

9:17-38 to 9:17-59

LEGISLATIVE HISTORY CHECKLIST

NJSA: 9:17-38 to 9:17-59 ("Uniform Parentage Act"—paternity—guidelines for judicial determination)

LAWS OF: 1983 CHAPTER: 17

Bill No.: S888

Sponsor(s): Lipman

Date Introduced: Jan. 19, 1982

Committee: Assembly: Judiciary, Law, Public Safety & Defense

Senate: Institutions, Health & Welfare

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: Nov. 29, 1982

Senate: June 28, 1982

Date of Approval: Jan. 21, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: Yes //

Hearings: /// No

974.90 New Jersey. Commission on Sex Discrimination in the Statutes.
W872 Sex discrimination in marriage and family law. September 1, 1981.
1981b Trenton, 1981.

(See pp. 13-19; Appendix A, Appendix B)

(over)

OCT 1983

Model act as mentioned in statements:

KF **Uniform Laws Annotated: vol. 9A (Matrimonial, family and**
165 **health laws), St. Paul, Minnesota.**
A5 **(pp. 579-622)**

See also newspaper clipping (attached)

17
1-21-83
[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 888

STATE OF NEW JERSEY

INTRODUCED JANUARY 19, 1982

By Senator LIPMAN

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning children born out-of-wedlock, supplementing chapter 17 of Title 9 of the Revised Statutes and repealing parts of the statutory law pertaining thereto.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "New Jersey
2 Parentage Act."

1 2. As used in this act, "parent and child relationship" means
2 the legal relationship existing between a child and ***[his]*** *the*
3 *child's** natural or adoptive parents incident to which the law
4 confers or imposes rights, privileges, duties, and obligations. It
5 includes the mother and child relationship and the father and child
6 relationship.

1 3. The parent and child relationship extends equally to every
2 child and to every parent, regardless of the marital status of the
3 parents.

1 4. The parent and child relationship between a child and

2 a. The natural mother may be established by proof of her having
3 given birth to the child, or under this act;

4 b. The natural father may be established by proof that his
5 paternity has been adjudicated under prior law; under the laws
6 governing probate; by an order of a court of competent jurisdic-
7 tion in another state or under this act;

8 c. An adoptive parent may be established by proof of adop-
9 tion***[.]*** *;*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted June 21, 1982.

**—Assembly committee amendments adopted October 25, 1982.

10 **d. The natural mother or the natural father may be terminated*
 11 *by an order of a court of competent jurisdiction in granting a judg-*
 12 *ment of adoption or as the result of an action to terminate parental*
 13 *rights.**

1 5. Notwithstanding any other law concerning public hearings and
 2 records, any action or proceeding held under this act shall be held
 3 in closed court without admittance of any person other than those
 4 necessary to the action or proceeding. All papers and records and
 5 any information pertaining to an action or proceeding held under
 6 this act which may reveal the identity of any party in an action,
 7 other than the final judgment or the birth certificate, whether part
 8 of the permanent record of the court or of a file with the State
 9 registrar of vital statistics or elsewhere are confidential and are
 10 subject to inspection only upon consent of the court and all parties
 11 to the action who are still living, or in exceptional cases only upon
 12 an order of the court for compelling reason clearly and convinc-
 13 ingly shown.

1 6. a. A man is presumed to be the natural father of a child if:
 2 (1) He and the child's natural mother are or have been married
 3 to each other and the child is born during the marriage, or within
 4 300 days after the marriage is terminated by death, annulment or
 5 divorce;

6 (2) Before the child's birth, he and the child's natural mother
 7 have attempted to marry each other by a marriage solemnized in
 8 apparent compliance with law, although the attempted marriage
 9 is or could be declared invalid, and

10 (a) if the attempted marriage could be declared invalid
 11 only by a court, the child is born during the attempted mar-
 12 riage, or within 300 days after its termination by death,
 13 annulment or divorce; or

14 (b) if the attempted marriage is invalid without a court
 15 order, the child is born within 300 days after the termination
 16 of cohabitation;

17 (3) After the child's birth, he and the child's natural mother have
 18 married, or attempted to marry, each other by a marriage solemn-
 19 ized in apparent compliance with law, although the attempted
 20 marriage is or could be declared invalid, and

21 (a) he has acknowledged his paternity of the child in writ-
 22 ing filed with the local registrar of vital statistics,

23 (b) he has sought to have his name placed on the child's
 24 birth certificate as the child's father pursuant to R. S. 26:8-40.

25 or

26 (c) he openly holds out the child as his natural child; or

27 (d) he is obligated to support the child under a written
28 voluntary agreement or court order.

29 (4) While the child is under the age of majority, he receives the
30 child into his home and openly holds out the child as his natural
31 child;

32 (5) While the child is under the age of majority he provides
33 support for the child and openly holds out the child as his natural
34 child; or

35 (6) He acknowledges his paternity of the child in a writing filed
36 with the local registrar **of vital statistics** which shall promptly
37 inform the mother of the filing of the acknowledgment, and she does
38 not dispute the acknowledgment within a reasonable time after
39 being informed thereof, in a writing filed with the local registrar.
40 If another man is presumed under this section to be the child's
41 father, acknowledgment may be effected only with the written
42 consent of the presumed father or after the presumption has been
43 rebutted. Each attempted acknowledgment whether or not effective
44 shall be kept on file by the local registrar **of vital statistics** and
45 shall entitle the person who filed it to notice of all proceedings con-
46 cerning parentage and adoption of the child as provided in section
47 10 of this act and pursuant to section 9 of P. L. 1977, c. 367
47A (C. 9:3-45).

48 b. A presumption under this section may be rebutted in an
49 appropriate action only by clear and convincing evidence. If two
50 or more presumptions arise which conflict with each other, the
51 presumption which on the facts is founded on the weightier consid-
52 erations of policy and logic controls. The presumption is rebutted
53 by a court order terminating the presumed father's paternal rights
54 or by establishing that another man is the child's natural or adop-
55 tive father.

