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**REPORTS:**

Yes

974.90 New Jersey. Legislature. General Assembly. Task Force on Adolescent Violence  
J97 Findings and Recommendations June 7, 1999. Trenton, NJ, 1999  
1999b (see pp.vi, xiii, 47)

**HEARINGS:**

Yes

974.90 New Jersey. Legislature. Assembly. Task Force on Adolescent Violence  
J97 Public hearing, held 9-23-1998. Trenton, 1998  
1998a

974.90 New Jersey. Legislature. Assembly. Task Force on Adolescent Violence  
J97 Public hearing, held 10-17-1998. Trenton, 1998  
1998

974.90 New Jersey. Legislature. Assembly. Task Force on Adolescent Violence  
J97 Public hearing, held 11-24-1998. Trenton, 1998  
1998b (see especially pp. 3, 36)

974.90 New Jersey. Legislature. Assembly. Task Force on Adolescent Violence  
J97 Public meeting, held 1-20-1999. Trenton, 1999  
1999

**NEWSPAPER ARTICLES:**

No

# ASSEMBLY, No. 1914

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 2, 2000

**Sponsored by:**

**Assemblywoman MARY T. PREVITE**

**District 6 (Camden)**

**Assemblyman PAUL DIGAETANO**

**District 36 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

**Assemblymen Gibson, Rooney, Arnone, Azzolina, DeCroce, LeFevre,  
Thompson, Felice, Barnes and Assemblywoman Buono**

**SYNOPSIS**

Incorporates balanced and restorative justice principles in juvenile justice system.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/20/2000)**

1 AN ACT incorporating balanced and restorative justice principles into  
2 the juvenile justice system and amending P.L.1982, c.77, P.L.1982,  
3 c.81 and P.L.1995, c.284.

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

7  
8 1. Section 2 of P.L. 1982, c.77 (C.2A:4A-21) is amended to read  
9 as follows:

10 2. Purposes. This act shall be construed so as to effectuate the  
11 following purposes:

12 a. To preserve the unity of the family whenever possible and to  
13 provide for the care, protection, and wholesome mental and physical  
14 development of juveniles coming within the provisions of this act;

15 b. Consistent with the protection of the public interest, to remove  
16 from children committing delinquent acts certain statutory  
17 consequences of criminal behavior, and to substitute therefor an  
18 adequate program of supervision, care and rehabilitation, and a range  
19 of sanctions designed to promote accountability and protect the public;

20 c. To separate juveniles from the family environment only when  
21 necessary for their health, safety or welfare or in the interests of public  
22 safety;

23 d. To secure for each child coming under the jurisdiction of the  
24 court such care, guidance and control, preferably in his own home, as  
25 will conduce to the child's welfare and the best interests of the State;  
26 and when such child is removed from his own family, to secure for him  
27 custody, care and discipline as nearly as possible equivalent to that  
28 which should have been given by his parents;

29 e. To insure that children under the jurisdiction of the court are  
30 wards of the State, subject to the discipline and entitled to the  
31 protection of the State, which may intervene to safeguard them from  
32 neglect or injury and to enforce the legal obligations due to them and  
33 from them; and

34 f. Consistent with the protection of the public interest, to insure  
35 that any services and sanctions for juveniles provide balanced attention  
36 to the protection of the community, the imposition of accountability  
37 for offenses committed, fostering reconciliation between the offender,  
38 victim and community and the development of competencies to enable  
39 children to become responsible and productive members of the  
40 community.

41 (cf: P.L.1995, c.280, s.1)

42  
43 2. Section 23 of P.L.1982, c.77(C.2A:4A-42) is amended to read  
44 as follows:

**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.**

1 23. Predispositional evaluation. a. Before making a disposition,  
2 the court may refer the juvenile to an appropriate individual, agency  
3 or institution for examination and evaluation.

4 b. In arriving at a disposition, the court may also consult with such  
5 individuals and agencies as may be appropriate to the juvenile's  
6 situation, including the county probation division, the Division of  
7 Youth and Family Services, the Juvenile Justice Commission  
8 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),  
9 the county youth services commission, school personnel, clergy, law  
10 enforcement authorities, family members and other interested and  
11 knowledgeable parties. In so doing, the court may convene a  
12 predispositional conference to discuss and recommend disposition.

13 c. The predisposition report ordered pursuant to the Rules of Court  
14 may include a statement by the victim of the offense for which the  
15 juvenile has been adjudicated delinquent or by the nearest relative of  
16 a homicide victim. The statement may include the nature and extent of  
17 any physical harm or psychological or emotional harm or trauma  
18 suffered by the victim, the extent of any loss to include loss of earnings  
19 or ability to work suffered by the victim and the effect of the crime  
20 upon the victim's family. The probation division shall notify the victim  
21 or nearest relative of a homicide victim of his right to make a  
22 statement for inclusion in the predisposition report if the victim or  
23 relative so desires. Any statement shall be made within 20 days of  
24 notification by the probation division. The report shall further include  
25 information on the financial resources of the juvenile. This  
26 information shall be made available on request to the Victims of Crime  
27 Compensation Board established pursuant to section 3 of P.L.1971,  
28 c.317 (C.52:4B-3) or to any officer authorized under section 3 of  
29 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,  
30 restitution or fine. Any predisposition report prepared pursuant to  
31 this section shall include an analysis of the circumstances attending the  
32 commission of the act, the impact of the offense on the community, the  
33 offender's history of delinquency or criminality, family situation,  
34 financial resources, the financial resources of the juvenile's parent or  
35 guardian, and information concerning the parent or guardian's exercise  
36 of supervision and control relevant to commission of the act.

37 Information concerning financial resources included in the report  
38 shall be made available to any officer authorized to collect payment on  
39 any assessment, restitution or fine.

40 (cf: P.L.1995, c.280, s.9)

41  
42 3. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read  
43 as follows:

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

- 1 (1) The nature and circumstances of the offense;
- 2 (2) The degree of injury to persons or damage to property caused  
3 by the juvenile's offense;
- 4 (3) The juvenile's age, previous record, prior social service  
5 received and out-of-home placement history;
- 6 (4) Whether the disposition supports family strength, responsibility  
7 and unity and the well-being and physical safety of the juvenile;
- 8 (5) Whether the disposition provides for reasonable participation  
9 by the child's parent, guardian, or custodian, provided, however, that  
10 the failure of a parent or parents to cooperate in the disposition shall  
11 not be weighed against the juvenile in arriving at an appropriate  
12 disposition;
- 13 (6) Whether the disposition recognizes and treats the unique  
14 physical, psychological and social characteristics and needs of the  
15 child;
- 16 (7) Whether the disposition contributes to the developmental needs  
17 of the child, including the academic and social needs of the child where  
18 the child has mental retardation or learning disabilities; [and]
- 19 (8) Any other circumstances related to the offense and the  
20 juvenile's social history as deemed appropriate by the court;
- 21 (9) The impact of the offense on the victim or victims;
- 22 (10) The impact of the offense on the community; and
- 23 (11) The threat to the safety of the public or any individual posed  
24 by the child.
- 25 b. If a juvenile is adjudged delinquent, and except to the extent that  
26 an additional specific disposition is required pursuant to subsection e.  
27 or f. of this section, the court may order incarceration pursuant to  
28 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
29 following dispositions:
  - 30 (1) Adjourn formal entry of disposition of the case for a period not  
31 to exceed 12 months for the purpose of determining whether the  
32 juvenile makes a satisfactory adjustment, and if during the period of  
33 continuance the juvenile makes such an adjustment, dismiss the  
34 complaint; provided that if the court adjourns formal entry of  
35 disposition of delinquency for a violation of an offense defined in  
36 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall  
37 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may  
38 waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
39 juveniles adjudicated delinquent;
  - 40 (2) Release the juvenile to the supervision of the juvenile's parent  
41 or guardian;
  - 42 (3) Place the juvenile on probation to the chief probation officer of  
43 the county or to any other suitable person who agrees to accept the  
44 duty of probation supervision for a period not to exceed three years  
45 upon such written conditions as the court deems will aid rehabilitation  
46 of the juvenile;

- 1 (4) Transfer custody of the juvenile to any relative or other person  
2 determined by the court to be qualified to care for the juvenile;
- 3 (5) Place the juvenile under the care of the Department of Human  
4 Services under the responsibility of the Division of Youth and Family  
5 Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the  
6 purpose of providing services in or out of the home. Within 14 days,  
7 unless for good cause shown, but not later than 30 days, the  
8 Department of Human Services shall submit to the court a service  
9 plan, which shall be presumed valid, detailing the specifics of any  
10 disposition order. The plan shall be developed within the limits of  
11 fiscal and other resources available to the department. If the court  
12 determines that the service plan is inappropriate, given existing  
13 resources, the department may request a hearing on that  
14 determination;
- 15 (6) Place the juvenile under the care and custody of the  
16 Commissioner of the Department of Human Services for the purpose  
17 of receiving the services of the Division of Developmental Disabilities  
18 of that department, provided that the juvenile has been determined to  
19 be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);
- 20 (7) Commit the juvenile, pursuant to applicable laws and the Rules  
21 of Court governing civil commitment, to the Department of Human  
22 Services under the responsibility of the Division of Mental Health  
23 Services for the purpose of placement in a suitable public or private  
24 hospital or other residential facility for the treatment of persons who  
25 are mentally ill, on the ground that the juvenile is in need of  
26 involuntary commitment;
- 27 (8) Fine the juvenile an amount not to exceed the maximum  
28 provided by law for such a crime or offense if committed by an adult  
29 and which is consistent with the juvenile's income or ability to pay and  
30 financial responsibility to the juvenile's family, provided that the fine  
31 is specially adapted to the rehabilitation of the juvenile or to the  
32 deterrence of the type of crime or offense. If the fine is not paid due  
33 to financial limitations, the fine may be satisfied by requiring the  
34 juvenile to submit to any other appropriate disposition provided for in  
35 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 the juvenile does not  
45 have the means to make restitution and could not reasonably acquire  
46 the means to pay restitution;

1 (10) Order that the juvenile perform community services under the  
2 supervision of a probation division 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;

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;

41 (b) Place the juvenile under the custody of the Juvenile Justice  
42 Commission established pursuant to section 2 of P.L.1995, c.284  
43 (C.52:17B-170) for placement with any private group home or private  
44 residential facility with which the commission has entered into a  
45 purchase of service contract;

46 (17) Instead of or in addition to any disposition made according to

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

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

13 (19) Order a parent or guardian who has failed or neglected to  
14 exercise reasonable supervision or control of a juvenile who has been  
15 adjudicated delinquent to make restitution to any person or entity who  
16 has suffered a loss as a result of that offense. The court may  
17 determine the reasonable amount, terms and conditions of restitution;  
18 or

19 (20) Place the juvenile, if eligible, in an appropriate juvenile  
20 offender program established pursuant to P.L.1997, c.81 (C.30:8-61  
21 et al.).

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

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

1 maximum capacity of the facility.

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

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

7 (b) Incarceration of the juvenile is consistent with the goals of  
8 public safety, accountability and rehabilitation and the court is clearly  
9 convinced that the aggravating factors substantially outweigh the  
10 mitigating factors as set forth in section 25 of P.L.1982, c.77  
11 (C.2A:4A-44); and

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

14 (4) If as a result of incarceration of adjudicated juveniles pursuant  
15 to this subsection, a county is required to transport a predisposition  
16 juvenile to a juvenile detention facility in another county, the costs of  
17 such transportation shall be borne by the Juvenile Justice Commission.

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

27 e. In addition to any disposition the court may impose pursuant to  
28 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
29 following orders shall be included in dispositions of the adjudications  
30 set forth below:

31 (1) An order of incarceration for a term of the duration authorized  
32 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
33 or an order to perform community service pursuant to paragraph (10)  
34 of subsection b. of this section for a period of at least 60 days, if the  
35 juvenile has been adjudicated delinquent for an act which, if committed  
36 by an adult, would constitute the crime of theft of a motor vehicle, or  
37 the crime of unlawful taking of a motor vehicle in violation of  
38 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding  
39 in violation of subsection b. of N.J.S.2C:29-2;

40 (2) An order of incarceration for a term of the duration authorized  
41 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
42 which shall include a minimum term of 60 days during which the  
43 juvenile shall be ineligible for parole, if the juvenile has been  
44 adjudicated delinquent for an act which, if committed by an adult,  
45 would constitute the crime of aggravated assault in violation of  
46 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree

1 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or  
2 theft of a motor vehicle, in a case in which the juvenile has previously  
3 been adjudicated delinquent for an act, which if committed by an adult,  
4 would constitute unlawful taking of a motor vehicle or theft of a motor  
5 vehicle;

6 (3) An order to perform community service pursuant to paragraph  
7 (10) of subsection b. of this section for a period of at least 30 days, if  
8 the juvenile has been adjudicated delinquent for an act which, if  
9 committed by an adult, would constitute the fourth degree crime of  
10 unlawful taking of a motor vehicle in violation of subsection b. of  
11 N.J.S.2C:20-10;

12 (4) An order of incarceration for a term of the duration authorized  
13 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
14 which shall include a minimum term of 30 days during which the  
15 juvenile shall be ineligible for parole, if the juvenile has been  
16 adjudicated delinquent for an act which, if committed by an adult,  
17 would constitute the crime of unlawful taking of a motor vehicle in  
18 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
19 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
20 previously been adjudicated delinquent for an act which, if committed  
21 by an adult, would constitute either theft of a motor vehicle, the  
22 unlawful taking of a motor vehicle or eluding.

23 f. (1) The minimum terms of incarceration required pursuant to  
24 subsection e. of this section shall be imposed regardless of the weight  
25 or balance of factors set forth in this section or in section 25 of  
26 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those  
27 factors shall determine the length of the term of incarceration  
28 appropriate, if any, beyond any mandatory minimum term required  
29 pursuant to subsection e. of this section.

30 (2) When a court in a county that does not have a juvenile  
31 detention facility or a contractual relationship permitting incarceration  
32 pursuant to subsection c. of this section is required to impose a term  
33 of incarceration pursuant to subsection e. of this section, the court  
34 may, subject to limitations on commitment to State correctional  
35 facilities of juveniles who are under the age of 11 or developmentally  
36 disabled, set a term of incarceration consistent with subsection c.  
37 which shall be served in a State correctional facility. When a juvenile  
38 who because of age or developmental disability cannot be committed  
39 to a State correctional facility or cannot be incarcerated in a county  
40 facility, the court shall order a disposition appropriate as an alternative  
41 to any incarceration required pursuant to subsection e.

42 (3) For purposes of subsection e. of this section, in the event that  
43 a "boot camp" program for juvenile offenders should be developed and  
44 is available, a term of commitment to such a program shall be  
45 considered a term of incarceration.

46 g. Whenever the court imposes a disposition upon an adjudicated

1 delinquent which requires the juvenile to perform a community service,  
2 restitution, or to participate in any other program provided for in this  
3 section, the order shall include provisions which provide balanced  
4 attention to the protection of the community, accountability for  
5 offenses committed, fostering reconciliation between the offender,  
6 victim and community and the development of competencies to enable  
7 the child to become a responsible and productive member of the  
8 community.

9 (cf: P.L.1997, c.81, s.11)

10

11 4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read  
12 as follows:

13 25. Incarceration--Aggravating and mitigating factors.

14 a. (1) Except as provided in subsections e. and f. of section 24 of  
15 P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is  
16 an appropriate disposition, the court shall consider the following  
17 aggravating circumstances:

18 (a) The fact that the nature and circumstances of the act, and the  
19 role of the juvenile therein, was committed in an especially heinous,  
20 cruel, or depraved manner;

21 (b) The fact that there was grave and serious harm inflicted on the  
22 victim and that based upon the juvenile's age or mental capacity the  
23 juvenile knew or reasonably should have known that the victim was  
24 particularly vulnerable or incapable of resistance due to advanced age,  
25 disability, ill-health, or extreme youth, or was for any other reason  
26 substantially incapable;

27 (c) The character and attitude of the juvenile indicate that the  
28 juvenile is likely to commit another delinquent or criminal act;

29 (d) The juvenile's prior record and the seriousness of any acts for  
30 which the juvenile has been adjudicated delinquent;

31 (e) The fact that the juvenile committed the act pursuant to an  
32 agreement that the juvenile either pay or be paid for the commission  
33 of the act and that the pecuniary incentive was beyond that inherent in  
34 the act itself;

35 (f) The fact that the juvenile committed the act against a policeman  
36 or other law enforcement officer, correctional employee or fireman,  
37 acting in the performance of his duties while in uniform or exhibiting  
38 evidence of his authority, or the juvenile committed the act because of  
39 the status of the victim as a public servant;

40 (g) The need for deterring the juvenile and others from violating  
41 the law;

42 (h) The fact that the juvenile knowingly conspired with others as  
43 an organizer, supervisor, or manager to commit continuing criminal  
44 activity in concert with two or more persons and the circumstances of  
45 the crime show that he has knowingly devoted himself to criminal  
46 activity as part of an ongoing business activity;

1 (i) The fact that the juvenile on two separate occasions was  
2 adjudged a delinquent on the basis of acts which if committed by an  
3 adult would constitute crimes;

4 (j) The impact of the offense on the victim or victims;

5 (k) The impact of the offense on the community; and

6 (l) The threat to the safety of the public or any individual posed by  
7 the child.

8 (2) In determining whether incarceration is an appropriate  
9 disposition the court shall consider the following mitigating  
10 circumstances:

11 (a) The child is under the age of 14;

12 (b) The juvenile's conduct neither caused nor threatened serious  
13 harm;

14 (c) The juvenile did not contemplate that the juvenile's conduct  
15 would cause or threaten serious harm;

16 (d) The juvenile acted under a strong provocation;

17 (e) There were substantial grounds tending to excuse or justify the  
18 juvenile's conduct, though failing to establish a defense;

19 (f) The victim of the juvenile's conduct induced or facilitated its  
20 commission;

21 (g) The juvenile has compensated or will compensate the victim for  
22 the damage or injury that the victim has sustained, or will participate  
23 in a program of community service;

24 (h) The juvenile has no history of prior delinquency or criminal  
25 activity or has led a law-abiding life for a substantial period of time  
26 before the commission of the present act;

27 (i) The juvenile's conduct was the result of circumstances unlikely  
28 to recur;

29 (j) The character and attitude of the juvenile indicate that the  
30 juvenile is unlikely to commit another delinquent or criminal act;

31 (k) The juvenile is particularly likely to respond affirmatively to  
32 noncustodial treatment;

33 (l) The separation of the juvenile from the juvenile's family by  
34 incarceration of the juvenile would entail excessive hardship to the  
35 juvenile or the juvenile's family;

36 (m) The willingness of the juvenile to cooperate with law  
37 enforcement authorities;

38 (n) The conduct of the juvenile was substantially influenced by  
39 another person more mature than the juvenile.

40 b. (1) There shall be a presumption of nonincarceration for any  
41 crime or offense of the fourth degree or less committed by a juvenile  
42 who has not previously been adjudicated delinquent or convicted of a  
43 crime or offense.

44 (2) Where incarceration is imposed, the court shall consider the  
45 juvenile's eligibility for release under the law governing parole.

46 c. The following juveniles shall not be committed to a State

1 juvenile facility:

2 (1) Juveniles age 11 or under unless adjudicated delinquent for the  
3 crime of arson or a crime which, if committed by an adult, would be  
4 a crime of the first or second degree; and

5 (2) Juveniles who are developmentally disabled as defined in  
6 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82  
7 (C.30:6D-3).

8 d. (1) When the court determines that, based on the consideration  
9 of all the factors set forth in subsection a., the juvenile shall be  
10 incarcerated, unless it orders the incarceration pursuant to subsection  
11 c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the  
12 record the reasons for imposing incarceration, including any findings  
13 with regard to these factors, and commit the juvenile to the custody of  
14 the Juvenile Justice Commission which shall provide for the juvenile's  
15 placement in a suitable juvenile facility pursuant to the conditions set  
16 forth in this subsection and for terms not to exceed the maximum  
17 terms as provided herein for what would constitute the following  
18 crimes if committed by an adult:

- 19 (a) Murder under 2C:11-3a(1) or (2) ..... 20 years
- 20 (b) Murder under 2C:11-3a(3) ..... 10 years
- 21 (c) Crime of the first degree,  
22 except murder ..... 4 years
- 23 (d) Crime of the second degree ..... 3 years
- 24 (e) Crime of the third degree ..... 2 years
- 25 (f) Crime of the fourth degree ..... 1 year
- 26 (g) Disorderly persons offense ..... 6 months

27 (2) Except as provided in subsection e. of section 24 of P.L.1982,  
28 c.77 (C.2A:4A-43), the period of confinement shall continue until the  
29 appropriate paroling authority determines that such a person should be  
30 paroled; except that in no case shall the period of confinement and  
31 parole exceed the maximum provided by law for such offense.  
32 However, if a juvenile is approved for parole prior to serving one-third  
33 of any term imposed for any crime of the first, second or third degree,  
34 including any extended term imposed pursuant to paragraph (3) or (4)  
35 of this subsection, or one-fourth of any term imposed for any other  
36 crime the granting of parole shall be subject to approval of the  
37 sentencing court. Prior to approving parole, the court shall give the  
38 prosecuting attorney notice and an opportunity to be heard. If the  
39 court denies the parole of a juvenile pursuant to this paragraph it shall  
40 state its reasons in writing and notify the parole board, the juvenile and  
41 the juvenile's attorney. The court shall have 30 days from the date of  
42 notice of the pending parole to exercise the power granted under this  
43 paragraph. If the court does not respond within that time period, the  
44 parole will be deemed approved.

45 Any juvenile committed under this act who is released on parole  
46 prior to the expiration of the juvenile's maximum term may be retained

1 under parole supervision for a period not exceeding the unserved  
2 portion of the term and any term of post-incarceration supervision  
3 imposed pursuant to paragraph (5) of this subsection. The Parole  
4 Board, the juvenile, the juvenile's attorney, the juvenile's parent or  
5 guardian or, with leave of the court any other interested party, may  
6 make a motion to the court, with notice to the prosecuting attorney,  
7 for the return of the child from a juvenile facility prior to his parole  
8 and provide for an alternative disposition which would not exceed the  
9 duration of the original time to be served in the facility. Nothing  
10 contained in this paragraph shall be construed to limit the authority of  
11 the Parole Board as set forth in section 15 of P.L.1979, c.441  
12 (C.30:4-123.59).

13 (3) Upon application by the prosecutor, the court may sentence a  
14 juvenile who has been convicted of a crime of the first, second, or  
15 third degree if committed by an adult, to an extended term of  
16 incarceration beyond the maximum set forth in paragraph (1) of this  
17 subsection, if it finds that the juvenile was adjudged delinquent on at  
18 least two separate occasions, for offenses which, if committed by an  
19 adult, would constitute a crime of the first or second degree, and was  
20 previously committed to an adult or juvenile facility. The extended  
21 term shall not exceed five additional years for an act which would  
22 constitute murder and shall not exceed two additional years for all  
23 other crimes of the first degree or second degree, if committed by an  
24 adult, and one additional year for a crime of the third degree, if  
25 committed by an adult.

26 (4) Upon application by the prosecutor, when a juvenile is before  
27 the court at one time for disposition of three or more unrelated  
28 offenses which, if committed by an adult, would constitute crimes of  
29 the first, second or third degree and which are not part of the same  
30 transaction, the court may sentence the juvenile to an extended term  
31 of incarceration not to exceed the maximum of the permissible term  
32 for the most serious offense for which the juvenile has been  
33 adjudicated plus two additional years.

34 (5) Every disposition that includes a term of incarceration shall  
35 include a term of post-incarceration supervision equivalent to  
36 one-third of the term of incarceration imposed. During the term of  
37 post-incarceration supervision the juvenile shall remain in the  
38 community and in the legal custody of the Juvenile Justice Commission  
39 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)  
40 in accordance with the rules of the parole board, unless the  
41 appropriate parole board panel determines that post-incarceration  
42 supervision should be revoked and the juvenile returned to custody in  
43 accordance with the procedures and standards set forth in sections 15  
44 through 21 of P.L.1979, c.441 (C.30:4-123.59 through  
45 C.30:4-123.65). The term of post-incarceration supervision shall  
46 commence upon release from incarceration or parole, whichever is

1 later. A term of post-incarceration supervision imposed pursuant to  
2 this paragraph may be terminated by the appropriate parole board  
3 panel if the juvenile has made a satisfactory adjustment in the  
4 community while on parole or under such supervision, if continued  
5 supervision is not required and if the juvenile has made full payment  
6 of any fine or restitution.

7 (cf: P.L1995, c.280, s.11)

8

9 5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read  
10 as follows:

11 5. Court intake service conference. a. Where the juvenile is  
12 diverted to a court intake service conference, notices of the conference  
13 shall be sent to the juvenile and his parents or guardian and to the  
14 complainant or victim. The parties may be requested to bring to the  
15 conference all pertinent documents in their possession, including  
16 medical, social, and school records.

17 b. In determining the appropriate resolution of a complaint, the  
18 following factors shall be considered by court intake services:

19 (1) The seriousness of the alleged offense or conduct and the  
20 circumstances in which it occurred;

21 (2) The age and maturity of the juvenile;

22 (3) The risk that the juvenile presents as a substantial danger to  
23 others;

24 (4) The family circumstances, including any history of drugs,  
25 alcohol abuse or child abuse on the part of the juvenile, his parents or  
26 guardian;

27 (5) The nature and number of contacts with court intake services  
28 and the court that the juvenile and his family have had;

29 (6) The outcome of those contacts, including the services to which  
30 the juvenile or family have been referred and the results of those  
31 referrals;

32 (7) The availability of appropriate services;

33 (8) Any recommendations expressed by the victim or complainant,  
34 or arresting officer, as to how the case should be disposed; [and]

35 (9) Whether diversion can be accomplished in a manner that holds  
36 the juvenile accountable for the conduct;

37 (10) The impact of the offense on the victim or victims; and

38 (11) The impact of the offense on the community.

39 c. Each juvenile shall be reviewed without a presumption of guilt.  
40 The intake conference shall be concerned primarily with providing  
41 balanced attention to the protection of the community, the imposition  
42 of accountability for offenses committed, fostering reconciliation  
43 between the offender, victim and community and the development of  
44 competencies to enable the juvenile offender to become a responsible  
45 and productive member of the community. In addition, the conference  
46 shall be concerned with preventing more serious future misconduct by

1 the juvenile offender by obtaining the cooperation of the juvenile and  
2 his parents or guardian in complying with its recommendations. The  
3 court may schedule a hearing where the complainant or victim objects  
4 to the recommendations from the conference.

