

2A:4A-34

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NJSA: 2A:4A-34

(Juveniles--
Detention)

LAWS OF: 1989

CHAPTER: 306

Bill No: S3169

Sponsor(s): Brown

Date Introduced: January 10, 1989

Committee: Assembly: -----

Senate: Judiciary

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

Date of Passage: Assembly: January 8, 1990

Senate: November 20, 1989

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

[Handwritten signature/initials]

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Report mentioned in statements:

974.901 New Jersey. Juvenile Delinquency Commission.
C35.7 Juvenile justice: toward completing the unfinished
agenda. August, 1988

KBG/SLJ

[FIRST REPRINT]
SENATE, No. 3169

STATE OF NEW JERSEY

INTRODUCED JANUARY 10, 1989

By Senators BROWN and McMANIMON

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1 AN ACT concerning criteria for placing juveniles in detention
and amending P.L.1982, c.77.

3

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

1. Section 15 of P.L.1982, c.77 (C.2A:4A-34) is amended to
7 read as follows:

15. Criteria for placing juvenile in detention.

9 a. Where it will not adversely affect the health, safety or
welfare of a juvenile, the juvenile shall be released pending the
11 disposition of a case, if any, to any person or agency provided for
in this section upon assurance being received that such person or
13 persons accept responsibility for the juvenile and will bring him
before the court as ordered.

15 b. No juvenile shall be placed in detention without the
permission of a judge or the court intake service.

17 c. A juvenile charged with delinquency may not be placed or
retained in detention under this act prior to disposition, except as
19 otherwise provided by law, unless:

(1) Detention is necessary to secure the presence of the
21 juvenile at the next hearing as evidenced by a demonstrable
record of recent willful failure to appear at juvenile court
23 proceedings or to remain where placed by the court or the court
intake service[or based on information presented to the court on
25 the record that there is a likelihood that the juvenile will not
appear at the next court proceeding]; or

27 (2) The physical safety of persons or property of the
community would be seriously threatened if the juvenile were not
29 detained and the juvenile is charged with an offense which, if
committed by an adult{:

31 (a) Would] would constitute a crime[, or would constitute a
repetitive disorderly persons offense, provided that the judge

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Senate SJU committee amendments adopted May 22, 1989.

1 determines that there is a likelihood that upon adjudication of
2 delinquency for that disorderly persons offense a custodial
3 disposition will be ordered, or

4 (b) Would constitute a high misdemeanor as defined by the
5 "New Jersey Controlled Dangerous Substances Act" (P.L.1970,
6 c.226; C.24:21-1 et seq.); or

7 (3) ¹[If] When the criteria for detention are met and¹ the
8 juvenile is charged with an offense which, if committed by an
9 adult, would constitute a disorderly persons or petty disorderly
10 persons offense, the juvenile may be placed in detention
11 ¹[initially if all efforts to locate the juvenile's parent or guardian
12 by the police or court intake services are unsuccessful]
13 temporarily. Police and court intake personnel shall make all
14 reasonable efforts to locate a parent or guardian to accept
15 custody of the juvenile prior to requesting or approving the
16 juvenile's placement in detention. If, after the initial detention
17 hearing, continued detention is necessary, the juvenile shall not
18 be detained in a secure facility but shall be transferred to a
19 shelter or other non-secure placement¹.

20 d. The judge or court intake officer prior to making a decision
21 of detention shall consider and, where appropriate, employ any of
22 the following alternatives:

23 (1) Release to parents;

24 (2) Release on juvenile's promise to appear at next hearing;

25 (3) Release to parents, guardian or custodian upon written
26 assurance to secure the juvenile's presence at the next hearing;

27 (4) Release into care of a custodian or public or private agency
28 reasonably capable of assisting the juvenile to appear at the next
29 hearing;

30 (5) Release with imposition of restrictions on activities,
31 associations, movements and residence reasonably related to
32 securing the appearance of the juvenile at the next hearing;

33 (6) Release with required participation in a home detention
34 program;

35 (7) Placement in a shelter care facility; or

36 (8) Imposition of any other restrictions other than detention or
37 shelter care reasonably related to securing the appearance of the
38 juvenile.

