2A:4A-23

LEGISLATIVE HISTORY CHECKLIST

NJSA:	2A:4A-23		(Juvenile delinquents-- certain sentences-- require incarceration in suitable juvenile facilities)
LAWS OF:	1989		**CHAPTER:** 125
BILL NO:	S1101		
SPONSOR(S):	Cardinate		
Date Introduced:	Pre-filed		
Committee:	**Assembly:**	Law, Public Safety and Corrections	
	Senate:	Judiciary	
Amended during passage:		Yes	Amendments denoted by asterisks.
Date of Passage:	**Assembly:**	November 21, 1988	Re-enacted 6-29-89
	Senate:	February 2, 1988	Re-enacted 3-2-89
Date of Approval:	July 3, 1989		

Following statements are attached if available:

Sponsor statement:		Yes
Committee statement:	**Assembly**	Yes
	Senate	Yes
Fiscal Note:		No
Veto Message:		Yes
Message on Signing:		No

Following were printed:

Reports:	No
Hearings:	No

RDV

[FIRST REPRINT]

SENATE, No. 1101

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator CARDINALE

AN ACT concerning certain juvenile proceedings and amending P.L.1982, c.77.

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

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

4. Definition of delinquency. As used in this act, "delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

a. A crime;

b. A disorderly persons offense or petty disorderly persons offense; or

c. A violation of any other penal statute, ordinance or regulation.

But, the commission of (1) an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of or over the age of 17 years; (2) an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39 of the Revised Statutes by a juvenile of any age; (3) an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes pertaining to pedestrians and bicycles, by a juvenile of any age; or (4) the commission of an act which constitutes a violation of P.L.1981, c.318 (C.26:3D-1 et seq.), P.L.1981, c.319 (C.26:3D-7 et seq.), P.L.1981, c.320 (C.26:3D-15 et seq.), P.L.1985, c.185 (C.26:3E-7 et seq.), P.L.1985, c.186 (C.26:3D-32 et seq.), N.J.S.2C:33-13, P.L.1985, c.318 (C.26:3D-38 et seq.), P.L.1985, c.381 (C.26:3D-46 et seq.), or of any amendment or supplement thereof, by a juvenile of any age; or (5) an act which constitutes

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:
1 Senate amendments adopted in accordance with Governor's recommendations February 27, 1989.

a violation of [1][section 19 of P.L.1954, c.236 (C.12:7-34.19), section 3 of P.L.1952, c.157 (C.12:7-46) or section 9 of P.L.1986, c.39 (C.12:7-57)] chapter 7 of Title 12 of the Revised Statutes relating to the regulation and registration of power vessels, by a juvenile of any age or section 2 of P.L.1987, c.453 (C.12:7-61)[1] shall not constitute delinquency as defined in this act. The municipal court having jurisdiction over a case involving a violation by a juvenile of a section of Title 26 listed in this subsection, or N.J.S.2C:33-13, shall forward a copy of the record of conviction in that case to the Family Part intake service of the county where the municipal court is located.

If a municipal court [1]orders detention or[1] imposes a term of imprisonment on a juvenile in connection with a violation of Title 39 of the Revised Statutes, [1]chapter 7 of Title 12 of the Revised Statutes or N.J.S.2C:33-13,[1] that [1]detention or[1] term of imprisonment shall be served at a suitable juvenile institution and not at a county jail or county workhouse.

(cf: P.L.1987, c.453, s.3)

2. Section 18 of P.L.1982, c.77 (C.2A:4A-37) is amended to read as follows:

18. Place of detention or shelter. a. The State Department of Corrections shall specify the place where a juvenile may be detained; and the Department of Human Services shall specify where a juvenile may be placed in shelter.

b. No juvenile shall be placed in detention or shelter care in any place other than that specified by the State Department of Corrections or Department of Human Services as provided in subsection a.

c. A juvenile being held for a charge under this act or for a violation of or contempt in connection with a violation of Title 39 of the Revised Statutes, [1]chapter 7 of Title 12 of the Revised Statutes or N.J.S.2C:33-13,[1] including a juvenile who has reached the age of 18 years after being charged, shall not be placed in any prison, jail or lockup nor detained in any police station, except that if no other facility is reasonably available a juvenile may be held in a police station in a place other than one designed for the detention of prisoners and apart from any adult charged with or convicted of crime for a brief period if such holding is necessary to allow release to his parent, guardian,

other suitable person, or approved facility. No juvenile shall be placed in a detention facility which has reached its maximum population capacity, as designated by the Department of Corrections.

d. No juvenile charged with delinquency shall be transferred to an adult county jail solely by reason of having reached age 18.

e. (1) The Department of Corrections and the Department of Human Services shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for juvenile detention facilities or shelters under their respective supervision.

(2) The Department of Corrections and the Department of Human Services, in consultation with the appropriate county administrator of the county facility or shelter, shall assign a maximum population capacity for each juvenile detention facility or shelter based on minimum standards for these facilities.

f. (1) Where either the Department of Corrections or the Department of Human Services determines that a juvenile detention facility or shelter under its control or authority is regularly over the maximum population capacity or is in willful and continuous disregard of the minimum standards for these facilities or shelters, the department may restrict new admissions to the facility or shelter.

