



Juvenile Delinquency Proceedings and Your Child

A Guide for
Parents and Guardians

New Jersey Courts

Independence • Integrity • Fairness • Quality Service

NOTICE TO READER

This brochure provides basic information about family court procedures relating to juvenile delinquency matters. The information provided in this publication is generic in nature and not intended to replace legal advice from a qualified attorney. All court users are encouraged to consider consulting with an attorney regarding any legal matter before the court.

GLOSSARY

A glossary of selected terms referenced in this publication begins on page 10.

WHAT IS JUVENILE DELINQUENCY?

Delinquency is defined as an act by a juvenile under the age of 18 that if committed by an adult would constitute a crime, a disorderly persons offense, a petty disorderly persons offense, or a violation of any other penal statute, ordinance or regulation.

WHAT ARE THE COURT'S GOALS IN RESOLVING JUVENILE DELINQUENCY CASES?

In juvenile matters, the court's goals are rehabilitation and accountability. The court handles each case on an individual basis according to the law and based on the individual circumstances of the case.

WHY IS MY CHILD IN THE COURT SYSTEM?

Your child will be appearing in court because someone has accused your child of committing an act that is against the law in New Jersey. The court will provide you with a copy of the complaint, a legal court document describing the alleged illegal conduct.

In the majority of cases, police sign complaints based on either personal observation or information supplied by others such as victims. Complaints also can be signed by school officials or victims or by probation officers in cases of violations of probation (VOPs).

CAN MY CHILD BE HELD IN A JUVENILE FACILITY BASED UPON THE SIGNING OF A COMPLAINT?

A child may be taken into custody and held in a juvenile facility based on the nature of the offense, the need to protect society, a past record of adjudications of delinquency, a recent failure to appear at court proceedings, or failure to remain where placed by the court or court intake service.

If your child is not held in a shelter or detention setting, you will receive notice of when and where to appear to address the charge(s).

DOES MY CHILD NEED A LAWYER?

A parent, guardian, or caregiver should always consider consulting an attorney for any legal matter or court appearance although not all cases require an attorney. Complaints handled by a Juvenile Conference Committee, an Intake Services Conference, or a juvenile referee do not require an attorney.

In all formal court hearings before a judge, your child must have an attorney. This type of proceeding is known as a counsel-mandatory or formal court hearing. If there is a possibility of removing your child from home, the court will require your child to be represented by an attorney. If you cannot afford an attorney, you must, on behalf of your child, submit an application known as a 5A form to the court to determine if your child is eligible to receive the services of a public defender or a court-appointed attorney. If you fail to appear as required by the court to complete an application for assignment of counsel, the court may issue a warrant for your arrest.

WHAT HAPPENS IF MY CHILD IS DETAINED?

At times, the court may need to place your child in a detention facility. If your child is held, an initial detention hearing will take place as soon as possible but no later than the following day after placement. At the hearing, you and your child will be told what the charges are and whether or not an attorney will be required to represent your child. The charges are listed on the complaint. You and your child will have a chance to ask questions about the process. At the end of this hearing, the court will make a decision about releasing or holding your child. A parent or guardian is expected to be present at all hearings.

WHAT HAPPENS IF MY CHILD IS NOT RELEASED AFTER THE INITIAL DETENTION HEARING?

If your child is not released following the initial detention hearing, another hearing will be held within two working days, unless waived. At that time, your child must be represented by an attorney. The judge will decide whether to continue holding your child in detention. At the hearing, the prosecutor must present enough evidence to satisfy the judge that the offense occurred and that there is enough reason to believe that your child

committed the offense. If the judge is not satisfied on either count, then the judge could dismiss the complaint. If the judge is satisfied with the evidence presented, the case will be scheduled for a hearing.

If your child is held, a detention review hearing with your child's attorney present must be held within 14 days of the prior hearing. If your child stays in detention, the judge must hold detention review hearings every 21 court days (or less).

WHAT HAPPENS IF MY CHILD IS RELEASED AFTER THE INITIAL DETENTION HEARING?

If your child is not detained after the initial detention hearing, another court appearance will be scheduled. At that time, you, your child and, if applicable, his or her attorney must appear before the judge to answer the charges in the complaint.

CAN I ARRANGE FOR BAIL?

No, bail is not available for juveniles.

WHAT HAPPENS NEXT?

Court personnel will review the matter and determine how the case will be handled.

HOW CAN THE COURT PROCESS MY CHILD'S CASE?

