

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 357

STATE OF NEW JERSEY

DATED: JUNE 28, 2024

The Senate Judiciary Committee reports favorably Senate Bill No. 357.

This bill provides that juvenile defendants who voluntarily elect to move their cases from the Family Part to the Criminal Part of the Superior Court in order to be tried as adults, pursuant to the waiver process set forth in section 8 of P.L.1982, c.77 (C.2A:4A-27), shall be granted the following procedural rights:

- a case would proceed as if it originated in the Criminal Part and be subject to applicable adult sentencing provisions, provided there would be a presumption that a convicted juvenile serve any custodial sentence imposed in a State juvenile facility operated by the Juvenile Justice Commission until reaching 21 years of age, except that: (1) a confined juvenile who has reached 18 years of age and whose continued presence in the juvenile facility threatens the safety of others, including other juvenile offenders, or the ability of the commission to operate juvenile programs at the facility, could be transferred to a State adult correctional facility; and (2) a juvenile who has reached or exceeds 21 years of age could continue to serve a sentence in the State juvenile facility at the discretion of the commission and with the consent of the juvenile; and

- at any point during the proceedings of the case, with the consent of the juvenile and prosecutor, the court could remand the case to the Family Part to continue as a juvenile adjudication if it appears that the interests of the public and the best interests of the juvenile require access to programs and procedures uniquely available through the juvenile adjudication process, and the interests of the public are no longer served by the juvenile's original voluntary waiver to the Criminal Part.

The above are similar to the procedural rights provided to juvenile defendants who are involuntarily waived by the prosecutor from the Family Part to the Criminal Part. See P.L.2015, c.89, s.1 (C.2A:4A-26.1).

Additionally, the bill would require the court to approve the juvenile's voluntary waiver, which it could do only after conducting a hearing. At the hearing, the court would inform the juvenile of the differences in the maximum sentencing or disposition between adults and juveniles for the offenses charged, and the differences "in the consequences of magnitude" between proceeding under the "New

Jersey Code of Juvenile Justice” and the “New Jersey Code of Criminal Justice.” A determination to approve the voluntary waiver would also require that the juvenile’s action be found to be “knowingly, willingly, and voluntarily” made.

This bill was prefiled for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.