39 e. In determining whether detention is appropriate for the
40 juvenile, the following factors shall be considered:

- 1 (1) The nature and circumstances of the offense charged;
2 (2) The age of the juvenile;
3 (3) The juvenile's ties to the community;
4 (4) The juvenile's record of prior adjudications, if any; and
5 (5) The juvenile's record of appearance or nonappearance at
previous court proceedings.

7 f. No juvenile 11 years of age or under shall be placed in
detention unless he is charged with an offense which, if
9 committed by an adult, would be a crime of the first or second
degree or arson.

11 g. If the court places a juvenile in detention, the court shall
state on the record its reasons for that detention.

13 (cf: P.L.1982, c.77, s.15)

15 2. Section 19 of P.L.1982, c.77 (C.2A:4A-38) is amended to
read as follows:

19. Detention hearing.

17 a. When a juvenile is taken into custody ¹and detained¹ a
complaint shall be filed forthwith as provided by the Rules of
19 Court. The court shall determine whether detention is required
pursuant to the criteria provided for in section 15 of this act.

21 b. Notice of the detention hearing, either oral or written,
stating the time, place, and purpose of the hearing shall be given
23 to the juvenile and to his or her parent or parents, or guardian, if
any, if they can be contacted.

25 c. The detention hearing shall be conducted in accordance with
the Rules of Court and shall be attended by the juvenile and one
27 or both parents, or guardian, but may take place in the absence of
parent or guardian if such notice or process fails to produce their
29 attendance.

31 d. When the judge finds that detention is not necessary or
required, the court shall order the juvenile's release and may
place such conditions, if any, upon release as are consistent with
33 the purposes of this act, Rules of Court, and as are provided for
in section 15 of this act.

35 e. The initial detention hearing shall be held no later than the
morning following the juvenile's placement in detention including
37 weekends and holidays.

39 f. If a delinquency complaint has not been filed by the time
the initial detention hearing has been held, the juvenile shall be
released from custody immediately.

1 g. When the court determines that detention is necessary
pursuant to section 15 of this act, the court order continuing the
3 juvenile's detention shall be supported by reasons and findings of
fact on the record. ¹[Detention shall not be continued beyond the
5 initial detention for failure to locate a parent or guardian for
7 juveniles charged with an offense which, if committed by an
adult, would constitute a disorderly persons or petty disorderly
persons offense. These juveniles shall be transferred to a
9 non-secure placement or released on conditions set by the court
regardless of whether a delinquency complaint is filed.]¹

11 h. If the juvenile is not represented by counsel at the initial
detention hearing and if the court continues his detention after
13 the hearing, the court shall forthwith schedule a second detention
hearing to be held within 2 court days thereafter at which time
15 the juvenile shall be represented by counsel as provided by the
Rules of Court.

17 i. There shall be a probable cause determination where a
juvenile has been charged with delinquency and has been placed in
19 detention, within 2 court days after the initial hearing or, where
a second detention hearing is necessary pursuant to subsection h.
21 of this section, at that hearing.

j. A detention review hearing with counsel shall be held within
23 14 court days of the prior detention hearing and if detention is
continued, detention review hearings shall be held thereafter at
25 intervals not to exceed 21 court days.

k. When a juvenile is detained, an adjudicatory hearing shall be
27 held no later than 30 days from the date of detention. If no
adjudicatory hearing is held within 30 days, the court shall, within
29 72 hours of a motion by the juvenile, fix a date certain for the
adjudicatory hearing unless an extension is granted by the court
31 for good cause shown. Written notice of any application for a
postponement shall be sent to the juvenile's counsel who shall
33 have the right to be heard on the application.

l. ¹[A juvenile adjudicated delinquent who has not been
35 ordered by the court to placement in a secure out of home or
residential placement may not be held in a secure detention
37 facility while awaiting transfer to the other placement] When a
juvenile has been adjudicated delinquent and is awaiting transfer
39 to a dispositional alternative that does not involve a secure
residential or out of home placement and continued detention is

1 necessary, the juvenile shall not be detained in a secure facility
2 but shall be transferred to a non-secure facility¹.

3 (cf: P.L.1982, c.77, s.19)

4 3. This act shall take effect immediately.