The court makes decisions on how cases are handled based on the nature and seriousness of the offense, age of your child, any prior record, and willingness of parties to cooperate. Cases are handled in one of the following ways:

- A. Juvenile Conference Committee (JCC) or Intake Services Conference (ISC)
- B. Juvenile referee/Informal court
- C. Judge/Formal court

A. Juvenile Conference Committee or Intake Services Conference

A delinquency complaint can be referred to a *Juvenile Conference Committee* or *Intake Services Conference*. A *Juvenile Conference Committee* is a trained citizen volunteer panel appointed by the court. An *Intake Services Conference* is conducted by a Judiciary staff person. The parent, the juvenile and the person who filed the complaint are invited to discuss the offense and other related factors. The committee or intake officer does not have the authority to determine delinquency. This is an informal discussion of the events and all parties must be in agreement. Attorneys are not required. There is no chance of your child being sent away to a juvenile facility. The disposition recommendations will be placed on an agreement/court order signed by your child, you as his or her parent/legal guardian, and the person who filed the complaint. This agreement will then be forwarded to the judge for final approval.

The resolution of the case can include conditions such as curfew, counseling, evaluation, community service, restitution, or any condition that will aid in your child's rehabilitation. If the parties do not agree to the proposed conditions, the terms can be discussed and changed to all parties' satisfaction. If all agree to the conditions, a juvenile conference committee or intake staff person will monitor the completion of the conditions. If the parties cannot come to an agreement, the case may be sent back to the judge. Upon successful completion of the agreed-upon conditions, the case is dismissed. However, if your child fails to complete the conditions or new complaints are signed prior to dismissal, the original complaint will go back to court to be heard by a judge.

B. Juvenile Referee /Informal Court

A juvenile referee conducts a hearing at which your child will be expected to admit or deny that he or she did what is alleged in the complaint. If necessary, the juvenile referee will make a finding of the facts and a determination of delinquency. The referee will make a recommendation to the judge regarding the finding and disposition. Dispositions that the referee recommends are subject to approval by the judge and include those available in matters handled by a judge with the exception of out-of-home placement. If you disagree with the findings of the juvenile referee, you must tell the referee immediately at the end of the hearing before the findings and recommendations are sent to the judge.

C. Judge/Formal Court Calendar

A judge oversees the court hearing. At this hearing, your child will be expected to enter a plea admitting or denying the charge. These court cases are placed on the judge's informal calendar or on the formal calendar. If the case is on the informal calendar, also known as counsel non-mandatory, your child may have a lawyer, but it is not a requirement. If the case is on the formal calendar, also known as counsel-mandatory, you must hire a lawyer. If you cannot afford one, you will be advised to complete a 5A form to determine eligibility for a public defender. Public defender representation for juveniles facing delinquency charges is not free, and you may be billed for services performed by the public defender's office. You should talk to your child's public defender about what your financial obligations will be.

If you do not apply for a public defender or do not qualify, a lawyer will be assigned to represent your child. You will be required to pay the lawyer at the end of the case. If the facts in the case are disputed, the judge will decide the case. If the judge finds your child delinquent, the judge will impose a disposition in accordance with New Jersey law. If you disagree with the judge's decision, you can file an appeal within 45 days.

The court can order any disposition to aid in your child's rehabilitation and to reinforce your child's accountability including fines, community service, and/or a term of supervision such as probation, deferred disposition, or a period of confinement.

Probation offers juveniles the opportunity to remain in the community under supervision by a probation officer who oversees their compliance with rules and conditions imposed by the judge. Probation can last for a period of up to three years. If your child does not obey the conditions of probation, there will be consequences such as increased probation reporting or a curfew and your child could be charged with a violation of probation (VOP). If all conditions are met and your child shows significant progress, your child may earn an earlier end to the probation term. In some instances, formal disposition can be deferred or delayed for up to one year. During this period, your child must complete any special conditions ordered by the judge and must not be charged with a new offense. If he or she meets all conditions during the deferral period, the complaint will be

dismissed. If conditions are not met, the original complaint will go back to court and be heard by the judge.

In addition, for cases on the formal counsel-mandatory calendar only, the judge also has the option to order a period of confinement in a juvenile detention facility, incarceration in a correctional facility for youth, out-of-home placement, or a clinical residential treatment or residential drug and alcohol treatment program. Although the judge has the power to confine or incarcerate your child, this does not mean that the judge will choose this as an option if your child is found delinquent. The judge must order a pre-disposition report to be completed by a court officer. This report will help the judge determine the appropriate disposition. When there is a chance of incarceration, your child must be represented by an attorney, and you may direct questions to the attorney.

