

2A:4A-26

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1999 **CHAPTER:** 373
NJSA: 2A:4A-26 (Eases conditions for trial of certain juvenile offenders as adults)
BILL NO: S286 (Substituted for A3182)
SPONSOR(S): Girgenti and Kosco
DATE INTRODUCED: Pre-filed
COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Law & Public Safety
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** December 13, 1999 Re-enacted 1-10-2000
SENATE: March 30, 1998 Re-enacted 1-10-2000
DATE OF APPROVAL: January 14, 2000
FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 2nd Reprint
 (Amendments during passage denoted by superscript numbers)

S286

[SPONSORS STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)
COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)
SENATE: [Yes](#)
[FLOOR AMENDMENT STATEMENTS:](#) [Yes](#)
LEGISLATIVE FISCAL ESTIMATE: No

A3182

[SPONSORS STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)
COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: No
[FLOOR AMENDMENT STATEMENTS:](#) No
LEGISLATIVE FISCAL ESTIMATE: No

[VETO MESSAGE:](#) [Yes](#)

[GOVERNOR'S PRESS RELEASE ON VETO:](#) [Yes](#)

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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P.L. 1999, CHAPTER 373, *approved January 14, 2000*
Senate, No. 286 (*Second Reprint*)

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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read
8 as follows:

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

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

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

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

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

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

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

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

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

39 (f) Crimes which are a part of a continuing criminal activity in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ **Senate floor amendments adopted March 19, 1998.**

² **Senate amendments adopted in accordance with Governor's recommendations January 10, 2000.**

1 concert with two or more persons and the circumstances of the crimes
2 show the juvenile has knowingly devoted himself to criminal activity
3 as a source of livelihood; or

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

6 (h) Theft of an automobile pursuant to chapter 20 of Title 2C of
7 the New Jersey Statutes; **and** or

8 (i) Possession of a firearm with a purpose to use it unlawfully
9 against the person of another under subsection a. of N.J.S.2C:39-4, or
10 the crime of aggravated assault, aggravated criminal sexual contact,
11 burglary or escape if, while in the course of committing or attempting
12 to commit the crime including the immediate flight therefrom, the
13 juvenile possessed a firearm; and

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

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

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

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

44 d. A motion seeking waiver shall be filed by the prosecutor within
45 30 days of receipt of the complaint. This time limit shall not, except
46 for good cause shown, be extended.

1 e. If the juvenile can show that the probability of his rehabilitation
2 by the use of the procedures, services and facilities available to the
3 court prior to the juvenile reaching the age of 19 substantially
4 outweighs the reasons for waiver, waiver shall not be granted. This
5 subsection shall not apply with respect to ²a juvenile 16 years of age
6 or older who is charged with committing² any of the acts enumerated
7 in subparagraphs (a) or (i) of paragraph (2) of subsection a. of this
8 section or with respect to ²[any acts enumerated in subparagraph (e)
9 of paragraph (2) of subsection a. of this section which involve the
10 distribution for pecuniary gain of any controlled dangerous substance
11 or controlled dangerous substance analog while on any property used
12 for school purposes which is owned by or leased to any school or
13 school board, or within 1,000 feet of such school property or while on
14 any school bus, or any attempt or conspiracy to commit any of these
15 acts.] a violation of N.J.S.2C:35-3, N.J.S.2C:35-4 or section 1 of
16 P.L.1998, c.26 (C.2C:39-4.1)².

17 ¹f. The Attorney General shall develop for dissemination to the
18 county prosecutors those guidelines or directives deemed necessary or
19 appropriate to ensure the uniform application of this section
20 throughout the State.¹

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

22

23 2. This act shall take effect ²[immediately] on the 60th day
24 following enactment².