5 d. The resolution from the conference may include but shall not be  
6 limited to counseling, restitution, referral to appropriate community  
7 agencies, or any other community work programs or other conditions  
8 consistent with diversion that aids in providing balanced attention to  
9 the protection of the community, the imposition of accountability for  
10 offenses committed, fostering reconciliation between the offender,  
11 victim and community and the development of competencies to enable  
12 the juvenile offender to become a responsible and productive member  
13 of the community [the juvenile's rehabilitation], provided that:

14 (1) Obligations imposed as a result of the intake conference shall  
15 be an order of the court approved by the presiding judge and shall be  
16 set forth in writing and may not exceed six months. The juvenile and  
17 his or her parents or guardian shall receive copies, as shall any  
18 agencies providing services under the agreement;

19 (2) The court intake service worker shall inform the juvenile and  
20 the juvenile's parents or guardian in writing of their right to object at  
21 any time prior to their written agreement to the facts or terms of the  
22 intake conference decision, and if objections arise, the intake service  
23 worker may alter the terms of the proposed agreement or refer the  
24 matter to the presiding judge who shall determine if the complaint will  
25 be heard in court or returned to intake conference for further action;

26 (3) Written agreement pursuant to intake conferences may be  
27 terminated at any time upon the request of the juvenile and the matter  
28 referred to the presiding judge;

29 (4) The court intake services conference may not order the  
30 confinement of a juvenile, place a juvenile on probation, or remove a  
31 juvenile from his family as a disposition; and

32 (5) If, at any time during the diversion period, the court intake  
33 service worker determines that the obligations imposed under the  
34 written agreement are not being met, the intake worker shall notify the  
35 presiding judge in writing. In the case of failure to comply with the  
36 obligations imposed under the agreement by the parents or guardian,  
37 the court may proceed against such persons for enforcement of the  
38 agreement. In the case of failure to comply by the juvenile, the matter  
39 shall be referred to the court for action.

40 e. At the end of the diversion period a second court intake services  
41 conference may be held with all parties to the written agreement  
42 present to ascertain if the terms of the agreement have been fulfilled.  
43 If all conditions have been met, the intake worker shall so inform the  
44 presiding judge in writing who shall order the complaint dismissed. A  
45 copy of the order dismissing the complaint shall be sent to the juvenile.  
46 If the conditions of the written agreement have not been met, the

1 intake worker may refer the matter to the presiding judge who shall  
2 determine if the complaint will be heard in court or returned to court  
3 intake services for further action. Based on the evaluations required  
4 under this paragraph, the intake conference agreement may be  
5 extended beyond the six-month maximum if all parties agree. In no  
6 case shall an intake conference agreement exceed nine months.

7 f. All proceedings before the conference are confidential and they  
8 shall receive only those records which in the court's judgment are  
9 necessary to aid in making a recommendation.

10 (cf: P.L.1995, c.280, s.16)

11  
12 6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read  
13 as follows:

14 6. a. The court may appoint one or more juvenile conference  
15 committees for each county or municipality to hear and decide matters  
16 referred to it by the court.

17 b. The method of appointment and terms of membership to the  
18 committees shall be made pursuant to guidelines developed by the  
19 Supreme Court.

20 c. Where the juvenile is diverted to a juvenile conference  
21 committee, notices of the conference shall be sent to the juvenile and  
22 his parents or guardian and to the complainant or victim. The parties  
23 may be requested to bring to the conference all pertinent documents  
24 in their possession, including medical, social, and school records.

25 d. The committee shall serve under the authority of the court in  
26 hearing and deciding such matters involving alleged juvenile offenders  
27 as are specifically referred to it by the court. Each juvenile shall be  
28 reviewed without a presumption of guilt. The committee shall be  
29 concerned primarily with providing balanced attention to the  
30 protection of the community, the imposition of accountability for  
31 offenses committed, fostering reconciliation between the offender,  
32 victim and community and the development of competencies to enable  
33 the juvenile offender to become a responsible and productive member  
34 of the community. In addition, the committee shall be concerned with  
35 preventing more serious future misconduct by the juvenile offender by  
36 obtaining the cooperation of the juvenile and his parents or guardian  
37 in complying with its recommendations. The court may schedule a  
38 hearing where the complainant or victim objects to the  
39 recommendations from the conference.

40 e. The committee shall provide for the resolution of the matter and  
41 shall supervise and follow up compliance with its recommendations in  
42 the same manner and under the same limitations and with the same  
43 sanctions as the court intake service conference.

44 f. All proceedings before the juvenile conference committee are  
45 confidential and include only those records which in the court's  
46 judgment are necessary to aid in making a recommendation.

47 (cf: P.L.1982, c.81, s.6)

1       7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to  
2 read as follows:

3       1. The Legislature finds and declares:

4       a. The public safety requires reform of the juvenile justice system;

5       b. Juvenile arrests for murder, robbery, aggravated sexual assault,  
6 sexual assault and aggravated assault have increased 38 percent  
7 between 1988 and 1993 and New Jersey ranks near the top nationally  
8 in the number of juvenile arrests for serious violent crimes;

9       c. Juvenile crime has become a leading cause of injury and death  
10 among young people;

11       d. Currently, preventive, deterrent and rehabilitative services and  
12 sanctions for juveniles are the responsibility of no less than three State  
13 departments: The Department of Law and Public Safety deals with  
14 county prosecutors and local police and implements prevention  
15 programs; the Department of Corrections operates the New Jersey  
16 Training School for Boys and the Juvenile Medium Security Facility,  
17 and its Bureau of Parole supervises juvenile parolees; and the  
18 Department of Human Services operates residential and day programs  
19 in facilities for juveniles adjudicated delinquent;

20       e. The division of responsibility for the juvenile justice population  
21 and the limitations on resources available to meet ever-increasing  
22 demands for services provided by the Departments of Human Services  
23 and Corrections have prevented the departments from maximizing  
24 efforts to meet the special needs of the juvenile justice population;

25       f. The juvenile justice system lacks services and sanctions short of  
26 incarceration, particularly in urban areas and for that reason, many  
27 juveniles are not held accountable until they have committed a series  
28 of increasingly serious criminal acts;

29       g. The special needs of juveniles can be addressed through services  
30 and sanctions provided at the county and local level;

31       h. The need to protect the public from criminal acts by juvenile  
32 offenders requires a comprehensive program and concerted action of  
33 governmental agencies and private organizations at the State, county  
34 and local level that permit effective response and avoid waste of scarce  
35 resources;

36       i. (1) The comprehensive program should provide a range of  
37 services and sanctions for juveniles sufficient to protect the public  
38 through prevention; early intervention; and a range of meaningful  
39 sanctions that ensure accountability, provide training, education,  
40 treatment and, when necessary, confinement followed by community  
41 supervision that is adequate to protect the public and promote  
42 successful reintegration into the community;

43       (2) Consistent with the need to protect the public, services and  
44 sanctions for juveniles shall provide balanced attention to the  
45 protection of the community, the imposition of accountability for  
46 offenses committed, fostering reconciliation between the offender,

1 victim and community and the development of competencies to enable  
2 juvenile offenders to become responsible and productive members of  
3 the community.

4 j. The most efficient and effective use of available resources  
5 requires fixing responsibility for the comprehensive program in a single  
6 State agency and providing incentives to encourage the development  
7 and provision of appropriate services and sanctions at the county and  
8 local level; and

9 k. It is, therefore, necessary to establish a Juvenile Justice  
10 Commission responsible for operating State services and sanctions for  
11 juveniles involved in the juvenile justice system and responsible for  
12 developing a Statewide plan for effective provision of juvenile justice  
13 services and sanctions at the State, county and local level; to establish  
14 a State/Community Partnership Grant Program through which the  
15 State will provide incentives to county and local governments to  
16 encourage the provision of services and sanctions for juveniles  
17 adjudicated or charged as delinquent and programs for the prevention  
18 of juvenile delinquency, and to establish county youth services  
19 commissions responsible for planning and implementing the  
20 Partnership at the local level.

21 (cf: P.L.1995,c.284,s.1)

22

23 8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to  
24 read as follows:

25 5. The advisory council shall have the following functions, powers,  
26 duties and authority:

27 a. To meet at least quarterly and at such other times as designated  
28 by the executive director or the chair of the advisory council;

29 b. To establish any committees to carry out its responsibilities;  
30 [and]

31 c. To advise the executive director regarding the implementation  
32 of the recommendations included in the final report submitted pursuant  
33 to Executive Order 10 of 1994; the master plan submitted pursuant to  
34 section 2 of P.L.1995, c.284 (C.52:17B-170); the integration,  
35 coordination and collaboration of programs, services and sanctions for  
36 juveniles; and the actions to be taken to increase public awareness of  
37 the juvenile justice system and its needs; and

38 d. To ensure the programs, services and sanctions for juvenile  
39 offenders are striving to provide balanced attention to the protection  
40 of the community, imposing accountability for offenses committed,  
41 fostering reconciliation between the offender, victim and community  
42 and developing competencies in the juveniles to enable them to  
43 become responsible and productive members of the community.

44 (cf: P.L.1995, c.284, s.5)

45

46 9. This act shall take effect on the first day of the seventh month  
47 after the date of enactment, but the Director of the Administrative

1 Office of the Courts and the Juvenile Justice Commission shall take  
2 such anticipatory administrative action in advance as shall be necessary  
3 for the implementation of the act.

4  
5  
6 STATEMENT

7  
8 This bill would direct the Juvenile Justice Commission (JJC) in the  
9 Department of Law and Public Safety and the Administrative Office of  
10 the Courts, Superior Court Family Division to incorporate into the  
11 juvenile justice system the principles of balanced and restorative justice  
12 (BARJ).

13 The concept of restorative justice holds that an offender incurs an  
14 obligation to restore the victim of the offense and, by extension, the  
15 community to the state of well-being that existed prior to the offense.  
16 The principle of balance in connection with restorative justice suggests  
17 that the juvenile justice system should give equal weight to ensuring  
18 community safety, holding offenders accountable to victims, fostering  
19 reconciliation between the offender, victim and community and  
20 providing competency development for offenders in the system so they  
21 can pursue legitimate endeavors after release.

22 While some restorative justice concepts are implemented in the  
23 State juvenile system, this bill would dictate that restorative justice  
24 principals be incorporated into the entire system. The bill would  
25 include the responsibility of adhering to BARJ principles in the mission  
26 of the JJC. In addition, the bill would incorporate BARJ principles into  
27 the juvenile justice code, including: the stated purpose of the code,  
28 predispositional evaluations and the disposition of delinquency cases.  
29 Family court juvenile intake service conferences would be required to  
30 use BARJ principles when determining the resolution of complaints.  
31 Juvenile conference committees would be required to consider BARJ  
32 principles in the resolution of matters in addition to solely focusing on  
33 the juvenile's future behavior.

34 The bill would also require that the impact of the offense on the  
35 victim and the community and whether the child poses a threat to the  
36 safety of the public be considered as aggravating factors when  
37 determining resolutions to juvenile cases.

38 BARJ principles are being implemented in states around the nation.  
39 They are credited with making victims of crime feel they have more  
40 power in the justice system; enhancing rehabilitation; sensitizing the  
41 offenders to the effects of their acts; providing for reconciliation  
42 among offenders, victims and community; and reducing recidivism  
43 rates.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1914**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 5, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1914, with committee amendments.

Assembly Bill No. 1914, as amended directs the Juvenile Justice Commission (JJC) in the Department of Law and Public Safety and the Administrative Office of the Courts, Superior Court Family Division, to incorporate into the juvenile justice system the principles of balanced and restorative justice (BARJ).

Under the restorative justice principle, an offender incurs an obligation to restore the victim of the offense and, by extension, the community to the state of well-being that existed prior to the offense. The principle of balance in connection with restorative justice suggests that the juvenile justice system should give equal weight to ensuring community safety, holding offenders accountable to victims, fostering interaction and dialogue between the offender, victim and community and providing competency development for offenders in the system so they can pursue legitimate endeavors after release.

While some restorative justice concepts are implemented in the State juvenile system, this bill dictates that restorative justice principals be incorporated into the entire system. The bill includes the responsibility of adhering to BARJ principles in the mission of the JJC. In addition, the bill incorporates BARJ principles into the juvenile justice code, including: the stated purpose of the code, predispositional evaluations and the disposition of delinquency cases. The bill requires that family court juvenile intake service conferences use BARJ principles when determining the resolution of complaints. The bill requires juvenile conference committees to consider BARJ principles in the resolution of matters in addition to focusing on the juvenile's future behavior.

The bill also requires that the impact of the offense on the victim and the community and whether the child poses a threat to the safety of the public be considered as possible aggravating factors when determining resolutions to juvenile cases.

#### FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The amendments clarify the implementation of restorative justice principles by changing several references to the goals of restorative justice from "reconciliation" to "interaction and dialogue"

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1914

# STATE OF NEW JERSEY

DATED: NOVEMBER 9, 2000

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 1914.

Assembly Bill No. 1914 directs the Juvenile Justice Commission (JJC) in the Department of Law and Public Safety and the Administrative Office of the Courts, Superior Court Family Division, to incorporate into the juvenile justice system the principles of balanced and restorative justice (BARJ).

The concept of restorative justice holds that an offender incurs an obligation to restore the victim of the offense and, by extension, the community to the state of well-being that existed prior to the offense. The principle of balance in connection with restorative justice suggests that the juvenile justice system should give equal weight to ensuring community safety, holding offenders accountable to victims, fostering reconciliation between the offender, victim and community and providing competency development for offenders in the system so they can pursue legitimate endeavors after release.

While some restorative justice concepts are implemented in the State juvenile system, this bill dictates that restorative justice principals be incorporated into the entire system. The bill includes the responsibility of adhering to BARJ principles in the mission of the JJC. In addition, the bill incorporates BARJ principles into the juvenile justice code, including: the stated purpose of the code, predispositional evaluations and the disposition of delinquency cases. Family court juvenile intake service conferences would be required to use BARJ principles when determining the resolution of complaints. Juvenile conference committees would be required to consider BARJ principles in the resolution of matters in addition to solely focusing on the juvenile's future behavior.

The bill also requires that the impact of the offense on the victim and the community and whether the child poses a threat to the safety of the public be considered as aggravating factors when determining resolutions to juvenile cases.

According to the bill's sponsors, BARJ principles are being implemented in states around the nation. They are credited with making victims of crime feel they have more power in the justice system; enhancing rehabilitation; sensitizing the offenders to the effects of their acts; providing for reconciliation among offenders, victims and community; and reducing recidivism rates.

[First Reprint]

**ASSEMBLY, No. 1914**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

INTRODUCED MARCH 2, 2000

**Sponsored by:**

**Assemblywoman MARY T. PREVITE**

**District 6 (Camden)**

**Assemblyman PAUL DIGAETANO**

**District 36 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

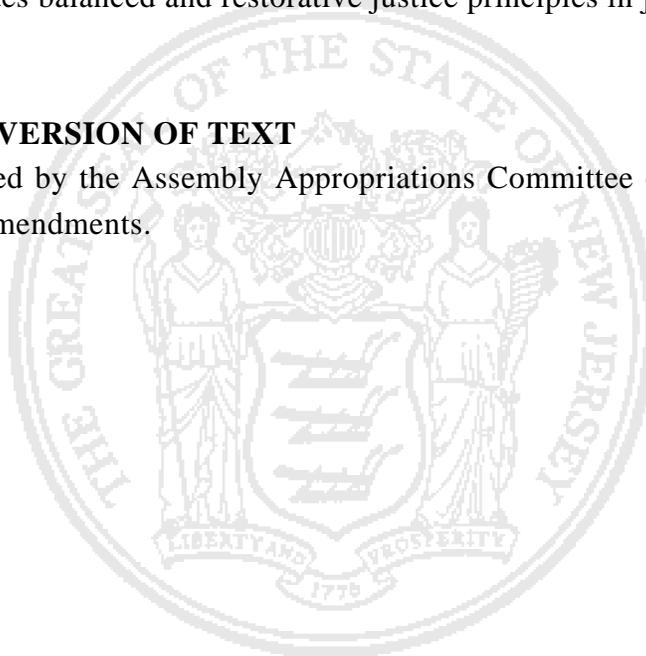
**Assemblymen Gibson, Rooney, Arnone, Azzolina, DeCroce, LeFevre, Thompson, Felice, Barnes, Assemblywoman Buono, Assemblyman Bateman, Assemblywoman Heck, Senators Kosco, Allen, Kyrillos, Girgenti, Furnari and Robertson**

**SYNOPSIS**

Incorporates balanced and restorative justice principles in juvenile justice system.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on February 5, 2001, with amendments.



**(Sponsorship Updated As Of: 1/8/2002)**

1 AN ACT incorporating balanced and restorative justice principles into  
2 the juvenile justice system and amending P.L.1982, c.77, P.L.1982,  
3 c.81 and P.L.1995, c.284.

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

7  
8 1. Section 2 of P.L. 1982, c.77 (C.2A:4A-21) is amended to read  
9 as follows:

10 2. Purposes. This act shall be construed so as to effectuate the  
11 following purposes:

12 a. To preserve the unity of the family whenever possible and to  
13 provide for the care, protection, and wholesome mental and physical  
14 development of juveniles coming within the provisions of this act;

15 b. Consistent with the protection of the public interest, to remove  
16 from children committing delinquent acts certain statutory  
17 consequences of criminal behavior, and to substitute therefor an  
18 adequate program of supervision, care and rehabilitation, and a range  
19 of sanctions designed to promote accountability and protect the public;

20 c. To separate juveniles from the family environment only when  
21 necessary for their health, safety or welfare or in the interests of public  
22 safety;

23 d. To secure for each child coming under the jurisdiction of the  
24 court such care, guidance and control, preferably in his own home, as  
25 will conduce to the child's welfare and the best interests of the State;  
26 and when such child is removed from his own family, to secure for him  
27 custody, care and discipline as nearly as possible equivalent to that  
28 which should have been given by his parents;

29 e. To insure that children under the jurisdiction of the court are  
30 wards of the State, subject to the discipline and entitled to the  
31 protection of the State, which may intervene to safeguard them from  
32 neglect or injury and to enforce the legal obligations due to them and  
33 from them; and

34 f. Consistent with the protection of the public interest, to insure  
35 that any services and sanctions for juveniles provide balanced attention  
36 to the protection of the community, the imposition of accountability  
37 for offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
38 dialogue<sup>1</sup> between the offender, victim and community and the  
39 development of competencies to enable children to become responsible  
40 and productive members of the community.

41 (cf: P.L.1995, c.280, 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:**

<sup>1</sup> Assembly AAP committee amendments adopted February 5, 2001.

1       2. Section 23 of P.L.1982, c.77(C.2A:4A-42) is amended to read  
2 as follows:

3       23. Predispositional evaluation. a. Before making a disposition,  
4 the court may refer the juvenile to an appropriate individual, agency  
5 or institution for examination and evaluation.

6       b. In arriving at a disposition, the court may also consult with such  
7 individuals and agencies as may be appropriate to the juvenile's  
8 situation, including the county probation division, the Division of  
9 Youth and Family Services, the Juvenile Justice Commission  
10 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),  
11 the county youth services commission, school personnel, clergy, law  
12 enforcement authorities, family members and other interested and  
13 knowledgeable parties. In so doing, the court may convene a  
14 predispositional conference to discuss and recommend disposition.

15       c. The predisposition report ordered pursuant to the Rules of Court  
16 may include a statement by the victim of the offense for which the  
17 juvenile has been adjudicated delinquent or by the nearest relative of  
18 a homicide victim. The statement may include the nature and extent of  
19 any physical harm or psychological or emotional harm or trauma  
20 suffered by the victim, the extent of any loss to include loss of earnings  
21 or ability to work suffered by the victim and the effect of the crime  
22 upon the victim's family. The probation division shall notify the victim  
23 or nearest relative of a homicide victim of his right to make a  
24 statement for inclusion in the predisposition report if the victim or  
25 relative so desires. Any statement shall be made within 20 days of  
26 notification by the probation division. The report shall further include  
27 information on the financial resources of the juvenile. This  
28 information shall be made available on request to the Victims of Crime  
29 Compensation Board established pursuant to section 3 of P.L.1971,  
30 c.317 (C.52:4B-3) or to any officer authorized under section 3 of  
31 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,  
32 restitution or fine. Any predisposition report prepared pursuant to  
33 this section shall include an analysis of the circumstances attending the  
34 commission of the act, the impact of the offense on the community, the  
35 offender's history of delinquency or criminality, family situation,  
36 financial resources, the financial resources of the juvenile's parent or  
37 guardian, and information concerning the parent or guardian's exercise  
38 of supervision and control relevant to commission of the act.

39       Information concerning financial resources included in the report  
40 shall be made available to any officer authorized to collect payment on  
41 any assessment, restitution or fine.

42 (cf: P.L.1995, c.280, s.9)

43

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

46       24. Disposition of delinquency cases. a. In determining the

1 appropriate disposition for a juvenile adjudicated delinquent the court  
2 shall weigh the following factors:

- 3 (1) The nature and circumstances of the offense;
- 4 (2) The degree of injury to persons or damage to property caused  
5 by the juvenile's offense;
- 6 (3) The juvenile's age, previous record, prior social service  
7 received and out-of-home placement history;
- 8 (4) Whether the disposition supports family strength, responsibility  
9 and unity and the well-being and physical safety of the juvenile;
- 10 (5) Whether the disposition provides for reasonable participation  
11 by the child's parent, guardian, or custodian, provided, however, that  
12 the failure of a parent or parents to cooperate in the disposition shall  
13 not be weighed against the juvenile in arriving at an appropriate  
14 disposition;
- 15 (6) Whether the disposition recognizes and treats the unique  
16 physical, psychological and social characteristics and needs of the  
17 child;
- 18 (7) Whether the disposition contributes to the developmental needs  
19 of the child, including the academic and social needs of the child where  
20 the child has mental retardation or learning disabilities; [and]
- 21 (8) Any other circumstances related to the offense and the  
22 juvenile's social history as deemed appropriate by the court;
- 23 (9) The impact of the offense on the victim or victims;
- 24 (10) The impact of the offense on the community; and
- 25 (11) The threat to the safety of the public or any individual posed  
26 by the child.

27 b. If a juvenile is adjudged delinquent, and except to the extent that  
28 an additional specific disposition is required pursuant to subsection e.  
29 or f. of this section, the court may order incarceration pursuant to  
30 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
31 following dispositions:

- 32 (1) Adjourn formal entry of disposition of the case for a period not  
33 to exceed 12 months for the purpose of determining whether the  
34 juvenile makes a satisfactory adjustment, and if during the period of  
35 continuance the juvenile makes such an adjustment, dismiss the  
36 complaint; provided that if the court adjourns formal entry of  
37 disposition of delinquency for a violation of an offense defined in  
38 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall  
39 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may  
40 waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
41 juveniles adjudicated delinquent;
- 42 (2) Release the juvenile to the supervision of the juvenile's parent  
43 or guardian;
- 44 (3) Place the juvenile on probation to the chief probation officer of  
45 the county or to any other suitable person who agrees to accept the  
46 duty of probation supervision for a period not to exceed three years

1 upon such written conditions as the court deems will aid rehabilitation  
2 of the juvenile;

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

5 (5) Place the juvenile under the care of the Department of Human  
6 Services under the responsibility of the Division of Youth and Family  
7 Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the  
8 purpose of providing services in or out of the home. Within 14 days,  
9 unless for good cause shown, but not later than 30 days, the  
10 Department of Human Services shall submit to the court a service  
11 plan, which shall be presumed valid, detailing the specifics of any  
12 disposition order. The plan shall be developed within the limits of  
13 fiscal and other resources available to the department. If the court  
14 determines that the service plan is inappropriate, given existing  
15 resources, the department may request a hearing on that  
16 determination;

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

22 (7) Commit the juvenile, pursuant to applicable laws and the Rules  
23 of Court governing civil commitment, to the Department of Human  
24 Services under the responsibility of the Division of Mental Health  
25 Services for the purpose of placement in a suitable public or private  
26 hospital or other residential facility for the treatment of persons who  
27 are mentally ill, on the ground that the juvenile is in need of  
28 involuntary commitment;

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

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

1 have the means to make restitution and could not reasonably acquire  
2 the means to pay restitution;

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

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

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

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

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

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

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

43 (b) Place the juvenile under the custody of the Juvenile Justice  
44 Commission established pursuant to section 2 of P.L.1995, c.284  
45 (C.52:17B-170) for placement with any private group home or private  
46 residential facility with which the commission has entered into a

1 purchase of service contract;

2 (17) Instead of or in addition to any disposition made according to  
3 this section, the court may postpone, suspend, or revoke for a period  
4 not to exceed two years the driver's license, registration certificate, or  
5 both of any juvenile who used a motor vehicle in the course of  
6 committing an act for which the juvenile was adjudicated delinquent.  
7 In imposing this disposition and in deciding the duration of the  
8 postponement, suspension, or revocation, the court shall consider the  
9 severity of the delinquent act and the potential effect of the loss of  
10 driving privileges on the juvenile's ability to be rehabilitated. Any  
11 postponement, suspension, or revocation shall be imposed  
12 consecutively with any custodial commitment;

13 (18) Order that the juvenile satisfy any other conditions reasonably  
14 related to the rehabilitation of the juvenile;

15 (19) Order a parent or guardian who has failed or neglected to  
16 exercise reasonable supervision or control of a juvenile who has been  
17 adjudicated delinquent to make restitution to any person or entity who  
18 has suffered a loss as a result of that offense. The court may  
19 determine the reasonable amount, terms and conditions of restitution;  
20 or

21 (20) Place the juvenile, if eligible, in an appropriate juvenile  
22 offender program established pursuant to P.L.1997, c.81 (C.30:8-61  
23 et al.).

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

40 (2) No juvenile may be incarcerated in any county detention facility  
41 unless the county has entered into an agreement with the Juvenile  
42 Justice Commission concerning the use of the facility for sentenced  
43 juveniles. Upon agreement with the county, the Juvenile Justice  
44 Commission shall certify detention facilities which may receive  
45 juveniles sentenced pursuant to this subsection and shall specify the  
46 capacity of the facility that may be made available to receive such

1 juveniles; provided, however, that in no event shall the number of  
2 juveniles incarcerated pursuant to this subsection exceed 50% of the  
3 maximum capacity of the facility.

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

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

9 (b) Incarceration of the juvenile is consistent with the goals of  
10 public safety, accountability and rehabilitation and the court is clearly  
11 convinced that the aggravating factors substantially outweigh the  
12 mitigating factors as set forth in section 25 of P.L.1982, c.77  
13 (C.2A:4A-44); and

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

16 (4) If as a result of incarceration of adjudicated juveniles pursuant  
17 to this subsection, a county is required to transport a predisposition  
18 juvenile to a juvenile detention facility in another county, the costs of  
19 such transportation shall be borne by the Juvenile Justice Commission.

20 d. Whenever the court imposes a disposition upon an adjudicated  
21 delinquent which requires the juvenile to perform a community service,  
22 restitution, or to participate in any other program provided for in this  
23 section other than subsection c., the duration of the juvenile's  
24 mandatory participation in such alternative programs shall extend for  
25 a period consistent with the program goal for the juvenile and shall in  
26 no event exceed one year beyond the maximum duration permissible  
27 for the delinquent if the juvenile had been committed to a term of  
28 incarceration.

