

CHAPTER 408

AN ACT incorporating balanced and restorative justice principles into the juvenile justice system and amending P.L.1982, c.77, P.L.1982, c.81 and P.L.1995, c.284.

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

1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to read as follows:

C.2A:4A-21 Purposes.

2. Purposes. This act shall be construed so as to effectuate the following purposes:
 - a. To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of juveniles coming within the provisions of this act;
 - b. Consistent with the protection of the public interest, to remove from children committing delinquent acts certain statutory consequences of criminal behavior, and to substitute therefor an adequate program of supervision, care and rehabilitation, and a range of sanctions designed to promote accountability and protect the public;
 - c. To separate juveniles from the family environment only when necessary for their health, safety or welfare or in the interests of public safety;
 - d. To secure for each child coming under the jurisdiction of the court such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the State; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents;
 - e. To insure that children under the jurisdiction of the court are wards of the State, subject to the discipline and entitled to the protection of the State, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them; and
 - f. Consistent with the protection of the public interest, to insure that any services and sanctions for juveniles provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable children to become responsible and productive members of the community.

2. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read as follows:

C.2A:4A-42 Predispositional evaluation.

23. Predispositional evaluation. a. Before making a disposition, the court may refer the juvenile to an appropriate individual, agency or institution for examination and evaluation.

b. In arriving at a disposition, the court may also consult with such individuals and agencies as may be appropriate to the juvenile's situation, including the county probation division, the Division of Youth and Family Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), the county youth services commission, school personnel, clergy, law enforcement authorities, family members and other interested and knowledgeable parties. In so doing, the court may convene a predispositional conference to discuss and recommend disposition.

c. The predisposition report ordered pursuant to the Rules of Court may include a statement by the victim of the offense for which the juvenile has been adjudicated delinquent or by the nearest relative of a homicide victim. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation division shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the predisposition report if the victim or relative so desires. Any statement shall be made within 20 days of notification by the probation division. The report shall further include information on the financial resources of the juvenile. This information shall be made available on request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment, restitution or fine. Any predisposition report prepared

pursuant to this section shall include an analysis of the circumstances attending the commission of the act, the impact of the offense on the community, the offender's history of delinquency or criminality, family situation, financial resources, the financial resources of the juvenile's parent or guardian, and information concerning the parent or guardian's exercise of supervision and control relevant to commission of the act.

Information concerning financial resources included in the report shall be made available to any officer authorized to collect payment on any assessment, restitution or fine.

3. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read as follows:

C.2A:4A-43 Disposition of delinquency cases.

24. Disposition of delinquency cases. a. In determining the appropriate disposition for a juvenile adjudicated delinquent the court shall weigh the following factors:

- (1) The nature and circumstances of the offense;
- (2) The degree of injury to persons or damage to property caused by the juvenile's offense;
- (3) The juvenile's age, previous record, prior social service received and out-of-home placement history;
- (4) Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;
- (5) Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;
- (6) Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child;
- (7) Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has mental retardation or learning disabilities;
- (8) Any other circumstances related to the offense and the juvenile's social history as deemed appropriate by the court;
- (9) The impact of the offense on the victim or victims;
- (10) The impact of the offense on the community; and
- (11) The threat to the safety of the public or any individual posed by the child.

b. If a juvenile is adjudged delinquent, and except to the extent that an additional specific disposition is required pursuant to subsection e. or f. of this section, the court may order incarceration pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the following dispositions:

- (1) Adjourn formal entry of disposition of the case for a period not to exceed 12 months for the purpose of determining whether the juvenile makes a satisfactory adjustment, and if during the period of continuance the juvenile makes such an adjustment, dismiss the complaint; provided that if the court adjourns formal entry of disposition of delinquency for a violation of an offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but may waive imposition of the penalty set forth in N.J.S.2C:35-16 for juveniles adjudicated delinquent;
- (2) Release the juvenile to the supervision of the juvenile's parent or guardian;
- (3) Place the juvenile on probation to the chief probation officer of the county or to any other suitable person who agrees to accept the duty of probation supervision for a period not to exceed three years upon such written conditions as the court deems will aid rehabilitation of the juvenile;
- (4) Transfer custody of the juvenile to any relative or other person determined by the court to be qualified to care for the juvenile;
- (5) Place the juvenile under the care of the Department of Human Services under the responsibility of the Division of Youth and Family Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing services in or out of the home. Within 14 days, unless for good cause shown, but not later than 30 days, the Department of Human Services shall

submit to the court a service plan, which shall be presumed valid, detailing the specifics of any disposition order. The plan shall be developed within the limits of fiscal and other resources available to the department. If the court determines that the service plan is inappropriate, given existing resources, the department may request a hearing on that determination;