56 **c. Notwithstanding the provisions of this section to the contrary,*
57 *in an action brought under this act against the legal representative*
58 *or the estate of a deceased alleged father, the criteria in paragraphs*
59 *(4) and (5) of subsection a. of this section shall not constitute pre-*
60 *sumptions but shall be considered by the court together with all of*
61 *the evidence submitted. The decision of the court shall be based*
62 *on a preponderance of the evidence.*

63 *d. In the absence of a presumption, the court shall decide whether*
64 *the parent and child relationship exists based upon a preponderance*
65 *of the evidence.**

1 7. a. If, under the supervision of a licensed physician and with
2 the consent of her husband, a wife is inseminated artificially with
3 semen donated by a man not her husband, the husband is treated in

4 law as if he were the natural father of a child thereby conceived.
 5 The husband's consent shall be in writing and signed by him and
 6 his wife. The physician shall certify their signatures and the date
 7 of the insemination **upon forms provided by the Department of*
 8 *Health**, and file the husband's consent with the State Department
 9 of Health, where it shall be kept confidential and in a sealed file.
 10 However, the physician's failure to do so shall not affect the father
 11 and child relationship. All papers and records pertaining to the
 12 insemination, whether part of the permanent record of a court or
 13 of a file held by the supervising physician or elsewhere, are subject
 14 to inspection only upon an order of the court for compelling reasons
 14A clearly and convincingly shown.

15 b. Unless the donor of semen and the woman have entered into
 16 a written contract to the contrary, the donor of semen provided to
 17 a licensed physician for use in artificial insemination of a woman
 18 other than the donor's wife is treated in law as if he were not the
 19 father of a child thereby conceived and shall have no rights or
 20 duties stemming from the conception of a child.

1 8. ***[a.** A child, the natural mother, a man presumed to be the
 2 father under paragraph (1), (2), or (3) of section 6a., or the
 3 Division of Public Welfare of the Department of Human Services
 4 or the county welfare agency may bring an action:

5 At any time for the purpose of declaring the existence of the
 6 father and child relationship presumed under paragraph (1), (2),
 7 (3) of section 6a.; or

8 (2) An action to determine the nonexistence of the father and
 9 child relationship presumed under section 6a. may be brought at
 10 any time by the child, the mother or personal representative of the
 11 child, the State agency chargeable by law with the support of the
 12 child, the personal representative or a parent of the mother if the
 12A mother has died or is a minor, a man alleged or alleging himself
 12B to be the father, or the personal representative or a parent of the
 12C alleged father if the alleged father has died or is a minor.

13 After the presumption has been rebutted, paternity of the child
 14 by another man may be determined in the same action, if he has
 15 been made a party.

16 b. The child, the mother or personal representative of the child,
 17 the Division of Public Welfare in the Department of Human Ser-
 18 vices or the county welfare agency, the personal representative
 19 or a parent of the mother if the mother has died, a man alleged
 20 or alleging himself to be the father, the personal representa-
 21 tive or a parent of the alleged father if the alleged father has died
 22 or is a minor, or any person with an interest recognized as justicia-

23 ble by the court may bring an action at any time for the purpose
24 of determining the existence or nonexistence of the father and child
25 relationship presumed under paragraph (4), (5) or (6) of sec-
26 tion 6a.

27 c. An action to determine the existence of the father and child
28 relationship with respect to a child who has no presumed father
29 under section 6 may be brought by the child, the mother or personal
30 representative of the child, the Division of Public Welfare in
31 the Department of Human Services or the county welfare
32 agency, the personal representative or a parent of the mother
33 if the mother has died, a man alleged or alleging himself to be the
34 father, or the personal representative or a parent of the alleged
35 father if the alleged father has died or is a minor or any person
36 with an interest recognized as justiciable.】*

37 **a. A child, a legal representative of the child, the natural mother,*
38 *the estate or legal representative of the mother if the mother has*
39 *died or is a minor, a man alleged or alleging himself to be the father,*
40 *the estate or legal representative of the alleged father if the alleged*
41 *father has died or is a minor, the Division of Public Welfare in the*
42 *Department of Human Services, or the county welfare agency, or*
43 *any person with an interest recognized as justiciable by the court*
44 *may bring or defend an action or be made a party to an action at*
45 *any time for the purpose of determining the existence or nonexist-*
46 *ence of the parent and child relationship.*

47 b. No action shall be brought under this act more than 5 years
48 after the child attains the age of majority.

49 c. The death of the alleged father shall not cause abatement of
50 any action to establish paternity and an action to determine the
51 existence or nonexistence of the parent and child relationship may
52 be instituted or continued against the estate or the legal repre-
53 sentative of the alleged father.*

54 d. Regardless of its terms, an agreement, other than an agree-
55 ment approved by the court in accordance with section 11c. be-
56 tween an alleged or presumed father and the mother of the child,
57 shall not bar an action under this section.

58 e. If an action under this section is brought before the birth of
59 the child, all proceedings shall be stayed until after the birth, except
60 service of process and the taking of depositions to perpetuate
61 testimony. **The court may consider the issue of medical expenses*
62 *and may order the alleged father to pay the reasonable expenses of*
63 *the mother's pregnancy and post-partum disability.**

64 f. This section does not extend the time within which a right of
65 inheritance or a right to succession may be asserted beyond the

66 time provided by law relating to distribution and closing of de-
67 cedents' estates or to the determination of heirship, or otherwise.

1-2 9. a. The juvenile and domestic relations court*,* and where an
3 action is joined with another action, the Superior Court*,* shall
4 have jurisdiction over an action brought under this act. The action
5 ***[may]*** *shall* be joined with an action for divorce, annulment,
6 separate maintenance or support.

7 b. A person who has sexual intercourse in this State thereby
8 submits to the jurisdiction of the courts of this State as to an action
9 brought under this act with respect to a child who may have been
10 conceived by that act of intercourse. In addition to any other
11 method provided by law, personal jurisdiction may be acquired
12 by service in accordance with the rules of the court.

