

[Third Reprint]

ASSEMBLY, No. 3117

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblyman REGINALD W. ATKINS

District 20 (Union)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Co-Sponsored by:

**Assemblywoman Jasey, Assemblyman Stanley, Assemblywomen Park,
McKnight and Pintor Marin**

SYNOPSIS

Clarifies juvenile's right to attorney representation.

CURRENT VERSION OF TEXT

As amended by the Senate on December 21, 2023.



(Sponsorship Updated As Of: 1/8/2024)

1 AN ACT concerning juvenile justice 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 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to
7 read as follows:

8 20. a. A juvenile shall have the right, as provided by the Rules
9 of Court, to be represented by counsel at every critical stage **[in**
10 **the]** of a court proceeding [which, in the opinion of the court may
11 result in the institutional commitment of the juvenile]. For the
12 purposes of this act “critical stage of a court proceeding” shall
13 include ¹[but not be limited to]^{1 3}, but not be limited to³: every
14 court appearance by the juvenile ¹, including all post dispositional
15 appearances¹; ¹and¹ any interrogation, identification procedure, or
16 other investigative activity involving the juvenile undertaken by law
17 enforcement or prosecutorial personnel subsequent to the filing of
18 the complaint¹]; and the duration of any dispositional order entered
19 by the court]¹.

20 b. During every critical stage of a court proceeding in a
21 delinquency case provided under subsection a. of this section, the
22 waiving of any right afforded to a juvenile shall be accomplished in
23 the following manner:

24 (1) A juvenile who is found to have mental capacity may not
25 waive any rights except in the presence of and after consultation
26 with counsel, and unless a parent has first been afforded a
27 reasonable opportunity to consult with the juvenile and the
28 juvenile's counsel regarding this decision. The parent or guardian
29 may not waive the rights of a juvenile found to have mental
30 capacity.

31 (2) Any such waiver shall be executed in writing or recorded.
32 Before the court may accept a waiver, the court shall question the
33 juvenile and the juvenile's counsel to determine if the juvenile is
34 knowingly, willingly, and voluntarily waiving any right. If the
35 court finds after questioning the juvenile that the waiver is not
36 being made voluntarily and intelligently, the waiver shall be denied.

37 (3) A juvenile who is found to lack mental capacity may not
38 waive any right. A guardian ad litem shall be appointed for the
39 juvenile who may waive rights after consultation with the juvenile
40 and the juvenile's counsel.

41 (4) Waivers shall be executed in the language regularly spoken
42 by the juvenile.

43 (cf: P.L.2013, c.103, s.1)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted February 23, 2023.

²Senate SLP committee amendments adopted May 18, 2023.

³Senate floor amendments adopted December 21, 2023.

1 ²[2. Section 26 of P.L.1982, c.77 (C.2A:4A-45) is amended to
2 read as follows:

3 26. Retention of jurisdiction.

4 a. The court shall retain jurisdiction over any case in which it
5 has entered a disposition under paragraph 7 of subsection b. or
6 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or under
7 section 25 of P.L.1982, c.77 (C.2A:4A-44) for the duration of that
8 disposition of commitment or incarceration and may substitute any
9 disposition otherwise available to it under section 24 of
10 P.L.1982, c.77 (C.2A:4A-43) other than incarceration.

11 b. Except as provided for in subsection a., the court shall retain
12 jurisdiction over any case in which it has entered a disposition
13 under section 24 of P.L.1982, c.77 (C.2A:4A-43) and may at any
14 time for the duration of that disposition, if after hearing, and notice
15 to the prosecuting attorney, it finds violation of the conditions of
16 the order of disposition, substitute any other disposition which it
17 might have made originally.

18 c. The court may by its order retain jurisdiction in any other
19 case.

20 d. Notwithstanding the provisions of subsection a. of this
21 section, whenever the court has entered a disposition directing the
22 out-of-home placement of the juvenile pursuant to subsection b. or
23 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or
24 section 25 of P.L.1982, c.77 (C.2A:4A-44), the court shall conduct
25 a placement review ¹[hearing]¹ no later than 12 months after entry
26 of the dispositional order ¹and may conduct a formal hearing if so
27 requested by the juvenile or ordered by the court¹. During this
28 ¹[hearing] review,¹ the court shall, at a minimum, review the
29 treatment, care, and custody status of the juvenile ¹; determine
30 whether the placement agency is providing those¹ , including the¹
31 mental health, substance abuse, educational, and other rehabilitative
32 services ¹[necessary] provided¹ to promote the juvenile's
33 successful reintegration into the community; determine whether the
34 placement continues to be consistent with the factors enumerated in
35 subsection a. of section 24 of P.L.1982, c.77 (C.2A:4A-43); and, if
36 necessary, modify the ¹[dispositional order] disposition to either
37 reduce the term of incarceration or substitute the placement with
38 any other disposition provided for pursuant to subsection b. of
39 section 24 of P.L.1982, c.77 (C.2A:4A-43),¹ in accordance with
40 those factors. Subsequent placement ¹[review hearings shall]
41 reviews may¹ be conducted by the court at least once every 12
42 months throughout the duration of any out-of-home placement
43 ordered by the court ¹if so requested by the juvenile¹.

44 e. The Supreme Court of New Jersey may adopt Rules of Court

1 governing the conduct of the placement review hearings mandated
2 by subsection d. of this section.

3 (cf: P.L.1995, c.280, s.13) **】²**

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5 **²【3.】2.²** This act shall take effect immediately.