

2 A:4A-43

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:4A-43

(Juvenile  
incarceration--short-term--repeal  
"sun-set" provisions)

LAWS OF: 1988

CHAPTER: 72

Bill No: A3171

Sponsor(s): Watson and Schuber

Date Introduced: May 16, 1988

Committee: Assembly: Judiciary

Senate: -----

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: June 9, 1988

Senate: June 27, 1988

Date of Approval: July 21, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

974.901  
C35.7  
New Jersey. Juvenile  
Delinquency Disposition Commission  
First annual report... September  
19, 1986.  
(see pp. 55-61, 94)

[FIRST REPRINT]  
ASSEMBLY, No. 3171

STATE OF NEW JERSEY

INTRODUCED MAY 16, 1988

By Assemblymen WATSON and SCHUBER

1 AN ACT concerning short-term juvenile incarceration and  
amending P.L. 1982, c. 77.

3

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

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

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

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

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

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

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

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

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

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

31 (8) Any other circumstances related to the offense and the  
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 is intended to be omitted in the law.

Matter underlined thus is new matter.  
Matter enclosed in superscript numerals has been adopted as follows:  
Senate floor amendments adopted June 20, 1988.

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

5       (1) Adjourn formal entry of disposition of the case for a period  
not to exceed 12 months for the purpose of determining whether  
the juvenile makes a satisfactory adjustment, and if during the  
7 period of continuance the juvenile makes such an adjustment,  
dismiss the complaint;

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

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

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

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

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

37       (7) Commit the juvenile, pursuant to the laws governing civil  
commitment, to the Department of Human Services under the  
39 responsibility of the Division of Mental Health and Hospitals for

1 the purpose of placement in a suitable public or private hospital  
or other residential facility for the treatment of persons who are  
3 mentally ill, on the ground that the juvenile, if not committed,  
would be a probable danger to himself or others or property by  
5 reason of mental illness;

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

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

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

(11) Order that the juvenile participate in work programs  
35 which are designed to provide job skills and specific employment  
training to enhance the employability of job participants. Such  
37 programs may be without compensation, provided that any money  
earned by the juvenile from participation in a work program may  
39 be applied towards any payment of restitution or fine which the

1 court has ordered the juvenile to pay;

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

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

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

17 (15) Order the parents or guardian of the juvenile to  
participate in appropriate programs or services when the court  
has found either that such person's omission or conduct was a  
19 significant contributing factor towards the commission of the  
delinquent act, or, under its authority to enforce litigant's rights,  
21 that such person's omission or conduct has been a significant  
contributing factor towards the ineffective implementation of a  
23 court order previously entered in relation to the juvenile;

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

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

35 (17) Instead of or in addition to any disposition made according  
to this section, the court may postpone, suspend, or revoke for a  
37 period not to exceed 2 years the driver's license, registration  
certificate, or both of any juvenile who used a motor vehicle in  
the course of committing an act for which he was adjudicated  
39 delinquent. In imposing this disposition and in deciding the

1 duration of the postponement, suspension, or revocation, the  
2 court shall consider the severity of the delinquent act and the  
3 potential effect of the loss of driving privileges on the juvenile's  
4 ability to be rehabilitated. Any postponement, suspension, or  
5 revocation shall be imposed consecutively with any custodial  
6 commitment; or

7 (18) Order that the juvenile satisfy any other conditions  
8 reasonably related to the rehabilitation of the juvenile.

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

26 (2) No juvenile may be incarcerated in any county detention  
27 facility unless the county has entered into an agreement with the  
28 Department of Corrections concerning the use of the facility for  
29 sentenced juveniles. Upon agreement with the county, the  
30 Department of Corrections shall certify detention facilities  
31 which may receive juveniles sentenced pursuant to this subsection  
32 and shall specify the capacity of the facility that may be made  
33 available to receive such juveniles; provided, however, that in no  
34 event shall the number of juveniles incarcerated pursuant to this  
35 subsection exceed 50% of the maximum capacity of the facility.

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

38 (a) The act for which the juvenile was adjudicated delinquent,  
39 if committed by an adult, would have constituted a crime or

1 repetitive disorderly persons offense;

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

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

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

13 d. Whenever the court imposes a disposition upon an  
14 adjudicated delinquent which requires the juvenile to perform a  
15 community service, restitution, or to participate in any other  
16 program provided for in this section other than subsection c., the  
17 duration of the juvenile's mandatory participation in such  
18 alternative programs shall extend for a period consistent with the  
19 program goal for the juvenile and shall in no event exceed 1 year  
20 beyond the maximum duration permissible for the delinquent if he  
21 has been committed to a correctional institution.

(cf. P.L. 1982, c. 77, s. 24)

23 2. Section 34 of P.L. 1982, c. 77 is amended to read as follows:

24 34. This act shall take effect on December 31, 1983[; provided,  
25 however, that subsection c. of section 24 of this act shall expire  
26 54 months following the effective date of this act].

27 (cf. P.L.1988, c.2)

28 <sup>13</sup>. This act shall take effect immediately.<sup>1</sup>

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## CRIMINAL JUSTICE

### Juvenile Justice

33

Repeals sunset provision on short-term juvenile incarceration.

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rehabilitative goals of this act and the court is clearly convinced  
5 that the aggravating factors substantially outweigh the  
mitigating factors as set forth in section 25 of this act; and

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

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pursuant to this subsection, a county is required to transport a  
predisposition juvenile to a juvenile detention facility in another  
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17 duration of the juvenile's mandatory participation in such  
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#### STATEMENT

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33 This bill amends the juvenile justice code to repeal the sunset  
provision governing short-term juvenile incarceration. That  
provision authorizes a court to incarcerate a juvenile adjudicated  
35 delinquent in a youth detention facility which meets the  
Department of Corrections standards for a period not to exceed  
37 60 consecutive days. This sentencing provision is due to lapse  
June 30, 1988.

1       This bill further amends the provision governing short-term  
juvenile incarceration to provide that counties which do not  
3       operate their own juvenile detention centers are authorized to  
contract for the use of approved commitment programs with  
5       counties with which they have established agreements for the use  
of pre-disposition juvenile detention facilities. The use of  
7       short-term detention is limited to those dispositions which do not  
involve other out of home placement.

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**CRIMINAL JUSTICE**

**Juvenile Justice**

13

Repeals sunset provision on short-term juvenile incarceration.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3171

STATE OF NEW JERSEY

DATED: JUNE 2, 1988

The Assembly Judiciary Committee reports favorably Assembly Bill No. 3171.

Assembly Bill No. 3171 repeals the sunset provision governing short-term juvenile incarceration. That provision authorizes a court to incarcerate a juvenile adjudicated delinquent in a youth detention facility for a period not to exceed 60 consecutive days. This sentencing provision is due to lapse June 30, 1988. The use of short term detention is limited to those dispositions which do not involve other out of home placement.

The bill also authorizes counties which do not operate their own juvenile detention centers to contract for the use of approved commitment programs with counties with which they have established agreements for the use of pre-disposition juvenile detention facilities.