13 c. The action may be brought in the county in which the child
14 or the alleged father resides or is found or, if the father is de-
15 ceased, in which proceedings for probate of his estate have been
16 or could be commenced.

1 10. The child may be made a party to the action. If the child is
2 a minor and is made a party, a guardian ad litem may be appointed
3 by the court to represent the child. The child's mother or father
4 may not represent the child as guardian or otherwise. The court
5 may appoint an attorney-at-law or an appropriate State agency
6 as guardian ad litem for the child. ***[If the child is a minor and the**
7 **case involves a lump sum payment under subsection d. of section 16**
8 **the child shall be made a party and an attorney-at-law or an appro-**
9 **priate State agency shall be appointed as guardian ad litem before**
10 **the court orders a payment.]*** The natural mother, each man pre-
11 sumed to be the father under section 6, each man alleged to be the
12 natural father, anyone whose name appears on the birth certificate,
13 and anyone who has attempted to file an acknowledgment under
14 section 6 whether or not effective to create a presumption of
15 paternity shall be made parties or, if not subject to the jurisdiction
16 of the court, shall be given notice of the action in a manner pre-
17 scribed by the court and an opportunity to be heard. The court
18 may align the parties.

1 11. a. As soon as practicable after an action to declare the
2 existence or nonexistence of the father and child relationship has
3 been brought, a consent conference shall be held by the juvenile and
4 domestic relations court intake service, the county probation de-
5 partment or the county welfare agency. ****[An alternate]**** ****A****
6 court appearance ****[date]**** shall ****[also]**** be scheduled, in the
7 event that a consent agreement cannot be reached.

8 b. On the basis of the information produced at the conference,

9 an appropriate recommendation for settlement shall be made to the
10 parties, which may include any of the following:

11 (1) That the action be dismissed with or without prejudice; or

12 (2) That the alleged father voluntarily acknowledge his paternity
13 of the child.

14 c. If the parties accept a recommendation made in accordance
15 with subsection b. **which has been approved by the court,** judg-
15A ment shall be entered accordingly.

16 d. If a party refuses to accept a recommendation made under
17 subsection b. and blood tests or genetic tests have not been taken,
18 the court ****[shall]**** ****may**** require the parties to submit to
19 blood tests or genetic tests. Thereafter the **juvenile and domestic
20 relations court intake service with the approval of the** court shall
21 make an appropriate final recommendation. If a party refuses to
21A accept the final recommendation, the action shall be set for trial.

22 e. The guardian ad litem may accept or refuse to accept a
23 recommendation under this section.

24 f. The consent conference may be terminated and the action set
25 for trial if the court finds it unlikely that all parties would accept
26 a recommendation that might be made under subsection b. or d.

27 g. No evidence, testimony or other disclosure from the consent
28 conference shall be admitted as evidence in a civil action except by
29 consent of the parties. However, blood tests or genetic tests ordered
30 pursuant to subsection d. may be admitted as evidence.

1 12. a. An action under this act is a civil action governed by the
2 rules of court.

3 b. The trial shall be by the court without a jury*, *unless a party to
4 the action shall **file with the court a written** request **for**
5 a trial by jury within 10 days after service of the complaint*. **The
6 complaint shall contain a notice to all parties that they may
7 request a jury trial within 10 days of the service of the complaint.***

1 13. a. The mother of the child and the alleged father are com-
2 petent to testify and may be compelled to testify.

3 b. Upon refusal of any witness, including a party, to testify
4 under oath or produce evidence, the court may order the witness
5 to testify under oath and produce evidence concerning all relevant
6 facts. If the refusal is upon the ground that the testimony or
7 evidence might tend to incriminate the witness, the court*, *after
8 notice to the prosecutor,** may grant the witness immunity from all
9 criminal liability on account of the testimony or evidence that the
10 witness is required to produce. An order granting immunity bars
11 prosecution of the witness for any offense shown in whole or in
12 part by testimony or evidence the witness is required to produce,

13 except for perjury committed in the testimony. The refusal of a
14 witness, who has been granted immunity, to obey an order to testify
15 or produce evidence is a civil contempt of the court.

16 c. Testimony of a physician concerning the medical circum-
17 stances of the pregnancy and the condition and characteristics of
18 the child upon birth is not privileged.

19 d. Testimony relating to sexual access to the mother by any
20 man at any time other than the probable time of conception of the
21 child is inadmissible in evidence, unless offered by the mother.
22 Before testimony relating to sexual access to the mother by an
23 unidentified man at the probable time of conception may be intro-
24 duced, the court shall hold an in camera hearing to determine
25 whether the evidence is sufficiently probative so that the interests
26 of justice require its admission.

27 e. In an action against an alleged father, uncorroborated evidence
28 offered by him with respect to a man who is not subject to the
29 jurisdiction of the court concerning his sexual intercourse with the
30 mother at or about the probable time of conception of the child is
31 admissible in evidence only if the other man has undergone blood
32 tests or genetic tests the results of which do not exclude the possi-
33 bility of his paternity of the child and which tests are made avail-
34 able to the court. A man who is identified and is subject to the
35 jurisdiction of the court shall be made a party in the action.

1 14. a. The court may, and upon request of a party shall, require
2 the child, mother, or alleged father to submit to blood tests or
3 genetic tests. The tests shall be performed by a qualified expert
4 appointed by the court.

5 b. The court, upon reasonable request by a party, shall order
6 that independent tests be performed by other qualified experts.

7 c. The court shall determine the number and qualifications of
8 the experts.

9 d. The refusal to submit to blood tests or genetic tests or both
10 may be admitted into evidence and shall give rise to the presump-
11 tion that the results of the tests would have been unfavorable to
12 the interests of the party refusing. Refusal to submit to blood tests
13 or genetic tests, or both, is, also, subject to the sanctions within the
14 jurisdiction of the court.