29 e. In addition to any disposition the court may impose pursuant to  
30 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
31 following orders shall be included in dispositions of the adjudications  
32 set forth below:

33 (1) An order of incarceration for a term of the duration authorized  
34 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
35 or an order to perform community service pursuant to paragraph (10)  
36 of subsection b. of this section for a period of at least 60 days, if the  
37 juvenile has been adjudicated delinquent for an act which, if committed  
38 by an adult, would constitute the crime of theft of a motor vehicle, or  
39 the crime of unlawful taking of a motor vehicle in violation of  
40 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding  
41 in violation of subsection b. of N.J.S.2C:29-2;

42 (2) An order of incarceration for a term of the duration authorized  
43 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
44 which shall include a minimum term of 60 days during which the  
45 juvenile shall be ineligible for parole, if the juvenile has been  
46 adjudicated delinquent for an act which, if committed by an adult,

1 would constitute the crime of aggravated assault in violation of  
2 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree  
3 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or  
4 theft of a motor vehicle, in a case in which the juvenile has previously  
5 been adjudicated delinquent for an act, which if committed by an adult,  
6 would constitute unlawful taking of a motor vehicle or theft of a motor  
7 vehicle;

8 (3) An order to perform community service pursuant to paragraph  
9 (10) of subsection b. of this section for a period of at least 30 days, if  
10 the juvenile has been adjudicated delinquent for an act which, if  
11 committed by an adult, would constitute the fourth degree crime of  
12 unlawful taking of a motor vehicle in violation of subsection b. of  
13 N.J.S.2C:20-10;

14 (4) An order of incarceration for a term of the duration authorized  
15 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
16 which shall include a minimum term of 30 days during which the  
17 juvenile shall be ineligible for parole, if the juvenile has been  
18 adjudicated delinquent for an act which, if committed by an adult,  
19 would constitute the crime of unlawful taking of a motor vehicle in  
20 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
21 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
22 previously been adjudicated delinquent for an act which, if committed  
23 by an adult, would constitute either theft of a motor vehicle, the  
24 unlawful taking of a motor vehicle or eluding.

25 f. (1) The minimum terms of incarceration required pursuant to  
26 subsection e. of this section shall be imposed regardless of the weight  
27 or balance of factors set forth in this section or in section 25 of  
28 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those  
29 factors shall determine the length of the term of incarceration  
30 appropriate, if any, beyond any mandatory minimum term required  
31 pursuant to subsection e. of this section.

32 (2) When a court in a county that does not have a juvenile  
33 detention facility or a contractual relationship permitting incarceration  
34 pursuant to subsection c. of this section is required to impose a term  
35 of incarceration pursuant to subsection e. of this section, the court  
36 may, subject to limitations on commitment to State correctional  
37 facilities of juveniles who are under the age of 11 or developmentally  
38 disabled, set a term of incarceration consistent with subsection c.  
39 which shall be served in a State correctional facility. When a juvenile  
40 who because of age or developmental disability cannot be committed  
41 to a State correctional facility or cannot be incarcerated in a county  
42 facility, the court shall order a disposition appropriate as an alternative  
43 to any incarceration required pursuant to subsection e.

44 (3) For purposes of subsection e. of this section, in the event that  
45 a "boot camp" program for juvenile offenders should be developed and  
46 is available, a term of commitment to such a program shall be

1 considered a term of incarceration.

2 g. Whenever the court imposes a disposition upon an adjudicated  
3 delinquent which requires the juvenile to perform a community service,  
4 restitution, or to participate in any other program provided for in this  
5 section, the order shall include provisions which provide balanced  
6 attention to the protection of the community, accountability for  
7 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
8 dialogue<sup>1</sup> between the offender, victim and community and the  
9 development of competencies to enable the child to become a  
10 responsible and productive member of the community.

11 (cf: P.L.1997, c.81, s.11)

12

13 4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read  
14 as follows:

15 25. Incarceration--Aggravating and mitigating factors.

16 a. (1) Except as provided in subsections e. and f. of section 24 of  
17 P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is  
18 an appropriate disposition, the court shall consider the following  
19 aggravating circumstances:

20 (a) The fact that the nature and circumstances of the act, and the  
21 role of the juvenile therein, was committed in an especially heinous,  
22 cruel, or depraved manner;

23 (b) The fact that there was grave and serious harm inflicted on the  
24 victim and that based upon the juvenile's age or mental capacity the  
25 juvenile knew or reasonably should have known that the victim was  
26 particularly vulnerable or incapable of resistance due to advanced age,  
27 disability, ill-health, or extreme youth, or was for any other reason  
28 substantially incapable;

29 (c) The character and attitude of the juvenile indicate that the  
30 juvenile is likely to commit another delinquent or criminal act;

31 (d) The juvenile's prior record and the seriousness of any acts for  
32 which the juvenile has been adjudicated delinquent;

33 (e) The fact that the juvenile committed the act pursuant to an  
34 agreement that the juvenile either pay or be paid for the commission  
35 of the act and that the pecuniary incentive was beyond that inherent in  
36 the act itself;

37 (f) The fact that the juvenile committed the act against a policeman  
38 or other law enforcement officer, correctional employee or fireman,  
39 acting in the performance of his duties while in uniform or exhibiting  
40 evidence of his authority, or the juvenile committed the act because of  
41 the status of the victim as a public servant;

42 (g) The need for deterring the juvenile and others from violating  
43 the law;

44 (h) The fact that the juvenile knowingly conspired with others as  
45 an organizer, supervisor, or manager to commit continuing criminal  
46 activity in concert with two or more persons and the circumstances of

- 1 the crime show that he has knowingly devoted himself to criminal  
2 activity as part of an ongoing business activity;
- 3 (i) The fact that the juvenile on two separate occasions was  
4 adjudged a delinquent on the basis of acts which if committed by an  
5 adult would constitute crimes;
- 6 (j) The impact of the offense on the victim or victims;  
7 (k) The impact of the offense on the community; and  
8 (l) The threat to the safety of the public or any individual posed by  
9 the child.
- 10 (2) In determining whether incarceration is an appropriate  
11 disposition the court shall consider the following mitigating  
12 circumstances:
- 13 (a) The child is under the age of 14;
- 14 (b) The juvenile's conduct neither caused nor threatened serious  
15 harm;
- 16 (c) The juvenile did not contemplate that the juvenile's conduct  
17 would cause or threaten serious harm;
- 18 (d) The juvenile acted under a strong provocation;
- 19 (e) There were substantial grounds tending to excuse or justify the  
20 juvenile's conduct, though failing to establish a defense;
- 21 (f) The victim of the juvenile's conduct induced or facilitated its  
22 commission;
- 23 (g) The juvenile has compensated or will compensate the victim for  
24 the damage or injury that the victim has sustained, or will participate  
25 in a program of community service;
- 26 (h) The juvenile has no history of prior delinquency or criminal  
27 activity or has led a law-abiding life for a substantial period of time  
28 before the commission of the present act;
- 29 (i) The juvenile's conduct was the result of circumstances unlikely  
30 to recur;
- 31 (j) The character and attitude of the juvenile indicate that the  
32 juvenile is unlikely to commit another delinquent or criminal act;
- 33 (k) The juvenile is particularly likely to respond affirmatively to  
34 noncustodial treatment;
- 35 (l) The separation of the juvenile from the juvenile's family by  
36 incarceration of the juvenile would entail excessive hardship to the  
37 juvenile or the juvenile's family;
- 38 (m) The willingness of the juvenile to cooperate with law  
39 enforcement authorities;
- 40 (n) The conduct of the juvenile was substantially influenced by  
41 another person more mature than the juvenile.
- 42 b. (1) There shall be a presumption of nonincarceration for any  
43 crime or offense of the fourth degree or less committed by a juvenile  
44 who has not previously been adjudicated delinquent or convicted of a  
45 crime or offense.
- 46 (2) Where incarceration is imposed, the court shall consider the

1 juvenile's eligibility for release under the law governing parole.

2 c. The following juveniles shall not be committed to a State  
3 juvenile facility:

4 (1) Juveniles age 11 or under unless adjudicated delinquent for the  
5 crime of arson or a crime which, if committed by an adult, would be  
6 a crime of the first or second degree; and

7 (2) Juveniles who are developmentally disabled as defined in  
8 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82  
9 (C.30:6D-3).

10 d. (1) When the court determines that, based on the consideration  
11 of all the factors set forth in subsection a., the juvenile shall be  
12 incarcerated, unless it orders the incarceration pursuant to subsection  
13 c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the  
14 record the reasons for imposing incarceration, including any findings  
15 with regard to these factors, and commit the juvenile to the custody of  
16 the Juvenile Justice Commission which shall provide for the juvenile's  
17 placement in a suitable juvenile facility pursuant to the conditions set  
18 forth in this subsection and for terms not to exceed the maximum  
19 terms as provided herein for what would constitute the following  
20 crimes if committed by an adult:

- |    |   |            |
|----|---|------------|
| 21 | (a) Murder under 2C:11-3a(1) or (2) ..... | 20 years   |
| 22 | (b) Murder under 2C:11-3a(3) .....        | 10 years   |
| 23 | (c) Crime of the first degree,            |            |
| 24 | except murder .....                       | .. 4 years |
| 25 | (d) Crime of the second degree ... ..     | 3 years    |
| 26 | (e) Crime of the third degree .....       | 2 years    |
| 27 | (f) Crime of the fourth degree .....      | 1 year     |
| 28 | (g) Disorderly persons offense .....      | 6 months   |

29 (2) Except as provided in subsection e. of section 24 of P.L.1982,  
30 c.77 (C.2A:4A-43), the period of confinement shall continue until the  
31 appropriate paroling authority determines that such a person should be  
32 paroled; except that in no case shall the period of confinement and  
33 parole exceed the maximum provided by law for such offense.  
34 However, if a juvenile is approved for parole prior to serving one-third  
35 of any term imposed for any crime of the first, second or third degree,  
36 including any extended term imposed pursuant to paragraph (3) or (4)  
37 of this subsection, or one-fourth of any term imposed for any other  
38 crime the granting of parole shall be subject to approval of the  
39 sentencing court. Prior to approving parole, the court shall give the  
40 prosecuting attorney notice and an opportunity to be heard. If the  
41 court denies the parole of a juvenile pursuant to this paragraph it shall  
42 state its reasons in writing and notify the parole board, the juvenile and  
43 the juvenile's attorney. The court shall have 30 days from the date of  
44 notice of the pending parole to exercise the power granted under this  
45 paragraph. If the court does not respond within that time period, the  
46 parole will be deemed approved.

1 Any juvenile committed under this act who is released on parole  
2 prior to the expiration of the juvenile's maximum term may be retained  
3 under parole supervision for a period not exceeding the unserved  
4 portion of the term and any term of post-incarceration supervision  
5 imposed pursuant to paragraph (5) of this subsection. The Parole  
6 Board, the juvenile, the juvenile's attorney, the juvenile's parent or  
7 guardian or, with leave of the court any other interested party, may  
8 make a motion to the court, with notice to the prosecuting attorney,  
9 for the return of the child from a juvenile facility prior to his parole  
10 and provide for an alternative disposition which would not exceed the  
11 duration of the original time to be served in the facility. Nothing  
12 contained in this paragraph shall be construed to limit the authority of  
13 the Parole Board as set forth in section 15 of P.L.1979, c.441  
14 (C.30:4-123.59).

15 (3) Upon application by the prosecutor, the court may sentence a  
16 juvenile who has been convicted of a crime of the first, second, or  
17 third degree if committed by an adult, to an extended term of  
18 incarceration beyond the maximum set forth in paragraph (1) of this  
19 subsection, if it finds that the juvenile was adjudged delinquent on at  
20 least two separate occasions, for offenses which, if committed by an  
21 adult, would constitute a crime of the first or second degree, and was  
22 previously committed to an adult or juvenile facility. The extended  
23 term shall not exceed five additional years for an act which would  
24 constitute murder and shall not exceed two additional years for all  
25 other crimes of the first degree or second degree, if committed by an  
26 adult, and one additional year for a crime of the third degree, if  
27 committed by an adult.

28 (4) Upon application by the prosecutor, when a juvenile is before  
29 the court at one time for disposition of three or more unrelated  
30 offenses which, if committed by an adult, would constitute crimes of  
31 the first, second or third degree and which are not part of the same  
32 transaction, the court may sentence the juvenile to an extended term  
33 of incarceration not to exceed the maximum of the permissible term  
34 for the most serious offense for which the juvenile has been  
35 adjudicated plus two additional years.

36 (5) Every disposition that includes a term of incarceration shall  
37 include a term of post-incarceration supervision equivalent to  
38 one-third of the term of incarceration imposed. During the term of  
39 post-incarceration supervision the juvenile shall remain in the  
40 community and in the legal custody of the Juvenile Justice Commission  
41 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)  
42 in accordance with the rules of the parole board, unless the  
43 appropriate parole board panel determines that post-incarceration  
44 supervision should be revoked and the juvenile returned to custody in  
45 accordance with the procedures and standards set forth in sections 15  
46 through 21 of P.L.1979, c.441 (C.30:4-123.59 through

1 C.30:4-123.65). The term of post-incarceration supervision shall  
2 commence upon release from incarceration or parole, whichever is  
3 later. A term of post-incarceration supervision imposed pursuant to  
4 this paragraph may be terminated by the appropriate parole board  
5 panel if the juvenile has made a satisfactory adjustment in the  
6 community while on parole or under such supervision, if continued  
7 supervision is not required and if the juvenile has made full payment  
8 of any fine or restitution.

9 (cf: P.L1995, c.280, s.11)

10

11 5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read  
12 as follows:

13 5. Court intake service conference. a. Where the juvenile is  
14 diverted to a court intake service conference, notices of the conference  
15 shall be sent to the juvenile and his parents or guardian and to the  
16 complainant or victim. The parties may be requested to bring to the  
17 conference all pertinent documents in their possession, including  
18 medical, social, and school records.

19 b. In determining the appropriate resolution of a complaint, the  
20 following factors shall be considered by court intake services:

21 (1) The seriousness of the alleged offense or conduct and the  
22 circumstances in which it occurred;

23 (2) The age and maturity of the juvenile;

24 (3) The risk that the juvenile presents as a substantial danger to  
25 others;

26 (4) The family circumstances, including any history of drugs,  
27 alcohol abuse or child abuse on the part of the juvenile, his parents or  
28 guardian;

29 (5) The nature and number of contacts with court intake services  
30 and the court that the juvenile and his family have had;

31 (6) The outcome of those contacts, including the services to which  
32 the juvenile or family have been referred and the results of those  
33 referrals;

34 (7) The availability of appropriate services;

35 (8) Any recommendations expressed by the victim or complainant,  
36 or arresting officer, as to how the case should be disposed; [and]

37 (9) Whether diversion can be accomplished in a manner that holds  
38 the juvenile accountable for the conduct;

39 (10) The impact of the offense on the victim or victims; and

40 (11) The impact of the offense on the community.

41 c. Each juvenile shall be reviewed without a presumption of guilt.  
42 The intake conference shall be concerned primarily with providing  
43 balanced attention to the protection of the community, the imposition  
44 of accountability for offenses committed, fostering<sup>1</sup> [reconciliation]  
45 interaction and dialogue<sup>1</sup> between the offender, victim and community  
46 and the development of competencies to enable the juvenile offender

1 to become a responsible and productive member of the community. In  
2 addition, the conference shall be concerned with preventing more  
3 serious future misconduct by the juvenile offender by obtaining the  
4 cooperation of the juvenile and his parents or guardian in complying  
5 with its recommendations. The court may schedule a hearing where  
6 the complainant or victim objects to the recommendations from the  
7 conference.

8 d. The resolution from the conference may include but shall not be  
9 limited to counseling, restitution, referral to appropriate community  
10 agencies, or any other community work programs or other conditions  
11 consistent with diversion that aids in providing balanced attention to  
12 the protection of the community, the imposition of accountability for  
13 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
14 dialogue<sup>1</sup> between the offender, victim and community and the  
15 development of competencies to enable the juvenile offender to  
16 become a responsible and productive member of the community [the  
17 juvenile's rehabilitation], provided that:

18 (1) Obligations imposed as a result of the intake conference shall  
19 be an order of the court approved by the presiding judge and shall be  
20 set forth in writing and may not exceed six months. The juvenile and  
21 his or her parents or guardian shall receive copies, as shall any  
22 agencies providing services under the agreement;

23 (2) The court intake service worker shall inform the juvenile and  
24 the juvenile's parents or guardian in writing of their right to object at  
25 any time prior to their written agreement to the facts or terms of the  
26 intake conference decision, and if objections arise, the intake service  
27 worker may alter the terms of the proposed agreement or refer the  
28 matter to the presiding judge who shall determine if the complaint will  
29 be heard in court or returned to intake conference for further action;

30 (3) Written agreement pursuant to intake conferences may be  
31 terminated at any time upon the request of the juvenile and the matter  
32 referred to the presiding judge;

33 (4) The court intake services conference may not order the  
34 confinement of a juvenile, place a juvenile on probation, or remove a  
35 juvenile from his family as a disposition; and

36 (5) If, at any time during the diversion period, the court intake  
37 service worker determines that the obligations imposed under the  
38 written agreement are not being met, the intake worker shall notify the  
39 presiding judge in writing. In the case of failure to comply with the  
40 obligations imposed under the agreement by the parents or guardian,  
41 the court may proceed against such persons for enforcement of the  
42 agreement. In the case of failure to comply by the juvenile, the matter  
43 shall be referred to the court for action.

44 e. At the end of the diversion period a second court intake services  
45 conference may be held with all parties to the written agreement  
46 present to ascertain if the terms of the agreement have been fulfilled.

1 If all conditions have been met, the intake worker shall so inform the  
2 presiding judge in writing who shall order the complaint dismissed. A  
3 copy of the order dismissing the complaint shall be sent to the juvenile.  
4 If the conditions of the written agreement have not been met, the  
5 intake worker may refer the matter to the presiding judge who shall  
6 determine if the complaint will be heard in court or returned to court  
7 intake services for further action. Based on the evaluations required  
8 under this paragraph, the intake conference agreement may be  
9 extended beyond the six-month maximum if all parties agree. In no  
10 case shall an intake conference agreement exceed nine months.

11 f. All proceedings before the conference are confidential and they  
12 shall receive only those records which in the court's judgment are  
13 necessary to aid in making a recommendation.

14 (cf: P.L.1995, c.280, s.16)

15

16 6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read  
17 as follows:

18 6. a. The court may appoint one or more juvenile conference  
19 committees for each county or municipality to hear and decide matters  
20 referred to it by the court.

21 b. The method of appointment and terms of membership to the  
22 committees shall be made pursuant to guidelines developed by the  
23 Supreme Court.

24 c. Where the juvenile is diverted to a juvenile conference  
25 committee, notices of the conference shall be sent to the juvenile and  
26 his parents or guardian and to the complainant or victim. The parties  
27 may be requested to bring to the conference all pertinent documents  
28 in their possession, including medical, social, and school records.

29 d. The committee shall serve under the authority of the court in  
30 hearing and deciding such matters involving alleged juvenile offenders  
31 as are specifically referred to it by the court. Each juvenile shall be  
32 reviewed without a presumption of guilt. The committee shall be  
33 concerned primarily with providing balanced attention to the  
34 protection of the community, the imposition of accountability for  
35 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
36 dialogue<sup>1</sup> between the offender, victim and community and the  
37 development of competencies to enable the juvenile offender to  
38 become a responsible and productive member of the community. In  
39 addition, the committee shall be concerned with preventing more  
40 serious future misconduct by the juvenile offender by obtaining the  
41 cooperation of the juvenile and his parents or guardian in complying  
42 with its recommendations. The court may schedule a hearing where  
43 the complainant or victim objects to the recommendations from the  
44 conference.

45 e. The committee shall provide for the resolution of the matter and  
46 shall supervise and follow up compliance with its recommendations in  
47 the same manner and under the same limitations and with the same

1 sanctions as the court intake service conference.

2 f. All proceedings before the juvenile conference committee are  
3 confidential and include only those records which in the court's  
4 judgment are necessary to aid in making a recommendation.

5 (cf: P.L.1982, c.81, s.6)

6

7 7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to  
8 read as follows:

9 1. The Legislature finds and declares:

10 a. The public safety requires reform of the juvenile justice system;

11 b. Juvenile arrests for murder, robbery, aggravated sexual assault,  
12 sexual assault and aggravated assault have increased 38 percent  
13 between 1988 and 1993 and New Jersey ranks near the top nationally  
14 in the number of juvenile arrests for serious violent crimes;

15 c. Juvenile crime has become a leading cause of injury and death  
16 among young people;

17 d. Currently, preventive, deterrent and rehabilitative services and  
18 sanctions for juveniles are the responsibility of no less than three State  
19 departments: The Department of Law and Public Safety deals with  
20 county prosecutors and local police and implements prevention  
21 programs; the Department of Corrections operates the New Jersey  
22 Training School for Boys and the Juvenile Medium Security Facility,  
23 and its Bureau of Parole supervises juvenile parolees; and the  
24 Department of Human Services operates residential and day programs  
25 in facilities for juveniles adjudicated delinquent;

26 e. The division of responsibility for the juvenile justice population  
27 and the limitations on resources available to meet ever-increasing  
28 demands for services provided by the Departments of Human Services  
29 and Corrections have prevented the departments from maximizing  
30 efforts to meet the special needs of the juvenile justice population;

31 f. The juvenile justice system lacks services and sanctions short of  
32 incarceration, particularly in urban areas and for that reason, many  
33 juveniles are not held accountable until they have committed a series  
34 of increasingly serious criminal acts;

35 g. The special needs of juveniles can be addressed through services  
36 and sanctions provided at the county and local level;

37 h. The need to protect the public from criminal acts by juvenile  
38 offenders requires a comprehensive program and concerted action of  
39 governmental agencies and private organizations at the State, county  
40 and local level that permit effective response and avoid waste of scarce  
41 resources;

42 i. (1) The comprehensive program should provide a range of  
43 services and sanctions for juveniles sufficient to protect the public  
44 through prevention; early intervention; and a range of meaningful  
45 sanctions that ensure accountability, provide training, education,  
46 treatment and, when necessary, confinement followed by community

1 supervision that is adequate to protect the public and promote  
2 successful reintegration into the community;

3 (2) Consistent with the need to protect the public, services and  
4 sanctions for juveniles shall provide balanced attention to the  
5 protection of the community, the imposition of accountability for  
6 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
7 dialogue<sup>1</sup> between the offender, victim and community and the  
8 development of competencies to enable juvenile offenders to become  
9 responsible and productive members of the community.

10 j. The most efficient and effective use of available resources  
11 requires fixing responsibility for the comprehensive program in a single  
12 State agency and providing incentives to encourage the development  
13 and provision of appropriate services and sanctions at the county and  
14 local level; and

15 k. It is, therefore, necessary to establish a Juvenile Justice  
16 Commission responsible for operating State services and sanctions for  
17 juveniles involved in the juvenile justice system and responsible for  
18 developing a Statewide plan for effective provision of juvenile justice  
19 services and sanctions at the State, county and local level; to establish  
20 a State/Community Partnership Grant Program through which the  
21 State will provide incentives to county and local governments to  
22 encourage the provision of services and sanctions for juveniles  
23 adjudicated or charged as delinquent and programs for the prevention  
24 of juvenile delinquency, and to establish county youth services  
25 commissions responsible for planning and implementing the  
26 Partnership at the local level.

27 (cf: P.L.1995,c.284,s.1)

28

29 8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to  
30 read as follows:

31 5. The advisory council shall have the following functions, powers,  
32 duties and authority:

33 a. To meet at least quarterly and at such other times as designated  
34 by the executive director or the chair of the advisory council;

35 b. To establish any committees to carry out its responsibilities;  
36 [and]

37 c. To advise the executive director regarding the implementation  
38 of the recommendations included in the final report submitted pursuant  
39 to Executive Order 10 of 1994; the master plan submitted pursuant to  
40 section 2 of P.L.1995, c.284 (C.52:17B-170); the integration,  
41 coordination and collaboration of programs, services and sanctions for  
42 juveniles; and the actions to be taken to increase public awareness of  
43 the juvenile justice system and its needs; and

44 d. To ensure the programs, services and sanctions for juvenile  
45 offenders are striving to provide balanced attention to the protection  
46 of the community, imposing accountability for offenses committed,  
47 fostering <sup>1</sup>[reconciliation] interaction and dialogue<sup>1</sup> between the

1 offender, victim and community and developing competencies in the  
2 juveniles to enable them to become responsible and productive  
3 members of the community.

4 (cf: P.L.1995, c.284, s.5)

5

6 9. This act shall take effect on the first day of the seventh month  
7 after the date of enactment, but the Director of the Administrative  
8 Office of the Courts and the Juvenile Justice Commission shall take  
9 such anticipatory administrative action in advance as shall be necessary  
10 for the implementation of the act.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 1914**

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 6, 2001

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 1914 (1R).

This bill directs the Juvenile Justice Commission (JJC) in the Department of Law and Public Safety and the Administrative Office of the Courts, Superior Court Family Division, to incorporate into the juvenile justice system the principles of balanced and restorative justice (BARJ).

The concept of restorative justice holds that an offender incurs an obligation to restore the victim of the offense and, by extension, the community to the state of well-being that existed prior to the offense. The principle of balance in connection with restorative justice suggests that the juvenile justice system should give equal weight to ensuring community safety, holding offenders accountable to victims, fostering reconciliation between the offender, victim and community and providing competency development for offenders in the system so they can pursue legitimate endeavors after release.

While some restorative justice concepts are implemented in the State juvenile system, this bill dictates that restorative justice principals be incorporated into the entire system. The bill includes the responsibility of adhering to BARJ principles in the mission of the JJC. In addition, the bill incorporates BARJ principles into the juvenile justice code, including: the stated purpose of the code, predispositional evaluations and the disposition of delinquency cases. Family court juvenile intake service conferences would be required to use BARJ principles when determining the resolution of complaints. Juvenile conference committees would be required to consider BARJ principles in the resolution of matters in addition to solely focusing on the juvenile's future behavior.

The bill also requires that the impact of the offense on the victim and the community and whether the child poses a threat to the safety of the public be considered as aggravating factors when determining resolutions to juvenile cases.

According to the bill's sponsors, BARJ principles are being implemented in states around the nation. They are credited with making victims of crime feel they have more power in the justice

system; enhancing rehabilitation; sensitizing the offenders to the effects of their acts; providing for reconciliation among offenders, victims and community; and reducing recidivism rates.

This bill is identical to Senate Bill No. 1440, which also was reported by the committee on this date.

# **SENATE, No. 1440**

## **STATE OF NEW JERSEY**

### **209th LEGISLATURE**

INTRODUCED JUNE 15, 2000

**Sponsored by:**

**Senator LOUIS F. KOSCO**

**District 38 (Bergen)**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**Co-Sponsored by:**

**Senators Kyrillos, Girgenti, Furnari and Robertson**

**SYNOPSIS**

Incorporates balanced and restorative justice principles in juvenile justice system.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/7/2001)**

S1440 KOSCO, ALLEN

2

1 AN ACT incorporating balanced and restorative justice principles into  
2 the juvenile justice system and amending P.L.1982, c.77, P.L.1982,  
3 c.81 and P.L.1995, c.284.

