

CHAPTER 128

AN ACT concerning diversionary programs for certain juveniles, amending P.L.1982, c.81 and supplementing Title 2A of the New Jersey Statutes.

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

1. Section 2 of P.L.1982, c.81 (C.2A:4A-71) is amended to read as follows:

C.2A:4A-71 Review and processing of complaints.

2. Review and processing of complaints. a. The jurisdiction of the court in any complaint filed pursuant to section 11 of P.L.1982, c.77 (C.2A:4A-30) shall extend to the juvenile who is the subject of the complaint and his parents or guardian.

b. Every complaint shall be reviewed by court intake services for recommendation as to whether the complaint should be dismissed, diverted, or referred for court action. Where the complaint alleges a crime which, if committed by an adult, would be a crime of the first, second, third or fourth degree, or alleges a repetitive disorderly persons offense or any disorderly persons offense defined in chapter 35 or chapter 36 of Title 2C, the complaint shall be referred for court action, unless the prosecutor otherwise consents to diversion. Court intake services shall consider the following factors in determining whether to recommend diversion:

- (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 or 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 outside referral to the court;
- (8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be resolved;
- (9) Any recommendation expressed by the county prosecutor; and
- (10) The amenability of the juvenile to participation in a remedial education or counseling program that satisfies the requirements of subsection b. of section 2 of P.L.2011, c.128 (C.2A:4A-71.1) if the offense alleged is an eligible offense as defined in subsection c. of section 2 of P.L.2011, c.128 (C.2A:4A-71.1).

C.2A:4A-71.1 Diversionary programs for certain juveniles.

2. a. Where a complaint against a juvenile pursuant to section 11 of P.L.1982, c.77 (C.2A:4A-30) alleges that the juvenile has committed an eligible offense as defined in subsection c. of this section and the court has approved diversion of the complaint pursuant to section 4 of P.L.1982, c.81 (C.2A:4A-73), the resolution of the complaint shall include the juvenile's participation in a remedial education or counseling program. The parents or guardian of the juvenile shall bear the cost of participation in the program, except that the court shall take into consideration the ability of the juvenile's parents or guardian to pay and the availability of such a program in the area in which the juvenile resides and, where appropriate, may permit the juvenile to participate in a self-guided awareness program in lieu

of a remedial education or counseling program provided that it satisfies the requirements of subsection b. of this section.

b. A remedial education or counseling program satisfies the requirements of this act if the program is designed to increase the juvenile's awareness of:

(1) the legal consequences and penalties for sharing sexually suggestive or explicit materials, including applicable federal and State statutes;

(2) the non-legal consequences of sharing sexually suggestive or explicit materials including, but not limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities;

(3) the potential, based upon the unique characteristics of cyberspace and the Internet, of long-term and unforeseen consequences for sharing sexually suggestive or explicit materials; and

(4) the possible connection between bullying and cyber-bullying and juveniles sharing sexually suggestive or explicit materials.

c. As used in this act, "eligible offense" means an offense in which:

(1) the facts of the case involve the creation, exhibition or distribution of a photograph depicting nudity as defined in N.J.S.2C:24-4 through the use of an electronic communication device, an interactive wireless communications device, or a computer; and

(2) the creator and subject of the photograph are juveniles or were juveniles at the time of its making.

3. This act shall take effect on the first day of the seventh month after enactment.

Approved September 16, 2011.