15 e. Whenever blood tests or genetic tests are ordered and made,
16 ***the testimony of the experts to*** the results thereof***]*** shall be
17 ***filed with the court and shall be*** receivable in evidence, ***and*
18 *expert testimony pertaining to the tests may be requested by the*
19 *parties**]* but only in cases where definite exclusion is indicated
20 or, where a Human Leucocyte Antigen, electrophoresis or iso-

21 electric test is made, to also establish the positive probability of
 22 parentage. ***Expert testimony pertaining to these tests may be*
 23 *requested by the parties.*** The order for such blood tests, or
 24 genetic tests also may direct that the testimony of such experts
 25 and of the persons so to be examined be taken by deposition.
 26 ***The court upon application and for good cause shown may limit*
 27 *the admissibility of the blood tests or genetic tests.***

1 15. Evidence relating to paternity may include:

2 a. Evidence of sexual intercourse between the mother and alleged
 3 father at any possible time of conception;

4 b. An expert's opinion concerning the statistical probability of
 5 the alleged father's paternity based upon the duration of the
 6 mother's pregnancy;

7 c. Genetic or blood tests, weighted in accordance with evidence,
 8 if available, of the statistical probability of the alleged father's
 9 paternity;

10 d. Medical or anthropological evidence relating to the alleged
 11 father's paternity of the child based on tests performed by experts.
 12 If a man has been identified as a possible father of the child, the
 13 court may, and upon request of a party shall, require the child, the
 14 mother, and the man to submit to appropriate tests; and

15 e. All other evidence **on behalf of any party** relevant to the
 16 issue of paternity of the child.

1 16. a. The judgment or order of the court determining the
 2 existence or non-existence of the parent and child relationship is
 3 determinative for all purposes.

4 b. If the judgment or order of the court is at variance with the
 5 child's birth certificate, the court shall order that an amendment
 6 to the original birth record be made under section ***[24]*** **22**.

7 c. The judgment or order may contain any other provision
 8 directed against the appropriate party to the proceeding, concern-
 9 ing the duty of support, the custody and guardianship of the child,
 10 visitation privileges with the child, the furnishing of bond or
 11 other security for the payment of the judgment, ***the repayment*
 11A *of any public assistance grant,*** or any other matter in the best
 11B interests of the child. The judgment or order may direct the
 12 father to pay the reasonable expenses of the mother's pregnancy
 13 and ***[confinement]*** **post-partum disability** ***including repay-*
 14 *ment to an agency which provided public assistance funds for those*
 14A *expenses**.*

15 d. Support judgments or orders ordinarily shall be for periodic
 16 payments which may vary in amount. In the best interests of the
 17 child***[**, a lump sum payment or**]*** the purchase of an annuity may

18 be ordered in lieu of periodic payments of support. The court may
 19 limit a parent's liability for past support of the child to the propor-
 20 tion of the expenses already incurred that the court deems just.

21 e. In determining the amount to be paid by a parent for support
 22 of the child and the period during which the duty of support is
 23 owed, a court enforcing the obligation of support shall consider
 24 all relevant facts, including the:

25 (1) Needs of the child;

26 (2) Standard of living and *economic* circumstances of **the**
 27 **parents** *each parent*;

28 (3) **Relative financial means of the parents** *Income and*
 29 *assets of each parent* **, including any public assistance grant
 29A *received by a parent***;

30 (4) Earning ability of **the parents** *each parent, including*
 31 *educational background, training, employment skills, work experi-*
 32 *ence, custodial responsibility for children and the length of time*
 33 *and cost for each parent to obtain training or experience for appro-*
 34 *priate employment*;

35 (5) Need and capacity of the child for education, including higher
 36 education;

37 (6) Age *and health* of the child *and each parent*;

38 (7) **Financial resources and the** *Income, assets and* earn-
 39 ing ability of the child;

40 (8) Responsibility of the parents for the support of others; and

41 (9) **Value of services contributed by the custodial parent**
 42 *Debts and liabilities of each child and parent*.

43 *The factors set forth herein are not intended to be exhaustive.*
 44 *The court may consider such other factors as may be appropriate*
 45 *under the circumstances.**

1 17. The court may order reasonable fees of counsel, experts, and
 2 the child's guardian ad litem, and other costs of the action and
 3 pre-trial proceedings, including blood or genetic tests, to be paid by
 4 the parties in proportions and at times determined by the court.

1 18. a. If existence of the father and child relationship is declared,
 2 or paternity or a duty of support has been acknowledged or adjudi-
 3 cated under this act or under prior law, the obligation of the father
 4 may be enforced in the same or other proceedings by the mother,
 5 and child, the public agency that has furnished or may furnish the
 6 reasonable expenses of pregnancy, **confinement** *post-partum*
 7 *disability*, education, support, or burial, or by any other person,
 8 including a private agency, to the extent that the mother, child,
 9 person or agency has furnished or is furnishing these expenses.

10 b. The court may order support payments to be made to the

11 mother, the clerk of the court, the appropriate county probation
 12 office, or a person, corporation, or agency designated to administer
 13 them for the benefit of the child under the supervision of the court.

14 c. Willful failure to obey the judgment or order of the court is
 15 a civil contempt of the court.

1 19. The court has continuing jurisdiction to modify or revoke
 2 a judgment or order***]**:

3 a. For future education and support, and

4 b. With respect to matters listed in subsections c. and d. of
 5 section 16 and subsection b. of section 18, except that a court
 6 entering a judgment or order for the payment of a lump sum or the
 7 purchase of an annuity under subsection d. of section 16 may
 8 specify that the judgment or order may not be modified or re-
 9 voked]*.

1 20. The child, the mother or personal representative of the child,
 2 the Division of Public Welfare in the Department of Human
 3 Services or the county welfare agency, the personal representative
 4 or a parent if the mother has died **or is a minor**, a man alleged or
 5 alleging himself to be the father, the personal representative or a
 6 parent of the alleged father if the alleged father has died or is a
 7 minor, or any person with an interest recognized as justiciable by
 8 the court may bring an action to determine the existence or non-
 9 existence of a mother and child relationship. Insofar as practicable,
 10 the provisions of this act applicable to the father and child rela-
 11 tionship apply.