4

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

7

8 1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to read  
9 as follows:

10 2. Purposes. This act shall be construed so as to effectuate the  
11 following purposes:

12 a. To preserve the unity of the family whenever possible and to  
13 provide for the care, protection, and wholesome mental and physical  
14 development of juveniles coming within the provisions of this act;

15 b. Consistent with the protection of the public interest, to remove  
16 from children committing delinquent acts certain statutory  
17 consequences of criminal behavior, and to substitute therefor an  
18 adequate program of supervision, care and rehabilitation, and a range  
19 of sanctions designed to promote accountability and protect the public;

20 c. To separate juveniles from the family environment only when  
21 necessary for their health, safety or welfare or in the interests of public  
22 safety;

23 d. To secure for each child coming under the jurisdiction of the  
24 court such care, guidance and control, preferably in his own home, as  
25 will conduce to the child's welfare and the best interests of the State;  
26 and when such child is removed from his own family, to secure for him  
27 custody, care and discipline as nearly as possible equivalent to that  
28 which should have been given by his parents;

29 e. To insure that children under the jurisdiction of the court are  
30 wards of the State, subject to the discipline and entitled to the  
31 protection of the State, which may intervene to safeguard them from  
32 neglect or injury and to enforce the legal obligations due to them and  
33 from them; and

34 f. Consistent with the protection of the public interest, to insure  
35 that any services and sanctions for juveniles provide balanced attention  
36 to the protection of the community, the imposition of accountability  
37 for offenses committed, fostering reconciliation between the offender,  
38 victim and community and the development of competencies to enable  
39 children to become responsible and productive members of the  
40 community.

41 (cf: P.L.1995, c.280, 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.**

1       2. Section 23 of P.L.1982, c.77(C.2A:4A-42) is amended to read  
2 as follows:

3       23. Predispositional evaluation. a. Before making a disposition,  
4 the court may refer the juvenile to an appropriate individual, agency  
5 or institution for examination and evaluation.

6       b. In arriving at a disposition, the court may also consult with  
7 such individuals and agencies as may be appropriate to the juvenile's  
8 situation, including the county probation division, the Division of  
9 Youth and Family Services, the Juvenile Justice Commission  
10 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),  
11 the county youth services commission, school personnel, clergy, law  
12 enforcement authorities, family members and other interested and  
13 knowledgeable parties. In so doing, the court may convene a  
14 predispositional conference to discuss and recommend disposition.

15       c. The predisposition report ordered pursuant to the Rules of  
16 Court may include a statement by the victim of the offense for which  
17 the juvenile has been adjudicated delinquent or by the nearest relative  
18 of a homicide victim. The statement may include the nature and extent  
19 of any physical harm or psychological or emotional harm or trauma  
20 suffered by the victim, the extent of any loss to include loss of earnings  
21 or ability to work suffered by the victim and the effect of the crime  
22 upon the victim's family. The probation division shall notify the victim  
23 or nearest relative of a homicide victim of his right to make a  
24 statement for inclusion in the predisposition report if the victim or  
25 relative so desires. Any statement shall be made within 20 days of  
26 notification by the probation division. The report shall further include  
27 information on the financial resources of the juvenile. This  
28 information shall be made available on request to the Victims of Crime  
29 Compensation Board established pursuant to section 3 of P.L.1971,  
30 c.317 (C.52:4B-3) or to any officer authorized under section 3 of  
31 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,  
32 restitution or fine. Any predisposition report prepared pursuant to  
33 this section shall include an analysis of the circumstances attending the  
34 commission of the act, the impact of the offense on the community, the  
35 offender's history of delinquency or criminality, family situation,  
36 financial resources, the financial resources of the juvenile's parent or  
37 guardian, and information concerning the parent or guardian's exercise  
38 of supervision and control relevant to commission of the act.

39       Information concerning financial resources included in the report  
40 shall be made available to any officer authorized to collect payment on  
41 any assessment, restitution or fine.

42 (cf: P.L.1995, c.280, s.9)

43

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

46       24. Disposition of delinquency cases. a. In determining the

1 appropriate disposition for a juvenile adjudicated delinquent the court  
2 shall weigh the following factors:

- 3 (1) The nature and circumstances of the offense;
- 4 (2) The degree of injury to persons or damage to property caused  
5 by the juvenile's offense;
- 6 (3) The juvenile's age, previous record, prior social service  
7 received and out-of-home placement history;
- 8 (4) Whether the disposition supports family strength, responsibility  
9 and unity and the well-being and physical safety of the juvenile;
- 10 (5) Whether the disposition provides for reasonable participation  
11 by the child's parent, guardian, or custodian, provided, however, that  
12 the failure of a parent or parents to cooperate in the disposition shall  
13 not be weighed against the juvenile in arriving at an appropriate  
14 disposition;
- 15 (6) Whether the disposition recognizes and treats the unique  
16 physical, psychological and social characteristics and needs of the  
17 child;
- 18 (7) Whether the disposition contributes to the developmental needs  
19 of the child, including the academic and social needs of the child where  
20 the child has mental retardation or learning disabilities; [and]
- 21 (8) Any other circumstances related to the offense and the  
22 juvenile's social history as deemed appropriate by the court;
- 23 (9) The impact of the offense on the victim or victims;
- 24 (10) The impact of the offense on the community; and
- 25 (11) The threat to the safety of the public or any individual posed  
26 by the child.

27 b. If a juvenile is adjudged delinquent, and except to the extent that  
28 an additional specific disposition is required pursuant to subsection e.  
29 or f. of this section, the court may order incarceration pursuant to  
30 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
31 following dispositions:

- 32 (1) Adjourn formal entry of disposition of the case for a period not  
33 to exceed 12 months for the purpose of determining whether the  
34 juvenile makes a satisfactory adjustment, and if during the period of  
35 continuance the juvenile makes such an adjustment, dismiss the  
36 complaint; provided that if the court adjourns formal entry of  
37 disposition of delinquency for a violation of an offense defined in  
38 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall  
39 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may  
40 waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
41 juveniles adjudicated delinquent;
- 42 (2) Release the juvenile to the supervision of the juvenile's parent  
43 or guardian;
- 44 (3) Place the juvenile on probation to the chief probation officer of  
45 the county or to any other suitable person who agrees to accept the  
46 duty of probation supervision for a period not to exceed three years

1 upon such written conditions as the court deems will aid rehabilitation  
2 of the juvenile;

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

5 (5) Place the juvenile under the care of the Department of Human  
6 Services under the responsibility of the Division of Youth and Family  
7 Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the  
8 purpose of providing services in or out of the home. Within 14 days,  
9 unless for good cause shown, but not later than 30 days, the  
10 Department of Human Services shall submit to the court a service  
11 plan, which shall be presumed valid, detailing the specifics of any  
12 disposition order. The plan shall be developed within the limits of  
13 fiscal and other resources available to the department. If the court  
14 determines that the service plan is inappropriate, given existing  
15 resources, the department may request a hearing on that  
16 determination;

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

22 (7) Commit the juvenile, pursuant to applicable laws and the Rules  
23 of Court governing civil commitment, to the Department of Human  
24 Services under the responsibility of the Division of Mental Health  
25 Services for the purpose of placement in a suitable public or private  
26 hospital or other residential facility for the treatment of persons who  
27 are mentally ill, on the ground that the juvenile is in need of  
28 involuntary commitment;

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

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

1 have the means to make restitution and could not reasonably acquire  
2 the means to pay restitution;

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

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

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

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

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

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

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

43 (b) Place the juvenile under the custody of the Juvenile Justice  
44 Commission established pursuant to section 2 of P.L.1995, c.284  
45 (C.52:17B-170) for placement with any private group home or private  
46 residential facility with which the commission has entered into a

1 purchase of service contract;

2 (17) Instead of or in addition to any disposition made according to  
3 this section, the court may postpone, suspend, or revoke for a period  
4 not to exceed two years the driver's license, registration certificate, or  
5 both of any juvenile who used a motor vehicle in the course of  
6 committing an act for which the juvenile was adjudicated delinquent.  
7 In imposing this disposition and in deciding the duration of the  
8 postponement, suspension, or revocation, the court shall consider the  
9 severity of the delinquent act and the potential effect of the loss of  
10 driving privileges on the juvenile's ability to be rehabilitated. Any  
11 postponement, suspension, or revocation shall be imposed  
12 consecutively with any custodial commitment;

13 (18) Order that the juvenile satisfy any other conditions reasonably  
14 related to the rehabilitation of the juvenile;

15 (19) Order a parent or guardian who has failed or neglected to  
16 exercise reasonable supervision or control of a juvenile who has been  
17 adjudicated delinquent to make restitution to any person or entity who  
18 has suffered a loss as a result of that offense. The court may  
19 determine the reasonable amount, terms and conditions of restitution;  
20 or

21 (20) Place the juvenile, if eligible, in an appropriate juvenile  
22 offender program established pursuant to P.L.1997, c.81 (C.30:8-61  
23 et al.).

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

40 (2) No juvenile may be incarcerated in any county detention facility  
41 unless the county has entered into an agreement with the Juvenile  
42 Justice Commission concerning the use of the facility for sentenced  
43 juveniles. Upon agreement with the county, the Juvenile Justice  
44 Commission shall certify detention facilities which may receive  
45 juveniles sentenced pursuant to this subsection and shall specify the  
46 capacity of the facility that may be made available to receive such

1 juveniles; provided, however, that in no event shall the number of  
2 juveniles incarcerated pursuant to this subsection exceed 50% of the  
3 maximum capacity of the facility.

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

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

9 (b) Incarceration of the juvenile is consistent with the goals of  
10 public safety, accountability and rehabilitation and the court is clearly  
11 convinced that the aggravating factors substantially outweigh the  
12 mitigating factors as set forth in section 25 of P.L.1982, c.77  
13 (C.2A:4A-44); and

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

16 (4) If as a result of incarceration of adjudicated juveniles pursuant  
17 to this subsection, a county is required to transport a predisposition  
18 juvenile to a juvenile detention facility in another county, the costs of  
19 such transportation shall be borne by the Juvenile Justice Commission.

20 d. Whenever the court imposes a disposition upon an adjudicated  
21 delinquent which requires the juvenile to perform a community service,  
22 restitution, or to participate in any other program provided for in this  
23 section other than subsection c., the duration of the juvenile's  
24 mandatory participation in such alternative programs shall extend for  
25 a period consistent with the program goal for the juvenile and shall in  
26 no event exceed one year beyond the maximum duration permissible  
27 for the delinquent if the juvenile had been committed to a term of  
28 incarceration.

29 e. In addition to any disposition the court may impose pursuant to  
30 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
31 following orders shall be included in dispositions of the adjudications  
32 set forth below:

33 (1) An order of incarceration for a term of the duration authorized  
34 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
35 or an order to perform community service pursuant to paragraph (10)  
36 of subsection b. of this section for a period of at least 60 days, if the  
37 juvenile has been adjudicated delinquent for an act which, if committed  
38 by an adult, would constitute the crime of theft of a motor vehicle, or  
39 the crime of unlawful taking of a motor vehicle in violation of  
40 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding  
41 in violation of subsection b. of N.J.S.2C:29-2;

42 (2) An order of incarceration for a term of the duration authorized  
43 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
44 which shall include a minimum term of 60 days during which the  
45 juvenile shall be ineligible for parole, if the juvenile has been  
46 adjudicated delinquent for an act which, if committed by an adult,

1 would constitute the crime of aggravated assault in violation of  
2 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree  
3 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or  
4 theft of a motor vehicle, in a case in which the juvenile has previously  
5 been adjudicated delinquent for an act, which if committed by an adult,  
6 would constitute unlawful taking of a motor vehicle or theft of a motor  
7 vehicle;

8 (3) An order to perform community service pursuant to paragraph  
9 (10) of subsection b. of this section for a period of at least 30 days, if  
10 the juvenile has been adjudicated delinquent for an act which, if  
11 committed by an adult, would constitute the fourth degree crime of  
12 unlawful taking of a motor vehicle in violation of subsection b. of  
13 N.J.S.2C:20-10;

14 (4) An order of incarceration for a term of the duration authorized  
15 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
16 which shall include a minimum term of 30 days during which the  
17 juvenile shall be ineligible for parole, if the juvenile has been  
18 adjudicated delinquent for an act which, if committed by an adult,  
19 would constitute the crime of unlawful taking of a motor vehicle in  
20 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
21 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
22 previously been adjudicated delinquent for an act which, if committed  
23 by an adult, would constitute either theft of a motor vehicle, the  
24 unlawful taking of a motor vehicle or eluding.

25 f. (1) The minimum terms of incarceration required pursuant to  
26 subsection e. of this section shall be imposed regardless of the weight  
27 or balance of factors set forth in this section or in section 25 of  
28 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those  
29 factors shall determine the length of the term of incarceration  
30 appropriate, if any, beyond any mandatory minimum term required  
31 pursuant to subsection e. of this section.

32 (2) When a court in a county that does not have a juvenile  
33 detention facility or a contractual relationship permitting incarceration  
34 pursuant to subsection c. of this section is required to impose a term  
35 of incarceration pursuant to subsection e. of this section, the court  
36 may, subject to limitations on commitment to State correctional  
37 facilities of juveniles who are under the age of 11 or developmentally  
38 disabled, set a term of incarceration consistent with subsection c.  
39 which shall be served in a State correctional facility. When a juvenile  
40 who because of age or developmental disability cannot be committed  
41 to a State correctional facility or cannot be incarcerated in a county  
42 facility, the court shall order a disposition appropriate as an alternative  
43 to any incarceration required pursuant to subsection e.

44 (3) For purposes of subsection e. of this section, in the event that  
45 a "boot camp" program for juvenile offenders should be developed and  
46 is available, a term of commitment to such a program shall be

1 considered a term of incarceration.

2 g. Whenever the court imposes a disposition upon an adjudicated  
3 delinquent which requires the juvenile to perform a community service,  
4 restitution, or to participate in any other program provided for in this  
5 section, the order shall include provisions which provide balanced  
6 attention to the protection of the community, accountability for  
7 offenses committed, fostering reconciliation between the offender,  
8 victim and community and the development of competencies to enable  
9 the child to become a responsible and productive member of the  
10 community.

11 (cf: P.L.1997, c.81, s.11)

12

13 4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read  
14 as follows:

15 25. Incarceration--Aggravating and mitigating factors.

16 a. (1) Except as provided in subsections e. and f. of section 24 of  
17 P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is  
18 an appropriate disposition, the court shall consider the following  
19 aggravating circumstances:

20 (a) The fact that the nature and circumstances of the act, and the  
21 role of the juvenile therein, was committed in an especially heinous,  
22 cruel, or depraved manner;

23 (b) The fact that there was grave and serious harm inflicted on the  
24 victim and that based upon the juvenile's age or mental capacity the  
25 juvenile knew or reasonably should have known that the victim was  
26 particularly vulnerable or incapable of resistance due to advanced age,  
27 disability, ill-health, or extreme youth, or was for any other reason  
28 substantially incapable;

29 (c) The character and attitude of the juvenile indicate that the  
30 juvenile is likely to commit another delinquent or criminal act;

31 (d) The juvenile's prior record and the seriousness of any acts for  
32 which the juvenile has been adjudicated delinquent;

33 (e) The fact that the juvenile committed the act pursuant to an  
34 agreement that the juvenile either pay or be paid for the commission  
35 of the act and that the pecuniary incentive was beyond that inherent in  
36 the act itself;

37 (f) The fact that the juvenile committed the act against a policeman  
38 or other law enforcement officer, correctional employee or fireman,  
39 acting in the performance of his duties while in uniform or exhibiting  
40 evidence of his authority, or the juvenile committed the act because of  
41 the status of the victim as a public servant;

42 (g) The need for deterring the juvenile and others from violating  
43 the law;

44 (h) The fact that the juvenile knowingly conspired with others as  
45 an organizer, supervisor, or manager to commit continuing criminal  
46 activity in concert with two or more persons and the circumstances of

- 1 the crime show that he has knowingly devoted himself to criminal  
2 activity as part of an ongoing business activity;
- 3 (i) The fact that the juvenile on two separate occasions was  
4 adjudged a delinquent on the basis of acts which if committed by an  
5 adult would constitute crimes;
- 6 (j) The impact of the offense on the victim or victims;  
7 (k) The impact of the offense on the community; and  
8 (l) The threat to the safety of the public or any individual posed by  
9 the child.
- 10 (2) In determining whether incarceration is an appropriate  
11 disposition the court shall consider the following mitigating  
12 circumstances:
- 13 (a) The child is under the age of 14;
- 14 (b) The juvenile's conduct neither caused nor threatened serious  
15 harm;
- 16 (c) The juvenile did not contemplate that the juvenile's conduct  
17 would cause or threaten serious harm;
- 18 (d) The juvenile acted under a strong provocation;
- 19 (e) There were substantial grounds tending to excuse or justify the  
20 juvenile's conduct, though failing to establish a defense;
- 21 (f) The victim of the juvenile's conduct induced or facilitated its  
22 commission;
- 23 (g) The juvenile has compensated or will compensate the victim for  
24 the damage or injury that the victim has sustained, or will participate  
25 in a program of community service;
- 26 (h) The juvenile has no history of prior delinquency or criminal  
27 activity or has led a law-abiding life for a substantial period of time  
28 before the commission of the present act;
- 29 (i) The juvenile's conduct was the result of circumstances unlikely  
30 to recur;
- 31 (j) The character and attitude of the juvenile indicate that the  
32 juvenile is unlikely to commit another delinquent or criminal act;
- 33 (k) The juvenile is particularly likely to respond affirmatively to  
34 noncustodial treatment;
- 35 (l) The separation of the juvenile from the juvenile's family by  
36 incarceration of the juvenile would entail excessive hardship to the  
37 juvenile or the juvenile's family;
- 38 (m) The willingness of the juvenile to cooperate with law  
39 enforcement authorities;
- 40 (n) The conduct of the juvenile was substantially influenced by  
41 another person more mature than the juvenile.
- 42 b. (1) There shall be a presumption of nonincarceration for any  
43 crime or offense of the fourth degree or less committed by a juvenile  
44 who has not previously been adjudicated delinquent or convicted of a  
45 crime or offense.
- 46 (2) Where incarceration is imposed, the court shall consider the

1 juvenile's eligibility for release under the law governing parole.

2 c. The following juveniles shall not be committed to a State  
3 juvenile facility:

4 (1) Juveniles age 11 or under unless adjudicated delinquent for the  
5 crime of arson or a crime which, if committed by an adult, would be  
6 a crime of the first or second degree; and

7 (2) Juveniles who are developmentally disabled as defined in  
8 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82  
9 (C.30:6D-3).

10 d. (1) When the court determines that, based on the consideration  
11 of all the factors set forth in subsection a., the juvenile shall be  
12 incarcerated, unless it orders the incarceration pursuant to subsection  
13 c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the  
14 record the reasons for imposing incarceration, including any findings  
15 with regard to these factors, and commit the juvenile to the custody of  
16 the Juvenile Justice Commission which shall provide for the juvenile's  
17 placement in a suitable juvenile facility pursuant to the conditions set  
18 forth in this subsection and for terms not to exceed the maximum  
19 terms as provided herein for what would constitute the following  
20 crimes if committed by an adult:

- 21 (a) Murder under 2C:11-3a(1) or (2) ..... 20 years
- 22 (b) Murder under 2C:11-3a(3) ..... 10 years
- 23 (c) Crime of the first degree,  
24 except murder ..... 4 years
- 25 (d) Crime of the second degree ..... 3 years
- 26 (e) Crime of the third degree ..... 2 years
- 27 (f) Crime of the fourth degree ..... 1 year
- 28 (g) Disorderly persons offense ..... 6 months

29 (2) Except as provided in subsection e. of section 24 of P.L.1982,  
30 c.77 (C.2A:4A-43), the period of confinement shall continue until the  
31 appropriate paroling authority determines that such a person should be  
32 paroled; except that in no case shall the period of confinement and  
33 parole exceed the maximum provided by law for such offense.  
34 However, if a juvenile is approved for parole prior to serving one-third  
35 of any term imposed for any crime of the first, second or third degree,  
36 including any extended term imposed pursuant to paragraph (3) or (4)  
37 of this subsection, or one-fourth of any term imposed for any other  
38 crime the granting of parole shall be subject to approval of the  
39 sentencing court. Prior to approving parole, the court shall give the  
40 prosecuting attorney notice and an opportunity to be heard. If the  
41 court denies the parole of a juvenile pursuant to this paragraph it shall  
42 state its reasons in writing and notify the parole board, the juvenile and  
43 the juvenile's attorney. The court shall have 30 days from the date of  
44 notice of the pending parole to exercise the power granted under this  
45 paragraph. If the court does not respond within that time period, the  
46 parole will be deemed approved.

1 Any juvenile committed under this act who is released on parole  
2 prior to the expiration of the juvenile's maximum term may be retained  
3 under parole supervision for a period not exceeding the unserved  
4 portion of the term and any term of post-incarceration supervision  
5 imposed pursuant to paragraph (5) of this subsection. The Parole  
6 Board, the juvenile, the juvenile's attorney, the juvenile's parent or  
7 guardian or, with leave of the court any other interested party, may  
8 make a motion to the court, with notice to the prosecuting attorney,  
9 for the return of the child from a juvenile facility prior to his parole  
10 and provide for an alternative disposition which would not exceed the  
11 duration of the original time to be served in the facility. Nothing  
12 contained in this paragraph shall be construed to limit the authority of  
13 the Parole Board as set forth in section 15 of P.L.1979, c.441  
14 (C.30:4-123.59).

15 (3) Upon application by the prosecutor, the court may sentence a  
16 juvenile who has been convicted of a crime of the first, second, or  
17 third degree if committed by an adult, to an extended term of  
18 incarceration beyond the maximum set forth in paragraph (1) of this  
19 subsection, if it finds that the juvenile was adjudged delinquent on at  
20 least two separate occasions, for offenses which, if committed by an  
21 adult, would constitute a crime of the first or second degree, and was  
22 previously committed to an adult or juvenile facility. The extended  
23 term shall not exceed five additional years for an act which would  
24 constitute murder and shall not exceed two additional years for all  
25 other crimes of the first degree or second degree, if committed by an  
26 adult, and one additional year for a crime of the third degree, if  
27 committed by an adult.

28 (4) Upon application by the prosecutor, when a juvenile is before  
29 the court at one time for disposition of three or more unrelated  
30 offenses which, if committed by an adult, would constitute crimes of  
31 the first, second or third degree and which are not part of the same  
32 transaction, the court may sentence the juvenile to an extended term  
33 of incarceration not to exceed the maximum of the permissible term  
34 for the most serious offense for which the juvenile has been  
35 adjudicated plus two additional years.

36 (5) Every disposition that includes a term of incarceration shall  
37 include a term of post-incarceration supervision equivalent to  
38 one-third of the term of incarceration imposed. During the term of  
39 post-incarceration supervision the juvenile shall remain in the  
40 community and in the legal custody of the Juvenile Justice Commission  
41 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)  
42 in accordance with the rules of the parole board, unless the  
43 appropriate parole board panel determines that post-incarceration  
44 supervision should be revoked and the juvenile returned to custody in

1 accordance with the procedures and standards set forth in sections 15  
2 through 21 of P.L.1979, c.441 (C.30:4-123.59 through  
3 C.30:4-123.65). The term of post-incarceration supervision shall  
4 commence upon release from incarceration or parole, whichever is  
5 later. A term of post-incarceration supervision imposed pursuant to  
6 this paragraph may be terminated by the appropriate parole board  
7 panel if the juvenile has made a satisfactory adjustment in the  
8 community while on parole or under such supervision, if continued  
9 supervision is not required and if the juvenile has made full payment  
10 of any fine or restitution.

11 (cf: P.L1995, c.280, s.11)

12

13 5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read  
14 as follows:

15 5. Court intake service conference. a. Where the juvenile is  
16 diverted to a court intake service conference, notices of the conference  
17 shall be sent to the juvenile and his parents or guardian and to the  
18 complainant or victim. The parties may be requested to bring to the  
19 conference all pertinent documents in their possession, including  
20 medical, social, and school records.

21 b. In determining the appropriate resolution of a complaint, the  
22 following factors shall be considered by court intake services:

23 (1) The seriousness of the alleged offense or conduct and the  
24 circumstances in which it occurred;

25 (2) The age and maturity of the juvenile;

26 (3) The risk that the juvenile presents as a substantial danger to  
27 others;

28 (4) The family circumstances, including any history of drugs,  
29 alcohol abuse or child abuse on the part of the juvenile, his parents or  
30 guardian;

31 (5) The nature and number of contacts with court intake services  
32 and the court that the juvenile and his family have had;

33 (6) The outcome of those contacts, including the services to which  
34 the juvenile or family have been referred and the results of those  
35 referrals;

36 (7) The availability of appropriate services;

37 (8) Any recommendations expressed by the victim or complainant,  
38 or arresting officer, as to how the case should be disposed; [and]

39 (9) Whether diversion can be accomplished in a manner that holds  
40 the juvenile accountable for the conduct;

41 (10) The impact of the offense on the victim or victims; and

42 (11) The impact of the offense on the community.

43 c. Each juvenile shall be reviewed without a presumption of guilt.  
44 The intake conference shall be concerned primarily with providing  
45 balanced attention to the protection of the community, the imposition  
46 of accountability for offenses committed, fostering reconciliation

1 between the offender, victim and community and the development of  
2 competencies to enable the juvenile offender to become a responsible  
3 and productive member of the community. In addition, the conference  
4 shall be concerned with preventing more serious future misconduct by  
5 the juvenile offender by obtaining the cooperation of the juvenile and  
6 his parents or guardian in complying with its recommendations. The  
7 court may schedule a hearing where the complainant or victim objects  
8 to the recommendations from the conference.

9 d. The resolution from the conference may include but shall not  
10 be limited to counseling, restitution, referral to appropriate community  
11 agencies, or any other community work programs or other conditions  
12 consistent with diversion that aids in providing balanced attention to  
13 the protection of the community, the imposition of accountability for  
14 offenses committed, fostering reconciliation between the offender,  
15 victim and community and the development of competencies to enable  
16 the juvenile offender to become a responsible and productive member  
17 of the community [the juvenile's rehabilitation], provided that:

18 (1) Obligations imposed as a result of the intake conference shall  
19 be an order of the court approved by the presiding judge and shall be  
20 set forth in writing and may not exceed six months. The juvenile and  
21 his or her parents or guardian shall receive copies, as shall any  
22 agencies providing services under the agreement;

23 (2) The court intake service worker shall inform the juvenile and  
24 the juvenile's parents or guardian in writing of their right to object at  
25 any time prior to their written agreement to the facts or terms of the  
26 intake conference decision, and if objections arise, the intake service  
27 worker may alter the terms of the proposed agreement or refer the  
28 matter to the presiding judge who shall determine if the complaint will  
29 be heard in court or returned to intake conference for further action;

30 (3) Written agreement pursuant to intake conferences may be  
31 terminated at any time upon the request of the juvenile and the matter  
32 referred to the presiding judge;

33 (4) The court intake services conference may not order the  
34 confinement of a juvenile, place a juvenile on probation, or remove a  
35 juvenile from his family as a disposition; and

36 (5) If, at any time during the diversion period, the court intake  
37 service worker determines that the obligations imposed under the  
38 written agreement are not being met, the intake worker shall notify the  
39 presiding judge in writing. In the case of failure to comply with the  
40 obligations imposed under the agreement by the parents or guardian,  
41 the court may proceed against such persons for enforcement of the  
42 agreement. In the case of failure to comply by the juvenile, the matter  
43 shall be referred to the court for action.

44 e. At the end of the diversion period a second court intake  
45 services conference may be held with all parties to the written  
46 agreement present to ascertain if the terms of the agreement have been

1 fulfilled. If all conditions have been met, the intake worker shall so  
2 inform the presiding judge in writing who shall order the complaint  
3 dismissed. A copy of the order dismissing the complaint shall be sent  
4 to the juvenile. If the conditions of the written agreement have not  
5 been met, the intake worker may refer the matter to the presiding  
6 judge who shall determine if the complaint will be heard in court or  
7 returned to court intake services for further action. Based on the  
8 evaluations required under this paragraph, the intake conference  
9 agreement may be extended beyond the six-month maximum if all  
10 parties agree. In no case shall an intake conference agreement exceed  
11 nine months.