(6) Place the juvenile under the care and custody of the Commissioner of the Department of Human Services for the purpose of receiving the services of the Division of Developmental Disabilities of that department, provided that the juvenile has been determined to be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);

(7) Commit the juvenile, pursuant to applicable laws and the Rules of Court governing civil commitment, to the Department of Human Services under the responsibility of the Division of Mental Health Services for the purpose of placement in a suitable public or private hospital or other residential facility for the treatment of persons who are mentally ill, on the ground that the juvenile is in need of involuntary commitment;

(8) Fine the juvenile an amount not to exceed the maximum provided by law for such a crime or offense if committed by an adult and which is consistent with the juvenile's income or ability to pay and financial responsibility to the juvenile's family, provided that the fine is specially adapted to the rehabilitation of the juvenile or to the deterrence of the type of crime or offense. If the fine is not paid due to financial limitations, the fine may be satisfied by requiring the juvenile to submit to any other appropriate disposition provided for in this section;

(9) Order the juvenile to make restitution to a person or entity who has suffered loss resulting from personal injuries or damage to property as a result of the offense for which the juvenile has been adjudicated delinquent. The court may determine the reasonable amount, terms and conditions of restitution. If the juvenile participated in the offense with other persons, the participants shall be jointly and severally responsible for the payment of restitution. The court shall not require a juvenile to make full or partial restitution if the juvenile reasonably satisfies the court that the juvenile does not have the means to make restitution and could not reasonably acquire the means to pay restitution;

(10) Order that the juvenile perform community services under the supervision of a probation division or other agency or individual deemed appropriate by the court. Such services shall be compulsory and reasonable in terms of nature and duration. Such services may be performed without compensation, provided that any money earned by the juvenile from the performance of community services may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(11) Order that the juvenile participate in work programs which are designed to provide job skills and specific employment training to enhance the employability of job participants. Such programs may be without compensation, provided that any money earned by the juvenile from participation in a work program may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(12) Order that the juvenile participate in programs emphasizing self-reliance, such as intensive outdoor programs teaching survival skills, including but not limited to camping, hiking and other appropriate activities;

(13) Order that the juvenile participate in a program of academic or vocational education or counseling, such as a youth service bureau, requiring attendance at sessions designed to afford access to opportunities for normal growth and development. This may require attendance after school, evenings and weekends;

(14) Place the juvenile in a suitable residential or nonresidential program for the treatment of alcohol or narcotic abuse, provided that the juvenile has been determined to be in need of such services;

(15) Order the parent or guardian of the juvenile to participate in appropriate programs or services when the court has found either that such person's omission or conduct was a significant contributing factor towards the commission of the delinquent act, or, under its authority to enforce litigant's rights, that such person's omission or conduct has been a significant contributing factor towards the ineffective implementation of a court order previously entered in relation to the juvenile;

(16) (a) Place the juvenile in a nonresidential program operated by a public or private agency,

providing intensive services to juveniles for specified hours, which may include education, counseling to the juvenile and the juvenile's family if appropriate, vocational training, employment counseling, work or other services;

(b) Place the juvenile under the custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) for placement with any private group home or private residential facility with which the commission has entered into a purchase of service contract;

(17) Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two years the driver's license, registration certificate, or both of any juvenile who used a motor vehicle in the course of committing an act for which the juvenile was adjudicated delinquent. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the severity of the delinquent act and the potential effect of the loss of driving privileges on the juvenile's ability to be rehabilitated. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial commitment;

(18) Order that the juvenile satisfy any other conditions reasonably related to the rehabilitation of the juvenile;