1 21. a. Any agreement in writing to furnish support for a child,
 2 growing out of a supposed or alleged father and child relationship,
 3 does not require consideration and is enforceable according to its
 4 terms, subject to subsection d. of section 8.

5 b. In the best interests of the child or the mother, the court may
 6 and upon the request of the person agreeing to furnish support
 7 shall, order the agreement to be kept in confidence and designate
 8 a person or agency to receive and disburse on behalf of the child
 9 all amounts paid in performance of the agreement.

1 22. a. Upon order of a court of this State or upon request of a
 2 court of another state, the local registrar **of vital statistics** shall
 3 prepare an amended birth record consistent with the findings of
 3A the court.

4 b. The fact that the father and child relationship was declared
 5 after the child's birth shall not be ascertainable from the amended
 6 birth record but the actual place and date of birth shall be shown.

7 c. The evidence upon which the amended birth record was made
 8 and the original birth certificate shall be kept in a sealed and confi-

9 dential file and be subject to inspection only upon consent of the
10 court and all interested persons, or in exceptional cases only upon
11 an order of the court for compelling reasons clearly and convinc-
12 ingly shown.

1 23. The following are repealed:

2 a. R. S. 9:15-1 and R. S. 9:15-2;

3 b. R. S. 9:16-1 through R. S. 9:16-4;

4 c. R. S. 19:17-1 and R. S. 9:17-2;

5 d. R. S. 9:17-11 through R. S. 9:17-20;

6 e. R. S. 9:17-23 through R. S. 9:17-35;

7 f. N. J. S. 2A:83-2 and N. J. S. 2A:83-3.

1 24. This act shall take effect 120 days after enactment.

5 b. In the best interests of the child or the mother, the court may
6 and upon the request of the person agreeing to furnish support
7 shall, order the agreement to be kept in confidence and designate
8 a person or agency to receive and disburse on behalf of the child
9 all amounts paid in performance of the agreement.

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2 a. R. S. 9:15-1 and R. S. 9:15-2;

3 b. R. S. 9:16-1 through R. S. 9:16-4;

4 c. R. S. 19:17-1 and R. S. 9:17-2;

5 d. R. S. 9:17-11 through R. S. 9:17-20;

6 e. R. S. 9:17-23 through R. S. 9:17-35;

7 f. N. J. S. 2A:83-2 and N. J. S. 2A:83-3.

1 24. This act shall take effect 120 days after enactment.

Sponsor's STATEMENT

This bill, titled the "New Jersey Parentage Act," is based on the Uniform Parentage Act which was promulgated by the National Conference of Commissioners on Uniform State Laws in 1973 and which has been adopted by approximately fifteen states. The New Jersey Parentage Act is intended to establish the principle that regardless of the marital status of the parents, all children and parents have equal rights with respect to each other and to provide a procedure to establish parentage in disputed cases.

5888(1987)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 888

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 7, 1982

Senate Bill No. 888, the New Jersey Parentage Act, is based on the Uniform Parentage Act which was promulgated by the National Conference of Commissioners on Uniform State Laws in 1973 and which has been adopted by approximately fifteen states. The New Jersey Parentage Act is intended to establish the principle that regardless of the marital status of the parents, all children and parents have equal rights with respect to each other and to provide a procedure to establish parentage in disputed cases.

The following is a section by section description of the provisions of Senate Bill No. 888 as modified by the amendments adopted by the Senate Judiciary Committee and the Assembly Judiciary, Law, Public Safety and Defense Committee.

Section 1

Section 1—Title—New Jersey Parentage Act.

Sections 2 and 3

Sections 2 and 3 the major substantive sections of Senate Bill No. 888, establish the principle that regardless of the marital status of the parents, all children and all parents have equal rights with respect to each other.

In establishing this principle, Senate Bill No. 888 follows a line of recent U. S. Supreme Court decisions which have required equality of treatment in various areas of substantive law. For example, in *Trimble v. Gordon*, 430 U. S. 762 (1977), it was held that a statute barring an illegitimate child from inheriting from an intestate father was unconstitutional as violative of the equal protection clause of the constitution. The *Trimble* holding was followed by New Jersey's Appellate Division in *In re Estate of William J. Sharp*, 163 N. J. Super 148 (App. Div., 1978).

Other examples of recent Supreme Court decisions mandating equality of treatment between legitimate and illegitimate children include *Levy v. Louisiana*, 391 U. S. 68 (1968) which held unconstitutional a wrongful death statute which precluded recovery by illegitimate

children; *Weber v. Aetna Casualty and Surety Co.* 92 S. Ct. 872 (1973) which held that illegitimate children were entitled to workmen's compensation benefits relating to the death of their father and *Gomez v. Perez* 93 S. Ct. 872 (1973) which held that illegitimate children have a right to support by their father.

Section 4

Section 4 introduces the portion of Senate Bill No. 888 dealing with the ascertainment of parentage. One-third of all children receiving assistance under the Aid to Families with Dependent Children program are born out-of-wedlock. It is hoped that the mechanism provided in Senate Bill No. 888 will make the identification of a child's father easier and thereby reducing the number of children requiring public assistance.

Section 4 specifically provides that a parent-child relationship between a child and the natural mother may be established by proof of her having given birth to the child or under the act. A parent and child relationship between a child and the natural father may be established; by a prior adjudication under the laws governing probate; by order of a court of another state or under the act.

The Senate Judiciary Committee amendment to section 4 adds a subsection indicating that the rights of a natural parent may be terminated by a judgment of adoption or as the result of an action to terminate parental rights.

Section 5

Section 5 requires that any proceeding held under this act be held in closed court. Section 5 also requires that the records of any proceeding or judgment under this act, except the final judgment or a birth certificate, be confidential.

Section 6

Section 6 identifies a set of circumstances which create a presumption that a man is the father of a child. These presumptions are intended to facilitate the flow of benefits from the father to the child.