12 f. All proceedings before the conference are confidential and they  
13 shall receive only those records which in the court's judgment are  
14 necessary to aid in making a recommendation.

15 (cf: P.L.1995, c.280, s.16)

16

17 6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read  
18 as follows:

19 6. a. The court may appoint one or more juvenile conference  
20 committees for each county or municipality to hear and decide matters  
21 referred to it by the court.

22 b. The method of appointment and terms of membership to the  
23 committees shall be made pursuant to guidelines developed by the  
24 Supreme Court.

25 c. Where the juvenile is diverted to a juvenile conference  
26 committee, notices of the conference shall be sent to the juvenile and  
27 his parents or guardian and to the complainant or victim. The parties  
28 may be requested to bring to the conference all pertinent documents  
29 in their possession, including medical, social, and school records.

30 d. The committee shall serve under the authority of the court in  
31 hearing and deciding such matters involving alleged juvenile offenders  
32 as are specifically referred to it by the court. Each juvenile shall be  
33 reviewed without a presumption of guilt. The committee shall be  
34 concerned primarily with providing balanced attention to the  
35 protection of the community, the imposition of accountability for  
36 offenses committed, fostering reconciliation between the offender,  
37 victim and community and the development of competencies to enable  
38 the juvenile offender to become a responsible and productive member  
39 of the community. In addition, the committee shall be concerned with  
40 preventing more serious future misconduct by the juvenile offender by  
41 obtaining the cooperation of the juvenile and his parents or guardian  
42 in complying with its recommendations. The court may schedule a  
43 hearing where the complainant or victim objects to the  
44 recommendations from the conference.

45 e. The committee shall provide for the resolution of the matter and  
46 shall supervise and follow up compliance with its recommendations in

1 the same manner and under the same limitations and with the same  
2 sanctions as the court intake service conference.

3 f. All proceedings before the juvenile conference committee are  
4 confidential and include only those records which in the court's  
5 judgment are necessary to aid in making a recommendation.  
6 (cf: P.L.1982, c.81, s.6)

7

8 7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to  
9 read as follows:

10 1. The Legislature finds and declares:

11 a. The public safety requires reform of the juvenile justice system;

12 b. Juvenile arrests for murder, robbery, aggravated sexual assault,  
13 sexual assault and aggravated assault have increased 38 percent  
14 between 1988 and 1993 and New Jersey ranks near the top nationally  
15 in the number of juvenile arrests for serious violent crimes;

16 c. Juvenile crime has become a leading cause of injury and death  
17 among young people;

18 d. Currently, preventive, deterrent and rehabilitative services and  
19 sanctions for juveniles are the responsibility of no less than three State  
20 departments: The Department of Law and Public Safety deals with  
21 county prosecutors and local police and implements prevention  
22 programs; the Department of Corrections operates the New Jersey  
23 Training School for Boys and the Juvenile Medium Security Facility,  
24 and its Bureau of Parole supervises juvenile parolees; and the  
25 Department of Human Services operates residential and day programs  
26 in facilities for juveniles adjudicated delinquent;

27 e. The division of responsibility for the juvenile justice population  
28 and the limitations on resources available to meet ever-increasing  
29 demands for services provided by the Departments of Human Services  
30 and Corrections have prevented the departments from maximizing  
31 efforts to meet the special needs of the juvenile justice population;

32 f. The juvenile justice system lacks services and sanctions short  
33 of incarceration, particularly in urban areas and for that reason, many  
34 juveniles are not held accountable until they have committed a series  
35 of increasingly serious criminal acts;

36 g. The special needs of juveniles can be addressed through  
37 services and sanctions provided at the county and local level;

38 h. The need to protect the public from criminal acts by juvenile  
39 offenders requires a comprehensive program and concerted action of  
40 governmental agencies and private organizations at the State, county  
41 and local level that permit effective response and avoid waste of scarce  
42 resources;

43 i. (1) The comprehensive program should provide a range of  
44 services and sanctions for juveniles sufficient to protect the public  
45 through prevention; early intervention; and a range of meaningful  
46 sanctions that ensure accountability, provide training, education,

1 treatment and, when necessary, confinement followed by community  
2 supervision that is adequate to protect the public and promote  
3 successful reintegration into the community;

4 (2) Consistent with the need to protect the public, services and  
5 sanctions for juveniles shall provide balanced attention to the  
6 protection of the community, the imposition of accountability for  
7 offenses committed, fostering reconciliation between the offender,  
8 victim and community and the development of competencies to enable  
9 juvenile offenders to become responsible and productive members of  
10 the community.

11 j. The most efficient and effective use of available resources  
12 requires fixing responsibility for the comprehensive program in a single  
13 State agency and providing incentives to encourage the development  
14 and provision of appropriate services and sanctions at the county and  
15 local level; and

16 k. It is, therefore, necessary to establish a Juvenile Justice  
17 Commission responsible for operating State services and sanctions for  
18 juveniles involved in the juvenile justice system and responsible for  
19 developing a Statewide plan for effective provision of juvenile justice  
20 services and sanctions at the State, county and local level; to establish  
21 a State/Community Partnership Grant Program through which the  
22 State will provide incentives to county and local governments to  
23 encourage the provision of services and sanctions for juveniles  
24 adjudicated or charged as delinquent and programs for the prevention  
25 of juvenile delinquency, and to establish county youth services  
26 commissions responsible for planning and implementing the  
27 Partnership at the local level.

28 (cf: P.L.1995, c.284, s.1)

29

30 8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to  
31 read as follows:

32 5. The advisory council shall have the following functions,  
33 powers, duties and authority:

34 a. To meet at least quarterly and at such other times as designated  
35 by the executive director or the chair of the advisory council;

36 b. To establish any committees to carry out its responsibilities;  
37 [and]

38 c. To advise the executive director regarding the implementation  
39 of the recommendations included in the final report submitted pursuant  
40 to Executive Order 10 of 1994; the master plan submitted pursuant to  
41 section 2 of P.L.1995, c.284 (C.52:17B-170); the integration,  
42 coordination and collaboration of programs, services and sanctions for  
43 juveniles; and the actions to be taken to increase public awareness of  
44 the juvenile justice system and its needs; and

45 d. To ensure the programs, services and sanctions for juvenile  
46 offenders are striving to provide balanced attention to the protection

1 of the community, imposing accountability for offenses committed,  
2 fostering reconciliation between the offender, victim and community  
3 and developing competencies in the juveniles to enable them to  
4 become responsible and productive members of the community.

5 (cf: P.L.1995, c.284, s.5)

6  
7 9. This act shall take effect on the first day of the seventh month  
8 after the date of enactment, but the Director of the Administrative  
9 Office of the Courts and the Juvenile Justice Commission shall take  
10 such anticipatory administrative action in advance as shall be necessary  
11 for the implementation of the act.

12  
13  
14 STATEMENT

15  
16 This bill would direct the Juvenile Justice Commission (JJC) in the  
17 Department of Law and Public Safety and the Administrative Office of  
18 the Courts, Superior Court Family Division to incorporate into the  
19 juvenile justice system the principles of balanced and restorative justice  
20 (BARJ).

21 The concept of restorative justice holds that an offender incurs an  
22 obligation to restore the victim of the offense and, by extension, the  
23 community to the state of well-being that existed prior to the offense.  
24 The principle of balance in connection with restorative justice suggests  
25 that the juvenile justice system should give equal weight to ensuring  
26 community safety, holding offenders accountable to victims, fostering  
27 reconciliation between the offender, victim and community and  
28 providing competency development for offenders in the system so they  
29 can pursue legitimate endeavors after release.

30 While some restorative justice concepts are implemented in the  
31 State juvenile system, this bill would dictate that restorative justice  
32 principals be incorporated into the entire system. The bill would  
33 include the responsibility of adhering to BARJ principles in the mission  
34 of the JJC. In addition, the bill would incorporate BARJ principles into  
35 the juvenile justice code, including: the stated purpose of the code,  
36 predispositional evaluations and the disposition of delinquency cases.  
37 Family court juvenile intake service conferences would be required to  
38 use BARJ principles when determining the resolution of complaints.  
39 Juvenile conference committees would be required to consider BARJ  
40 principles in the resolution of matters in addition to solely focusing on  
41 the juvenile's future behavior.

42 The bill would also require that the impact of the offense on the  
43 victim and the community and whether the child poses a threat to the  
44 safety of the public be considered as aggravating factors when  
45 determining resolutions to juvenile cases.

46 BARJ principles are being implemented in states around the nation.

1 They are credited with making victims of crime feel they have more  
2 power in the justice system; enhancing rehabilitation; sensitizing the  
3 offenders to the effects of their acts; providing for reconciliation  
4 among offenders, victims and community; and reducing recidivism  
5 rates.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 1440**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 6, 2001

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1440.

This bill directs the Juvenile Justice Commission (JJC) in the Department of Law and Public Safety and the Administrative Office of the Courts, Superior Court Family Division, to incorporate into the juvenile justice system the principles of balanced and restorative justice (BARJ).

The concept of restorative justice holds that an offender incurs an obligation to restore the victim of the offense and, by extension, the community to the state of well-being that existed prior to the offense. The principle of balance in connection with restorative justice suggests that the juvenile justice system should give equal weight to ensuring community safety, holding offenders accountable to victims, fostering reconciliation between the offender, victim and community and providing competency development for offenders in the system so they can pursue legitimate endeavors after release.

While some restorative justice concepts are implemented in the State juvenile system, this bill dictates that restorative justice principals be incorporated into the entire system. The bill includes the responsibility of adhering to BARJ principles in the mission of the JJC. In addition, the bill incorporates BARJ principles into the juvenile justice code, including: the stated purpose of the code, predispositional evaluations and the disposition of delinquency cases. Family court juvenile intake service conferences would be required to use BARJ principles when determining the resolution of complaints. Juvenile conference committees would be required to consider BARJ principles in the resolution of matters in addition to solely focusing on the juvenile's future behavior.

The bill also requires that the impact of the offense on the victim and the community and whether the child poses a threat to the safety of the public be considered as aggravating factors when determining resolutions to juvenile cases.

The committee amendments clarify the implementation of restorative justice principles by changing several references to the goals of restorative justice from "reconciliation" to "interaction and

dialogue."

According to the bill's sponsors, BARJ principles are being implemented in states around the nation. They are credited with making victims of crime feel they have more power in the justice system; enhancing rehabilitation; sensitizing the offenders to the effects of their acts; providing for reconciliation among offenders, victims and community; and reducing recidivism rates.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 1914 (1R), which also was reported by the committee on this date.

[First Reprint]

**SENATE, No. 1440**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED JUNE 15, 2000

**Sponsored by:**

**Senator LOUIS F. KOSCO**

**District 38 (Bergen)**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**Co-Sponsored by:**

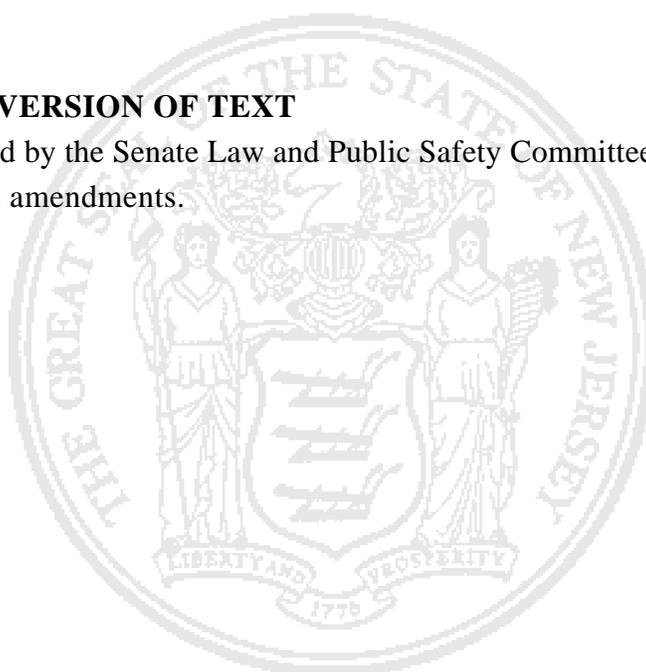
**Senators Kyrillos, Girgenti, Furnari and Robertson**

**SYNOPSIS**

Incorporates balanced and restorative justice principles in juvenile justice system.

**CURRENT VERSION OF TEXT**

As reported by the Senate Law and Public Safety Committee on September 6, 2001, with amendments.



**(Sponsorship Updated As Of: 9/7/2001)**

1 AN ACT incorporating balanced and restorative justice principles into  
2 the juvenile justice system and amending P.L.1982, c.77, P.L.1982,  
3 c.81 and P.L.1995, c.284.

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

7  
8 1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to read  
9 as follows:

10 2. Purposes. This act shall be construed so as to effectuate the  
11 following purposes:

12 a. To preserve the unity of the family whenever possible and to  
13 provide for the care, protection, and wholesome mental and physical  
14 development of juveniles coming within the provisions of this act;

15 b. Consistent with the protection of the public interest, to remove  
16 from children committing delinquent acts certain statutory  
17 consequences of criminal behavior, and to substitute therefor an  
18 adequate program of supervision, care and rehabilitation, and a range  
19 of sanctions designed to promote accountability and protect the public;

20 c. To separate juveniles from the family environment only when  
21 necessary for their health, safety or welfare or in the interests of public  
22 safety;

23 d. To secure for each child coming under the jurisdiction of the  
24 court such care, guidance and control, preferably in his own home, as  
25 will conduce to the child's welfare and the best interests of the State;  
26 and when such child is removed from his own family, to secure for him  
27 custody, care and discipline as nearly as possible equivalent to that  
28 which should have been given by his parents;

29 e. To insure that children under the jurisdiction of the court are  
30 wards of the State, subject to the discipline and entitled to the  
31 protection of the State, which may intervene to safeguard them from  
32 neglect or injury and to enforce the legal obligations due to them and  
33 from them; and

34 f. Consistent with the protection of the public interest, to insure  
35 that any services and sanctions for juveniles provide balanced attention  
36 to the protection of the community, the imposition of accountability  
37 for offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
38 dialogue<sup>1</sup> between the offender, victim and community and the  
39 development of competencies to enable children to become responsible  
40 and productive members of the community.

41 (cf: P.L.1995, c.280, 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:**

<sup>1</sup> Senate SLP committee amendments adopted September 6, 2001.

1       2. Section 23 of P.L.1982, c.77(C.2A:4A-42) is amended to read  
2 as follows:

3       23. Predispositional evaluation. a. Before making a disposition,  
4 the court may refer the juvenile to an appropriate individual, agency  
5 or institution for examination and evaluation.

6       b. In arriving at a disposition, the court may also consult with  
7 such individuals and agencies as may be appropriate to the juvenile's  
8 situation, including the county probation division, the Division of  
9 Youth and Family Services, the Juvenile Justice Commission  
10 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),  
11 the county youth services commission, school personnel, clergy, law  
12 enforcement authorities, family members and other interested and  
13 knowledgeable parties. In so doing, the court may convene a  
14 predispositional conference to discuss and recommend disposition.

15       c. The predisposition report ordered pursuant to the Rules of  
16 Court may include a statement by the victim of the offense for which  
17 the juvenile has been adjudicated delinquent or by the nearest relative  
18 of a homicide victim. The statement may include the nature and extent  
19 of any physical harm or psychological or emotional harm or trauma  
20 suffered by the victim, the extent of any loss to include loss of earnings  
21 or ability to work suffered by the victim and the effect of the crime  
22 upon the victim's family. The probation division shall notify the victim  
23 or nearest relative of a homicide victim of his right to make a  
24 statement for inclusion in the predisposition report if the victim or  
25 relative so desires. Any statement shall be made within 20 days of  
26 notification by the probation division. The report shall further include  
27 information on the financial resources of the juvenile. This  
28 information shall be made available on request to the Victims of Crime  
29 Compensation Board established pursuant to section 3 of P.L.1971,  
30 c.317 (C.52:4B-3) or to any officer authorized under section 3 of  
31 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,  
32 restitution or fine. Any predisposition report prepared pursuant to  
33 this section shall include an analysis of the circumstances attending the  
34 commission of the act, the impact of the offense on the community, the  
35 offender's history of delinquency or criminality, family situation,  
36 financial resources, the financial resources of the juvenile's parent or  
37 guardian, and information concerning the parent or guardian's exercise  
38 of supervision and control relevant to commission of the act.

39       Information concerning financial resources included in the report  
40 shall be made available to any officer authorized to collect payment on  
41 any assessment, restitution or fine.

42 (cf: P.L.1995, c.280, s.9)

43

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

46       24. Disposition of delinquency cases. a. In determining the

1 appropriate disposition for a juvenile adjudicated delinquent the court  
2 shall weigh the following factors:

- 3 (1) The nature and circumstances of the offense;
- 4 (2) The degree of injury to persons or damage to property caused  
5 by the juvenile's offense;
- 6 (3) The juvenile's age, previous record, prior social service  
7 received and out-of-home placement history;
- 8 (4) Whether the disposition supports family strength, responsibility  
9 and unity and the well-being and physical safety of the juvenile;
- 10 (5) Whether the disposition provides for reasonable participation  
11 by the child's parent, guardian, or custodian, provided, however, that  
12 the failure of a parent or parents to cooperate in the disposition shall  
13 not be weighed against the juvenile in arriving at an appropriate  
14 disposition;
- 15 (6) Whether the disposition recognizes and treats the unique  
16 physical, psychological and social characteristics and needs of the  
17 child;
- 18 (7) Whether the disposition contributes to the developmental needs  
19 of the child, including the academic and social needs of the child where  
20 the child has mental retardation or learning disabilities; [and]
- 21 (8) Any other circumstances related to the offense and the  
22 juvenile's social history as deemed appropriate by the court;
- 23 (9) The impact of the offense on the victim or victims;
- 24 (10) The impact of the offense on the community; and
- 25 (11) The threat to the safety of the public or any individual posed  
26 by the child.

27 b. If a juvenile is adjudged delinquent, and except to the extent that  
28 an additional specific disposition is required pursuant to subsection e.  
29 or f. of this section, the court may order incarceration pursuant to  
30 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
31 following dispositions:

- 32 (1) Adjourn formal entry of disposition of the case for a period not  
33 to exceed 12 months for the purpose of determining whether the  
34 juvenile makes a satisfactory adjustment, and if during the period of  
35 continuance the juvenile makes such an adjustment, dismiss the  
36 complaint; provided that if the court adjourns formal entry of  
37 disposition of delinquency for a violation of an offense defined in  
38 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall  
39 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may  
40 waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
41 juveniles adjudicated delinquent;
- 42 (2) Release the juvenile to the supervision of the juvenile's parent  
43 or guardian;
- 44 (3) Place the juvenile on probation to the chief probation officer of  
45 the county or to any other suitable person who agrees to accept the  
46 duty of probation supervision for a period not to exceed three years

1 upon such written conditions as the court deems will aid rehabilitation  
2 of the juvenile;

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

5 (5) Place the juvenile under the care of the Department of Human  
6 Services under the responsibility of the Division of Youth and Family  
7 Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the  
8 purpose of providing services in or out of the home. Within 14 days,  
9 unless for good cause shown, but not later than 30 days, the  
10 Department of Human Services shall submit to the court a service  
11 plan, which shall be presumed valid, detailing the specifics of any  
12 disposition order. The plan shall be developed within the limits of  
13 fiscal and other resources available to the department. If the court  
14 determines that the service plan is inappropriate, given existing  
15 resources, the department may request a hearing on that  
16 determination;

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

22 (7) Commit the juvenile, pursuant to applicable laws and the Rules  
23 of Court governing civil commitment, to the Department of Human  
24 Services under the responsibility of the Division of Mental Health  
25 Services for the purpose of placement in a suitable public or private  
26 hospital or other residential facility for the treatment of persons who  
27 are mentally ill, on the ground that the juvenile is in need of  
28 involuntary commitment;

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

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

1 have the means to make restitution and could not reasonably acquire  
2 the means to pay restitution;

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

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

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

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

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

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

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

43 (b) Place the juvenile under the custody of the Juvenile Justice  
44 Commission established pursuant to section 2 of P.L.1995, c.284  
45 (C.52:17B-170) for placement with any private group home or private  
46 residential facility with which the commission has entered into a

1 purchase of service contract;

2 (17) Instead of or in addition to any disposition made according to  
3 this section, the court may postpone, suspend, or revoke for a period  
4 not to exceed two years the driver's license, registration certificate, or  
5 both of any juvenile who used a motor vehicle in the course of  
6 committing an act for which the juvenile was adjudicated delinquent.  
7 In imposing this disposition and in deciding the duration of the  
8 postponement, suspension, or revocation, the court shall consider the  
9 severity of the delinquent act and the potential effect of the loss of  
10 driving privileges on the juvenile's ability to be rehabilitated. Any  
11 postponement, suspension, or revocation shall be imposed  
12 consecutively with any custodial commitment;

13 (18) Order that the juvenile satisfy any other conditions reasonably  
14 related to the rehabilitation of the juvenile;

15 (19) Order a parent or guardian who has failed or neglected to  
16 exercise reasonable supervision or control of a juvenile who has been  
17 adjudicated delinquent to make restitution to any person or entity who  
18 has suffered a loss as a result of that offense. The court may  
19 determine the reasonable amount, terms and conditions of restitution;  
20 or

21 (20) Place the juvenile, if eligible, in an appropriate juvenile  
22 offender program established pursuant to P.L.1997, c.81 (C.30:8-61  
23 et al.).

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

40 (2) No juvenile may be incarcerated in any county detention facility  
41 unless the county has entered into an agreement with the Juvenile  
42 Justice Commission concerning the use of the facility for sentenced  
43 juveniles. Upon agreement with the county, the Juvenile Justice  
44 Commission shall certify detention facilities which may receive  
45 juveniles sentenced pursuant to this subsection and shall specify the  
46 capacity of the facility that may be made available to receive such

1 juveniles; provided, however, that in no event shall the number of  
2 juveniles incarcerated pursuant to this subsection exceed 50% of the  
3 maximum capacity of the facility.

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

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

9 (b) Incarceration of the juvenile is consistent with the goals of  
10 public safety, accountability and rehabilitation and the court is clearly  
11 convinced that the aggravating factors substantially outweigh the  
12 mitigating factors as set forth in section 25 of P.L.1982, c.77  
13 (C.2A:4A-44); and

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

16 (4) If as a result of incarceration of adjudicated juveniles pursuant  
17 to this subsection, a county is required to transport a predisposition  
18 juvenile to a juvenile detention facility in another county, the costs of  
19 such transportation shall be borne by the Juvenile Justice Commission.

20 d. Whenever the court imposes a disposition upon an adjudicated  
21 delinquent which requires the juvenile to perform a community service,  
22 restitution, or to participate in any other program provided for in this  
23 section other than subsection c., the duration of the juvenile's  
24 mandatory participation in such alternative programs shall extend for  
25 a period consistent with the program goal for the juvenile and shall in  
26 no event exceed one year beyond the maximum duration permissible  
27 for the delinquent if the juvenile had been committed to a term of  
28 incarceration.

29 e. In addition to any disposition the court may impose pursuant to  
30 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
31 following orders shall be included in dispositions of the adjudications  
32 set forth below:

33 (1) An order of incarceration for a term of the duration authorized  
34 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
35 or an order to perform community service pursuant to paragraph (10)  
36 of subsection b. of this section for a period of at least 60 days, if the  
37 juvenile has been adjudicated delinquent for an act which, if committed  
38 by an adult, would constitute the crime of theft of a motor vehicle, or  
39 the crime of unlawful taking of a motor vehicle in violation of  
40 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding  
41 in violation of subsection b. of N.J.S.2C:29-2;

42 (2) An order of incarceration for a term of the duration authorized  
43 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
44 which shall include a minimum term of 60 days during which the  
45 juvenile shall be ineligible for parole, if the juvenile has been  
46 adjudicated delinquent for an act which, if committed by an adult,

1 would constitute the crime of aggravated assault in violation of  
2 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree  
3 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or  
4 theft of a motor vehicle, in a case in which the juvenile has previously  
5 been adjudicated delinquent for an act, which if committed by an adult,  
6 would constitute unlawful taking of a motor vehicle or theft of a motor  
7 vehicle;

8 (3) An order to perform community service pursuant to paragraph  
9 (10) of subsection b. of this section for a period of at least 30 days, if  
10 the juvenile has been adjudicated delinquent for an act which, if  
11 committed by an adult, would constitute the fourth degree crime of  
12 unlawful taking of a motor vehicle in violation of subsection b. of  
13 N.J.S.2C:20-10;

14 (4) An order of incarceration for a term of the duration authorized  
15 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
16 which shall include a minimum term of 30 days during which the  
17 juvenile shall be ineligible for parole, if the juvenile has been  
18 adjudicated delinquent for an act which, if committed by an adult,  
19 would constitute the crime of unlawful taking of a motor vehicle in  
20 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
21 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
22 previously been adjudicated delinquent for an act which, if committed  
23 by an adult, would constitute either theft of a motor vehicle, the  
24 unlawful taking of a motor vehicle or eluding.

25 f. (1) The minimum terms of incarceration required pursuant to  
26 subsection e. of this section shall be imposed regardless of the weight  
27 or balance of factors set forth in this section or in section 25 of  
28 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those  
29 factors shall determine the length of the term of incarceration  
30 appropriate, if any, beyond any mandatory minimum term required  
31 pursuant to subsection e. of this section.

32 (2) When a court in a county that does not have a juvenile  
33 detention facility or a contractual relationship permitting incarceration  
34 pursuant to subsection c. of this section is required to impose a term  
35 of incarceration pursuant to subsection e. of this section, the court  
36 may, subject to limitations on commitment to State correctional  
37 facilities of juveniles who are under the age of 11 or developmentally  
38 disabled, set a term of incarceration consistent with subsection c.  
39 which shall be served in a State correctional facility. When a juvenile  
40 who because of age or developmental disability cannot be committed  
41 to a State correctional facility or cannot be incarcerated in a county  
42 facility, the court shall order a disposition appropriate as an alternative  
43 to any incarceration required pursuant to subsection e.

44 (3) For purposes of subsection e. of this section, in the event that  
45 a "boot camp" program for juvenile offenders should be developed and  
46 is available, a term of commitment to such a program shall be

1 considered a term of incarceration.

2 g. Whenever the court imposes a disposition upon an adjudicated  
3 delinquent which requires the juvenile to perform a community service,  
4 restitution, or to participate in any other program provided for in this  
5 section, the order shall include provisions which provide balanced  
6 attention to the protection of the community, accountability for  
7 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
8 dialogue<sup>1</sup> between the offender, victim and community and the  
9 development of competencies to enable the child to become a  
10 responsible and productive member of the community.

11 (cf: P.L.1997, c.81, s.11)

12

13 4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read  
14 as follows:

15 25. Incarceration--Aggravating and mitigating factors.

