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Administrative Director of the Courts

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**TO: Assignment Judges
Trial Court Administrators**

DIRECTIVE # 09-22

FROM: Glenn A. Grant, Administrative Director

Questions may be directed to the
Family Practice Division at
609-815-2900, ext. 55350.

**SUBJECT: Family - Juvenile – Eligibility for Representation by the Office of
the Public Defender**

DATE: September 6, 2022

This Directive provides guidance for courts and litigants in accordance with the enactment of N.J.S.A. 2A:158A-26. Effective May 1, 2022, N.J.S.A. 2A:158A-26 provides that any person under the age of 18 who is arrested or charged with an indictable offense or act of delinquency shall be automatically eligible, at no expense to that person, for representation by the Office of the Public Defender.

Application for Assignment of Counsel Form (“5A”) (CN 10295)

For such matters, the Application for Assignment of Counsel (“5A”) (CN 10295) will no longer be used, since the juvenile, under the statute, is automatically eligible for representation.

Scope of Representation

N.J.S.A. §2A: 4A-39 states that the juvenile shall have the right to be represented by counsel at every critical stage in the proceeding that in the opinion of the court, may result in the institutional commitment of the juvenile.

Consistent with N.J.S.A. 2A: 4A-39, the Office of the Public Defender has indicated that it will provide representation for all juveniles at all counsel mandatory hearings.

Court programs that are counsel non-mandatory include those in which the youth will (1) meet with a group of judiciary volunteers (Juvenile Conference

Committee - JCC) or a court staff person (Intake Service Conference - ISC); (2) be referred to a county Family Crisis Intervention Unit (FCIU) for services; or (3) appear before a juvenile referee. Those court programs are for less serious offenses and the youth cannot be placed in a detention center as the outcome of those proceedings. The Prosecutor's Office does not attend those hearings. Accordingly, the Office of the Public Defender, in general, will not provide representation at such proceedings. If, however, the juvenile at a court diversionary program requests representation, the matter will then be listed on the formal calendar and heard by a judge, with Public Defender representation of the juvenile.

The Office of the Public Defender has indicated that it will provide representation to individuals who are over the age of 18 and have been charged with an act of delinquency that was committed while they were under the age of 18. Additionally, the Office of the Public Defender will provide representation for an individual who is over the age of 18 and is charged with a violation of probation based on an adjudication of delinquency that occurred while that individual was under the age of 18.

Notice

The Office of the Public Defender shall be noticed of a counsel mandatory matter that requires their representation, with such notice being provided through the Judiciary's electronic juvenile complaint system (juvenile eCDR).

Questions regarding this Directive may be directed to the Family Practice Division at 609-815-2900 ext. 55350.

cc: Chief Justice Stuart Rabner
Matthew J. Platkin, Acting Attorney General
Joseph E. Krakora, Public Defender
Family Division Judges
County Prosecutors
Steven D. Bonville, Chief of Staff
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Trial Court Administrators
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