25

26

27

28

29 Eases conditions for trial of certain juvenile offenders as adults.

SENATE, No. 286

STATE OF NEW JERSEY

208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Passaic)

Senator LOUIS F. KOSCO

District 38 (Bergen)

SYNOPSIS

Eases conditions for trial of certain juvenile offenders as adults.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

An Act concerning the waiver of juvenile cases and amending P.L.1982, c.77.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

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

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the Superior Court, Chancery Division, Family Part to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

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

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

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

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

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

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a.(2)(a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

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

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

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

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

(i) Possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or the crime of aggravated assault, aggravated criminal sexual contact, burglary or escape if, while in the course of committing or attempting to commit the crime including the immediate flight therefrom, the juvenile possessed a firearm; and

(3) Except with respect to any of the acts enumerated in [subsection a.(2)(a)]subparagraphs (a) or (i) of paragraph (2) of subsection a. of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled

substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

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

b. [In every case where there is a motion seeking waiver, the prosecutor shall within a reasonable time thereafter file a statement with the Attorney General setting forth the basis for the motion. In addition, the court shall, in writing, state its reasons for granting or denying the waiver motion. The Attorney General shall compile this information and report its findings to the Legislature 18 months after the effective date of this act with the objective of developing, where appropriate, guidelines as to the waiver of juveniles from the Family Part.] (~~Deleted by amendment, P.L., c. .~~)

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

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

e. If the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted. This subsection shall not apply with respect to any of the acts enumerated in subparagraphs (a) or (i) of paragraph (2) of subsection a. of this section or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled dangerous substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of these acts.

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

2. This act shall take effect immediately.

STATEMENT

This bill is intended to enhance public safety by shortening the process by which the cases of juvenile offenders charged with the most serious offenses may be waived from the jurisdiction of the Family Court.

The bill would add carjacking and, when committed with a firearm, certain other serious offenses to those which may be presumptively waived, upon motion by the prosecutor, when the juvenile is 14 years of age or older. The latter offenses include possession of a firearm with a purpose to use it unlawfully against another person, aggravated assault, aggravated criminal sexual contact, burglary and escape.

The bill also removes from the waiver decision in the most serious cases the issue of whether a juvenile may be rehabilitated by the age of 19. Current law precludes a waiver in many instances if the probability of rehabilitation outweighs the reasons for a waiver. Under the bill, this probability would not be a deciding factor when the offense involved criminal homicide, first-degree robbery, carjacking, sexual assault, aggravated assault, kidnapping, aggravated arson or certain drug crimes and crimes committed with a firearm.

The bill also deletes a reporting requirement for courts and county prosecutors which was enacted in the original 1982 law to provide

information for a report by the Attorney General to the Legislature 18 months later.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 286

STATE OF NEW JERSEY

DATED: MAY 20, 1999

The Assembly Judiciary Committee reports favorably Senate Bill No. 286 (1R).

This bill concerns the statute pertaining to the waiver of juvenile offenders from the jurisdiction of the Family Part to the appropriate court.

The bill would add carjacking and, when committed with a firearm, certain other serious offenses to those which may be presumptively waived, upon motion by the prosecutor, when the juvenile is 14 years of age or older. The latter offenses include possession of a firearm with a purpose to use it unlawfully against another person, aggravated assault, aggravated criminal sexual contact, burglary and escape.

The bill also removes from the waiver decision in the most serious cases the issue of whether a juvenile may be rehabilitated by the age of 19. Current law precludes a waiver in many instances if the probability of rehabilitation outweighs the reasons for a waiver. Under the bill, this probability would not be a deciding factor when the offense involved criminal homicide, first-degree robbery, carjacking, sexual assault, aggravated assault, kidnapping, aggravated arson or certain drug crimes and crimes committed with a firearm.

The bill also deletes a requirement found in subsection b. for courts and county prosecutors which was enacted in the original 1982 law to provide information for a report by the Attorney General to the Legislature 18 months later. The bill does provide in newly added subsection f. for the development of guidelines by the Attorney General for the county prosecutors to ensure uniform application of this waiver statute.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 286

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 1998

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 286.

This bill is intended to enhance public safety by shortening the process by which the cases of juvenile offenders charged with the most serious offenses may be waived from the jurisdiction of the Family Court.

The bill would add carjacking and, when committed with a firearm, certain other serious offenses to those which may be presumptively waived, upon motion by the prosecutor, when the juvenile is 14 years of age or older. The latter offenses include possession of a firearm with a purpose to use it unlawfully against another person, aggravated assault, aggravated criminal sexual contact, burglary and escape.

