), (d) or (e) of this subsection; or

11 (h) Theft of an automobile pursuant to chapter 20 of Title 2C of
12 the New Jersey Statutes; and

13 (3) Except with respect to any of the acts enumerated in subsection
14 a.(2)(a) of this section, or with respect to any acts enumerated in
15 subparagraph (e) of paragraph (2) of subsection a. of this section
16 which involve the distribution for pecuniary gain of any controlled
17 dangerous substance or controlled substance analog while on any
18 property used for school purposes which is owned by or leased to any
19 school or school board, or within 1,000 feet of such school property
20 or while on any school bus, or any attempt or conspiracy to commit
21 any of those acts, the State has shown that the nature and
22 circumstances of the charge or the prior record of the juvenile are
23 sufficiently serious that the interests of the public require waiver.

24 However, if in any case the juvenile can show that the probability
25 of his rehabilitation by the use of the procedures, services and facilities
26 available to the court prior to the juvenile reaching the age of 19
27 substantially outweighs the reasons for waiver, waiver shall not be
28 granted.

29 b. In every case where there is a motion seeking waiver, the
30 prosecutor shall within a reasonable time thereafter file a statement
31 with the Attorney General setting forth the basis for the motion. In
32 addition, the court shall, in writing, state its reasons for granting or
33 denying the waiver motion. The Attorney General shall compile this
34 information and report its findings to the Legislature 18 months after
35 the effective date of this act with the objective of developing, where
36 appropriate, guidelines as to the waiver of juveniles from the Family
37 Part.

38 c. An order referring a case shall incorporate therein not only the
39 alleged act or acts upon which the referral is premised, but also all
40 other delinquent acts arising out of or related to the same transaction.

41 d. A motion seeking waiver shall be filed by the prosecutor within
42 30 days of receipt of the complaint. This time limit shall not, except
43 for good cause shown, be extended.

44 e. Notwithstanding the provisions of this section, waiver shall be
45 mandatory if there is probable cause to believe that the juvenile
46 committed a delinquent act which if committed by an adult would

1 constitute criminal homicide or aggravated assault upon any law
2 enforcement officer acting in the performance of his duties while in
3 uniform or exhibiting evidence of his authority .

4 (cf: P.L.1991, c.91, s.6)

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6 2. This act shall take effect immediately.

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STATEMENT

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11 This bill would require a juvenile to be tried as an adult when the
12 juvenile is charged with criminal homicide or aggravated assault upon
13 a law enforcement officer.

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Requires juvenile in certain cases to be tried as adults.