16 a. (1) Except as provided in subsections e. and f. of section 24 of  
17 P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is  
18 an appropriate disposition, the court shall consider the following  
19 aggravating circumstances:

20 (a) The fact that the nature and circumstances of the act, and the  
21 role of the juvenile therein, was committed in an especially heinous,  
22 cruel, or depraved manner;

23 (b) The fact that there was grave and serious harm inflicted on the  
24 victim and that based upon the juvenile's age or mental capacity the  
25 juvenile knew or reasonably should have known that the victim was  
26 particularly vulnerable or incapable of resistance due to advanced age,  
27 disability, ill-health, or extreme youth, or was for any other reason  
28 substantially incapable;

29 (c) The character and attitude of the juvenile indicate that the  
30 juvenile is likely to commit another delinquent or criminal act;

31 (d) The juvenile's prior record and the seriousness of any acts for  
32 which the juvenile has been adjudicated delinquent;

33 (e) The fact that the juvenile committed the act pursuant to an  
34 agreement that the juvenile either pay or be paid for the commission  
35 of the act and that the pecuniary incentive was beyond that inherent in  
36 the act itself;

37 (f) The fact that the juvenile committed the act against a policeman  
38 or other law enforcement officer, correctional employee or fireman,  
39 acting in the performance of his duties while in uniform or exhibiting  
40 evidence of his authority, or the juvenile committed the act because of  
41 the status of the victim as a public servant;

42 (g) The need for deterring the juvenile and others from violating  
43 the law;

44 (h) The fact that the juvenile knowingly conspired with others as  
45 an organizer, supervisor, or manager to commit continuing criminal  
46 activity in concert with two or more persons and the circumstances of

1 the crime show that he has knowingly devoted himself to criminal  
2 activity as part of an ongoing business activity;

3 (i) The fact that the juvenile on two separate occasions was  
4 adjudged a delinquent on the basis of acts which if committed by an  
5 adult would constitute crimes;

6 (j) The impact of the offense on the victim or victims;

7 (k) The impact of the offense on the community; and

8 (l) The threat to the safety of the public or any individual posed by  
9 the child.

10 (2) In determining whether incarceration is an appropriate  
11 disposition the court shall consider the following mitigating  
12 circumstances:

13 (a) The child is under the age of 14;

14 (b) The juvenile's conduct neither caused nor threatened serious  
15 harm;

16 (c) The juvenile did not contemplate that the juvenile's conduct  
17 would cause or threaten serious harm;

18 (d) The juvenile acted under a strong provocation;

19 (e) There were substantial grounds tending to excuse or justify the  
20 juvenile's conduct, though failing to establish a defense;

21 (f) The victim of the juvenile's conduct induced or facilitated its  
22 commission;

23 (g) The juvenile has compensated or will compensate the victim for  
24 the damage or injury that the victim has sustained, or will participate  
25 in a program of community service;

26 (h) The juvenile has no history of prior delinquency or criminal  
27 activity or has led a law-abiding life for a substantial period of time  
28 before the commission of the present act;

29 (i) The juvenile's conduct was the result of circumstances unlikely  
30 to recur;

31 (j) The character and attitude of the juvenile indicate that the  
32 juvenile is unlikely to commit another delinquent or criminal act;

33 (k) The juvenile is particularly likely to respond affirmatively to  
34 noncustodial treatment;

35 (l) The separation of the juvenile from the juvenile's family by  
36 incarceration of the juvenile would entail excessive hardship to the  
37 juvenile or the juvenile's family;

38 (m) The willingness of the juvenile to cooperate with law  
39 enforcement authorities;

40 (n) The conduct of the juvenile was substantially influenced by  
41 another person more mature than the juvenile.

42 b. (1) There shall be a presumption of nonincarceration for any  
43 crime or offense of the fourth degree or less committed by a juvenile  
44 who has not previously been adjudicated delinquent or convicted of a  
45 crime or offense.

46 (2) Where incarceration is imposed, the court shall consider the

1 juvenile's eligibility for release under the law governing parole.

2 c. The following juveniles shall not be committed to a State  
3 juvenile facility:

4 (1) Juveniles age 11 or under unless adjudicated delinquent for the  
5 crime of arson or a crime which, if committed by an adult, would be  
6 a crime of the first or second degree; and

7 (2) Juveniles who are developmentally disabled as defined in  
8 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82  
9 (C.30:6D-3).

10 d. (1) When the court determines that, based on the consideration  
11 of all the factors set forth in subsection a., the juvenile shall be  
12 incarcerated, unless it orders the incarceration pursuant to subsection  
13 c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the  
14 record the reasons for imposing incarceration, including any findings  
15 with regard to these factors, and commit the juvenile to the custody of  
16 the Juvenile Justice Commission which shall provide for the juvenile's  
17 placement in a suitable juvenile facility pursuant to the conditions set  
18 forth in this subsection and for terms not to exceed the maximum  
19 terms as provided herein for what would constitute the following  
20 crimes if committed by an adult:

21 (a) Murder under 2C:11-3a(1) or (2) ..... 20 years

22 (b) Murder under 2C:11-3a(3) ..... 10 years

23 (c) Crime of the first degree,  
24 except murder ..... 4 years

25 (d) Crime of the second degree ... 3 years

26 (e) Crime of the third degree ..... 2 years

27 (f) Crime of the fourth degree ..... 1 year

28 (g) Disorderly persons offense ..... 6 months

29 (2) Except as provided in subsection e. of section 24 of P.L.1982,  
30 c.77 (C.2A:4A-43), the period of confinement shall continue until the  
31 appropriate paroling authority determines that such a person should be  
32 paroled; except that in no case shall the period of confinement and  
33 parole exceed the maximum provided by law for such offense.  
34 However, if a juvenile is approved for parole prior to serving one-third  
35 of any term imposed for any crime of the first, second or third degree,  
36 including any extended term imposed pursuant to paragraph (3) or (4)  
37 of this subsection, or one-fourth of any term imposed for any other  
38 crime the granting of parole shall be subject to approval of the  
39 sentencing court. Prior to approving parole, the court shall give the  
40 prosecuting attorney notice and an opportunity to be heard. If the  
41 court denies the parole of a juvenile pursuant to this paragraph it shall  
42 state its reasons in writing and notify the parole board, the juvenile and  
43 the juvenile's attorney. The court shall have 30 days from the date of  
44 notice of the pending parole to exercise the power granted under this  
45 paragraph. If the court does not respond within that time period, the  
46 parole will be deemed approved.

1 Any juvenile committed under this act who is released on parole  
2 prior to the expiration of the juvenile's maximum term may be retained  
3 under parole supervision for a period not exceeding the unserved  
4 portion of the term and any term of post-incarceration supervision  
5 imposed pursuant to paragraph (5) of this subsection. The Parole  
6 Board, the juvenile, the juvenile's attorney, the juvenile's parent or  
7 guardian or, with leave of the court any other interested party, may  
8 make a motion to the court, with notice to the prosecuting attorney,  
9 for the return of the child from a juvenile facility prior to his parole  
10 and provide for an alternative disposition which would not exceed the  
11 duration of the original time to be served in the facility. Nothing  
12 contained in this paragraph shall be construed to limit the authority of  
13 the Parole Board as set forth in section 15 of P.L.1979, c.441  
14 (C.30:4-123.59).

15 (3) Upon application by the prosecutor, the court may sentence a  
16 juvenile who has been convicted of a crime of the first, second, or  
17 third degree if committed by an adult, to an extended term of  
18 incarceration beyond the maximum set forth in paragraph (1) of this  
19 subsection, if it finds that the juvenile was adjudged delinquent on at  
20 least two separate occasions, for offenses which, if committed by an  
21 adult, would constitute a crime of the first or second degree, and was  
22 previously committed to an adult or juvenile facility. The extended  
23 term shall not exceed five additional years for an act which would  
24 constitute murder and shall not exceed two additional years for all  
25 other crimes of the first degree or second degree, if committed by an  
26 adult, and one additional year for a crime of the third degree, if  
27 committed by an adult.

28 (4) Upon application by the prosecutor, when a juvenile is before  
29 the court at one time for disposition of three or more unrelated  
30 offenses which, if committed by an adult, would constitute crimes of  
31 the first, second or third degree and which are not part of the same  
32 transaction, the court may sentence the juvenile to an extended term  
33 of incarceration not to exceed the maximum of the permissible term  
34 for the most serious offense for which the juvenile has been  
35 adjudicated plus two additional years.

36 (5) Every disposition that includes a term of incarceration shall  
37 include a term of post-incarceration supervision equivalent to  
38 one-third of the term of incarceration imposed. During the term of  
39 post-incarceration supervision the juvenile shall remain in the  
40 community and in the legal custody of the Juvenile Justice Commission  
41 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)  
42 in accordance with the rules of the parole board, unless the  
43 appropriate parole board panel determines that post-incarceration  
44 supervision should be revoked and the juvenile returned to custody in

1 accordance with the procedures and standards set forth in sections 15  
2 through 21 of P.L.1979, c.441 (C.30:4-123.59 through  
3 C.30:4-123.65). The term of post-incarceration supervision shall  
4 commence upon release from incarceration or parole, whichever is  
5 later. A term of post-incarceration supervision imposed pursuant to  
6 this paragraph may be terminated by the appropriate parole board  
7 panel if the juvenile has made a satisfactory adjustment in the  
8 community while on parole or under such supervision, if continued  
9 supervision is not required and if the juvenile has made full payment  
10 of any fine or restitution.

11 (cf: P.L.1995, c.280, s.11)

12

13 5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read  
14 as follows:

15 5. Court intake service conference. a. Where the juvenile is  
16 diverted to a court intake service conference, notices of the conference  
17 shall be sent to the juvenile and his parents or guardian and to the  
18 complainant or victim. The parties may be requested to bring to the  
19 conference all pertinent documents in their possession, including  
20 medical, social, and school records.

21 b. In determining the appropriate resolution of a complaint, the  
22 following factors shall be considered by court intake services:

23 (1) The seriousness of the alleged offense or conduct and the  
24 circumstances in which it occurred;

25 (2) The age and maturity of the juvenile;

26 (3) The risk that the juvenile presents as a substantial danger to  
27 others;

28 (4) The family circumstances, including any history of drugs,  
29 alcohol abuse or child abuse on the part of the juvenile, his parents or  
30 guardian;

31 (5) The nature and number of contacts with court intake services  
32 and the court that the juvenile and his family have had;

33 (6) The outcome of those contacts, including the services to which  
34 the juvenile or family have been referred and the results of those  
35 referrals;

36 (7) The availability of appropriate services;

37 (8) Any recommendations expressed by the victim or complainant,  
38 or arresting officer, as to how the case should be disposed; [and]

39 (9) Whether diversion can be accomplished in a manner that holds  
40 the juvenile accountable for the conduct;

41 (10) The impact of the offense on the victim or victims; and

42 (11) The impact of the offense on the community.

43 c. Each juvenile shall be reviewed without a presumption of guilt.  
44 The intake conference shall be concerned primarily with providing  
45 balanced attention to the protection of the community, the imposition  
46 of accountability for offenses committed, fostering <sup>1</sup> [reconciliation]

1 interaction and dialogue<sup>1</sup> between the offender, victim and community  
2 and the development of competencies to enable the juvenile offender  
3 to become a responsible and productive member of the community. In  
4 addition, the conference shall be concerned with preventing more  
5 serious future misconduct by the juvenile offender by obtaining the  
6 cooperation of the juvenile and his parents or guardian in complying  
7 with its recommendations. The court may schedule a hearing where  
8 the complainant or victim objects to the recommendations from the  
9 conference.

10 d. The resolution from the conference may include but shall not be  
11 limited to counseling, restitution, referral to appropriate community  
12 agencies, or any other community work programs or other conditions  
13 consistent with diversion that aids in providing balanced attention to  
14 the protection of the community, the imposition of accountability for  
15 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
16 dialogue<sup>1</sup> between the offender, victim and community and the  
17 development of competencies to enable the juvenile offender to  
18 become a responsible and productive member of the community [the  
19 juvenile's rehabilitation], provided that:

20 (1) Obligations imposed as a result of the intake conference shall  
21 be an order of the court approved by the presiding judge and shall be  
22 set forth in writing and may not exceed six months. The juvenile and  
23 his or her parents or guardian shall receive copies, as shall any  
24 agencies providing services under the agreement;

25 (2) The court intake service worker shall inform the juvenile and  
26 the juvenile's parents or guardian in writing of their right to object at  
27 any time prior to their written agreement to the facts or terms of the  
28 intake conference decision, and if objections arise, the intake service  
29 worker may alter the terms of the proposed agreement or refer the  
30 matter to the presiding judge who shall determine if the complaint will  
31 be heard in court or returned to intake conference for further action;

32 (3) Written agreement pursuant to intake conferences may be  
33 terminated at any time upon the request of the juvenile and the matter  
34 referred to the presiding judge;

35 (4) The court intake services conference may not order the  
36 confinement of a juvenile, place a juvenile on probation, or remove a  
37 juvenile from his family as a disposition; and

38 (5) If, at any time during the diversion period, the court intake  
39 service worker determines that the obligations imposed under the  
40 written agreement are not being met, the intake worker shall notify the  
41 presiding judge in writing. In the case of failure to comply with the  
42 obligations imposed under the agreement by the parents or guardian,  
43 the court may proceed against such persons for enforcement of the  
44 agreement. In the case of failure to comply by the juvenile, the matter  
45 shall be referred to the court for action.

46 e. At the end of the diversion period a second court intake services

1 conference may be held with all parties to the written agreement  
2 present to ascertain if the terms of the agreement have been fulfilled.  
3 If all conditions have been met, the intake worker shall so inform the  
4 presiding judge in writing who shall order the complaint dismissed. A  
5 copy of the order dismissing the complaint shall be sent to the juvenile.  
6 If the conditions of the written agreement have not been met, the  
7 intake worker may refer the matter to the presiding judge who shall  
8 determine if the complaint will be heard in court or returned to court  
9 intake services for further action. Based on the evaluations required  
10 under this paragraph, the intake conference agreement may be  
11 extended beyond the six-month maximum if all parties agree. In no  
12 case shall an intake conference agreement exceed nine months.

13 f. All proceedings before the conference are confidential and they  
14 shall receive only those records which in the court's judgment are  
15 necessary to aid in making a recommendation.

16 (cf: P.L.1995, c.280, s.16)

17

18 6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read  
19 as follows:

20 6. a. The court may appoint one or more juvenile conference  
21 committees for each county or municipality to hear and decide matters  
22 referred to it by the court.

23 b. The method of appointment and terms of membership to the  
24 committees shall be made pursuant to guidelines developed by the  
25 Supreme Court.

26 c. Where the juvenile is diverted to a juvenile conference  
27 committee, notices of the conference shall be sent to the juvenile and  
28 his parents or guardian and to the complainant or victim. The parties  
29 may be requested to bring to the conference all pertinent documents  
30 in their possession, including medical, social, and school records.

31 d. The committee shall serve under the authority of the court in  
32 hearing and deciding such matters involving alleged juvenile offenders  
33 as are specifically referred to it by the court. Each juvenile shall be  
34 reviewed without a presumption of guilt. The committee shall be  
35 concerned primarily with providing balanced attention to the  
36 protection of the community, the imposition of accountability for  
37 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
38 dialogue<sup>1</sup> between the offender, victim and community and the  
39 development of competencies to enable the juvenile offender to  
40 become a responsible and productive member of the community. In  
41 addition, the committee shall be concerned with preventing more  
42 serious future misconduct by the juvenile offender by obtaining the  
43 cooperation of the juvenile and his parents or guardian in complying  
44 with its recommendations. The court may schedule a hearing where  
45 the complainant or victim objects to the recommendations from the  
46 conference.

1 e. The committee shall provide for the resolution of the matter and  
2 shall supervise and follow up compliance with its recommendations in  
3 the same manner and under the same limitations and with the same  
4 sanctions as the court intake service conference.

5 f. All proceedings before the juvenile conference committee are  
6 confidential and include only those records which in the court's  
7 judgment are necessary to aid in making a recommendation.

8 (cf: P.L.1982, c.81, s.6)

9  
10 7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to  
11 read as follows:

12 1. The Legislature finds and declares:

13 a. The public safety requires reform of the juvenile justice system;

14 b. Juvenile arrests for murder, robbery, aggravated sexual assault,  
15 sexual assault and aggravated assault have increased 38 percent  
16 between 1988 and 1993 and New Jersey ranks near the top nationally  
17 in the number of juvenile arrests for serious violent crimes;

18 c. Juvenile crime has become a leading cause of injury and death  
19 among young people;

20 d. Currently, preventive, deterrent and rehabilitative services and  
21 sanctions for juveniles are the responsibility of no less than three State  
22 departments: The Department of Law and Public Safety deals with  
23 county prosecutors and local police and implements prevention  
24 programs; the Department of Corrections operates the New Jersey  
25 Training School for Boys and the Juvenile Medium Security Facility,  
26 and its Bureau of Parole supervises juvenile parolees; and the  
27 Department of Human Services operates residential and day programs  
28 in facilities for juveniles adjudicated delinquent;

29 e. The division of responsibility for the juvenile justice population  
30 and the limitations on resources available to meet ever-increasing  
31 demands for services provided by the Departments of Human Services  
32 and Corrections have prevented the departments from maximizing  
33 efforts to meet the special needs of the juvenile justice population;

34 f. The juvenile justice system lacks services and sanctions short of  
35 incarceration, particularly in urban areas and for that reason, many  
36 juveniles are not held accountable until they have committed a series  
37 of increasingly serious criminal acts;

38 g. The special needs of juveniles can be addressed through services  
39 and sanctions provided at the county and local level;

40 h. The need to protect the public from criminal acts by juvenile  
41 offenders requires a comprehensive program and concerted action of  
42 governmental agencies and private organizations at the State, county  
43 and local level that permit effective response and avoid waste of scarce  
44 resources;

45 i. (1) The comprehensive program should provide a range of  
46 services and sanctions for juveniles sufficient to protect the public

1 through prevention; early intervention; and a range of meaningful  
2 sanctions that ensure accountability, provide training, education,  
3 treatment and, when necessary, confinement followed by community  
4 supervision that is adequate to protect the public and promote  
5 successful reintegration into the community;

6 (2) Consistent with the need to protect the public, services and  
7 sanctions for juveniles shall provide balanced attention to the  
8 protection of the community, the imposition of accountability for  
9 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
10 dialogue<sup>1</sup> between the offender, victim and community and the  
11 development of competencies to enable juvenile offenders to become  
12 responsible and productive members of the community.

13 j. The most efficient and effective use of available resources  
14 requires fixing responsibility for the comprehensive program in a single  
15 State agency and providing incentives to encourage the development  
16 and provision of appropriate services and sanctions at the county and  
17 local level; and

18 k. It is, therefore, necessary to establish a Juvenile Justice  
19 Commission responsible for operating State services and sanctions for  
20 juveniles involved in the juvenile justice system and responsible for  
21 developing a Statewide plan for effective provision of juvenile justice  
22 services and sanctions at the State, county and local level; to establish  
23 a State/Community Partnership Grant Program through which the  
24 State will provide incentives to county and local governments to  
25 encourage the provision of services and sanctions for juveniles  
26 adjudicated or charged as delinquent and programs for the prevention  
27 of juvenile delinquency, and to establish county youth services  
28 commissions responsible for planning and implementing the  
29 Partnership at the local level.

30 (cf: P.L.1995, c.284, s.1)

31

32 8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to  
33 read as follows:

34 5. The advisory council shall have the following functions, powers,  
35 duties and authority:

36 a. To meet at least quarterly and at such other times as designated  
37 by the executive director or the chair of the advisory council;

38 b. To establish any committees to carry out its responsibilities;  
39 [and]

40 c. To advise the executive director regarding the implementation  
41 of the recommendations included in the final report submitted pursuant  
42 to Executive Order 10 of 1994; the master plan submitted pursuant to  
43 section 2 of P.L.1995, c.284 (C.52:17B-170); the integration,  
44 coordination and collaboration of programs, services and sanctions for  
45 juveniles; and the actions to be taken to increase public awareness of  
46 the juvenile justice system and its needs; and

1     d. To ensure the programs, services and sanctions for juvenile  
2 offenders are striving to provide balanced attention to the protection  
3 of the community, imposing accountability for offenses committed,  
4 fostering <sup>1</sup>[reconciliation] interaction and dialogue <sup>1</sup>between the  
5 offender, victim and community and developing competencies in the  
6 juveniles to enable them to become responsible and productive  
7 members of the community.

8 (cf: P.L.1995, c.284, s.5)

9

10     9. This act shall take effect on the first day of the seventh month  
11 after the date of enactment, but the Director of the Administrative  
12 Office of the Courts and the Juvenile Justice Commission shall take  
13 such anticipatory administrative action in advance as shall be necessary  
14 for the implementation of the act.

P.L. 2001, CHAPTER 408, *approved January 8, 2002*  
Assembly, No. 1914 (*First Reprint*)

1 AN ACT incorporating balanced and restorative justice principles into  
2 the juvenile justice system and amending P.L.1982, c.77, P.L.1982,  
3 c.81 and P.L.1995, c.284.

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

7  
8 1. Section 2 of P.L. 1982, c.77 (C.2A:4A-21) is amended to read  
9 as follows:

10 2. Purposes. This act shall be construed so as to effectuate the  
11 following purposes:

12 a. To preserve the unity of the family whenever possible and to  
13 provide for the care, protection, and wholesome mental and physical  
14 development of juveniles coming within the provisions of this act;

15 b. Consistent with the protection of the public interest, to remove  
16 from children committing delinquent acts certain statutory  
17 consequences of criminal behavior, and to substitute therefor an  
18 adequate program of supervision, care and rehabilitation, and a range  
19 of sanctions designed to promote accountability and protect the public;

20 c. To separate juveniles from the family environment only when  
21 necessary for their health, safety or welfare or in the interests of public  
22 safety;

23 d. To secure for each child coming under the jurisdiction of the  
24 court such care, guidance and control, preferably in his own home, as  
25 will conduce to the child's welfare and the best interests of the State;  
26 and when such child is removed from his own family, to secure for him  
27 custody, care and discipline as nearly as possible equivalent to that  
28 which should have been given by his parents;

29 e. To insure that children under the jurisdiction of the court are  
30 wards of the State, subject to the discipline and entitled to the  
31 protection of the State, which may intervene to safeguard them from  
32 neglect or injury and to enforce the legal obligations due to them and  
33 from them; and

34 f. Consistent with the protection of the public interest, to insure  
35 that any services and sanctions for juveniles provide balanced attention  
36 to the protection of the community, the imposition of accountability  
37 for offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
38 dialogue<sup>1</sup> between the offender, victim and community and the  
39 development of competencies to enable children to become responsible  
40 and productive members of the community.

41 (cf: P.L.1995, c.280, 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:

<sup>1</sup> Assembly AAP committee amendments adopted February 5, 2001.

1       2. Section 23 of P.L.1982, c.77(C.2A:4A-42) is amended to read  
2 as follows:

3       23. Predispositional evaluation. a. Before making a disposition,  
4 the court may refer the juvenile to an appropriate individual, agency  
5 or institution for examination and evaluation.

6       b. In arriving at a disposition, the court may also consult with such  
7 individuals and agencies as may be appropriate to the juvenile's  
8 situation, including the county probation division, the Division of  
9 Youth and Family Services, the Juvenile Justice Commission  
10 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),  
11 the county youth services commission, school personnel, clergy, law  
12 enforcement authorities, family members and other interested and  
13 knowledgeable parties. In so doing, the court may convene a  
14 predispositional conference to discuss and recommend disposition.

15       c. The predisposition report ordered pursuant to the Rules of Court  
16 may include a statement by the victim of the offense for which the  
17 juvenile has been adjudicated delinquent or by the nearest relative of  
18 a homicide victim. The statement may include the nature and extent of  
19 any physical harm or psychological or emotional harm or trauma  
20 suffered by the victim, the extent of any loss to include loss of earnings  
21 or ability to work suffered by the victim and the effect of the crime  
22 upon the victim's family. The probation division shall notify the victim  
23 or nearest relative of a homicide victim of his right to make a  
24 statement for inclusion in the predisposition report if the victim or  
25 relative so desires. Any statement shall be made within 20 days of  
26 notification by the probation division. The report shall further include  
27 information on the financial resources of the juvenile. This  
28 information shall be made available on request to the Victims of Crime  
29 Compensation Board established pursuant to section 3 of P.L.1971,  
30 c.317 (C.52:4B-3) or to any officer authorized under section 3 of  
31 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,  
32 restitution or fine. Any predisposition report prepared pursuant to  
33 this section shall include an analysis of the circumstances attending the  
34 commission of the act, the impact of the offense on the community, the  
35 offender's history of delinquency or criminality, family situation,  
36 financial resources, the financial resources of the juvenile's parent or  
37 guardian, and information concerning the parent or guardian's exercise  
38 of supervision and control relevant to commission of the act.

39       Information concerning financial resources included in the report  
40 shall be made available to any officer authorized to collect payment on  
41 any assessment, restitution or fine.

42 (cf: P.L.1995, c.280, s.9)

43

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

46       24. Disposition of delinquency cases. a. In determining the

1 appropriate disposition for a juvenile adjudicated delinquent the court  
2 shall weigh the following factors:

- 3 (1) The nature and circumstances of the offense;
- 4 (2) The degree of injury to persons or damage to property caused  
5 by the juvenile's offense;
- 6 (3) The juvenile's age, previous record, prior social service  
7 received and out-of-home placement history;
- 8 (4) Whether the disposition supports family strength, responsibility  
9 and unity and the well-being and physical safety of the juvenile;
- 10 (5) Whether the disposition provides for reasonable participation  
11 by the child's parent, guardian, or custodian, provided, however, that  
12 the failure of a parent or parents to cooperate in the disposition shall  
13 not be weighed against the juvenile in arriving at an appropriate  
14 disposition;
- 15 (6) Whether the disposition recognizes and treats the unique  
16 physical, psychological and social characteristics and needs of the  
17 child;
- 18 (7) Whether the disposition contributes to the developmental needs  
19 of the child, including the academic and social needs of the child where  
20 the child has mental retardation or learning disabilities; [and]
- 21 (8) Any other circumstances related to the offense and the  
22 juvenile's social history as deemed appropriate by the court;
- 23 (9) The impact of the offense on the victim or victims;
- 24 (10) The impact of the offense on the community; and
- 25 (11) The threat to the safety of the public or any individual posed  
26 by the child.