The bill also removes from the waiver decision in the most serious cases the issue of whether a juvenile may be rehabilitated by the age of 19. Current law precludes a waiver in many instances if the probability of rehabilitation outweighs the reasons for a waiver. Under the bill, this probability would not be a deciding factor when the offense involved criminal homicide, first-degree robbery, carjacking, sexual assault, aggravated assault, kidnapping, aggravated arson or certain drug crimes and crimes committed with a firearm.

The bill also deletes a requirement for courts and county prosecutors which was enacted in the original 1982 law to provide information for a report by the Attorney General to the Legislature 18 months later.

This bill was prefiled for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATEMENT TO
SENATE, No. 286

with Senate Floor Amendments
(Proposed By Senators GIRGENTI and KOSCO)

ADOPTED: MARCH 19, 1998

This Senate amendment authorizes the Attorney General to develop and disseminate to the various country prosecutors guidelines or directives to ensure that the provisions of this section of law are applied uniformly throughout the State.

ASSEMBLY, No. 3182

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 24, 1999

Sponsored by:

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

Assemblyman RICHARD A. MERKT

District 25 (Morris)

SYNOPSIS

Eases conditions for trial of certain juvenile offenders as adults.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

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

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

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

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

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

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

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

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

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

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

43 (g) An attempt or conspiracy to commit any of the acts enumerated

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 in paragraph (a), (d) or (e) of this subsection; or

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

4 (i) Possession of a firearm with a purpose to use it unlawfully
5 against the person of another under subsection a. of N.J.S.2C:39-4, or
6 the crime of aggravated assault, aggravated criminal sexual contact,
7 burglary or escape if, while in the course of committing or attempting
8 to commit the crime including the immediate flight therefrom, the
9 juvenile possessed a firearm; and

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

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

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

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

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

43 e. If the juvenile can show that the probability of his rehabilitation
44 by the use of the procedures, services and facilities available to the
45 court prior to the juvenile reaching the age of 19 substantially
46 outweighs the reasons for waiver, waiver shall not be granted. This

1 subsection shall not apply with respect to any of the acts enumerated
2 in subparagraphs (a) or (i) of paragraph (2) of subsection a. of this
3 section or with respect to any acts enumerated in subparagraph (e) of
4 paragraph (2) of subsection a. of this section which involve the
5 distribution for pecuniary gain of any controlled dangerous substance
6 or controlled dangerous substance analog while on any property used
7 for school purposes which is owned by or leased to any school or
8 school board, or within 1,000 feet of such school property or while on
9 any school bus, or any attempt or conspiracy to commit any of these
10 acts.

11 f. The Attorney General shall develop for dissemination to the
12 county prosecutors those guidelines or directives deemed necessary or
13 appropriate to ensure the uniform application of this section
14 throughout the State.

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

16

17 2. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill concerns the statute pertaining to the waiver of juvenile
23 offenders from the jurisdiction of the Family Part to the appropriate
24 court.

25 The bill would add carjacking and, when committed with a firearm,
26 certain other serious offenses to those which may be presumptively
27 waived, upon motion by the prosecutor, when the juvenile is 14 years
28 of age or older. The latter offenses include possession of a firearm
29 with a purpose to use it unlawfully against another person, aggravated
30 assault, aggravated criminal sexual contact, burglary and escape.

31 The bill also removes from the waiver decision in the most serious
32 cases the issue of whether a juvenile may be rehabilitated by the age
33 of 19. Current law precludes a waiver in many instances if the
34 probability of rehabilitation outweighs the reasons for a waiver. Under
35 the bill, this probability would not be a deciding factor when the
36 offense involved criminal homicide, first-degree robbery, carjacking,
37 sexual assault, aggravated assault, kidnapping, aggravated arson or
38 certain drug crimes and crimes committed with a firearm.

39 The bill also deletes a requirement found in subsection b. for courts
40 and county prosecutors which was enacted in the original 1982 law
41 to provide information for a report by the Attorney General to the
42 Legislature 18 months later. The bill does provide in newly added
43 subsection f. for the development of guidelines by the Attorney
44 General for the county prosecutors to ensure uniform application of
45 this waiver statute.

SENATE BILL NO. 286
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 286 (First Reprint) with my recommendations for reconsideration.

