

2A:4A-26

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2A:4A-26

(Death by auto--
juvenile under
influence)

LAWS OF: 1991

CHAPTER: 30

Bill No: S260

Sponsor(s): Lynch

Date Introduced: Pre-filed

Committee: Assembly: Judiciary, Law & Public Safety

Senate: Judiciary

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

Date of Passage: Assembly: January 10, 1991

Senate: March 8, 1990

Date of Approval: February 21, 1991

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~~ Yes

(over)

For background see:

974.90 New Jersey. Legislature. Assembly. Law, Public Safety and
J97 Corrections
1988 Public hearing, held 8-16-88.
 thoro fare, New Jersey, 1988.

See newspaper clippings--attached:

KBG/SLJ

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator LYNCH

1 AN ACT concerning juveniles over the age of 14 years charged
2 with death by auto and amending P.L.1982, c.77 ¹[and
3 P.L.1982, c.79]¹.

4

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

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
12 that case from the family court to the appropriate court and
13 prosecuting authority having jurisdiction if it finds, after hearing
14 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
18 committed a delinquent act or acts which if committed by an
19 adult would constitute:

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

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

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

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

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

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 February 8, 1990.

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

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

7 (3) Except with respect to any of the acts enumerated in
8 subsection a. (2) (a) of this section, or with respect to any acts
9 enumerated in subparagraph (e) of paragraph (2) of subsection a.
10 of this section which involve the distribution for pecuniary gain
11 of any controlled dangerous substance or controlled substance
12 analog while on any property used for school purposes which is
13 owned by ¹or leased to¹ any school or school board, or within
14 1,000 feet of ¹[any] such¹ school property or while on any school
15 bus, or any attempt or conspiracy to commit any of those acts,
16 the State has shown that the nature and circumstances of the
17 charge or the prior record of the juvenile are sufficiently serious
18 that the interests of the public require waiver.

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

24 b. In every case where there is a motion seeking waiver, the
25 prosecutor shall within a reasonable time thereafter file a
26 statement with the Attorney General setting forth the basis for
27 the motion. In addition, the court shall in writing, state its
28 reasons for granting or denying the waiver motion. The Attorney
29 General shall compile this information and report its findings to
30 the Legislature 18 months after the effective date of this act
31 with the objective of developing, where appropriate, guidelines as
32 to the waiver of juveniles from the family court.

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

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

40 (cf: P.L.1987, c.106, s.23)

41 2. This act shall take effect immediately.

42
43 CRIMINAL JUSTICE

44
45 Adds death by auto, if committed by a juvenile while under the
46 influence of liquor or drugs, to offenses which may be waived
47 from family court to adult criminal court under certain
48 circumstances.

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

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

7 (3) Except with respect to any of the acts enumerated in
8 subsection a. (2) (a) of this section or any attempt or conspiracy
9 to commit any of those acts, the State has shown that the nature
10 and circumstances of the charge or the prior record of the
11 juvenile are sufficiently serious that the interests of the public
12 require waiver.

13 However, if in any case the juvenile call show that the
14 probability of his rehabilitation by the use of the procedures,
15 services and facilities available to the court prior to the juvenile
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32 within 30 days of receipt of the complaint. This time limit shall
33 not, except for good cause shown, be extended.

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35
36
37 STATEMENT

38
39 This bill provides that death by auto, if committed by a
40 juvenile who is under the influence of intoxicating liquor or drugs,
41 is among the offenses that may be waived from family court to
42 the adult criminal court upon a showing that the prior record of
43 the juvenile or the nature and circumstances of the charges are
44 sufficiently serious that the interests of the public require such a
45 waiver.

46 This bill removes a section establishing a presumption that
47 information as to the identity if a juvenile, the nature of the
48 offense, and the disposition of the case may be disclosed to the

1 public if the offense was death by auto. This section was
2 removed because it is no longer necessary. The juvenile's
3 identity, the offenses, and the disposition of the case be disclosed
4 to the public when the offense would constitute, among other
5 offenses, a crime of the third degree of committed by an adult.
6 The recent enactment of P.L. 1985, c. 97, which raised death by
7 auto from a crime of the fourth degree to a crime of the third
8 degree thus included death by auto under this presumption.

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CRIMINAL JUSTICE

12

13 Adds death by auto, if committed by a juvenile while under the
14 influence of liquor or drugs, to offenses which may be waived
15 from family court to adult criminal court under certain
16 circumstances.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 260

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1990

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 260 [1R].

The bill provides that death by auto, if committed by a juvenile while under the influence of intoxicating liquor or drugs, is among the offenses that may be waived from family court to adult criminal court upon a showing that the prior record of the juvenile or the nature and circumstances of the charges are sufficiently serious that the interest of the public require such a waiver.

This bill is identical to Assembly Bill No. 3333.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 260

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1990

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 260.

The bill provides that death by auto, if committed by a juvenile while under the influence of intoxicating liquor or drugs, is among the offenses that may be waived from family court to adult criminal court upon a showing that the prior record of the juvenile or the nature and circumstances of the charges are sufficiently serious that the interest of the public require such a waiver.

The committee amendments to the bill were of a technical nature and amend the bill to reflect existing law.

The bill was prefiled for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.