5

6
7 CRIMINAL JUSTICE
8 Juvenile Justice

9

Changes the detention criteria for juveniles.

1 persons offense. These juveniles shall be transferred to a
2 non-secure placement or released on conditions set by the court
3 regardless of whether a delinquency complaint is filed.

4 h. If the juvenile is not represented by counsel at the initial
5 detention hearing and if the court continues his detention after
6 the hearing, the court shall forthwith schedule a second detention
7 hearing to be held within 2 court days thereafter at which time
8 the juvenile shall be represented by counsel as provided by the
9 Rules of Court.

10 i. There shall be a probable cause determination where a
11 juvenile has been charged with delinquency and has been placed in
12 detention, within 2 court days after the initial hearing or, where
13 a second detention hearing is necessary pursuant to subsection h.
14 of this section, at that hearing.

15 j. A detention review hearing with counsel shall be held within
16 14 court days of the prior detention hearing and if detention is
17 continued, detention review hearings shall be held thereafter at
18 intervals not to exceed 21 court days.

19 k. When a juvenile is detained, an adjudicatory hearing shall be
20 held no later than 30 days from the date of detention. If no
21 adjudicatory hearing is held within 30 days, the court shall, within
22 72 hours of a motion by the juvenile, fix a date certain for the
23 adjudicatory hearing unless an extension is granted by the court
24 for good cause shown. Written notice of any application for a
25 postponement shall be sent to the juvenile's counsel who shall
26 have the right to be heard on the application.

27 l. A juvenile adjudicated delinquent who has not been ordered
28 by the court to placement in a secure out of home or residential
29 placement may not be held in a secure detention facility while
30 awaiting transfer to the other placement.

31 (cf: P.L.1982, c.77, s.19)

32 3. This act shall take effect immediately.

33

34 SPONSORS' STATEMENT

35
36 This bill limits the class of offenses that would result in
37 detention if committed by a juvenile. Juveniles who commit
38 disorderly persons offenses and petty disorderly persons offenses
39

1 are excluded from detention, except, those juveniles may be
detained initially provided that all attempts to locate a parent or
3 guardian have proven unsuccessful. Currently the law includes
repetitive disorderly persons offenders.

5 In the Juvenile Delinquency Commission's Annual Report,
Juvenile Justice - Toward Completing the Unfinished Agenda, the
7 commission in recommendation number six acknowledges that
the problem of overcrowding in detention facilities deserves an
9 immediate and appropriate response. One way of resolving this
dilemma is by limiting the admission to the detention facilities to
11 those juveniles who have been charged with offenses greater than
disorderly persons and petty disorderly persons offense, that is,
13 crimes. The Juvenile Delinquency Commission is not condoning
acts which are disorderly persons offenses, but rather they are
15 questioning the efficiency and appropriateness of using detention
where juveniles are alleged to have committed offenses which do
17 not constitute crimes.

19

CRIMINAL JUSTICE

21

Juvenile Justice

23 Changes the detention criteria for juveniles.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3169

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 1989

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 3169.

Presently, juveniles charged with repetitive disorderly persons offenses may be held in detention prior to adjudication if the court determines that there is a likelihood that a custodial disposition would be ordered upon adjudication. This bill would only permit preadjudication detention of juveniles charged with crimes. Juveniles charged with disorderly persons offense could, however, be initially detained when attempts to locate a parent or guardian have been unsuccessful.

The bill would also delete language providing that a court could order the preadjudication detention of a juvenile based on information indicating that there is a likelihood that the juvenile will not appear at the next court proceeding. Language indicating that a juvenile may be held in detention if there is a demonstrable record of failure to appear would be retained.

The amendments adopted by the committee clarify that if it is determined that a juvenile charged with a disorderly persons offense should be detained pending disposition, the juvenile would not be held in a juvenile detention facility but should be transferred to a shelter or some other non-secure facility.

The amendments also clarify that if the disposition of adjudicated delinquent does not involve a secure residential or out of home placement and continued detention is necessary, the juvenile would not be held in juvenile detention facility but transferred to a non-secure facility.

The provisions of the bill are based on recommendations contained in 1988 report of the Juvenile Delinquency Commission. These recommendations seek to address the problem of overcrowding in juvenile detention facilities.

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