A. SUMMARY OF THE BILL

This legislation changes the laws regarding the transfer of juvenile cases to adult court. In our State's judicial system, offenses committed by juveniles are heard in the Chancery Division of the Family Part of the Superior Court (family court), unless the matter is transferred to the Criminal Part of the Superior Court (adult court). Under current law, certain cases involving juveniles 14 years of age or older are eligible to be transferred from family court to criminal court upon motion of the prosecutor and without the juvenile's consent, where the juvenile is charged with one of several serious crimes, which include, for example, homicide, sexual assault, first-degree robbery, certain drug distribution offenses and car theft. Transfer may also be accomplished when certain circumstances are present, including when the juvenile has a prior record or when the offense involved ongoing, profit-making criminal activity conducted in concert with others, and the State can show that the nature of the crime or the juvenile's prior record are sufficiently serious that the public interest requires waiver. Under current law, when the prosecutor makes a motion to transfer the case, the juvenile has the opportunity to establish that there is a probability that he or she will be rehabilitated by age 19. If the court finds that the probability of rehabilitation outweighs the reasons for waiver, the matter remains in family court.

The bill would change current law by adding carjacking and certain offenses committed with a firearm to the list of offenses that may be transferred from family court to adult criminal court. The bill also changes the procedure for determining whether criminal charges involving a juvenile should be transferred from family court to adult criminal court. Specifically, the bill would require a juvenile court to transfer a matter to adult criminal court upon a prosecutor's request in cases involving the violent offenses mentioned above, as well as cases involving drug distribution in a school zone. Under the

bill, waiver would be automatic in these cases and the issue of a juvenile's potential for rehabilitation could not be considered by the court. The intent of the legislation is to shorten the transfer hearing process in matters most likely to be transferred to adult criminal court, so that judicial and prosecutorial resources may be used more efficiently.

B. RECOMMENDED ACTION

I am sensitive to the fact that we must use our judicial and prosecutorial resources wisely, so that the courts and prosecutors can meet their many serious responsibilities, all of which involve protection of the public. I also recognize that in certain cases, such as those involving particularly heinous crimes or those involving juveniles who continue to re-offend despite the best efforts of the juvenile justice system, protection of the public may require a transfer of the matter to adult criminal court. Furthermore, I fully support the provision of this legislation that adds the dangerous offense of carjacking and offenses committed with a firearm to the list of offenses eligible for transfer to adult criminal court.

I am concerned, however, about removing the authority of the family court - a court particularly skilled in dealing with juveniles - to hear evidence regarding a juvenile's potential for rehabilitation and to have input into the decision to transfer a case to adult court. In particular, I believe that it is critical that the family court retain some discretion in regard to our younger juveniles and in regard to those matters involving relatively less serious offenses. For this reason, I recommend that the provisions of the bill which require "automatic" transfer upon the prosecutor's motion be limited to juveniles over the age of 15, and that the bill's application to all school zone drug offenses, which currently include third and fourth degree drug distribution offenses, be limited to apply to the relatively more serious drug distribution offenses. These recommendations do not in any way preclude a transfer of cases involving younger juveniles or drug distribution offenses to adult court; they merely allow the family court, which has an expertise in juvenile matters, the discretion to continue to review these cases prior to transfer.

Lastly, I recommend that this bill take effect upon the 60th day following its enactment to allow the Attorney General's Office time to develop the appropriate guidelines and directives.

Therefore, I herewith return Senate Bill No. 286 (First Reprint) and recommend that it be amended as follows:

Page 4, Section 1, Line 2:

After "to" insert "a juvenile 16 years of age or older who is charged with committing".

Page 4, Section 1, Line 4:

After "to" insert "a violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or section 1 of P.L.1998, c.26 (C.2C:39-4.1)." and delete "any acts enumerated in subparagraph (e) of".

Page 4, Section 1, Lines 5-11:

Delete in their entirety.

Page 4, Section 1, Line 18:

Delete "immediately" and insert "on the first day of the third month following enactment".

Respectfully,

Christine Todd Whitman
Governor

Attest:

Richard S. Mroz
Chief Counsel to the Governor

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Gene Herman
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RELEASE: January 10, 2000

Gov. Christie Whitman today conditionally vetoed the following pieces of legislation. The Governor's conditional veto messages are attached.