The circumstances set forth in this section creating a presumption of paternity are:

1. The man and the child's mother were married when the child was born or the child is born within 300 days after the marriage is terminated by death or divorce;
2. The man and child's mother have attempted to marry and the marriage is or could be declared invalid;
3. After the birth of the child, the man and the child's mother marry or attempt to marry and he either acknowledges his paternity in writing; sought to have his name placed on the child's birth certificate; openly

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holds out the child as his or is obligated to support the child under a written agreement or court order;

4. He received the child into his home and holds out the child as his;
5. He provides support for the child and holds out the child as his; or
6. He acknowledges his paternity in a writing filed with the local registrar and the mother does not dispute the acknowledgment.

Any presumption raised by section 6 may be rebutted in appropriate circumstances by clear and convincing evidence.

The Senate Judiciary Committee amendment to section 6 provides that in any action against the estate of a deceased alleged father, the criteria list as numbers 4 and 5 above should not constitute presumptions but shall be considered by the court together with all other evidence submitted.

The Senate Judiciary Committee amendments also provide that where there is no presumption, the court shall decide on the existence of a parent-child relationship based on a preponderance of the evidence admitted at trial.

Section 7

Section 7 establishes that in the case of artificial insemination, the mother's husband is considered the natural father of the child and the donor of the semen used to inseminate the woman is not considered the father of the child.

The Senate Judiciary Committee amendment to section 7 is technical.

Section 8

Section 8 deals with actions to declare or dispute the existence of a parent and child relationship.

The Senate Judiciary Committee amendments redraft subsections a., b. and c. of section 8. New subsection a. provides that any action for determining the existence of a parent-child relationship may be brought by a child or the child's legal representative; the natural mother or her legal representative if she has died or is a minor; the alleged father or his representative if he has died or is a minor; the Division of Public Welfare; the county welfare agency or any other person with an interest recognized as justifiable by the court.

New subsection b. provides that no action under this act may be brought more than five years after the child has attained the age of majority.

New subsection c. provides that the death of the alleged father shall not cause the termination of any action to establish paternity and the action may be instituted or continued against his estate.

Section 8 also provides (1) that no agreement between the mother and an alleged or presumed father will bar an action to ascertain paternity; (2) that if an action is brought before the birth of the child,

all proceedings are stayed and (3) that section 8 does not extend the time within which a right of inheritance or to succession must be asserted.

The Senate Judiciary Committee amendments would also add language indicating that the court may order the alleged father to pay the costs of the mother's pregnancy and confinement.

Section 9

Section 9 deals with jurisdiction over actions brought under this act. The primary jurisdiction is given to the juvenile and domestic relations court although an action may be joined with any action for divorce, annulment, separate maintenance or support. The action may be brought in the county in which the child or alleged father resides in or if the father is deceased, in the county in which probate proceedings have been commenced. Any person having sexual intercourse in New Jersey is deemed to have submitted to the jurisdiction of New Jersey's courts for actions brought with regard to a child who may have resulted from that act.

The Senate Judiciary Committee amendments would require the joining of a paternity action with an action for divorce, annulment or support.

Section 10

Section 10 states that in any action a child may be made a party and may be represented by a guardian ad litem appointed by the court. The father or mother may not represent the child since their interests may conflict with those of the child. A lawyer or an appropriate state agency may be appointed as a guardian ad litem. The natural mother; each man presumed or alleged to be the father and any person whose name appears on the birth certificate or who has filed an acknowledgment shall also be made parties.

Section 11

Section 11 establishes a procedure for a consent conference to be held by the juvenile and domestic relations court intake service or the county probation department in cases brought under this act. The purpose of the consent conference is to minimize inconvenience and embarrassment. It is also hoped that the consent conference will facilitate the resolution of the case on a voluntary basis.

Section 11 contemplates that on the basis of the information produced at the conference, a recommendation for settlement would be made to the parties. That recommendation may include dismissal of the action; or voluntary acknowledgment of paternity by the alleged father.

The settlement procedures established by section 11 are voluntary. If any party, including the child's guardian ad litem, refuses to accept a settlement recommendation, the action will be set for trial.

The Senate Judiciary Committee amendments to section 11 provide: that the county welfare agency would receive notice of any consent conference; that any agreement reached between the parties would have court approval and that the juvenile and domestic relations court intake service would be responsible for making the recommended settlement. The Assembly Judiciary Committee amendments to section 11 would give the court discretion to receive blood testing results as evidence where good cause is shown.

Section 12

Section 12 provides that an action brought under this act is non-jury, civil action.

The Senate Judiciary committee amendment would allow a party to request a trial by jury within 10 days after service of the complaint. The Assembly Judiciary Committee made a technical amendment to require that a notice regarding a request for a jury trial be contained in the complaint.

Section 13

Section 13 provides that if any witness including a party refuses to testify, the court may order him to testify. If the refusal is based on the grounds of self-incrimination, the court may grant immunity. Failure to testify after being granted immunity would constitute contempt.

Section 13 also provides:

1. That testimony by a physician at a preliminary hearing concerning the medical circumstances surrounding the child's birth will not be privileged;

2. That evidence relating to sexual access by the mother at any time other than the probable time of conception is inadmissible; testimony pertaining to sexual access at the probable time of conception will be admitted only after the court holds an in camera hearing to determine the evidence's probative value; and

3. That uncorroborated evidence offered by an alleged father than another man who is not subject to the jurisdiction of the court had sexual intercourse with the mother at the probable time of conception is admissible only if that man has made available to the court blood or genetic tests which do not exclude the possibility of his paternity.

The Senate Judiciary Committee amendment would require the court to notify the county prosecutor before granting immunity to witness under this section.

Section 14

Section 14 would permit the court to order the child, mother or alleged father to submit to blood or genetic tests. Refusal to submit to blood or genetic tests would give rise to the presumption that the results

would be unfavorable to the person refusing to submit to the tests. Results of blood tests are admissible where definite exclusion is indicated. The results of Human Leucocyte Antigen tests and similar tests are admissible to establish the positive probability of parentage. The Assembly Judiciary Committee amendment would make the blood test results admissible as a business record.

