

2A: 4A-85

LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 2A:4A-85 (Juveniles--certain--examination by optometrist or audiologist)

**LAWS OF:** A2140 **CHAPTER:** 437

**BILL NO:** 1985

**Sponsor(s):** Rooney and others

**Date Introduced:** June 21, 1984

**Committee: Assembly:** Judiciary  
**Senate:** Judiciary

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

**Date of Passage: Assembly:** January 28, 1985  
**Senate:** December 9, 1985

**Date of Approval:** January 13, 1986

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement: Assembly** Yes  
**Senate** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on Signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

Louisiana statute, referred to in statements--attached

437

85

1-13-86

[OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 2140

# STATE OF NEW JERSEY

INTRODUCED JUNE 21, 1984

By Assemblymen ROONEY, SCHUBER, KERN and MARKERT

AN ACT concerning certain examinations of certain juveniles and  
\***[supplementing P. L. 1982, c. 77 (C. 2A:4A-20 et seq.).]**\*  
\*amending P. L. 1982, c. 80.\*

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

1 \***[1. On its own motion or on motion of the juvenile or prosecutor,**  
2 the court may order any juvenile concerning whom a complaint is  
3 filed to be examined by a physician, optometrist, or audiologist.

1 2. Any examination shall be made and the findings submitted to  
2 the court within 30 days of the date the order is entered, but this  
3 period may be extended by the court for good cause.

1 3. Copies of any reports of findings submitted to the court shall  
2 be available to counsel for all parties prior to an adjudication of  
3 whether or not the juvenile is delinquent.]\*

1 \*1. Section 10 of P. L. 1982, c. 80 (C. 2A:4A-85) is amended  
2 to read as follows:

3 10. Alcoholic, drug-dependent parent. a. When a petition is filed  
4 and as a result of any information supplied on the family situation  
5 by the crisis intervention unit, court intake services has reason to  
6 believe that the parent or guardian is an alcoholic, as defined by  
7 P. L. 1975, c. 305 (C. 26:2B-8) or a drug-dependent person, as  
8 defined by section 2 of the "New Jersey Controlled Dangerous Sub-  
9 stances Act," P. L. 1970, c. 226 (C. 24:21-2), intake services shall  
10 state the basis for this determination and provide recommendations  
11 to the court.

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

Matter printed in italics *thus* is new matter.

**Matter enclosed in asterisks or stars has been adopted as follows:**

\*—Assembly committee amendments adopted December 13, 1984.

12 b. When, as a result of any information supplied by the crisis  
13 intervention unit, court intake services has reason to believe that  
14 a juvenile is an "abused or neglected child" as defined in P. L. 1974,  
15 c. 119 (C. 9:6-8.21), they shall handle the case pursuant to the pro-  
16 cedure set forth in that law. The Division of Youth and Family  
17 Services shall, upon disposition of any case originated pursuant  
18 to this subsection, notify court intake services as to the nature of  
19 the disposition.

20 c. (1) *When, as a result of any information supplied with regard*  
21 *to any juvenile by the crisis intake intervention unit or from any*  
22 *other source, court intake services has reason to believe that the*  
23 *juvenile may have an auditory or vision problem, intake services*  
24 *shall state the basis for this determination and provide recom-*  
25 *mendations to the court. Before arriving at its determination, in-*  
26 *take services may request the court to order any appropriate school*  
27 *medical records of the juvenile. On the basis of this recommenda-*  
28 *tion or on its own motion, the court may order any juvenile con-*  
29 *cerning whom a complaint is filed to be examined by a physician,*  
30 *optometrist, audiologist, or speech language pathologist.*

31 (2) *Any examination shall be made and the findings submitted*  
32 *to the court within 30 days of the date the order is entered, but*  
33 *this period may be extended by the court for good cause.*

34 (3) *Copies of any reports of findings submitted to the court shall*  
35 *be available to counsel for all parties prior to an adjudication of*  
36 *whether or not the juvenile is delinquent.\**

1 \***[4.]**\* \*2.\* This act shall take effect immediately.

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**ASSEMBLY, No. 2140**

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**STATE OF NEW JERSEY**

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INTRODUCED JUNE 21, 1984

By Assemblymen ROONEY, SCHUBER, KERN and MARKERT

AN ACT concerning certain examinations of certain juveniles and  
supplementing P. L. 1982, c. 77 (C. 2A:4A-20 et seq.).