A-2386, sponsored by Assembly Members Alex DeCroce (R-Essex/Morris/Passaic) and Richard A. Merkt (R-Morris) and Senators Henry P. McNamara (R-Bergen/Passaic) and Anthony R. Bucco (R-Morris), which would have directed the Commissioner of Transportation, upon application from certain municipalities, to require a railroad company or entity providing rail passenger service to sound a bell only at the grade crossing.

S-1326, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Assembly Member Nicholas R. Felice (R-Bergen/Passaic), which would have appropriated \$2.5 million from the General Fund to the Department of Environmental Protection for dredging the New Jersey portion of Greenwood Lake. The lake is located in Passaic County and in Orange County, N. Y.

A-3410, sponsored by Assembly Members Bob Smith (D-Middlesex/Somerset/Union) and Leonard Lance (R-Warren/Hunterdon/Mercer) and Senator John A. Lynch (D-Middlesex/Somerset/Union), which would have authorized municipalities to establish grant programs to provide relief to certain real property owners for damages from floods, hurricanes and other natural disasters.

A-2773, sponsored by Assembly Members Kevin J. O'Toole (R-Essex/Union) and David W. Wolfe (R-Monmouth/Ocean) and Senators Robert J. Martin (R-Essex/Morris/Passaic) and Bernard F. Kenny, Jr. (D-Hudson), which would have provided additional State aid to support full-day kindergarten programs in charter schools located in Abbott districts.

S-456, sponsored by Senator Ronald L. Rice (D-Essex) and Assembly Members Craig A. Stanley (D-Essex) and Wilfredo Caraballo (D-Essex), which would have increased the number of public members of the New Jersey Housing and Mortgage Finance Agency (NJHMFA).

SCS for S-1196, 1197 and 1221, sponsored by Senators Louis F. Kosco (R-Bergen), Wayne R. Bryant (D-Camden/Gloucester) and Garry J. Furnari (D-Bergen/Essex/Passaic) and Assembly Members Neil M. Cohen (D-Union) and Paul DiGaetano (R-Bergen/Essex/Passaic), which would have amended the Check Cashing Regulatory Act, and made it a crime to cash a check for consideration without a license. It would have also required the revocation of a license under certain circumstances and would have

amended the Casino Control Act to require casino licensees to file a suspicious transaction report.

A-1951, sponsored by Assembly Members Carol R. Murphy (R-Essex/Morris/Passaic) and Alex DeCroce (R-Essex/Morris/Passaic) and Senators Robert J. Martin (R-Essex/Morris/Passaic) and Anthony R. Bucco (R-Morris), which would have provided for an unlimited length of stay in free-standing special care nursing facilities for certain Medicaid recipients.

A-1647, sponsored by Assembly Members Guy R. Gregg (R-Sussex/Hunterdon/Morris) and Kenneth C. LeFevre (R-Atlantic) and Senators Robert E. Littell (R-Sussex/Hunterdon/Morris) and Jack Sinagra (R-Middlesex), which would have permitted self-employed business partners to be eligible for workers' compensation.

S-1533, sponsored by Senator Gerald Cardinale (R-Bergen) and Assemblyman Nicholas R. Felice (R-Bergen/Passaic), which would have prohibited health insurers that provide prescription benefits from imposing different terms and conditions based on type of pharmacy.

S-1506, sponsored by Senators Donald T. DiFrancesco (R-Middlesex/Somerset and Union) and Byron M. Baer (D-Bergen) and Assembly Members Nicholas R. Felice (R-Bergen/Passaic) and Joseph V. Doria, Jr. (D-Hudson), which would have allowed for a hospital to be designated as a children's hospital based on criteria of the National Association of Children's Hospitals and Related Institutions.

S-286, sponsored by Senators John A. Girgenti (D-Passaic) and Louis F. Kosco (R-Bergen) and Assembly Members Michael Patrick Carroll (R-Morris) and Nicholas J. Sacco (D-Bergen/Hudson), which would have eased the conditions for trial of certain juvenile offenders as adults. The bill would have given prosecutors the discretion to elect to waive certain serious juvenile cases to adult court without requiring judicial approval.

A-2640, sponsored by Assembly Members Paul Kramer (R-Mercer/Middlesex) and Barbara Wright (R-Mercer/Middlesex) and Senator Peter A. Inverso (R-Mercer/Middlesex), which would have authorized criminal background checks for youth agency employees and volunteers.