WHAT HAPPENS IF MY CHILD AND I CANNOT KEEP A COURT DATE?

Notice of court dates will be given to you in advance. You, your child or your child's lawyer, if he or she has one, must notify the court when your child cannot appear. If the court is not notified, the judge can issue a warrant for your child's arrest.

CAN MY CHILD OR I PRESENT WITNESSES?

Juvenile Conference Committee/Intake Services Conference: Yes, you can invite witnesses, but witnesses are not required. Contact the phone number listed on your notice for information or the Juvenile Intake Unit for your county listed on page 12.

Juvenile referee/Informal court: Yes, you can present witnesses. Contact the juvenile team leader at the telephone number listed on the court notice for information.

Judge/Formal court: Yes, please consult with your child's lawyer.

WHAT HAPPENS AT THE HEARING?

If the judge finds that your child has committed the offense(s) charged, the judge will enter a finding known as an adjudication and make a decision known as entering a disposition.

WHAT DISPOSITIONS OR CONSEQUENCES CAN THE COURT IMPOSE ON MY CHILD?

The dispositions and consequences that the court could impose on your child in order to rehabilitate him/her and prevent future delinquency include but are not limited to:

- adjourned disposition;
- community service;
- diversion;
- fines;
- probation;
- release to parent or guardian;
- required support services;
- required parental involvement;
- residential mental health and/or substance abuse and alcohol treatment;
- restitution;
- transfer of custody;
- secure confinement/incarceration;
- suspension of driver's license; and
- work, outdoor, academic, and/or vocational programs.

In some types of juvenile cases, there are mandatory dispositions, and in some types of offenses, such as certain drug-related matters, fines must be imposed by the court.

DOES MY CHILD HAVE THE RIGHT TO APPEAL?

If your child disagrees with the outcome of the case, he or she has the right to appeal the findings of the court within 45 days of the final court order. Information on appeals can be found on the Judiciary Web site at www.njcourts.gov.

CAN A JUVENILE RECORD BE EXPUNGED?

For certain juvenile matters, expungement is permitted if five years have passed since the final discharge of the person from legal custody or supervision, or if five years have passed since the entry of any other court order not involving custody or

supervision. Certain offenses may not be expunged. For general information regarding expungements, visit the Judiciary's Web site at: www.njcourts.gov/forms/10557_expunge_kit.pdf, and for information relating to your child's specific case, consult an attorney.

ARE JUVENILE COURT RECORDS CONFIDENTIAL?

Under New Jersey law, juvenile records are available only to certain judicial, law enforcement, and governmental agencies as specified in *N.J.S.A. 2A:4A-60*. However, if the offense for which the juvenile has been adjudicated delinquent would constitute a crime of the first, second or third degree, had the offense been committed by an adult, or aggravated assault or destruction or damage to property in excess of \$500.00, the juvenile's identity, offense, adjudication and disposition **shall** be disclosed to the public, unless the court grants an application made by the juvenile **at the time of disposition** demonstrating a substantial likelihood that specific and extraordinary harm would result from such disclosure in that specific case.

Any other agency or person can only have access to the records by making a motion before a judge for good cause. You should be aware that the charge, adjudication, and disposition information is available to victims, law enforcement agencies, and schools. Further, if your child applies for certain types of military, government, or law enforcement services, he or she may be asked to disclose his or her juvenile record.

WILL THERE BE A RECORD OF MY CHILD'S FINGERPRINTS AND DNA?

Yes, in most cases. Juveniles who are found to be delinquent for an act that, if committed by an adult would be a crime, by law must provide fingerprints and a DNA sample. You should ask your lawyer about your child's situation.

REMINDERS

- You should always make certain that the court system in addition to your child's attorney has your correct address and telephone number. Contact the number listed on the court notice or the Juvenile Intake Unit listed on page 12 to advise of any changes to your child's address and/or telephone number.
- If you think that you or your child has been treated unfairly or disrespectfully, you can contact the family division manager or ombudsman.
- The vicinage ombudsman is also available to assist with related concerns and questions. Contact information is listed on page 12 of this publication.

At any time during a juvenile justice proceeding, your child has the right to legal representation.