(19) Order a parent or guardian who has failed or neglected to exercise reasonable supervision or control of a juvenile who has been adjudicated delinquent to make restitution to any person or entity who has suffered a loss as a result of that offense. The court may determine the reasonable amount, terms and conditions of restitution; or

(20) Place the juvenile, if eligible, in an appropriate juvenile offender program established pursuant to P.L.1997, c.81 (C.30:8-61 et al.).

c. (1) Except as otherwise provided in subsections e. and f. of this section, if the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Juvenile Justice Commission, the court may, in addition to any of the dispositions not involving placement out of the home enumerated in this section, incarcerate the juvenile in the youth detention facility in that county for a term not to exceed 60 consecutive days. Counties which do not operate their own juvenile detention facilities may contract for the use of approved commitment programs with counties with which they have established agreements for the use of pre-disposition juvenile detention facilities. The Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection.

(2) No juvenile may be incarcerated in any county detention facility unless the county has entered into an agreement with the Juvenile Justice Commission concerning the use of the facility for sentenced juveniles. Upon agreement with the county, the Juvenile Justice Commission shall certify detention facilities which may receive juveniles sentenced pursuant to this subsection and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to this subsection exceed 50% of the maximum capacity of the facility.

(3) The court may fix a term of incarceration under this subsection where:

(a) The act for which the juvenile was adjudicated delinquent, if committed by an adult, would have constituted a crime or repetitive disorderly persons offense;

(b) Incarceration of the juvenile is consistent with the goals of public safety, accountability and rehabilitation and the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors as set forth in section 25 of P.L.1982, c.77 (C.2A:4A-44); and

(c) The detention facility has been certified for admission of adjudicated juveniles pursuant to paragraph (2).

(4) If as a result of incarceration of adjudicated juveniles pursuant to this subsection, a county is required to transport a predisposition juvenile to a juvenile detention facility in another county, the costs of such transportation shall be borne by the Juvenile Justice Commission.

d. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section other than subsection c., the duration of the juvenile's mandatory

participation in such alternative programs shall extend for a period consistent with the program goal for the juvenile and shall in no event exceed one year beyond the maximum duration permissible for the delinquent if the juvenile had been committed to a term of incarceration.

e. In addition to any disposition the court may impose pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the following orders shall be included in dispositions of the adjudications set forth below:

(1) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) or an order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 60 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of theft of a motor vehicle, or the crime of unlawful taking of a motor vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2;

(2) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 60 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of aggravated assault in violation of paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a case in which the juvenile has previously been adjudicated delinquent for an act, which if committed by an adult, would constitute unlawful taking of a motor vehicle or theft of a motor vehicle;

(3) An order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 30 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the fourth degree crime of unlawful taking of a motor vehicle in violation of subsection b. of N.J.S.2C:20-10;

(4) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 30 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of unlawful taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has previously been adjudicated delinquent for an act which, if committed by an adult, would constitute either theft of a motor vehicle, the unlawful taking of a motor vehicle or eluding.

f. (1) The minimum terms of incarceration required pursuant to subsection e. of this section shall be imposed regardless of the weight or balance of factors set forth in this section or in section 25 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those factors shall determine the length of the term of incarceration appropriate, if any, beyond any mandatory minimum term required pursuant to subsection e. of this section.

(2) When a court in a county that does not have a juvenile detention facility or a contractual relationship permitting incarceration pursuant to subsection c. of this section is required to impose a term of incarceration pursuant to subsection e. of this section, the court may, subject to limitations on commitment to State correctional facilities of juveniles who are under the age of 11 or developmentally disabled, set a term of incarceration consistent with subsection c. which shall be served in a State correctional facility. When a juvenile who because of age or developmental disability cannot be committed to a State correctional facility or cannot be incarcerated in a county facility, the court shall order a disposition appropriate as an alternative to any incarceration required pursuant to subsection e.

(3) For purposes of subsection e. of this section, in the event that a "boot camp" program for juvenile offenders should be developed and is available, a term of commitment to such a program shall be considered a term of incarceration.

g. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section, the order shall include provisions which provide balanced attention to the protection of the community, accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies

to enable the child to become a responsible and productive member of the community.

4. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to read as follows:

C.2A:4A-44 Incarceration -- aggravating and mitigating factors.