Section 15

Section 15 states that the following will be considered as evidence relating to paternity: evidence of sexual intercourse between the mother and alleged father at any possible time of conception; an expert's opinion concerning the statistical probability of the alleged father's paternity; genetic or blood tests and medical or anthropological evidence.

The Senate Judiciary Committee amendment is technical.

Section 16

Section 16 allows a wide range of court orders to be made relating to child support, custody, guardianship visitation privileges. Payment by the father of the mother's expenses relating to the pregnancy and her confinement may also be ordered.

The Senate Judiciary Committee amendments to section 16 redraft the criteria to be used by the court in determining the amount of support. That list of factors includes: the age and needs of the child; the income and assets of each person; the standard of living of the parents and the value of services contributed by the custodial parent.

Section 17

Section 17 allows the court to apportion the cost of litigation, including blood and genetic tests, among the parties.

Section 18

Section 18 permits the court to order support payments to be made to the mother, the clerk of the court, the county probation office or any person or agency designated to administer them for the benefit of the child.

Section 19

As modified by the amendments, section 19 gives the court continuing jurisdiction to modify or revoke orders issued under the act.

Section 20

Section 20 permits the child, the mother or child's personal representative, Public Welfare or the county welfare agency, her parent or representative if the mother died, the alleged father, his parent or representative if the father has died or is a minor and any other person with a justiciable interest to bring an action to determine the existence or nonexistence of a mother-child relationship.

Section 21

Section 21 provides that any written agreement to furnish child support based on an alleged father-child relationship is enforceable and does not require consideration. In the best interest of the child or mother, the agreement may be kept confidential.

Section 22

Section 22 provides for the issuance of an amended birth certificate after a declaration of paternity under the provisions of the act. The fact that the father-child relationship was established after the child's birth shall not be ascertainable from the amended birth certificate and the original birth certificate shall be kept confidential.

Section 23

Section 23 repeals existing statutes relating to bastardy proceedings which are to be replaced by the provisions of this act.

Section 24

Section 24 provides that Senate Bill No. 888 shall take effect 120 days following enactment.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 888

STATE OF NEW JERSEY

DATED: JUNE 21, 1982

Senate Bill No. 888, the New Jersey Parentage Act, is based on the Uniform Parentage Act which was promulgated by the National Conference of Commissioners on Uniform State Laws in 1973 and which has been adopted by approximately fifteen states. The New Jersey Parentage Act is intended to establish the principle that regardless of the marital status of the parents, all children and parents have equal rights with respect to each other and to provide a procedure to establish parentage in disputed cases. Since Senate Bill No. 888 was listed on the committee's agenda in March, there has been a series of meetings between the bill's sponsor, the Commission on Sex Discrimination in the Statutes and the Family Law Section of the Bar Association. As a result of those meetings, attached are proposed committee amendments for your review.

The following is a section by section description of the provisions of Senate Bill No. 888 as modified by the proposed amendments.

Section 1

Section 1—Title—New Jersey Parentage Act

Sections 2 and 3

Sections 2 and 3, the major substantive sections of Senate Bill No. 888, establish the principle that regardless of the marital status of the parents, all children and all parents have equal rights with respect to each other.

In establishing this principle, Senate Bill No. 888 follows a line of recent U. S. Supreme Court decisions which have required equality of treatment in various areas of substantive law. For example, in *Trimble v. Gordon*, 430 U. S. 762 (1977), it was held that a statute barring an illegitimate child from inheriting from an intestate father was unconstitutional as violative of the equal protection clause of the constitution. The *Trimble* holding was followed by New Jersey's Appellate Division in *In re Estate of William J. Sharp*, 163 N. J. Super 148 (App. Div., 1978).

Other examples of recent Supreme Court decisions mandating equality of treatment between legitimate and illegitimate children include *Levy v. Louisiana*, 391 U.S. 68 (1968) which held unconstitutional a wrongful death statute which precluded recovery by illegitimate children; *Weber v. Aetna Casualty and Surety Co.* 92 S. Ct. 872 (1973) which held that illegitimate children were entitled to workmen's compensation benefits relating to the death of their father and *Gomez v. Perez* 93 S. Ct. 872 (1973) which held that illegitimate children have a right to support by their father.

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Section 4 introduces the portion of Senate Bill No. 888 dealing with the ascertainment of parentage. One-third of all children receiving assistance under the Aid to Families with Dependent Children program are born out-of-wedlock. It is hoped that the mechanism provided in Senate Bill No. 888 will make the identification of a child's father easier and thereby reducing the number of children requiring public assistance.

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The committee amendment to section 4 adds a subsection indicating that the rights of a natural parent may be terminated by a judgment of adoption or as the result of an action to terminate parental rights.

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The circumstances set forth in this section creating a presumption of paternity are:

1. The man and the child's mother were married when the child was born or the child is born within 300 days after the marriage is terminated by death or divorce;

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2. The man and child's mother have attempted to marry and the marriage is or could be declared invalid;

3. After the birth of the child, the man and the child's mother marry or attempt to marry and he either acknowledges his paternity in writing; sought to have his name placed on the child's birth certificate; openly holds out the child as his or is obligated to support the child under a written agreement or court order;

4. He received the child into his home and holds out the child as his;

5. He provides support for the child and holds out the child as his; or

6. He acknowledges his paternity in a writing filed with the local registrar and the mother does not dispute the acknowledgment.

Any presumption raised by section 6 may be rebutted in appropriate circumstances by clear and convincing evidence.

The committee amendment to section 6 provides that in any action against the estate of a deceased alleged father, the criteria list as numbers 4 and 5 above should not constitute presumptions but shall be considered by the court together with all other evidence submitted.

The committee amendments also provides that where there is no presumption, the court shall decide on the existence of a parent-child relationship based on a preponderance of the evidence admitted at trial.

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Section 7 establishes that in the case of artificial insemination, the mother's husband is considered the natural father of the child and the donor of the semen used to inseminate the woman is not considered the father of the child.