27 b. If a juvenile is adjudged delinquent, and except to the extent that  
28 an additional specific disposition is required pursuant to subsection e.  
29 or f. of this section, the court may order incarceration pursuant to  
30 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the  
31 following dispositions:

- 32 (1) Adjourn formal entry of disposition of the case for a period not  
33 to exceed 12 months for the purpose of determining whether the  
34 juvenile makes a satisfactory adjustment, and if during the period of  
35 continuance the juvenile makes such an adjustment, dismiss the  
36 complaint; provided that if the court adjourns formal entry of  
37 disposition of delinquency for a violation of an offense defined in  
38 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall  
39 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may  
40 waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
41 juveniles adjudicated delinquent;
- 42 (2) Release the juvenile to the supervision of the juvenile's parent  
43 or guardian;
- 44 (3) Place the juvenile on probation to the chief probation officer of  
45 the county or to any other suitable person who agrees to accept the  
46 duty of probation supervision for a period not to exceed three years

1 upon such written conditions as the court deems will aid rehabilitation  
2 of the juvenile;

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

5 (5) Place the juvenile under the care of the Department of Human  
6 Services under the responsibility of the Division of Youth and Family  
7 Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the  
8 purpose of providing services in or out of the home. Within 14 days,  
9 unless for good cause shown, but not later than 30 days, the  
10 Department of Human Services shall submit to the court a service  
11 plan, which shall be presumed valid, detailing the specifics of any  
12 disposition order. The plan shall be developed within the limits of  
13 fiscal and other resources available to the department. If the court  
14 determines that the service plan is inappropriate, given existing  
15 resources, the department may request a hearing on that  
16 determination;

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

22 (7) Commit the juvenile, pursuant to applicable laws and the Rules  
23 of Court governing civil commitment, to the Department of Human  
24 Services under the responsibility of the Division of Mental Health  
25 Services for the purpose of placement in a suitable public or private  
26 hospital or other residential facility for the treatment of persons who  
27 are mentally ill, on the ground that the juvenile is in need of  
28 involuntary commitment;

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

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

1 have the means to make restitution and could not reasonably acquire  
2 the means to pay restitution;

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

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

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

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

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

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

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

43 (b) Place the juvenile under the custody of the Juvenile Justice  
44 Commission established pursuant to section 2 of P.L.1995, c.284  
45 (C.52:17B-170) for placement with any private group home or private  
46 residential facility with which the commission has entered into a

1 purchase of service contract;

2 (17) Instead of or in addition to any disposition made according to  
3 this section, the court may postpone, suspend, or revoke for a period  
4 not to exceed two years the driver's license, registration certificate, or  
5 both of any juvenile who used a motor vehicle in the course of  
6 committing an act for which the juvenile was adjudicated delinquent.  
7 In imposing this disposition and in deciding the duration of the  
8 postponement, suspension, or revocation, the court shall consider the  
9 severity of the delinquent act and the potential effect of the loss of  
10 driving privileges on the juvenile's ability to be rehabilitated. Any  
11 postponement, suspension, or revocation shall be imposed  
12 consecutively with any custodial commitment;

13 (18) Order that the juvenile satisfy any other conditions reasonably  
14 related to the rehabilitation of the juvenile;

15 (19) Order a parent or guardian who has failed or neglected to  
16 exercise reasonable supervision or control of a juvenile who has been  
17 adjudicated delinquent to make restitution to any person or entity who  
18 has suffered a loss as a result of that offense. The court may  
19 determine the reasonable amount, terms and conditions of restitution;  
20 or

21 (20) Place the juvenile, if eligible, in an appropriate juvenile  
22 offender program established pursuant to P.L.1997, c.81 (C.30:8-61  
23 et al.).

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

40 (2) No juvenile may be incarcerated in any county detention facility  
41 unless the county has entered into an agreement with the Juvenile  
42 Justice Commission concerning the use of the facility for sentenced  
43 juveniles. Upon agreement with the county, the Juvenile Justice  
44 Commission shall certify detention facilities which may receive  
45 juveniles sentenced pursuant to this subsection and shall specify the  
46 capacity of the facility that may be made available to receive such

1 juveniles; provided, however, that in no event shall the number of  
2 juveniles incarcerated pursuant to this subsection exceed 50% of the  
3 maximum capacity of the facility.

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

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

9 (b) Incarceration of the juvenile is consistent with the goals of  
10 public safety, accountability and rehabilitation and the court is clearly  
11 convinced that the aggravating factors substantially outweigh the  
12 mitigating factors as set forth in section 25 of P.L.1982, c.77  
13 (C.2A:4A-44); and

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

16 (4) If as a result of incarceration of adjudicated juveniles pursuant  
17 to this subsection, a county is required to transport a predisposition  
18 juvenile to a juvenile detention facility in another county, the costs of  
19 such transportation shall be borne by the Juvenile Justice Commission.

20 d. Whenever the court imposes a disposition upon an adjudicated  
21 delinquent which requires the juvenile to perform a community service,  
22 restitution, or to participate in any other program provided for in this  
23 section other than subsection c., the duration of the juvenile's  
24 mandatory participation in such alternative programs shall extend for  
25 a period consistent with the program goal for the juvenile and shall in  
26 no event exceed one year beyond the maximum duration permissible  
27 for the delinquent if the juvenile had been committed to a term of  
28 incarceration.

29 e. In addition to any disposition the court may impose pursuant to  
30 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
31 following orders shall be included in dispositions of the adjudications  
32 set forth below:

33 (1) An order of incarceration for a term of the duration authorized  
34 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
35 or an order to perform community service pursuant to paragraph (10)  
36 of subsection b. of this section for a period of at least 60 days, if the  
37 juvenile has been adjudicated delinquent for an act which, if committed  
38 by an adult, would constitute the crime of theft of a motor vehicle, or  
39 the crime of unlawful taking of a motor vehicle in violation of  
40 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding  
41 in violation of subsection b. of N.J.S.2C:29-2;

42 (2) An order of incarceration for a term of the duration authorized  
43 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
44 which shall include a minimum term of 60 days during which the  
45 juvenile shall be ineligible for parole, if the juvenile has been  
46 adjudicated delinquent for an act which, if committed by an adult,

1 would constitute the crime of aggravated assault in violation of  
2 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree  
3 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or  
4 theft of a motor vehicle, in a case in which the juvenile has previously  
5 been adjudicated delinquent for an act, which if committed by an adult,  
6 would constitute unlawful taking of a motor vehicle or theft of a motor  
7 vehicle;

8 (3) An order to perform community service pursuant to paragraph  
9 (10) of subsection b. of this section for a period of at least 30 days, if  
10 the juvenile has been adjudicated delinquent for an act which, if  
11 committed by an adult, would constitute the fourth degree crime of  
12 unlawful taking of a motor vehicle in violation of subsection b. of  
13 N.J.S.2C:20-10;

14 (4) An order of incarceration for a term of the duration authorized  
15 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)  
16 which shall include a minimum term of 30 days during which the  
17 juvenile shall be ineligible for parole, if the juvenile has been  
18 adjudicated delinquent for an act which, if committed by an adult,  
19 would constitute the crime of unlawful taking of a motor vehicle in  
20 violation of N.J.S.2C:20-10 or the third degree crime of eluding in  
21 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has  
22 previously been adjudicated delinquent for an act which, if committed  
23 by an adult, would constitute either theft of a motor vehicle, the  
24 unlawful taking of a motor vehicle or eluding.

25 f. (1) The minimum terms of incarceration required pursuant to  
26 subsection e. of this section shall be imposed regardless of the weight  
27 or balance of factors set forth in this section or in section 25 of  
28 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those  
29 factors shall determine the length of the term of incarceration  
30 appropriate, if any, beyond any mandatory minimum term required  
31 pursuant to subsection e. of this section.

32 (2) When a court in a county that does not have a juvenile  
33 detention facility or a contractual relationship permitting incarceration  
34 pursuant to subsection c. of this section is required to impose a term  
35 of incarceration pursuant to subsection e. of this section, the court  
36 may, subject to limitations on commitment to State correctional  
37 facilities of juveniles who are under the age of 11 or developmentally  
38 disabled, set a term of incarceration consistent with subsection c.  
39 which shall be served in a State correctional facility. When a juvenile  
40 who because of age or developmental disability cannot be committed  
41 to a State correctional facility or cannot be incarcerated in a county  
42 facility, the court shall order a disposition appropriate as an alternative  
43 to any incarceration required pursuant to subsection e.

44 (3) For purposes of subsection e. of this section, in the event that  
45 a "boot camp" program for juvenile offenders should be developed and  
46 is available, a term of commitment to such a program shall be

1 considered a term of incarceration.

2 g. Whenever the court imposes a disposition upon an adjudicated  
3 delinquent which requires the juvenile to perform a community service,  
4 restitution, or to participate in any other program provided for in this  
5 section, the order shall include provisions which provide balanced  
6 attention to the protection of the community, accountability for  
7 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
8 dialogue<sup>1</sup> between the offender, victim and community and the  
9 development of competencies to enable the child to become a  
10 responsible and productive member of the community.

11 (cf: P.L.1997, c.81, s.11)

12

13 4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read  
14 as follows:

15 25. Incarceration--Aggravating and mitigating factors.

16 a. (1) Except as provided in subsections e. and f. of section 24 of  
17 P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is  
18 an appropriate disposition, the court shall consider the following  
19 aggravating circumstances:

20 (a) The fact that the nature and circumstances of the act, and the  
21 role of the juvenile therein, was committed in an especially heinous,  
22 cruel, or depraved manner;

23 (b) The fact that there was grave and serious harm inflicted on the  
24 victim and that based upon the juvenile's age or mental capacity the  
25 juvenile knew or reasonably should have known that the victim was  
26 particularly vulnerable or incapable of resistance due to advanced age,  
27 disability, ill-health, or extreme youth, or was for any other reason  
28 substantially incapable;

29 (c) The character and attitude of the juvenile indicate that the  
30 juvenile is likely to commit another delinquent or criminal act;

31 (d) The juvenile's prior record and the seriousness of any acts for  
32 which the juvenile has been adjudicated delinquent;

33 (e) The fact that the juvenile committed the act pursuant to an  
34 agreement that the juvenile either pay or be paid for the commission  
35 of the act and that the pecuniary incentive was beyond that inherent in  
36 the act itself;

37 (f) The fact that the juvenile committed the act against a policeman  
38 or other law enforcement officer, correctional employee or fireman,  
39 acting in the performance of his duties while in uniform or exhibiting  
40 evidence of his authority, or the juvenile committed the act because of  
41 the status of the victim as a public servant;

42 (g) The need for deterring the juvenile and others from violating  
43 the law;

44 (h) The fact that the juvenile knowingly conspired with others as  
45 an organizer, supervisor, or manager to commit continuing criminal  
46 activity in concert with two or more persons and the circumstances of

- 1 the crime show that he has knowingly devoted himself to criminal  
2 activity as part of an ongoing business activity;
- 3 (i) The fact that the juvenile on two separate occasions was  
4 adjudged a delinquent on the basis of acts which if committed by an  
5 adult would constitute crimes;
- 6 (j) The impact of the offense on the victim or victims;  
7 (k) The impact of the offense on the community; and  
8 (l) The threat to the safety of the public or any individual posed by  
9 the child.
- 10 (2) In determining whether incarceration is an appropriate  
11 disposition the court shall consider the following mitigating  
12 circumstances:
- 13 (a) The child is under the age of 14;
- 14 (b) The juvenile's conduct neither caused nor threatened serious  
15 harm;
- 16 (c) The juvenile did not contemplate that the juvenile's conduct  
17 would cause or threaten serious harm;
- 18 (d) The juvenile acted under a strong provocation;
- 19 (e) There were substantial grounds tending to excuse or justify the  
20 juvenile's conduct, though failing to establish a defense;
- 21 (f) The victim of the juvenile's conduct induced or facilitated its  
22 commission;
- 23 (g) The juvenile has compensated or will compensate the victim for  
24 the damage or injury that the victim has sustained, or will participate  
25 in a program of community service;
- 26 (h) The juvenile has no history of prior delinquency or criminal  
27 activity or has led a law-abiding life for a substantial period of time  
28 before the commission of the present act;
- 29 (i) The juvenile's conduct was the result of circumstances unlikely  
30 to recur;
- 31 (j) The character and attitude of the juvenile indicate that the  
32 juvenile is unlikely to commit another delinquent or criminal act;
- 33 (k) The juvenile is particularly likely to respond affirmatively to  
34 noncustodial treatment;
- 35 (l) The separation of the juvenile from the juvenile's family by  
36 incarceration of the juvenile would entail excessive hardship to the  
37 juvenile or the juvenile's family;
- 38 (m) The willingness of the juvenile to cooperate with law  
39 enforcement authorities;
- 40 (n) The conduct of the juvenile was substantially influenced by  
41 another person more mature than the juvenile.
- 42 b. (1) There shall be a presumption of nonincarceration for any  
43 crime or offense of the fourth degree or less committed by a juvenile  
44 who has not previously been adjudicated delinquent or convicted of a  
45 crime or offense.
- 46 (2) Where incarceration is imposed, the court shall consider the

1 juvenile's eligibility for release under the law governing parole.

2 c. The following juveniles shall not be committed to a State  
3 juvenile facility:

4 (1) Juveniles age 11 or under unless adjudicated delinquent for the  
5 crime of arson or a crime which, if committed by an adult, would be  
6 a crime of the first or second degree; and

7 (2) Juveniles who are developmentally disabled as defined in  
8 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82  
9 (C.30:6D-3).

10 d. (1) When the court determines that, based on the consideration  
11 of all the factors set forth in subsection a., the juvenile shall be  
12 incarcerated, unless it orders the incarceration pursuant to subsection  
13 c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the  
14 record the reasons for imposing incarceration, including any findings  
15 with regard to these factors, and commit the juvenile to the custody of  
16 the Juvenile Justice Commission which shall provide for the juvenile's  
17 placement in a suitable juvenile facility pursuant to the conditions set  
18 forth in this subsection and for terms not to exceed the maximum  
19 terms as provided herein for what would constitute the following  
20 crimes if committed by an adult:

21	(a) Murder under 2C:11-3a(1) or (2) .....	20 years
22	(b) Murder under 2C:11-3a(3) .....	10 years
23	(c) Crime of the first degree,	
24	except murder .....	.. 4 years
25	(d) Crime of the second degree ...	..... 3 years
26	(e) Crime of the third degree .....	... 2 years
27	(f) Crime of the fourth degree .....	.... 1 year
28	(g) Disorderly persons offense .....	..... 6 months

29 (2) Except as provided in subsection e. of section 24 of P.L.1982,  
30 c.77 (C.2A:4A-43), the period of confinement shall continue until the  
31 appropriate paroling authority determines that such a person should be  
32 paroled; except that in no case shall the period of confinement and  
33 parole exceed the maximum provided by law for such offense.  
34 However, if a juvenile is approved for parole prior to serving one-third  
35 of any term imposed for any crime of the first, second or third degree,  
36 including any extended term imposed pursuant to paragraph (3) or (4)  
37 of this subsection, or one-fourth of any term imposed for any other  
38 crime the granting of parole shall be subject to approval of the  
39 sentencing court. Prior to approving parole, the court shall give the  
40 prosecuting attorney notice and an opportunity to be heard. If the  
41 court denies the parole of a juvenile pursuant to this paragraph it shall  
42 state its reasons in writing and notify the parole board, the juvenile and  
43 the juvenile's attorney. The court shall have 30 days from the date of  
44 notice of the pending parole to exercise the power granted under this  
45 paragraph. If the court does not respond within that time period, the  
46 parole will be deemed approved.

1 Any juvenile committed under this act who is released on parole  
2 prior to the expiration of the juvenile's maximum term may be retained  
3 under parole supervision for a period not exceeding the unserved  
4 portion of the term and any term of post-incarceration supervision  
5 imposed pursuant to paragraph (5) of this subsection. The Parole  
6 Board, the juvenile, the juvenile's attorney, the juvenile's parent or  
7 guardian or, with leave of the court any other interested party, may  
8 make a motion to the court, with notice to the prosecuting attorney,  
9 for the return of the child from a juvenile facility prior to his parole  
10 and provide for an alternative disposition which would not exceed the  
11 duration of the original time to be served in the facility. Nothing  
12 contained in this paragraph shall be construed to limit the authority of  
13 the Parole Board as set forth in section 15 of P.L.1979, c.441  
14 (C.30:4-123.59).

15 (3) Upon application by the prosecutor, the court may sentence a  
16 juvenile who has been convicted of a crime of the first, second, or  
17 third degree if committed by an adult, to an extended term of  
18 incarceration beyond the maximum set forth in paragraph (1) of this  
19 subsection, if it finds that the juvenile was adjudged delinquent on at  
20 least two separate occasions, for offenses which, if committed by an  
21 adult, would constitute a crime of the first or second degree, and was  
22 previously committed to an adult or juvenile facility. The extended  
23 term shall not exceed five additional years for an act which would  
24 constitute murder and shall not exceed two additional years for all  
25 other crimes of the first degree or second degree, if committed by an  
26 adult, and one additional year for a crime of the third degree, if  
27 committed by an adult.

28 (4) Upon application by the prosecutor, when a juvenile is before  
29 the court at one time for disposition of three or more unrelated  
30 offenses which, if committed by an adult, would constitute crimes of  
31 the first, second or third degree and which are not part of the same  
32 transaction, the court may sentence the juvenile to an extended term  
33 of incarceration not to exceed the maximum of the permissible term  
34 for the most serious offense for which the juvenile has been  
35 adjudicated plus two additional years.

36 (5) Every disposition that includes a term of incarceration shall  
37 include a term of post-incarceration supervision equivalent to  
38 one-third of the term of incarceration imposed. During the term of  
39 post-incarceration supervision the juvenile shall remain in the  
40 community and in the legal custody of the Juvenile Justice Commission  
41 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)  
42 in accordance with the rules of the parole board, unless the  
43 appropriate parole board panel determines that post-incarceration  
44 supervision should be revoked and the juvenile returned to custody in  
45 accordance with the procedures and standards set forth in sections 15  
46 through 21 of P.L.1979, c.441 (C.30:4-123.59 through

1 C.30:4-123.65). The term of post-incarceration supervision shall  
2 commence upon release from incarceration or parole, whichever is  
3 later. A term of post-incarceration supervision imposed pursuant to  
4 this paragraph may be terminated by the appropriate parole board  
5 panel if the juvenile has made a satisfactory adjustment in the  
6 community while on parole or under such supervision, if continued  
7 supervision is not required and if the juvenile has made full payment  
8 of any fine or restitution.

9 (cf: P.L1995, c.280, s.11)

10

11 5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read  
12 as follows:

13 5. Court intake service conference. a. Where the juvenile is  
14 diverted to a court intake service conference, notices of the conference  
15 shall be sent to the juvenile and his parents or guardian and to the  
16 complainant or victim. The parties may be requested to bring to the  
17 conference all pertinent documents in their possession, including  
18 medical, social, and school records.

19 b. In determining the appropriate resolution of a complaint, the  
20 following factors shall be considered by court intake services:

21 (1) The seriousness of the alleged offense or conduct and the  
22 circumstances in which it occurred;

23 (2) The age and maturity of the juvenile;

24 (3) The risk that the juvenile presents as a substantial danger to  
25 others;

26 (4) The family circumstances, including any history of drugs,  
27 alcohol abuse or child abuse on the part of the juvenile, his parents or  
28 guardian;

29 (5) The nature and number of contacts with court intake services  
30 and the court that the juvenile and his family have had;

31 (6) The outcome of those contacts, including the services to which  
32 the juvenile or family have been referred and the results of those  
33 referrals;

34 (7) The availability of appropriate services;

35 (8) Any recommendations expressed by the victim or complainant,  
36 or arresting officer, as to how the case should be disposed; **[and]**

37 (9) Whether diversion can be accomplished in a manner that holds  
38 the juvenile accountable for the conduct;

39 (10) The impact of the offense on the victim or victims; and

40 (11) The impact of the offense on the community.

41 c. Each juvenile shall be reviewed without a presumption of guilt.  
42 The intake conference shall be concerned primarily with providing  
43 balanced attention to the protection of the community, the imposition  
44 of accountability for offenses committed, fostering<sup>1</sup> **[reconciliation]**  
45 interaction and dialogue<sup>1</sup> between the offender, victim and community  
46 and the development of competencies to enable the juvenile offender

1 to become a responsible and productive member of the community. In  
2 addition, the conference shall be concerned with preventing more  
3 serious future misconduct by the juvenile offender by obtaining the  
4 cooperation of the juvenile and his parents or guardian in complying  
5 with its recommendations. The court may schedule a hearing where  
6 the complainant or victim objects to the recommendations from the  
7 conference.

8 d. The resolution from the conference may include but shall not be  
9 limited to counseling, restitution, referral to appropriate community  
10 agencies, or any other community work programs or other conditions  
11 consistent with diversion that aids in providing balanced attention to  
12 the protection of the community, the imposition of accountability for  
13 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
14 dialogue<sup>1</sup> between the offender, victim and community and the  
15 development of competencies to enable the juvenile offender to  
16 become a responsible and productive member of the community [the  
17 juvenile's rehabilitation], provided that:

18 (1) Obligations imposed as a result of the intake conference shall  
19 be an order of the court approved by the presiding judge and shall be  
20 set forth in writing and may not exceed six months. The juvenile and  
21 his or her parents or guardian shall receive copies, as shall any  
22 agencies providing services under the agreement;

23 (2) The court intake service worker shall inform the juvenile and  
24 the juvenile's parents or guardian in writing of their right to object at  
25 any time prior to their written agreement to the facts or terms of the  
26 intake conference decision, and if objections arise, the intake service  
27 worker may alter the terms of the proposed agreement or refer the  
28 matter to the presiding judge who shall determine if the complaint will  
29 be heard in court or returned to intake conference for further action;

30 (3) Written agreement pursuant to intake conferences may be  
31 terminated at any time upon the request of the juvenile and the matter  
32 referred to the presiding judge;

33 (4) The court intake services conference may not order the  
34 confinement of a juvenile, place a juvenile on probation, or remove a  
35 juvenile from his family as a disposition; and

36 (5) If, at any time during the diversion period, the court intake  
37 service worker determines that the obligations imposed under the  
38 written agreement are not being met, the intake worker shall notify the  
39 presiding judge in writing. In the case of failure to comply with the  
40 obligations imposed under the agreement by the parents or guardian,  
41 the court may proceed against such persons for enforcement of the  
42 agreement. In the case of failure to comply by the juvenile, the matter  
43 shall be referred to the court for action.

44 e. At the end of the diversion period a second court intake services  
45 conference may be held with all parties to the written agreement  
46 present to ascertain if the terms of the agreement have been fulfilled.

1 If all conditions have been met, the intake worker shall so inform the  
2 presiding judge in writing who shall order the complaint dismissed. A  
3 copy of the order dismissing the complaint shall be sent to the juvenile.  
4 If the conditions of the written agreement have not been met, the  
5 intake worker may refer the matter to the presiding judge who shall  
6 determine if the complaint will be heard in court or returned to court  
7 intake services for further action. Based on the evaluations required  
8 under this paragraph, the intake conference agreement may be  
9 extended beyond the six-month maximum if all parties agree. In no  
10 case shall an intake conference agreement exceed nine months.

11 f. All proceedings before the conference are confidential and they  
12 shall receive only those records which in the court's judgment are  
13 necessary to aid in making a recommendation.

14 (cf: P.L.1995, c.280, s.16)

15

16 6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read  
17 as follows:

18 6. a. The court may appoint one or more juvenile conference  
19 committees for each county or municipality to hear and decide matters  
20 referred to it by the court.

21 b. The method of appointment and terms of membership to the  
22 committees shall be made pursuant to guidelines developed by the  
23 Supreme Court.

24 c. Where the juvenile is diverted to a juvenile conference  
25 committee, notices of the conference shall be sent to the juvenile and  
26 his parents or guardian and to the complainant or victim. The parties  
27 may be requested to bring to the conference all pertinent documents  
28 in their possession, including medical, social, and school records.

29 d. The committee shall serve under the authority of the court in  
30 hearing and deciding such matters involving alleged juvenile offenders  
31 as are specifically referred to it by the court. Each juvenile shall be  
32 reviewed without a presumption of guilt. The committee shall be  
33 concerned primarily with providing balanced attention to the  
34 protection of the community, the imposition of accountability for  
35 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
36 dialogue<sup>1</sup> between the offender, victim and community and the  
37 development of competencies to enable the juvenile offender to  
38 become a responsible and productive member of the community. In  
39 addition, the committee shall be concerned with preventing more  
40 serious future misconduct by the juvenile offender by obtaining the  
41 cooperation of the juvenile and his parents or guardian in complying  
42 with its recommendations. The court may schedule a hearing where  
43 the complainant or victim objects to the recommendations from the  
44 conference.

45 e. The committee shall provide for the resolution of the matter and  
46 shall supervise and follow up compliance with its recommendations in  
47 the same manner and under the same limitations and with the same

1 sanctions as the court intake service conference.

2 f. All proceedings before the juvenile conference committee are  
3 confidential and include only those records which in the court's  
4 judgment are necessary to aid in making a recommendation.

5 (cf: P.L.1982, c.81, s.6)

6

7 7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to  
8 read as follows:

9 1. The Legislature finds and declares:

10 a. The public safety requires reform of the juvenile justice system;

11 b. Juvenile arrests for murder, robbery, aggravated sexual assault,  
12 sexual assault and aggravated assault have increased 38 percent  
13 between 1988 and 1993 and New Jersey ranks near the top nationally  
14 in the number of juvenile arrests for serious violent crimes;

15 c. Juvenile crime has become a leading cause of injury and death  
16 among young people;

17 d. Currently, preventive, deterrent and rehabilitative services and  
18 sanctions for juveniles are the responsibility of no less than three State  
19 departments: The Department of Law and Public Safety deals with  
20 county prosecutors and local police and implements prevention  
21 programs; the Department of Corrections operates the New Jersey  
22 Training School for Boys and the Juvenile Medium Security Facility,  
23 and its Bureau of Parole supervises juvenile parolees; and the  
24 Department of Human Services operates residential and day programs  
25 in facilities for juveniles adjudicated delinquent;

26 e. The division of responsibility for the juvenile justice population  
27 and the limitations on resources available to meet ever-increasing  
28 demands for services provided by the Departments of Human Services  
29 and Corrections have prevented the departments from maximizing  
30 efforts to meet the special needs of the juvenile justice population;

31 f. The juvenile justice system lacks services and sanctions short of  
32 incarceration, particularly in urban areas and for that reason, many  
33 juveniles are not held accountable until they have committed a series  
34 of increasingly serious criminal acts;

35 g. The special needs of juveniles can be addressed through services  
36 and sanctions provided at the county and local level;

37 h. The need to protect the public from criminal acts by juvenile  
38 offenders requires a comprehensive program and concerted action of  
39 governmental agencies and private organizations at the State, county  
40 and local level that permit effective response and avoid waste of scarce  
41 resources;

42 i. (1) The comprehensive program should provide a range of  
43 services and sanctions for juveniles sufficient to protect the public  
44 through prevention; early intervention; and a range of meaningful  
45 sanctions that ensure accountability, provide training, education,  
46 treatment and, when necessary, confinement followed by community

1 supervision that is adequate to protect the public and promote  
2 successful reintegration into the community;

3 (2) Consistent with the need to protect the public, services and  
4 sanctions for juveniles shall provide balanced attention to the  
5 protection of the community, the imposition of accountability for  
6 offenses committed, fostering <sup>1</sup>[reconciliation] interaction and  
7 dialogue<sup>1</sup> between the offender, victim and community and the  
8 development of competencies to enable juvenile offenders to become  
9 responsible and productive members of the community.

10 j. The most efficient and effective use of available resources  
11 requires fixing responsibility for the comprehensive program in a single  
12 State agency and providing incentives to encourage the development  
13 and provision of appropriate services and sanctions at the county and  
14 local level; and

15 k. It is, therefore, necessary to establish a Juvenile Justice  
16 Commission responsible for operating State services and sanctions for  
17 juveniles involved in the juvenile justice system and responsible for  
18 developing a Statewide plan for effective provision of juvenile justice  
19 services and sanctions at the State, county and local level; to establish  
20 a State/Community Partnership Grant Program through which the  
21 State will provide incentives to county and local governments to  
22 encourage the provision of services and sanctions for juveniles  
23 adjudicated or charged as delinquent and programs for the prevention  
24 of juvenile delinquency, and to establish county youth services  
25 commissions responsible for planning and implementing the  
26 Partnership at the local level.