25. Incarceration--Aggravating and mitigating factors.

a. (1) Except as provided in subsections e. and f. of section 24 of P.L.1982, c.77 (C.2A:4A-43), in determining whether incarceration is an appropriate disposition, the court shall consider the following aggravating circumstances:

(a) The fact that the nature and circumstances of the act, and the role of the juvenile therein, was committed in an especially heinous, cruel, or depraved manner;

(b) The fact that there was grave and serious harm inflicted on the victim and that based upon the juvenile's age or mental capacity the juvenile knew or reasonably should have known that the victim was particularly vulnerable or incapable of resistance due to advanced age, disability, ill-health, or extreme youth, or was for any other reason substantially incapable;

(c) The character and attitude of the juvenile indicate that the juvenile is likely to commit another delinquent or criminal act;

(d) The juvenile's prior record and the seriousness of any acts for which the juvenile has been adjudicated delinquent;

(e) The fact that the juvenile committed the act pursuant to an agreement that the juvenile either pay or be paid for the commission of the act and that the pecuniary incentive was beyond that inherent in the act itself;

(f) The fact that the juvenile committed the act against a policeman or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority, or the juvenile committed the act because of the status of the victim as a public servant;

(g) The need for deterring the juvenile and others from violating the law;

(h) The fact that the juvenile knowingly conspired with others as an organizer, supervisor, or manager to commit continuing criminal activity in concert with two or more persons and the circumstances of the crime show that he has knowingly devoted himself to criminal activity as part of an ongoing business activity;

(i) The fact that the juvenile on two separate occasions was adjudged a delinquent on the basis of acts which if committed by an adult would constitute crimes;

(j) The impact of the offense on the victim or victims;

(k) The impact of the offense on the community; and

(l) The threat to the safety of the public or any individual posed by the child.

(2) In determining whether incarceration is an appropriate disposition the court shall consider the following mitigating circumstances:

(a) The child is under the age of 14;

(b) The juvenile's conduct neither caused nor threatened serious harm;

(c) The juvenile did not contemplate that the juvenile's conduct would cause or threaten serious harm;

(d) The juvenile acted under a strong provocation;

(e) There were substantial grounds tending to excuse or justify the juvenile's conduct, though failing to establish a defense;

(f) The victim of the juvenile's conduct induced or facilitated its commission;

(g) The juvenile has compensated or will compensate the victim for the damage or injury that the victim has sustained, or will participate in a program of community service;

(h) The juvenile has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present act;

(i) The juvenile's conduct was the result of circumstances unlikely to recur;

(j) The character and attitude of the juvenile indicate that the juvenile is unlikely to commit another delinquent or criminal act;

(k) The juvenile is particularly likely to respond affirmatively to noncustodial treatment;

(l) The separation of the juvenile from the juvenile's family by incarceration of the juvenile

would entail excessive hardship to the juvenile or the juvenile's family;

(m) The willingness of the juvenile to cooperate with law enforcement authorities;

(n) The conduct of the juvenile was substantially influenced by another person more mature than the juvenile.

b. (1) There shall be a presumption of nonincarceration for any crime or offense of the fourth degree or less committed by a juvenile who has not previously been adjudicated delinquent or convicted of a crime or offense.

(2) Where incarceration is imposed, the court shall consider the juvenile's eligibility for release under the law governing parole.

c. The following juveniles shall not be committed to a State juvenile facility:

(1) Juveniles age 11 or under unless adjudicated delinquent for the crime of arson or a crime which, if committed by an adult, would be a crime of the first or second degree; and

(2) Juveniles who are developmentally disabled as defined in paragraph (1) of subsection a. of section 3 of P.L.1977, c.82 (C.30:6D-3).

d. (1) When the court determines that, based on the consideration of all the factors set forth in subsection a., the juvenile shall be incarcerated, unless it orders the incarceration pursuant to subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43), it shall state on the record the reasons for imposing incarceration, including any findings with regard to these factors, and commit the juvenile to the custody of the Juvenile Justice Commission which shall provide for the juvenile's placement in a suitable juvenile facility pursuant to the conditions set forth in this subsection and for terms not to exceed the maximum terms as provided herein for what would constitute the following crimes if committed by an adult:

