



NEW JERSEY STATE BAR ASSOCIATION

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Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Comments on Proposed Amendments to Rule 5:22-2(a)
Hughes Justice Complex / P.O. Box 037
Trenton, NJ 08625-0037

Re: Proposal Amendments to Rule 5:22-2(a) / Motions to Waive Family
Jurisdiction in Juvenile Delinquency Cases

Dear Judge Grant:

Thank you for providing additional time to allow the opportunity for the New Jersey State Bar Association (NJSBA) to submit comments on proposed amendments to Rule 5:22-2(a). These amendments seek to place limits on the ability of a prosecutor to seek extensions of time to file a motion for waiver of family part jurisdiction in juvenile delinquency cases to ensure juveniles are not unnecessarily detained for prolonged time periods.

The NJSBA has serious concerns about the effect of the proposal on the way cases involving juveniles charged with serious offenses are handled. While the proposal appears to be well-meaning on the surface, we believe it may result in grave injustice to many juveniles charged with serious offenses.

Our members advise that prosecutors and defense counsel often cooperate with each other in these cases to ensure every benefit is afforded to juveniles charged with a serious offense consistent with the rehabilitation goals of the juvenile justice system.

The shared objective is that all available information is taken into consideration before a motion for a waiver is filed. Many times, extensions are sought by the prosecutor at the behest of the defense counsel seeking additional time to obtain relevant reports or other information, such as mental health evaluations, school information or similar documents. Additionally, the parties are often waiting for test results or other forensic evidence to aid in objectively evaluating the case. The definitiveness of the timeframes in this proposal would significantly hinder the ability of prosecutors to work with defense counsel to obtain all relevant information for review. The time limitations will likely force a prosecutor's hand to file a waiver motion rather than risk losing the ability to do so. As a result, more juveniles may be exposed to potential waiver to the criminal part than need be if adequate time were afforded for all of the relevant information to be gathered and reviewed.

We also note that, while the stated purpose of the proposal is to address situations where alleged juvenile offenders are detained for lengthy periods of time, the proposal would apply to all alleged juvenile offenders, whether they are detained or not.

The NJSBA respectfully suggests that, if the goal is to address lengthy detentions, there are other alternatives available, including examining under what circumstances juveniles may be released from detention while charges are pending. Indeed, judges already conduct periodic detention reviews in connection with detained juveniles to ensure continued detention is warranted.

Currently, judges rightfully have discretion to manage juvenile delinquency cases on an individual basis, and to work with the counsel involved to ensure that the rights of juveniles are protected, that decisions are made with the benefit of all relevant information, and that justice is ultimately served. This proposal would significantly undermine that judicial discretion to the detriment of the juveniles the proposal is meant to assist.

Accordingly, the NJSBA urges that the proposed amendments to Rule 5:22-2(a) not be adopted and, instead, that the Judiciary continue to allow all involved to work to pursue the rehabilitative goals of the juvenile justice system whenever possible.

Thank you again for the additional time provided to allow for the submission of comments on this proposal, and the opportunity to participate in this important process. We hope these comments are helpful in the Judiciary's review of the proposal, and we would welcome the opportunity to discuss any questions, concerns or potential alternatives further.



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cc: Christine A. Amalfe, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director