27 (cf: P.L.1995,c.284,s.1)

28

29 8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to  
30 read as follows:

31 5. The advisory council shall have the following functions, powers,  
32 duties and authority:

33 a. To meet at least quarterly and at such other times as designated  
34 by the executive director or the chair of the advisory council;

35 b. To establish any committees to carry out its responsibilities;  
36 **[and]**

37 c. To advise the executive director regarding the implementation  
38 of the recommendations included in the final report submitted pursuant  
39 to Executive Order 10 of 1994; the master plan submitted pursuant to  
40 section 2 of P.L.1995, c.284 (C.52:17B-170); the integration,  
41 coordination and collaboration of programs, services and sanctions for  
42 juveniles; and the actions to be taken to increase public awareness of  
43 the juvenile justice system and its needs; and

44 d. To ensure the programs, services and sanctions for juvenile  
45 offenders are striving to provide balanced attention to the protection  
46 of the community, imposing accountability for offenses committed,  
47 fostering <sup>1</sup>[reconciliation] interaction and dialogue<sup>1</sup> between the

1 offender, victim and community and developing competencies in the  
2 juveniles to enable them to become responsible and productive  
3 members of the community.

4 (cf: P.L.1995, c.284, s.5)

5

6 9. This act shall take effect on the first day of the seventh month  
7 after the date of enactment, but the Director of the Administrative  
8 Office of the Courts and the Juvenile Justice Commission shall take  
9 such anticipatory administrative action in advance as shall be necessary  
10 for the implementation of the act.

11

12

13

14

15 Incorporates balanced and restorative justice principles in juvenile  
16 justice system.

## CHAPTER 408

AN ACT incorporating balanced and restorative justice principles into the juvenile justice system and amending P.L.1982, c.77, P.L.1982, c.81 and P.L.1995, c.284.

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

1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to read as follows:

C.2A:4A-21 Purposes.

2. Purposes. This act shall be construed so as to effectuate the following purposes:
  - a. To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of juveniles coming within the provisions of this act;
  - b. Consistent with the protection of the public interest, to remove from children committing delinquent acts certain statutory consequences of criminal behavior, and to substitute therefor an adequate program of supervision, care and rehabilitation, and a range of sanctions designed to promote accountability and protect the public;
  - c. To separate juveniles from the family environment only when necessary for their health, safety or welfare or in the interests of public safety;
  - d. To secure for each child coming under the jurisdiction of the court such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the State; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents;
  - e. To insure that children under the jurisdiction of the court are wards of the State, subject to the discipline and entitled to the protection of the State, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them; and
  - f. Consistent with the protection of the public interest, to insure that any services and sanctions for juveniles provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable children to become responsible and productive members of the community.

2. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read as follows:

C.2A:4A-42 Predispositional evaluation.

23. Predispositional evaluation. a. Before making a disposition, the court may refer the juvenile to an appropriate individual, agency or institution for examination and evaluation.

b. In arriving at a disposition, the court may also consult with such individuals and agencies as may be appropriate to the juvenile's situation, including the county probation division, the Division of Youth and Family Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), the county youth services commission, school personnel, clergy, law enforcement authorities, family members and other interested and knowledgeable parties. In so doing, the court may convene a predispositional conference to discuss and recommend disposition.

c. The predisposition report ordered pursuant to the Rules of Court may include a statement by the victim of the offense for which the juvenile has been adjudicated delinquent or by the nearest relative of a homicide victim. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation division shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the predisposition report if the victim or relative so desires. Any statement shall be made within 20 days of notification by the probation division. The report shall further include information on the financial resources of the juvenile. This information shall be made available on request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment, restitution or fine. Any predisposition report prepared

pursuant to this section shall include an analysis of the circumstances attending the commission of the act, the impact of the offense on the community, the offender's history of delinquency or criminality, family situation, financial resources, the financial resources of the juvenile's parent or guardian, and information concerning the parent or guardian's exercise of supervision and control relevant to commission of the act.

Information concerning financial resources included in the report shall be made available to any officer authorized to collect payment on any assessment, restitution or fine.

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

C.2A:4A-43 Disposition of delinquency cases.

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

- (1) The nature and circumstances of the offense;
- (2) The degree of injury to persons or damage to property caused by the juvenile's offense;
- (3) The juvenile's age, previous record, prior social service received and out-of-home placement history;
- (4) Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;
- (5) Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;
- (6) Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child;
- (7) Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has mental retardation or learning disabilities;
- (8) Any other circumstances related to the offense and the juvenile's social history as deemed appropriate by the court;
- (9) The impact of the offense on the victim or victims;
- (10) The impact of the offense on the community; and
- (11) The threat to the safety of the public or any individual posed by the child.

b. If a juvenile is adjudged delinquent, and except to the extent that an additional specific disposition is required pursuant to subsection e. or f. of this section, the court may order incarceration pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the following dispositions:

- (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 period of continuance the juvenile makes such an adjustment, dismiss the complaint; provided that if the court adjourns formal entry of disposition of delinquency for a violation of an offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but may waive imposition of the penalty set forth in N.J.S.2C:35-16 for juveniles adjudicated delinquent;
- (2) Release the juvenile to the supervision of the juvenile's parent or guardian;
- (3) Place the juvenile on probation to the chief probation officer of the county or to any other suitable person who agrees to accept the duty of probation supervision for a period not to exceed three years upon such written conditions as the court deems will aid rehabilitation of the juvenile;
- (4) Transfer custody of the juvenile to any relative or other person determined by the court to be qualified to care for the juvenile;
- (5) Place the juvenile under the care of the Department of Human Services under the responsibility of the Division of Youth and Family Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing services in or out of the home. Within 14 days, unless for good cause shown, but not later than 30 days, the Department of Human Services shall

submit to the court a service plan, which shall be presumed valid, detailing the specifics of any disposition order. The plan shall be developed within the limits of fiscal and other resources available to the department. If the court determines that the service plan is inappropriate, given existing resources, the department may request a hearing on that determination;

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

(7) Commit the juvenile, pursuant to applicable laws and the Rules of Court governing civil commitment, to the Department of Human Services under the responsibility of the Division of Mental Health Services for the purpose of placement in a suitable public or private hospital or other residential facility for the treatment of persons who are mentally ill, on the ground that the juvenile is in need of involuntary commitment;

(8) Fine the juvenile an amount not to exceed the maximum 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 to pay and financial responsibility to the juvenile's family, provided that the fine is specially adapted to the rehabilitation of the juvenile or to 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 requiring the juvenile to submit to any other appropriate disposition provided for in this section;

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

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

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

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

(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 afford access to opportunities for normal growth and development. This may require attendance after school, evenings and weekends;

(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 need of such services;

(15) Order the parent 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 significant contributing factor towards the commission of the delinquent act, or, under its authority to enforce litigant's rights, that such person's omission or conduct has been a significant contributing factor towards the ineffective implementation of a court order previously entered in relation to the juvenile;

(16) (a) Place the juvenile in a nonresidential program operated by a public or private agency,

providing intensive services to 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 other services;

(b) Place the juvenile under the custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) for placement with any private group home or private residential facility with which the commission has entered into a purchase of service contract;

(17) Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two 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 the juvenile was adjudicated delinquent. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the severity of the delinquent act and the potential effect of the loss of driving privileges on the juvenile's ability to be rehabilitated. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial commitment;

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

(19) Order a parent or guardian who has failed or neglected to exercise reasonable supervision or control of a juvenile who has been adjudicated delinquent to make restitution to any person or entity who has suffered a loss as a result of that offense. The court may determine the reasonable amount, terms and conditions of restitution; or

(20) Place the juvenile, if eligible, in an appropriate juvenile offender program established pursuant to P.L.1997, c.81 (C.30:8-61 et al.).

c. (1) Except as otherwise provided in subsections e. and f. of this section, if the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Juvenile Justice Commission, the court may, in addition to any of the dispositions not involving placement out of the home enumerated in this section, incarcerate the juvenile in the youth detention facility in that county for a term not to exceed 60 consecutive days. Counties which do not operate their own juvenile detention facilities may 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. The Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection.

(2) No juvenile may be incarcerated in any county detention facility unless the county has entered into an agreement with the Juvenile Justice Commission concerning the use of the facility for sentenced juveniles. Upon agreement with the county, the Juvenile Justice Commission shall certify detention facilities which may receive juveniles sentenced pursuant to this subsection and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to this subsection exceed 50% of the maximum capacity of the facility.

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

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

(b) Incarceration of the juvenile is consistent with the goals of public safety, accountability and rehabilitation and the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors as set forth in section 25 of P.L.1982, c.77 (C.2A:4A-44); and

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

(4) If as a result of incarceration of adjudicated juveniles pursuant to this subsection, a county is required to transport a predisposition juvenile to a juvenile detention facility in another county, the costs of such transportation shall be borne by the Juvenile Justice Commission.

d. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section other than subsection c., the duration of the juvenile's mandatory

participation in such alternative programs shall extend for a period consistent with the program goal for the juvenile and shall in no event exceed one year beyond the maximum duration permissible for the delinquent if the juvenile had been committed to a term of incarceration.

e. In addition to any disposition the court may impose pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the following orders shall be included in dispositions of the adjudications set forth below:

(1) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) or an order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 60 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of theft of a motor vehicle, or the crime of unlawful taking of a motor vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2;

(2) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 60 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of aggravated assault in violation of paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a case in which the juvenile has previously been adjudicated delinquent for an act, which if committed by an adult, would constitute unlawful taking of a motor vehicle or theft of a motor vehicle;

(3) An order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 30 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the fourth degree crime of unlawful taking of a motor vehicle in violation of subsection b. of N.J.S.2C:20-10;

(4) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 30 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of unlawful taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has previously been adjudicated delinquent for an act which, if committed by an adult, would constitute either theft of a motor vehicle, the unlawful taking of a motor vehicle or eluding.

f. (1) The minimum terms of incarceration required pursuant to subsection e. of this section shall be imposed regardless of the weight or balance of factors set forth in this section or in section 25 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those factors shall determine the length of the term of incarceration appropriate, if any, beyond any mandatory minimum term required pursuant to subsection e. of this section.

(2) When a court in a county that does not have a juvenile detention facility or a contractual relationship permitting incarceration pursuant to subsection c. of this section is required to impose a term of incarceration pursuant to subsection e. of this section, the court may, subject to limitations on commitment to State correctional facilities of juveniles who are under the age of 11 or developmentally disabled, set a term of incarceration consistent with subsection c. which shall be served in a State correctional facility. When a juvenile who because of age or developmental disability cannot be committed to a State correctional facility or cannot be incarcerated in a county facility, the court shall order a disposition appropriate as an alternative to any incarceration required pursuant to subsection e.

(3) For purposes of subsection e. of this section, in the event that a "boot camp" program for juvenile offenders should be developed and is available, a term of commitment to such a program shall be considered a term of incarceration.

g. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section, the order shall include provisions which provide balanced attention to the protection of the community, accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies

to enable the child to become a responsible and productive member of the community.

4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read as follows:

C.2A:4A-44 Incarceration -- aggravating and mitigating factors.

25. Incarceration--Aggravating and mitigating factors.

a. (1) Except as provided in subsections e. and f. of section 24 of P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is an appropriate disposition, the court shall consider the following aggravating circumstances:

(a) The fact that the nature and circumstances of the act, and the role of the juvenile therein, was committed in an especially heinous, cruel, or depraved manner;

(b) The fact that there was grave and serious harm inflicted on the victim and that based upon the juvenile's age or mental capacity the juvenile knew or reasonably should have known that the victim was particularly vulnerable or incapable of resistance due to advanced age, disability, ill-health, or extreme youth, or was for any other reason substantially incapable;

(c) The character and attitude of the juvenile indicate that the juvenile is likely to commit another delinquent or criminal act;

(d) The juvenile's prior record and the seriousness of any acts for which the juvenile has been adjudicated delinquent;

(e) The fact that the juvenile committed the act pursuant to an agreement that the juvenile either pay or be paid for the commission of the act and that the pecuniary incentive was beyond that inherent in the act itself;

(f) The fact that the juvenile committed the act against a policeman or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority, or the juvenile committed the act because of the status of the victim as a public servant;

(g) The need for deterring the juvenile and others from violating the law;

(h) The fact that the juvenile knowingly conspired with others as an organizer, supervisor, or manager to commit continuing criminal activity in concert with two or more persons and the circumstances of the crime show that he has knowingly devoted himself to criminal activity as part of an ongoing business activity;

(i) The fact that the juvenile on two separate occasions was adjudged a delinquent on the basis of acts which if committed by an adult would constitute crimes;

(j) The impact of the offense on the victim or victims;

(k) The impact of the offense on the community; and

(l) The threat to the safety of the public or any individual posed by the child.

(2) In determining whether incarceration is an appropriate disposition the court shall consider the following mitigating circumstances:

(a) The child is under the age of 14;

(b) The juvenile's conduct neither caused nor threatened serious harm;

(c) The juvenile did not contemplate that the juvenile's conduct would cause or threaten serious harm;

(d) The juvenile acted under a strong provocation;

(e) There were substantial grounds tending to excuse or justify the juvenile's conduct, though failing to establish a defense;

(f) The victim of the juvenile's conduct induced or facilitated its commission;

(g) The juvenile has compensated or will compensate the victim for the damage or injury that the victim has sustained, or will participate in a program of community service;

(h) The juvenile has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present act;

(i) The juvenile's conduct was the result of circumstances unlikely to recur;

(j) The character and attitude of the juvenile indicate that the juvenile is unlikely to commit another delinquent or criminal act;

(k) The juvenile is particularly likely to respond affirmatively to noncustodial treatment;

(l) The separation of the juvenile from the juvenile's family by incarceration of the juvenile

would entail excessive hardship to the juvenile or the juvenile's family;

(m) The willingness of the juvenile to cooperate with law enforcement authorities;

(n) The conduct of the juvenile was substantially influenced by another person more mature than the juvenile.

b. (1) There shall be a presumption of nonincarceration for any crime or offense of the fourth degree or less committed by a juvenile who has not previously been adjudicated delinquent or convicted of a crime or offense.

(2) Where incarceration is imposed, the court shall consider the juvenile's eligibility for release under the law governing parole.

c. The following juveniles shall not be committed to a State juvenile facility:

(1) Juveniles age 11 or under unless adjudicated delinquent for the crime of arson or a crime which, if committed by an adult, would be a crime of the first or second degree; and

(2) Juveniles who are developmentally disabled as defined in paragraph (1) of subsection a. of section 3 of P.L.1977, c.82 (C.30:6D-3).

d. (1) When the court determines that, based on the consideration of all the factors set forth in subsection a., the juvenile shall be incarcerated, unless it orders the incarceration pursuant to subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the record the reasons for imposing incarceration, including any findings with regard to these factors, and commit the juvenile to the custody of the Juvenile Justice Commission which shall provide for the juvenile's placement in a suitable juvenile facility pursuant to the conditions set forth in this subsection and for terms not to exceed the maximum terms as provided herein for what would constitute the following crimes if committed by an adult:

- (a) Murder under 2C:11-3a(1) or (2) . . . . . 20 years
- (b) Murder under 2C:11-3a(3) . . . . . 10 years
- (c) Crime of the first degree, except murder . . . . . 4 years
- (d) Crime of the second degree . . . . . 3 years
- (e) Crime of the third degree . . . . . 2 years
- (f) Crime of the fourth degree . . . . . 1 year
- (g) Disorderly persons offense . . . . . 6 months

(2) Except as provided in subsection e. of section 24 of P.L.1982, c.77 (C.2A:4A-43), the period of confinement shall continue until the appropriate paroling authority determines that such a person should be paroled; except that in no case shall the period of confinement and parole exceed the maximum provided by law for such offense. However, if a juvenile is approved for parole prior to serving one-third of any term imposed for any crime of the first, second or third degree, including any extended term imposed pursuant to paragraph (3) or (4) of this subsection, or one-fourth of any term imposed for any other crime the granting of parole shall be subject to approval of the sentencing court. Prior to approving parole, the court shall give the prosecuting attorney notice and an opportunity to be heard. If the court denies the parole of a juvenile pursuant to this paragraph it shall state its reasons in writing and notify the parole board, the juvenile and the juvenile's attorney. The court shall have 30 days from the date of notice of the pending parole to exercise the power granted under this paragraph. If the court does not respond within that time period, the parole will be deemed approved.

Any juvenile committed under this act who is released on parole prior to the expiration of the juvenile's maximum term may be retained under parole supervision for a period not exceeding the unserved portion of the term and any term of post-incarceration supervision imposed pursuant to paragraph (5) of this subsection. The Parole Board, the juvenile, the juvenile's attorney, the juvenile's parent or guardian or, with leave of the court any other interested party, may make a motion to the court, with notice to the prosecuting attorney, for the return of the child from a juvenile facility prior to his parole and provide for an alternative disposition which would not exceed the duration of the original time to be served in the facility. Nothing contained in this paragraph shall be construed to limit the authority of the Parole Board as set forth in section 15 of P.L.1979, c.441 (C.30:4-123.59).

(3) Upon application by the prosecutor, the court may sentence a juvenile who has been convicted of a crime of the first, second, or third degree if committed by an adult, to an extended term of incarceration beyond the maximum set forth in paragraph (1) of this subsection, if it finds

that the juvenile was adjudged delinquent on at least two separate occasions, for offenses which, if committed by an adult, would constitute a crime of the first or second degree, and was previously committed to an adult or juvenile facility. The extended term shall not exceed five additional years for an act which would constitute murder and shall not exceed two additional years for all other crimes of the first degree or second degree, if committed by an adult, and one additional year for a crime of the third degree, if committed by an adult.

(4) Upon application by the prosecutor, when a juvenile is before the court at one time for disposition of three or more unrelated offenses which, if committed by an adult, would constitute crimes of the first, second or third degree and which are not part of the same transaction, the court may sentence the juvenile to an extended term of incarceration not to exceed the maximum of the permissible term for the most serious offense for which the juvenile has been adjudicated plus two additional years.

(5) Every disposition that includes a term of incarceration shall include a term of post-incarceration supervision equivalent to one-third of the term of incarceration imposed. During the term of post-incarceration supervision the juvenile shall remain in the community and in the legal custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) in accordance with the rules of the parole board, unless the appropriate parole board panel determines that post-incarceration supervision should be revoked and the juvenile returned to custody in accordance with the procedures and standards set forth in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through C.30:4-123.65). The term of post-incarceration supervision shall commence upon release from incarceration or parole, whichever is later. A term of post-incarceration supervision imposed pursuant to this paragraph may be terminated by the appropriate parole board panel if the juvenile has made a satisfactory adjustment in the community while on parole or under such supervision, if continued supervision is not required and if the juvenile has made full payment of any fine or restitution.

5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read as follows:

C.2A:4A-74 Court intake service conference.

5. Court intake service conference. a. Where the juvenile is diverted to a court intake service conference, notices of the conference shall be sent to the juvenile and his parents or guardian and to the complainant or victim. The parties may be requested to bring to the conference all pertinent documents in their possession, including medical, social, and school records.

b. In determining the appropriate resolution of a complaint, the following factors shall be considered by court intake services:

(1) The seriousness of the alleged offense or conduct and the circumstances in which it occurred;

(2) The age and maturity of the juvenile;

(3) The risk that the juvenile presents as a substantial danger to others;

(4) The family circumstances, including any history of drugs, alcohol abuse or child abuse on the part of the juvenile, his parents or guardian;

(5) The nature and number of contacts with court intake services and the court that the juvenile and his family have had;

(6) The outcome of those contacts, including the services to which the juvenile or family have been referred and the results of those referrals;

(7) The availability of appropriate services;

(8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be disposed;

(9) Whether diversion can be accomplished in a manner that holds the juvenile accountable for the conduct;

(10) The impact of the offense on the victim or victims; and

(11) The impact of the offense on the community.

c. Each juvenile shall be reviewed without a presumption of guilt. The intake conference shall be concerned primarily with providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and

dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community. In addition, the conference shall be concerned with preventing more serious future misconduct by the juvenile offender by obtaining the cooperation of the juvenile and his parents or guardian in complying with its recommendations. The court may schedule a hearing where the complainant or victim objects to the recommendations from the conference.

d. The resolution from the conference may include but shall not be limited to counseling, restitution, referral to appropriate community agencies, or any other community work programs or other conditions consistent with diversion that aids in providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community, provided that:

(1) Obligations imposed as a result of the intake conference shall be an order of the court approved by the presiding judge and shall be set forth in writing and may not exceed six months. The juvenile and his or her parents or guardian shall receive copies, as shall any agencies providing services under the agreement;

(2) The court intake service worker shall inform the juvenile and the juvenile's parents or guardian in writing of their right to object at any time prior to their written agreement to the facts or terms of the intake conference decision, and if objections arise, the intake service worker may alter the terms of the proposed agreement or refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to intake conference for further action;

(3) Written agreement pursuant to intake conferences may be terminated at any time upon the request of the juvenile and the matter referred to the presiding judge;

(4) The court intake services conference may not order the confinement of a juvenile, place a juvenile on probation, or remove a juvenile from his family as a disposition; and

(5) If, at any time during the diversion period, the court intake service worker determines that the obligations imposed under the written agreement are not being met, the intake worker shall notify the presiding judge in writing. In the case of failure to comply with the obligations imposed under the agreement by the parents or guardian, the court may proceed against such persons for enforcement of the agreement. In the case of failure to comply by the juvenile, the matter shall be referred to the court for action.

e. At the end of the diversion period a second court intake services conference may be held with all parties to the written agreement present to ascertain if the terms of the agreement have been fulfilled. If all conditions have been met, the intake worker shall so inform the presiding judge in writing who shall order the complaint dismissed. A copy of the order dismissing the complaint shall be sent to the juvenile. If the conditions of the written agreement have not been met, the intake worker may refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to court intake services for further action. Based on the evaluations required under this paragraph, the intake conference agreement may be extended beyond the six-month maximum if all parties agree. In no case shall an intake conference agreement exceed nine months.

f. All proceedings before the conference are confidential and they shall receive only those records which in the court's judgment are necessary to aid in making a recommendation.

6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read as follows:

C.2A:4A-75 Juvenile conference committees.

6. a. The court may appoint one or more juvenile conference committees for each county or municipality to hear and decide matters referred to it by the court.

b. The method of appointment and terms of membership to the committees shall be made pursuant to guidelines developed by the Supreme Court.

c. Where the juvenile is diverted to a juvenile conference committee, notices of the conference shall be sent to the juvenile and his parents or guardian and to the complainant or

victim. The parties may be requested to bring to the conference all pertinent documents in their possession, including medical, social, and school records.

d. The committee shall serve under the authority of the court in hearing and deciding such matters involving alleged juvenile offenders as are specifically referred to it by the court. Each juvenile shall be reviewed without a presumption of guilt. The committee shall be concerned primarily with providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community. In addition, the committee shall be concerned with preventing more serious future misconduct by the juvenile offender by obtaining the cooperation of the juvenile and his parents or guardian in complying with its recommendations. The court may schedule a hearing where the complainant or victim objects to the recommendations from the conference.

e. The committee shall provide for the resolution of the matter and shall supervise and follow up compliance with its recommendations in the same manner and under the same limitations and with the same sanctions as the court intake service conference.

f. All proceedings before the juvenile conference committee are confidential and include only those records which in the court's judgment are necessary to aid in making a recommendation.

7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to read as follows:

C.52:17B-169 Findings, declarations relative to juvenile justice.

1. The Legislature finds and declares:

a. The public safety requires reform of the juvenile justice system;

b. Juvenile arrests for murder, robbery, aggravated sexual assault, sexual assault and aggravated assault have increased 38 percent between 1988 and 1993 and New Jersey ranks near the top nationally in the number of juvenile arrests for serious violent crimes;

c. Juvenile crime has become a leading cause of injury and death among young people;

d. Currently, preventive, deterrent and rehabilitative services and sanctions for juveniles are the responsibility of no less than three State departments: The Department of Law and Public Safety deals with county prosecutors and local police and implements prevention programs; the Department of Corrections operates the New Jersey Training School for Boys and the Juvenile Medium Security Facility, and its Bureau of Parole supervises juvenile parolees; and the Department of Human Services operates residential and day programs in facilities for juveniles adjudicated delinquent;

e. The division of responsibility for the juvenile justice population and the limitations on resources available to meet ever-increasing demands for services provided by the Departments of Human Services and Corrections have prevented the departments from maximizing efforts to meet the special needs of the juvenile justice population;

f. The juvenile justice system lacks services and sanctions short of incarceration, particularly in urban areas and for that reason, many juveniles are not held accountable until they have committed a series of increasingly serious criminal acts;

g. The special needs of juveniles can be addressed through services and sanctions provided at the county and local level;

h. The need to protect the public from criminal acts by juvenile offenders requires a comprehensive program and concerted action of governmental agencies and private organizations at the State, county and local level that permit effective response and avoid waste of scarce resources;

i. (1) The comprehensive program should provide a range of services and sanctions for juveniles sufficient to protect the public through prevention; early intervention; and a range of meaningful sanctions that ensure accountability, provide training, education, treatment and, when necessary, confinement followed by community supervision that is adequate to protect the public and promote successful reintegration into the community;

(2) Consistent with the need to protect the public, services and sanctions for juveniles shall

provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable juvenile offenders to become responsible and productive members of the community.

j. The most efficient and effective use of available resources requires fixing responsibility for the comprehensive program in a single State agency and providing incentives to encourage the development and provision of appropriate services and sanctions at the county and local level; and

k. It is, therefore, necessary to establish a Juvenile Justice Commission responsible for operating State services and sanctions for juveniles involved in the juvenile justice system and responsible for developing a Statewide plan for effective provision of juvenile justice services and sanctions at the State, county and local level; to establish a State/Community Partnership Grant Program through which the State will provide incentives to county and local governments to encourage the provision of services and sanctions for juveniles adjudicated or charged as delinquent and programs for the prevention of juvenile delinquency, and to establish county youth services commissions responsible for planning and implementing the Partnership at the local level.

8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to read as follows:

C.52:17B-173 Functions, powers, duties, authority of advisory council.

5. The advisory council shall have the following functions, powers, duties and authority:

a. To meet at least quarterly and at such other times as designated by the executive director or the chair of the advisory council;

b. To establish any committees to carry out its responsibilities;

c. To advise the executive director regarding the implementation of the recommendations included in the final report submitted pursuant to Executive Order 10 of 1994; the master plan submitted pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170); the integration, coordination and collaboration of programs, services and sanctions for juveniles; and the actions to be taken to increase public awareness of the juvenile justice system and its needs; and

d. To ensure the programs, services and sanctions for juvenile offenders are striving to provide balanced attention to the protection of the community, imposing accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and developing competencies in the juveniles to enable them to become responsible and productive members of the community.

9. This act shall take effect on the first day of the seventh month after the date of enactment, but the Director of the Administrative Office of the Courts and the Juvenile Justice Commission shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 8, 2002.