AMENDMENT: The proposed amendment to section 7 is technical.

Section 8

Section 8 deals with actions to declare or dispute the existence of a parent and child relationship.

The committee amendments redraft subsections a., b. and c. of section 8. New subsection a. provides that any action for determining the existence of a parent-child relationship may be brought by a child or the child's legal representative; the natural mother or her legal representative if she has died or is a minor; the alleged father or his representative if he has died or is a minor; the Division of Public Welfare; the county welfare agency or any other person with an interest recognized as justifiable by the court.

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The committee amendments would require the joining of a paternity action with an action for divorce, annulment or support.

Section 10

Section 10 states that in any action a child may be made a party and may be represented by a guardian ad litem appointed by the court. The father or mother may not represent the child since their interests may conflict with those of the child. A lawyer or an appropriate state agency may be appointed as a guardian ad litem. The natural mother; each man presumed or alleged to be the father and any person whose name appears on the birth certificate or who has filed an acknowledgment shall also be made parties.

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Section 11 contemplates that on the basis of the information produced at the conference, a recommendation for settlement would be made to the parties. That recommendation may include dismissal of the action; or voluntary acknowledgment of paternity by the alleged father.

(The following text is faint and partially illegible)

The settlement procedures established by section 11 are voluntary. If any party, including the child's guardian ad litem, refuses to accept a settlement recommendation, the action will be set for trial.

The committee amendments to section 11 would provide: that the county welfare agency would receive notice of any consent conference; that any agreement reached between the parties would have court approval and that the juvenile and domestic relations court intake service would be responsible for making the recommended settlement.

Section 12

Section 12 provides that an action brought under this act is a non-jury, civil action.

The committee amendment would allow a party to request a trial by jury within 10 days after service of the complaint.

Section 13

Section 13 provides that if any witness including a party refuses to testify, the court may order him to testify. If the refusal is based on the grounds of self-incrimination, the court may grant immunity. Failure to testify after being granted immunity would constitute contempt.

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3. That uncorroborated evidence offered by an alleged father than another man who is not subject to the jurisdiction of the court had sexual intercourse with the mother at the probable time of conception is admissible only if that man has made available to the court blood or genetic tests which do not exclude the possibility of his paternity.

The committee amendment would require the court to notify the county prosecutor before granting immunity to witness under this section.

Section 14

Section 14 would permit the court to order the child, mother or alleged father to submit to blood or genetic tests. Refusal to submit to blood or genetic tests would give rise to the presumption that the results would be unfavorable to the person refusing to submit to the

tests. Results of blood tests are admissible where definite exclusion is indicated. The results of Human Leucocyte Antigen tests and similar tests are admissible to establish the positive probability of parentage.

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Section 15 states that the following will be considered as evidence relating to paternity: evidence of sexual intercourse between the mother and alleged father at any possible time of conception; an expert's opinion concerning the statistical probability of the alleged father's paternity; genetic or blood tests and medical or anthropological evidence.

The committee amendment is technical.

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Section 16 allows a wide range of court orders to be made relating to child support, custody, guardianship visitation privileges. Payment by the father of the mother's expenses relating to the pregnancy and her confinement may also be ordered.

The committee amendments to section 16 redraft the criteria to be used by the court in determining the amount of support. That list of factors includes: the age and needs of the child; the income and assets of each person; the standard of living of the parents and the value of services contributed by the custodial parent.

Section 17

Section 17 allows the court to apportion the cost of litigation, including blood and genetic tests, among the parties.

Section 18

Section 18 permits the court to order support payments to be made to the mother, the clerk of the court, the county probation office or any person or agency designated to administer them for the benefit of the child.

Section 19

As modified by the proposed amendments, section 19 gives the court continuing jurisdiction to modify or revoke orders issued under the act.

Section 20

Section 20 permits the child, the mother or child's personal representative, Public Welfare or the county welfare agency, her parent or representative if the mother died, the alleged father, his parent or representative if the father has died or is a minor and any other person with a justiciable interest to bring an action to determine the existence or nonexistence of a mother-child relationship.

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Section 21 provides that any written agreement to furnish child support based on an alleged father-child relationship is enforceable and does not require consideration. In the best interest of the child or mother, the agreement may be kept confidential.

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Section 22 provides for the issuance of an amended birth certificate after a declaration of paternity under the provisions of the act. The fact that the father-child relationship was established after the child's birth shall not be ascertainable from the amended birth certificate and the original birth certificate shall be kept confidential.

Section 23

Section 23 repeals existing statutes relating to bastardy proceedings which are to be replaced by the provisions of this act.

Section 24

Section 24 provides that Senate Bill No. 888 shall take effect 120 days following enactment.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: CARL GOLDEN

JANUARY 21, 1983

Governor Thomas H. Kean today signed legislation to require persons who apply for a moped license or learner's permit to furnish proof of age and identity.

The legislation, S-335, was sponsored by Senator C. Louis Bassano, R-Union.

It would require an applicant for a permit or a license to furnish proof that he or she is 15 years of age. It would also require that proof of identity be furnished once for the permit and once again for the actual operator's license.

The legislation is designed to overcome situations in which permits or licenses have been issued to those under the age of 15 years of age. The legislation is effective 45 days from date of enactment.

The Governor also signed:

S-888, sponsored by Senator Wynona Lipman, D-Essex, to establish the principle that children born out of wedlock have the same rights to parent-child relationships and to benefits from their parents as children born in wedlock. The legislation is designed to facilitate attempts by the Division of Public Welfare to obtain support from fathers who refuse to admit paternity.

A-583, sponsored by Assemblyman John Doyle, D-Ocean, to increase from 25 percent to 50 percent the amount of capital funds which state-chartered banks may invest in real property used in the operation of their business.

A-1589, sponsored by Assemblyman Richard Vank Wagner, D-Monmouth, to provide for two additional "Charity Racing Days for the Developmentally Disabled" at each race track in the state. Currently, each track establishes one day per year for the charity.