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

1 1. On its own motion or on motion of the juvenile or prosecutor,  
2 the court may order any juvenile concerning whom a complaint is  
3 filed to be examined by a physician, optometrist, or audiologist.

1 2. Any examination shall be made and the findings submitted to  
2 the court within 30 days of the date the order is entered, but this  
3 period may be extended by the court for good cause.

1 3. Copies of any reports of findings submitted to the court shall  
2 be available to counsel for all parties prior to an adjudication of  
3 whether or not the juvenile is delinquent.

1 4. This act shall take effect immediately.

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**STATEMENT**

This bill provides for a sensory examination of a juvenile by an optometrist or audiologist in addition to the usual medical examination.

An evaluation by an optometrist or audiologist could do much to detect and prevent juvenile problems such as child abuse, truancy, school dropout and illiteracy. It will also assist in reducing or preventing juvenile crime and teenage suicides.

This bill will give a new direction to the constant battle against juvenile delinquency caused by physiological stress based on visual dysfunction.

The examination would be conducted prior to an adjudicatory hearing and copies of the report would be available to counsel to all parties prior to the hearing.

This bill is similar to legislation recently enacted by the State of Louisiana.

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ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2140**

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: DECEMBER 13, 1984

As amended by the committee, this bill makes changes to the Code of Juvenile Justice to provide for sensory examinations of juveniles concerning whom a complaint is filed. This process would be initiated when, as a result of information supplied on a juvenile by a crisis intervention unit or another source, court intake services has reason to believe the juvenile may have an auditory or vision problem.

This examination would be conducted by an optometrist, audiologist, or speech language pathologist in addition to the usual medical examination.

The examination would be conducted prior to an adjudicatory hearing and copies of the report would be available to counsel to all parties prior to the hearing.

According to the sponsor's statement, an evaluation by an optometrist or audiologist could do much to detect and prevent juvenile problems such as child abuse, truancy, school dropout and illiteracy. It will also assist in reducing or preventing juvenile crime and teenage suicides.

This bill is similar to legislation recently enacted by the State of Louisiana.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2140**

**STATE OF NEW JERSEY**

DATED: MAY 6, 1985

This bill provides that whenever a complaint has been filed against a juvenile and the family court has reason to believe that the juvenile has an auditory or vision problem, the court may order the juvenile to be examined by a physician, optometrist, audiologist or speech pathologist. Copies of any reports so ordered would be made available to counsel for all parties prior to adjudication.

records of Department of Health and Human Resources under LSA-R.S. 46:56 limiting access of records pertaining to foster care of children, investigations of abuse and neglect of children and other child welfare services, it denies parents due process of law and must yield to constitutionally protected interest of those asserting their parental status. (Per Justice Watson, with two Justices concurring and two Justices concurring separately.) Id.

**1. Evidence**

In state's action seeking temporary custody of minor child and placement with the Louisiana Health and Human Resources Administration, trial court erred in refusing to admit into evidence the report from the Mississippi Department of Public Welfare. State in Interest of R.L.B., App.1981, 394 So.2d 860.

**2. Probation officer**

Office of Human Development, Department of Health and Human Resources serves as "probation officer" in that it fur-

nishes supervision services to courts exercising juvenile jurisdiction, and, therefore, parent's attorney was entitled to discover reports in possession or control of district attorney or Office in connection with state action against parent based on allegations that children are in need of care and/or neglected. (Per Justice Watson, with two Justices concurring and two Justices concurring separately.) State in Interest of Delcuze, Sup.1981, 407 So.2d 707.

**3. Deposition**

Under this article, deposition is not permissible method of discovery, and, therefore, juvenile court was correct in not allowing deposition of social worker when mother attempted to take that deposition in connection with proceeding in which state alleged that minor was in need of care, but informal adjustment agreement had been made. (Per Justice Watson, with two Justices concurring and two Justices concurring separately.) State in Interest of Delcuze, Sup.1981, 407 So.2d 707.

**Art. 61. Medical, sensory, psychological, and psychiatric examinations**

A. On its own motion or on the motion of the child or district attorney, the court may order any child concerning whom a petition has been filed to be examined by a physician, optometrist, or audiologist.

