

SENATE, No. 2215

STATE OF NEW JERSEY

INTRODUCED JUNE 23, 1997

By Senators BASSANO and CONNORS

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

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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
8 as 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] Manslaughter,
21 strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9,
22 [robbery which would constitute a crime of the first degree,
23 aggravated sexual assault,] sexual assault[, aggravated assault which
24 would constitute a crime of the second degree, kidnapping or
25 aggravated arson]; or

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

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

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

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 if the juvenile was operating the vehicle under the influence of an
2 intoxicating liquor, narcotic, hallucinogenic or habit producing drug;
3 or

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

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

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

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

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

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

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

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

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

45 e. Notwithstanding the provisions of this section, waiver shall be
46 mandatory if there is probable cause to believe that the juvenile

1 committed a delinquent act which if committed by an adult would
2 constitute murder, aggravated manslaughter, aggravated assault which
3 would constitute a crime of the second degree, aggravated sexual
4 assault, robbery which would constitute a crime of the first degree,
5 kidnapping, aggravated arson or carjacking.
6 (cf: P.L.1991, c.91, s.6)

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8 2. This act shall take effect immediately.

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STATEMENT

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13 Currently, upon motion of the county prosecutor, the family court
14 may waive jurisdiction over certain juvenile offenders and that juvenile
15 would be tried as an adult.

16 This bill would require that the juvenile be tried as an adult when
17 the juvenile is charged with murder, aggravated manslaughter, second-
18 degree aggravated assault, aggravated sexual assault, kidnapping, first-
19 degree robbery, aggravated arson and carjacking.

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Requires juvenile to be tried as an adult for certain violent crimes.