

“Social justice should be the underlying goal of all humanity.”

-Alan V. Lowenstein, Institute Founder



TESTIMONY OF ASHANTI JONES
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE
IN SUPPORT OF A3117/S269
NEW JERSEY SENATE BUDGET AND APPROPRIATIONS COMMITTEE
December 14, 2023

Thank you for the opportunity to present this testimony. The New Jersey Institute for Social Justice (the “Institute”) supports A3117/S269, bills that reaffirm that youth must be represented by counsel at critical stages of court proceedings.

My name is Ashanti Jones, and I am a Policy Analyst at the New Jersey Institute for Social Justice (the “Institute”). The Institute’s advocacy empowers people of color by building reparative systems that create wealth, transform justice, and harness democratic power – from the ground up – in New Jersey. The Institute’s Criminal Justice pillar seeks to end criminal justice policies that result in the criminalization of communities of color, racial injustice, and mass incarceration. Our youth justice work specifically seeks to transform youth justice in New Jersey by addressing its stark racial disparities, closing New Jersey’s youth prisons, establishing community-based systems of care, and empowering communities to develop alternatives to incarceration.

The Assembly counterpart of S269, A3117 received bipartisan and nearly unanimous support in the Assembly.¹ The Institute now urges the Senate Budget and Appropriations Committee to support and release this bill with one minor recommendation.

A3117/S269 amends N.J.S.A. 2C.2A:4A-39 to include a list of examples of critical stages where youth have the right to be represented by counsel.² In doing so, this bill amounts to the codification of principles based on federal³ and state case law⁴ where judges defined the extent of “critical stages.” In enumerating a list of critical stages, this law makes it abundantly clear to system actors that youth, like adults, have Sixth Amendment rights that must be protected.

The Institute recommends that, for the sake of clarity, the bill language in the first paragraph be amended to say: “For the purposes of this act ‘critical stage

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of a court proceeding’ shall include but not be limited to.”⁵ In the initial draft of this bill as it was introduced in the Assembly, this was the language.⁶ This language is necessary to make certain that the enumerated list is to be inclusive and not exclusive. In other words, this legislation should not preclude a judge from making a determination that a critical stage is something that is not enumerated on the list. It is critical for us to recognize – and indeed, codify – that the young people need representation during every stage of the criminal justice process. We must ensure that their rights are protected before we force them into situations where they will lose years of their lives.

Conclusion

For this reason, the Institute supports A3117/S269, bills that reaffirms that youth must be represented by counsel at all the critical stages of juvenile delinquency court proceedings. The Institute thanks this committee for their thoughtful consideration of this bill and urges them to release this bill.

¹ Asm. B. No. 3117, 220th Leg. (N.J. 2023), <https://www.njleg.state.nj.us/bill-search/2022/A3117>.

² *Id.*

³ *Estelle v. Smith*, 451 U.S. 454, 469 (1981); *Brewer v. Williams*, 430 U.S. 387, 404 (1977).

⁴ *State ex rel. P.M.P.*, 200 N.J. 166, 975 A.2d 441 (N.J. 2009).

⁵ N.J. Leg *supra* note 1.

⁶ Asm. B. No. 3117, 220th Leg. (N.J. 2023), https://www.njleg.state.nj.us/bill-search/2022/A3117/bill-text?f=A3500&n=3117_I1.