- (a) Murder under 2C:11-3a(1) or (2) 20 years
- (b) Murder under 2C:11-3a(3) 10 years
- (c) Crime of the first degree, except murder 4 years
- (d) Crime of the second degree 3 years
- (e) Crime of the third degree 2 years
- (f) Crime of the fourth degree 1 year
- (g) Disorderly persons offense 6 months

(2) Except as provided in subsection e. of section 24 of P.L.1982, c.77 (C.2A:4A-43), the period of confinement shall continue until the appropriate paroling authority determines that such a person should be paroled; except that in no case shall the period of confinement and parole exceed the maximum provided by law for such offense. However, if a juvenile is approved for parole prior to serving one-third of any term imposed for any crime of the first, second or third degree, including any extended term imposed pursuant to paragraph (3) or (4) of this subsection, or one-fourth of any term imposed for any other crime the granting of parole shall be subject to approval of the sentencing court. Prior to approving parole, the court shall give the prosecuting attorney notice and an opportunity to be heard. If the court denies the parole of a juvenile pursuant to this paragraph it shall state its reasons in writing and notify the parole board, the juvenile and the juvenile's attorney. The court shall have 30 days from the date of notice of the pending parole to exercise the power granted under this paragraph. If the court does not respond within that time period, the parole will be deemed approved.

Any juvenile committed under this act who is released on parole prior to the expiration of the juvenile's maximum term may be retained under parole supervision for a period not exceeding the unserved portion of the term and any term of post-incarceration supervision imposed pursuant to paragraph (5) of this subsection. The Parole Board, the juvenile, the juvenile's attorney, the juvenile's parent or guardian or, with leave of the court any other interested party, may make a motion to the court, with notice to the prosecuting attorney, for the return of the child from a juvenile facility prior to his parole and provide for an alternative disposition which would not exceed the duration of the original time to be served in the facility. Nothing contained in this paragraph shall be construed to limit the authority of the Parole Board as set forth in section 15 of P.L.1979, c.441 (C.30:4-123.59).

(3) Upon application by the prosecutor, the court may sentence a juvenile who has been convicted of a crime of the first, second, or third degree if committed by an adult, to an extended term of incarceration beyond the maximum set forth in paragraph (1) of this subsection, if it finds

that the juvenile was adjudged delinquent on at least two separate occasions, for offenses which, if committed by an adult, would constitute a crime of the first or second degree, and was previously committed to an adult or juvenile facility. The extended term shall not exceed five additional years for an act which would constitute murder and shall not exceed two additional years for all other crimes of the first degree or second degree, if committed by an adult, and one additional year for a crime of the third degree, if committed by an adult.

(4) Upon application by the prosecutor, when a juvenile is before the court at one time for disposition of three or more unrelated offenses which, if committed by an adult, would constitute crimes of the first, second or third degree and which are not part of the same transaction, the court may sentence the juvenile to an extended term of incarceration not to exceed the maximum of the permissible term for the most serious offense for which the juvenile has been adjudicated plus two additional years.

(5) Every disposition that includes a term of incarceration shall include a term of post-incarceration supervision equivalent to one-third of the term of incarceration imposed. During the term of post-incarceration supervision the juvenile shall remain in the community and in the legal custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) in accordance with the rules of the parole board, unless the appropriate parole board panel determines that post-incarceration supervision should be revoked and the juvenile returned to custody in accordance with the procedures and standards set forth in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through C.30:4-123.65). The term of post-incarceration supervision shall commence upon release from incarceration or parole, whichever is later. A term of post-incarceration supervision imposed pursuant to this paragraph may be terminated by the appropriate parole board panel if the juvenile has made a satisfactory adjustment in the community while on parole or under such supervision, if continued supervision is not required and if the juvenile has made full payment of any fine or restitution.

5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to read as follows:

C.2A:4A-74 Court intake service conference.