B. On its own motion or on the motion of the child or district attorney, after a contradictory hearing and a showing of good cause, the court may order any child alleged to be in need of supervision or care to be examined by a psychologist or psychiatrist.

C. On motion of the child, the court may order a child concerning whom a petition has been filed, to be examined by a psychologist or a psychiatrist.

D. Any examination as herein provided shall be made and the findings submitted to the court within thirty days of the date the order is entered. Such period may be extended by the court for good cause.

E. Copies of any reports of findings submitted to the court shall be available to counsel for all parties.

F. Nothing contained in this Article shall amend R.S. 13:1583(C).

Added by Acts 1978, No. 172, § 1, eff. Jan. 1, 1979. Amended by Acts 1979, No. 579, § 1; Acts 1983, No. 156, § 1.

**History and Source of Law**

Language authorizing physical and mental examinations was previously found in LSA-R.S. 13:1583.

The 1979 amendment added "psychological" to the article heading: divided the prior



subject matter of this article into pars. A, B, and D to F; added par. C; in par. D substituted "Any examination as herein provided" for "Such examination"; in par. E substituted "Copies" for "A copy"; and, in par. F, substituted "R.S. 13:1583(c)" for

"Subsection C. of Section 1533 of Title 13 of the Louisiana Revised Statutes".

The 1983 amendment, in the article heading, inserted "sensory,"; and, in par. A, inserted ", optometrist, or audiologist".

Cross References

Mental examinations in criminal cases, see C.Cr.P. arts. 643 et seq., 650. Parents in need of supervision, mental and physical examination, see C.J.P. art. 118. Physical and mental examinations in civil cases, see C.C.P. art. 1464.

Law Review Commentaries

Louisiana Code of Juvenile Procedure. Anthony J. Graphia, 5 Southern U.L.Rev. 151 (1979).

Library References

Infants ¶16.4. C.J.S. Infants §§ 42, 53, 54.

Notes of Decisions

In general 1/2 Delinquency proceedings 1

1/2. In general

There were facts in record to put juvenile court on notice that juvenile might be mentally retarded or insane and, hence, to give juvenile a right to plead not guilty and not guilty by reason of insanity as well as a right to a more thorough mental examination, followed by contradictory hearing, where juvenile was reported, by psychologist who examined him before court, to vary "from the upper end of the range of moderate mental retardation with regard to non-verbal intelligence . . . to the range of mild mental retardation with regard to verbal intelligence" and was also reported to have "poor fine motor control, spatial disorientation, and problems in angling . . . suggestive of neuropsychological dysfunction," with "memory problems and the possibility of episodic 'blinking out'" as "further evidence of possible neuropathy." State in Interest of Causey, Sup.1978, 363 So.2d 472.

1. Delinquency proceedings

Since psychological examination of juvenile for purpose of evaluating his amenability to juvenile system, with an eye toward transfer for adult criminal treatment, would involve evidence of a testimonial or communicative nature, such fell within scope of privilege against compelled self-incrimination; however, examination at issue did not violate the privilege as it was not being conducted for use in adjudication hearing to determine the guilt or innocence although no statements, either inculpatory or exculpatory, made to psychologist or psychiatrist during the examination would be admissible at trial on the merits of guilt or innocence. State in Interest of Bruno, Sup.1980, 388 So.2d 784.

This article was not intended to apply to delinquency proceedings; however, legislature did not intend to prohibit a juvenile judge from obtaining psychological information when the same would be of relevant and probative value in a juvenile transfer hearing and, hence, a judge is not precluded from ordering a child in a juvenile transfer proceeding to undergo psychological evaluation. Id.

Art. 62. Medical treatment of children

On its own motion, or on motion of the child or the district attorney, the court may order the parent of a child concerning whom a petition has been filed to provide necessary medical or surgical care.

If the parent to the parent, the expense. Added by Acts

The subject matter previously contained

C.J.S. Infants §§ Infants ¶16.11.

Art. 63. Motion In delinquency require the district more specific. the child comm may be ordered

When a bill of court and a Added by Acts 19

Bill of particulars in Right to information

Infants ¶16.6. C.J.S. Infants § 5

1. In general Where petition for tion adequately set charges were based of prejudice from f

Art. 64. Motion In delinquency obtained in violation Constitution of Added by Acts 19

Advising accused of Due process of law, Motion to suppress