(2) Upon making such determination, the department shall notify the governing body of the appropriate county of its decision to impose such a restriction, which notification shall include a written statement specifying the reasons therefor and corrections to be made. If the department shall determine that no appropriate action has been initiated by the administrator of the facility or shelter within 60 days following such notification to correct the violations specified in the notification, it shall order that such juvenile detention facility or shelter shall immediately cease to admit juveniles. The county shall be entitled to a hearing where such a restriction is imposed by the department.

(3) Any juvenile detention facility or shelter so restricted shall continue under such order until such time as the department determines that the violation specified in the notice

has been corrected or that the facility or shelter has initiated actions which will ensure the correction of said violations.

(4) Upon the issuance of an order to cease admissions to a juvenile detention facility or shelter, the department shall determine whether other juvenile detention facilities or shelters have adequate room for admitting juveniles and shall assign the juveniles to the facilities or shelters on the basis of available space; provided that the department shall not assign the juvenile to a facility or shelter where such facility or shelter is at the maximum population. A juvenile detention facility or shelter ordered to accept a juvenile shall do so within five days following the receipt of an order to accept admission of such juvenile.

(5) A juvenile detention facility or shelter restricted by an order to cease admissions shall assume responsibility for the transportation of a juvenile sent to another juvenile detention facility or shelter so long as the order shall remain in effect.

(6) A facility or shelter receiving juveniles pursuant to paragraph (4) of this subsection shall receive from the sending county a reasonable and appropriate per diem allowance for each juvenile sent to the facility, such allowance to be used for the custody, care, maintenance, and any other services normally provided by the county to juveniles in the facility or shelter and which reflects all county expenditures in maintaining such juvenile, including a proportionate share of all buildings and grounds costs, personnel costs, including fringe benefits, administrative costs and all other direct and indirect costs.

(7) The governing body of a county whose juvenile detention facility or shelter has been prohibited from accepting new admissions, and whose juveniles have been assigned to other juvenile detention facilities or shelters, shall appropriate an amount to pay the county receiving such juveniles for all expenses incurred pursuant to paragraph (6) of this subsection.

(cf: P.L.1982, c.77, s.18)

3. This act shall take effect immediately [1], but the provision referencing a violation of section 2 of P.L.1987, c.453 (C.12:7-61) in paragraph (5) of subsection c. of section 4 of P.L.1982, c.77 (C.2A:4A-23) shall remain inoperative until January 19, 1989[1].

JUDICIARY

Juvenile Justice

Requires that juveniles who receive certain sentences of imprisonment be incarcerated in a suitable juvenile facility and not in a county jail or workhouse.

(7) The governing body of a county whose juvenile detention facility or shelter has been prohibited from accepting new admissions, and whose juveniles have been assigned to other juvenile detention facilities or shelters, shall appropriate an amount to pay the county receiving such juveniles for all expenses incurred pursuant to paragraph (6) of this subsection.

3. This act shall take effect immediately.

STATEMENT

This bill provides that juveniles receiving sentences of imprisonment for a violation of Title 39 of the Revised Statutes or a supplement thereto shall be incarcerated in a suitable juvenile facility and not a county jail or workhouse. The bill also provides that juveniles held for a violation of or for contempt in connection with a violation of Title 39 of the Revised Statutes shall not be placed in a prison, jail or lock-up nor detained in a police station with adult offenders.

This bill was necessitated by the fact that certain violations of Title 39 of the Revised Statutes were removed from the definition of "delinquency" and consequently juveniles violating these statutes have their cases adjudicated in municipal courts. Unlike juvenile and domestic relations court judges or family court judges, municipal court judges are not authorized to sentence juveniles to juvenile facilities. This bill gives municipal court judges that authority.

JUDICIARY

Juvenile Justice

Requires that juveniles who receive certain sentences of imprisonment be incarcerated in a suitable juvenile facility and not in a county jail or workhouse.

S1101

ASSEMBLY LAW, PUBLIC SAFETY
AND CORRECTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1101

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Assembly Law, Public Safety and Corrections Committee favorably reports Senate Bill No. 1101.

Senate Bill No. 1101 amends section 4 and section 18 of P.L.1982, c.77 (C.2A:4A-23 and 2A:4A-37) to provide that juveniles receiving sentences of imprisonment for a violation of Title 39 of the Revised Statutes (a motor vehicle offense) be incarcerated in a suitable juvenile facility and not in a county jail or workhouse.

Under the new code of juvenile justice, motor vehicle violations are not defined as acts of "delinquency." As a result, juveniles charged with motor vehicle violations have their cases adjudicated in municipal court, not in family court. Municipal judges, unlike family court judges, are not presently authorized to sentence juveniles to juvenile facilities.The provisions of this bill would require that whenever a municipal court judge imposes a term of imprisonment on a juvenile in connection with a violation of Title 39 of the Revised Statutes that the sentence be served at a suitable juvenile institution and not at a county jail or county workhouse.