5. Court intake service conference. a. Where the juvenile is diverted to a court intake service conference, notices of the conference shall be sent to the juvenile and his parents or guardian and to the complainant or victim. The parties may be requested to bring to the conference all pertinent documents in their possession, including medical, social, and school records.

b. In determining the appropriate resolution of a complaint, the following factors shall be considered by court intake services:

(1) The seriousness of the alleged offense or conduct and the circumstances in which it occurred;

(2) The age and maturity of the juvenile;

(3) The risk that the juvenile presents as a substantial danger to others;

(4) The family circumstances, including any history of drugs, alcohol abuse or child abuse on the part of the juvenile, his parents or guardian;

(5) The nature and number of contacts with court intake services and the court that the juvenile and his family have had;

(6) The outcome of those contacts, including the services to which the juvenile or family have been referred and the results of those referrals;

(7) The availability of appropriate services;

(8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be disposed;

(9) Whether diversion can be accomplished in a manner that holds the juvenile accountable for the conduct;

(10) The impact of the offense on the victim or victims; and

(11) The impact of the offense on the community.

c. Each juvenile shall be reviewed without a presumption of guilt. The intake conference shall be concerned primarily with providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and

dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community. In addition, the conference shall be concerned with preventing more serious future misconduct by the juvenile offender by obtaining the cooperation of the juvenile and his parents or guardian in complying with its recommendations. The court may schedule a hearing where the complainant or victim objects to the recommendations from the conference.

d. The resolution from the conference may include but shall not be limited to counseling, restitution, referral to appropriate community agencies, or any other community work programs or other conditions consistent with diversion that aids in providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community, provided that:

(1) Obligations imposed as a result of the intake conference shall be an order of the court approved by the presiding judge and shall be set forth in writing and may not exceed six months. The juvenile and his or her parents or guardian shall receive copies, as shall any agencies providing services under the agreement;

(2) The court intake service worker shall inform the juvenile and the juvenile's parents or guardian in writing of their right to object at any time prior to their written agreement to the facts or terms of the intake conference decision, and if objections arise, the intake service worker may alter the terms of the proposed agreement or refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to intake conference for further action;

(3) Written agreement pursuant to intake conferences may be terminated at any time upon the request of the juvenile and the matter referred to the presiding judge;

(4) The court intake services conference may not order the confinement of a juvenile, place a juvenile on probation, or remove a juvenile from his family as a disposition; and

(5) If, at any time during the diversion period, the court intake service worker determines that the obligations imposed under the written agreement are not being met, the intake worker shall notify the presiding judge in writing. In the case of failure to comply with the obligations imposed under the agreement by the parents or guardian, the court may proceed against such persons for enforcement of the agreement. In the case of failure to comply by the juvenile, the matter shall be referred to the court for action.

e. At the end of the diversion period a second court intake services conference may be held with all parties to the written agreement present to ascertain if the terms of the agreement have been fulfilled. If all conditions have been met, the intake worker shall so inform the presiding judge in writing who shall order the complaint dismissed. A copy of the order dismissing the complaint shall be sent to the juvenile. If the conditions of the written agreement have not been met, the intake worker may refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to court intake services for further action. Based on the evaluations required under this paragraph, the intake conference agreement may be extended beyond the six-month maximum if all parties agree. In no case shall an intake conference agreement exceed nine months.

f. All proceedings before the conference are confidential and they shall receive only those records which in the court's judgment are necessary to aid in making a recommendation.

6. Section 6 of P.L.1982, c.81 (C.2A:4A-75) is amended to read as follows:

C.2A:4A-75 Juvenile conference committees.

6. a. The court may appoint one or more juvenile conference committees for each county or municipality to hear and decide matters referred to it by the court.

b. The method of appointment and terms of membership to the committees shall be made pursuant to guidelines developed by the Supreme Court.

c. Where the juvenile is diverted to a juvenile conference committee, notices of the conference shall be sent to the juvenile and his parents or guardian and to the complainant or

victim. The parties may be requested to bring to the conference all pertinent documents in their possession, including medical, social, and school records.

d. The committee shall serve under the authority of the court in hearing and deciding such matters involving alleged juvenile offenders as are specifically referred to it by the court. Each juvenile shall be reviewed without a presumption of guilt. The committee shall be concerned primarily with providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community. In addition, the committee shall be concerned with preventing more serious future misconduct by the juvenile offender by obtaining the cooperation of the juvenile and his parents or guardian in complying with its recommendations. The court may schedule a hearing where the complainant or victim objects to the recommendations from the conference.

e. The committee shall provide for the resolution of the matter and shall supervise and follow up compliance with its recommendations in the same manner and under the same limitations and with the same sanctions as the court intake service conference.

f. All proceedings before the juvenile conference committee are confidential and include only those records which in the court's judgment are necessary to aid in making a recommendation.

7. Section 1 of P.L.1995, c.284 (C.52:17B-169) is amended to read as follows:

C.52:17B-169 Findings, declarations relative to juvenile justice.

1. The Legislature finds and declares:

a. The public safety requires reform of the juvenile justice system;

b. Juvenile arrests for murder, robbery, aggravated sexual assault, sexual assault and aggravated assault have increased 38 percent between 1988 and 1993 and New Jersey ranks near the top nationally in the number of juvenile arrests for serious violent crimes;

c. Juvenile crime has become a leading cause of injury and death among young people;

d. Currently, preventive, deterrent and rehabilitative services and sanctions for juveniles are the responsibility of no less than three State departments: The Department of Law and Public Safety deals with county prosecutors and local police and implements prevention programs; the Department of Corrections operates the New Jersey Training School for Boys and the Juvenile Medium Security Facility, and its Bureau of Parole supervises juvenile parolees; and the Department of Human Services operates residential and day programs in facilities for juveniles adjudicated delinquent;

e. The division of responsibility for the juvenile justice population and the limitations on resources available to meet ever-increasing demands for services provided by the Departments of Human Services and Corrections have prevented the departments from maximizing efforts to meet the special needs of the juvenile justice population;

f. The juvenile justice system lacks services and sanctions short of incarceration, particularly in urban areas and for that reason, many juveniles are not held accountable until they have committed a series of increasingly serious criminal acts;

g. The special needs of juveniles can be addressed through services and sanctions provided at the county and local level;

h. The need to protect the public from criminal acts by juvenile offenders requires a comprehensive program and concerted action of governmental agencies and private organizations at the State, county and local level that permit effective response and avoid waste of scarce resources;

i. (1) The comprehensive program should provide a range of services and sanctions for juveniles sufficient to protect the public through prevention; early intervention; and a range of meaningful sanctions that ensure accountability, provide training, education, treatment and, when necessary, confinement followed by community supervision that is adequate to protect the public and promote successful reintegration into the community;

(2) Consistent with the need to protect the public, services and sanctions for juveniles shall

provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable juvenile offenders to become responsible and productive members of the community.

j. The most efficient and effective use of available resources requires fixing responsibility for the comprehensive program in a single State agency and providing incentives to encourage the development and provision of appropriate services and sanctions at the county and local level; and

k. It is, therefore, necessary to establish a Juvenile Justice Commission responsible for operating State services and sanctions for juveniles involved in the juvenile justice system and responsible for developing a Statewide plan for effective provision of juvenile justice services and sanctions at the State, county and local level; to establish a State/Community Partnership Grant Program through which the State will provide incentives to county and local governments to encourage the provision of services and sanctions for juveniles adjudicated or charged as delinquent and programs for the prevention of juvenile delinquency, and to establish county youth services commissions responsible for planning and implementing the Partnership at the local level.

8. Section 5 of P.L.1995, c.284 (C.52:17B-173) is amended to read as follows:

C.52:17B-173 Functions, powers, duties, authority of advisory council.

5. The advisory council shall have the following functions, powers, duties and authority:

a. To meet at least quarterly and at such other times as designated by the executive director or the chair of the advisory council;

b. To establish any committees to carry out its responsibilities;

c. To advise the executive director regarding the implementation of the recommendations included in the final report submitted pursuant to Executive Order 10 of 1994; the master plan submitted pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170); the integration, coordination and collaboration of programs, services and sanctions for juveniles; and the actions to be taken to increase public awareness of the juvenile justice system and its needs; and

d. To ensure the programs, services and sanctions for juvenile offenders are striving to provide balanced attention to the protection of the community, imposing accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and developing competencies in the juveniles to enable them to become responsible and productive members of the community.

9. This act shall take effect on the first day of the seventh month after the date of enactment, but the Director of the Administrative Office of the Courts and the Juvenile Justice Commission shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 8, 2002.