

CHAPTER 361

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

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

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

C.2A:4A-34 Criteria for placing juvenile in detention.

15. Criteria for placing juvenile in detention.

a. Except as otherwise provided in this section, a juvenile charged with an act of delinquency shall be released pending the disposition of a case, if any, to any person or agency provided for in this section upon assurance being received that such person or persons accept responsibility for the juvenile and will bring him before the court as ordered.

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

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

(1) Detention is necessary to secure the presence of the juvenile at the next hearing as evidenced by a demonstrable record of recent willful failure to appear at juvenile court proceedings or to remain where placed by the court or the court intake service or the juvenile is subject to a current warrant for failure to appear at court proceedings which is active at the time of arrest; or

(2) The physical safety of persons or property of the community would be seriously threatened if the juvenile were not detained and the juvenile is charged with an offense which, if committed by an adult, would constitute a crime of the first, second or third degree or one of the following crimes of the fourth degree: aggravated assault; stalking; criminal sexual contact; bias intimidation; failure to control or report a dangerous fire; possession of a prohibited weapon or device in violation of N.J.S.2C:39-3; or unlawful possession of a weapon in violation of N.J.S.2C:39-5.; or

(3) With respect to a juvenile charged with an offense which, if committed by an adult, would constitute a crime of the fourth degree other than those enumerated in paragraph (2) of this subsection, or a disorderly persons or petty disorderly persons offense, and with respect to a juvenile charged with an offense enumerated in subsection c. when the criteria for detention are not met, the juvenile may be temporarily placed in a shelter or other non-secure placement if a parent or guardian cannot be located or will not accept custody of the juvenile. Police and court intake personnel shall make all reasonable efforts to locate a parent or guardian to accept custody of the juvenile prior to requesting or approving the juvenile's placement in a shelter or other non-secure placement. If, after the initial detention hearing, continued placement is necessary, the juvenile shall be returned to a shelter or other non-secure placement.

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

(1) Release to parents;

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

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

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

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

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

(7) Placement in a shelter care facility; or

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

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

(1) The nature and circumstances of the offense charged;

(2) The age of the juvenile;

(3) The juvenile's ties to the community;

(4) The juvenile's record of prior adjudications, if any; and

(5) The juvenile's record of appearance or nonappearance at previous court proceedings.

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

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

h. For purposes of this section, a failure to appear at juvenile court proceedings or to remain where placed by the court or the court intake service shall be deemed recent if it occurred within the 12 months immediately preceding the detention hearing, or if it occurred within the period of 12 to 24 months preceding the detention hearing and the juvenile is unable to demonstrate a record of voluntary compliance with any subsequent court appearance and placement requirements.

2. This act shall take effect on the first day of the fourth month following enactment.

Approved January 12, 2006.