GLOSSARY

| TERM | DEFINITION |
|---------------------------------|---|
| adjudication | A determination by a judge that a juvenile has or has not committed the charge(s) listed in the complaint. |
| allegation | An accusation included on the complaint form. When your child is alleged to have committed an offense, the state is required to prove that the allegation is true. |
| complaint | A document filed with the court accusing a person of a crime or violation of the law. The complaint contains the charge made against your child. |
| counsel-mandatory hearing | A court appearance in which the law requires your child to have a lawyer. This also is known as a formal hearing. |
| counsel non-mandatory hearing | A court appearance in which the law does not require your child to have a lawyer, although it is always advisable to consult with a lawyer. This also is known as an informal hearing. |
| delinquency | An act by a juvenile under the age of 18 that if committed by an adult would constitute a crime, a disorderly persons offense, a petty disorderly persons offense, or a violation of any other statute, ordinance, or regulation. |
| diversion or diverted complaint | The reviewers of the complaint have determined that the charge is not serious enough to require going before a judge or juvenile referee, so the matter is sent to an alternative program such as a Juvenile Conference Committee for potential resolution. |

| TERM | DEFINITION |
|-----------------------------------|--|
| detained or in detention | Your child is being held in a detention center or in a shelter facility. |
| disposition | A court-ordered outcome or resolution to a case for juveniles is called a disposition, and for adults is called a sentence. |
| formal court hearing | A court appearance in which the law requires your child to have a lawyer. This also is known as a counsel-mandatory hearing. |
| informal court hearing | A court appearance in which the law does not require your child to have a lawyer, although it is always advisable to consult with a lawyer. This also is known as a counsel non-mandatory hearing. |
| incarceration | Your child is confined in a juvenile detention facility or youth correctional facility. |
| public defender | A defense attorney who can be assigned to represent your child. Public defender representation for juveniles facing delinquency charges is not free, and you may be billed for services performed by the public defender's office. |
| waiving a right/waiver of a right | Giving up the right to a process or procedure such as a hearing. |
| waiver to be tried as an adult | The transfer of a juvenile delinquency charge to criminal court for processing as an adult. |
| warrant | A court order instructing the police to pick up and transport your child to a detention center, shelter or to the courthouse for a hearing. |

SELECTED CONTACT INFORMATION

| COUNTY | Family Division, Superior Court | Juvenile Intake Unit | Ombudsman |
|-------------------|------------------------------------|----------------------------|----------------------------|
| Atlantic | 609-594-3446 | 609-594-3318 or 3305 | 609-594-3346 |
| Bergen | 201-527-2502 | 201-527-2322 | 201-527-2263 |
| Burlington | 609-518-2691 | 609-518-2661 | 609-518-2530 |
| Camden | 856-379-2200 ext. 2204 | 856-379-2200 ext. 3651 | 856-379-2238 |
| Cape May | 609-463-6600 | 609-463-6612 | 609-594-3346 |
| Cumberland | 856-453-4580 | 856-453-4558 | 856-453-4538 |
| Essex | 973-776-9300 | 973-776-9300 ext. 57060 | 973-776-9300 ext. 56886 |
| Gloucester | 856-686-7553 | 856-686-7430 | 856-453-4538 |
| Hudson | 201-795-6779 | 201-795-6745 | 201-217-5399 |
| Hunterdon | 908-237-5919 | 908-237-5922 | 908-203-6131 |
| Mercer | 609-571-4390 | 609-571-4389 or 4379 | 609-571-4205 |
| Middlesex | 732-519-3266 | 732-519-3266 | 732-519-3344 |
| Monmouth | 732-677-4050 | 732-677-4096 | 732-677-4209 |
| Morris | 973-656-4367 | 973-656-4308 | 973-656-3969 |
| Ocean | 732-929-2042 | 732-929-4717 | 732-288-7212 |
| Passaic | 973-247-8458 | 973-247-8506 | 973-247-8651 |
| Salem | 856-878-5050 ext. 15771 | 856-878-5050 ext. 15771 | 856-453-4538 |
| Somerset | 908-231-7600 | 908-231-7637 | 908-203-6131 |
| Sussex | 973-579-0630 | 973-579-0616 | 973-656-3969 |
| Union | 908-659-5800 | 908-659-5860 | 908-659-4644 |
| Warren | 908-475-6167 | 908-475-6167 | 908-203-6131 |

NEW JERSEY JUDICIARY

Stuart Rabner
Chief Justice

Glenn A. Grant, J.A.D.
*Acting Administrative Director
of the Courts*

Family Practice Division
Richard J. Hughes Justice Complex
P.O. Box 983
Trenton, New Jersey 08625-0983
(609) 984-4228

www.njcourts.gov

June 2015

CN 11358