The provisions of Senate Bill No. 1101 are also designed to bring New Jersey practices into conformance with federal regulations. The federal Juvenile Justice and Delinquency Prevention Act requires that juveniles be separated from adult offenders in correctional facilities. In 1987, during a federal compliance monitoring, New Jersey was cited for failing to separate juveniles and adult offenders in county jails. Of the 20 violations cited, 15 involved juveniles jailed for motor vehicle offenses. The federal Office of Juvenile Justice and Delinquency Prevention has given the State until December 31, 1988 to conform and comply with the Juvenile Justice and Delinquency Prevention Act's separation requirements.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1101

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 1988

The Senate Judiciary Committee reports favorably Senate Bill No. 1101.

This bill provides that juveniles receiving sentences of imprisonment in connection a Title 39 (motor vehicle) offense be incarcerated in a suitable juvenile facility and not in a county jail or workhouse. This bill was necessitated by the removal by the new juvenile code of motor vehicle violations from the definition of "delinquency." Consequently juveniles violating these statutes have their cases adjudicated in municipal courts. Municipal court judges, unlike family court judges, are not presently authorized to sentence juveniles to juvenile facilities. This bill would grant municipal court judges this authority.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 10, 1989

SENATE BILL NO. 1101

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 1101 with my objections for reconsideration.

The purpose of this bill is to ensure that juveniles are not detained or imprisoned in adult facilities such as county jails or county workhouses for the violation of certain motor vehicles offenses. Under current law, violations of motor vehicle offenses by juveniles do not constitute acts of delinquency and, consequently, the juvenile may be ordered to serve a sentence or placed pretrial in an adult facility. This practice is inconsistent with general State policy and the separation requirements of the federal Juvenile Justice Delinquency and Prevention Act. In fact, part of this bill's purpose is to bring New Jersey into conformance with the Juvenile Justice Delinquency and Prevention Act's requirements that juveniles be separated from adult offenders in correctional facilities.

While I wholeheartedly support this bill's laudable attempt to close a loophole in New Jersey's existing law, I feel compelled to note that the bill does not fully cure the problem. This bill does not address all the circumstances under current New Jersey law in which juveniles may be legally placed in adult facilities. This is mainly due to the fact that the bill does not incorporate several recent changes made during the last legislative session to N.J.S.A. 2A:4A-23 which added other offenses to the list of those which, when committed by a juvenile, shall not constitute delinquency. These new offenses, for which a juvenile may be detained or imprisoned, include violations of the laws regarding smoking in public and violations of offenses relating to the regulation and registration of power vessels. Consequently, the passage of this bill in its present form would not fulfill the Legislature's intent of assuring that no juvenile is detained or imprisoned in a county jail or other adult facility.

Of particular concern are the additions concerning boating violations, especially N.J.S.A. 12:7-34.19, which prescribes penalties for operating or permitting another to operate a power vessel under the influence of alcohol or

drugs. The penalties provided under this statute are analogous to those provided for the offense of driving a motor vehicle while under the influence and include mandatory jail sentences for second and third offenses. In addition, the likelihood of juveniles being arrested and incarcerated for these offenses has increased proportionately with the general increase in the awareness of the dangers of drunk driving and boating, with the increased emphasis on boating safety and with the expanded presence of marine police on our State waterways.

I feel it prudent to expand this bill to ensure that no juveniles are susceptible to incarceration in adult facilities. This expansion will achieve the original intent of the legislation and bring New Jersey into full compliance with federal law as well as with our own policy regarding the detention and imprisonment of juveniles. I request that the Legislature act expeditiously on these recommendations so that New Jersey may be brought into full compliance with the federal mandate of the Juvenile Justice and Delinquency Prevention Act.

Therefore, I herewith return Senate Bill No. 1101 and recommend that it be amended as follows:

Page 1, Section 1, Line 31:	Delete "section 19 of P.L."
Page 1, Section 1, Line 32:	Delete line 32 in entirety
Page 1, Section 1, Line 33:	Delete "12:7-46 or section 9 of P.L. 1986, c. 39 (C.12:7-57)" and insert "chapter 7 of Title 12 of the Revised Statutes relating to the regulation and registration of power vessels, by a juvenile of any age or section 2 of P.L. 1987, c. 453 (C.12:7-61)"
Page 2, Section 1, Line 6:	After "municipal court" insert "orders detention or"
Page 2, Section 1, Line 8:	After "Statutes," insert "chapter 7 of the Revised Statutes or N.J.S. 2C:33-13," after "that" insert "detention or"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Page 2, Section 2, Lines 23: After "Revised Statutes," insert "chapter 7 of Title 12 of the Revised Statutes or N.J.S. 2C:33-13,"

Page 4, Section 3, Line 26: After "immediately" insert ", but the provision referencing a violation of section 2 of P.L. 1987, c. 453 (C.12:7-61) in paragraph (5) of subsection c. of section 4 of P.L. 1982, c. 77 (C.2A:4A-23) shall remain inoperative until January 19, 1989"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel