

R.S. 9.6-8.21

LEGISLATIVE FACT SHEET

ON *Child abuse cases - disposition*

N.J.R.S. 9:6-8.21

(Amendment)

LAWS OF 1974

CHAPTER 119 10/10/74

SENATE 1217 (S1217-72)

ASSEMBLY

INTRODUCED *April 29*

BY *Dodd, McLaughlin, Menza et al.*

STATEMENT

YES *See Reverse side* NO

AMENDED DURING PASSAGE

YES *ASSEMBLY REPRINT IDENTICAL TO 26 OCR WHICH WAS APPROVED*

HEARING *None discovered*

VETO *NO*

SENATE COMMITTEE STATEMENT

YES

Background:

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974.90
C536
1971

N.J. Legislature. Child Abuse Study Commission. Public Hearing, March 26, 1971. 65, 64 p.

974.90
C536
1971a

N.J. Dept. of Institutions & Agencies. Div of Public Welfare. Bureau of Children's Services. Suspected child abuse cases reported by County Prosecutors. [STATISTICS] 1971.

974.90
C536
1971c

N.J. Legislature. Child Abuse Study Commission. Interim Report ^{NOV} 1971. 36 p.

SPONSOR'S STATEMENT to S 1217 (1974)

This bill recognizes that children have certain legal rights, most important of these being the right of protection from physical abuse and neglect.

The purpose of this bill is to insure that these rights will be adequately protected by the appropriate courts and social service agencies. Any proceedings under this bill will be carried out with the best interest of the child or children involved as the primary concern.

e. a person on the court's direction;

f. The county prosecutor or

SENATE, No. 1217

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1974

By Senators DODD, McGAHN, MENZA, FELDMAN, FAY, BATE-
MAN, BEADLESTON, DUGAN, HIRKALA, MARESSA, HORN,
LYNCH, DWYER, MUSTO, BUEHLER, GARRAMONE, SCAR-
DINO, ORECHIO, DAVENPORT, RUSSO, BEDELL, LIPMAN,
GREENBERG, HUGHES, TUMULTY, MARTINDELL, AM-
MOND, ZANE, SKEVIN, MERLINO, WALLWORK, DUMONT,
PARKER, CAFIERO, VREELAND and HAGEDORN

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the manner of disposition of cases of child
abuse or neglect, and providing for an appropriation.

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

1 1. As used in this act, unless the specific context indicates other-
2 wise:

3 a. "Parent or guardian" means any natural parent, adoptive
4 parent, foster parent, stepparent, or any person, who has assumed
5 responsibility for the care of a child or upon whom there is a legal
6 duty for such care.

7 b. "Child" means any child alleged to have been abused or
8 neglected.

9 c. "Abused or neglected child" means a child less than 18 years
10 of age whose parent or guardian, as herein defined, (1) inflicts or
11 allows to be inflicted upon such child physical injury by other
12 than accidental means which causes or creates a substantial risk
13 of death, or serious or protracted disfigurement, or protracted
13A impairment of physical or emotional health or protracted loss or
14 impairment of the function of any bodily organ; (2) creates or
15 allows to be created a substantial or ongoing risk of physical injury
16 to such child by other than accidental means which would be
17 likely to cause death or serious or protracted disfigurement, or
18 protracted loss or impairment of the function of any bodily organ;
19 or (3) commits or allows to be committed an act of sexual abuse

20 against the child; (4) or a child whose physical, mental, or emo- 2
 21 tional condition has been impaired or is in imminent danger of 3
 22 becoming impaired as the result of the failure of his parent or 4
 23 guardian, as herein defined, to exercise a minimum degree of care 5
 24 (a) in supplying the child with adequate food, clothing, shelter, 6
 25 education, medical or surgical care though financially able to do 7
 26 so or though offered financial or other reasonable means to do so, 8
 27 or (b) in providing the child with proper supervision or guardian- 9
 28 ship, by unreasonably inflicting or allowing to be inflicted harm, 10
 29 or substantial risk thereof, including the infliction of excessive 11
 30 corporal punishment; or by any other acts of a similarly serious 12
 31 nature requiring the aid of the court; or (5) who has been willfully 13
 32 abandoned by his parent or guardian, as herein defined. 14

33 d. "Law guardian," means an attorney admitted to the practice 15
 34 of law in this State, regularly employed by the Office of the Public 16
 35 Defender, and designated under this act to represent minors in 17
 36 alleged cases of child abuse or neglect. 1

37 e. "Attorney" means an attorney admitted to the practice of 2
 38 law in this State who shall be privately retained; or, in the instance 3
 39 of an indigent parent or guardian, a pool attorney from the Office 4
 40 of the Public Defender appointed in order to avoid conflict between 5
 41 the interests of the child and the parent or guardian in regard to 6
 42 representation. 7

43 f. "Division" means the Division of Youth and Family Services 8
 44 unless otherwise specified. 9

1 2. The juvenile and domestic relations court in each county shall 10
 2 have jurisdiction over all proceedings involving alleged cases of 11
 3 child abuse or neglect, and shall be charged with the immediate 12
 4 protection of said children. All cases involving alleged cases of 13
 5 child abuse shall be commenced in or transferred to this court from 14
 6 other courts as they are made known to the other courts. Cases 15
 7 of child abuse or neglect must be the first order of priority in the 16
 8 juvenile and domestic relations court. 17

1 3. a. Any minor who is the subject of a child abuse or neglect 18
 2 proceeding under this act must be represented by a law guardian 19
 3 to help protect his interests and to help him express his wishes 20
 4 to the court. However, nothing in this act shall be construed to 21
 5 preclude any other interested person or agency from appearing by 22
 6 counsel. 23

7 b. The juvenile and domestic relations court, on its own motion, 24
 8 will make appointments of law guardians. 25

1 4. Jurisdiction. a. Notwithstanding any other law to the contrary, 26

2 the juvenile and domestic relations court has exclusive original
3 jurisdiction over proceedings under this act alleging the abuse or
4 neglect of a child.

5 b. In determining the jurisdiction of the court under this act,
6 the age of the child at the time the proceedings are initiated is
7 controlling.

8 c. In determining the jurisdiction of the court under this act, the
9 child need not be currently in the care or custody of his parent or
10 guardian, as defined herein.

11 d. If the matter in regard to the parent or guardian is referred
12 to the county prosecutor, the juvenile and domestic relations court
13 may continue the proceeding under this act in regard to the child
14 after such referral. If the proceeding in regard to the child is
15 continued, the juvenile and domestic relations court may enter any
16 preliminary order necessary to protect the interests of the child
17 pending a final order from the criminal courts.

1 5. Transfer to and from the domestic relations court. a. The
2 juvenile and domestic relations court may refer such proceeding,
3 in regard to the parent or guardian, to the appropriate county
4 prosecutor, if it concludes upon further hearing that the processes
5 of the juvenile and domestic relations court are inappropriate or
6 insufficient. The juvenile and domestic relations court may continue
7 the proceeding under this act with regard to the child after such
8 referral, and if the proceeding is continued with regard to the
9 child the said court may enter any preliminary order necessary to
10 protect the interest of the child, pending a final order of disposition
11 from the criminal court.

12 b. Any criminal complaint charging facts amounting to abuse
13 or neglect under this act may be transferred by the county prose-
14 cutor or the criminal court in which the complaint was made, to
15 the juvenile and domestic relations court, in the county in which
16 the former court is located, unless said juvenile and domestic
17 relations court has transferred the proceedings to such court.
18 If the county prosecutor or criminal court receive a complaint
19 which amounts to child abuse or neglect and decide to retain that
20 complaint for criminal prosecution, the county prosecutor or
21 criminal court shall refer the proceeding with regard to the child
22 to the juvenile and domestic relations court. The juvenile and
23 domestic relations court shall then, upon hearing, determine what
24 further action is appropriate. If the county prosecutor or the
25 criminal court refers a matter with regard to the parent or
26 guardian, or child, and there appears to be no basis for action in

27 the juvenile and domestic relations court, the proceeding may be
28 terminated. If the juvenile and domestic relations court determines
29 a complaint should be filed, proceedings under this act shall be
30 commenced immediately.

31 c. Nothing in this act shall be interpreted to preclude the county
32 prosecutor from bringing criminal action against the parent or
33 guardian or any other person even though the child involved is
34 initially or ultimately the subject of proceedings in the juvenile
35 and domestic relations court.

1 6. Venue. Proceedings under this act may be originated in the
2 county in which the child resides or is domiciled at the time of the
3 filing of the complaint, or in the county in which the person having
4 custody of the child resides or is domiciled.

1 7. Temporary removal with consent. a. A peace officer or an
2 agency, institution or individual may temporarily remove a child
3 from the place where he is residing with the consent of his parent
4 or other person legally responsible for his care, if the child is
5 determined to be an abused or neglected child under this act. If
6 the child is not returned within 3 working days from the date of
7 removal, the procedure required pursuant to this act shall be ap-
8 plied immediately. b. However, if the Division of Youth and Family
9 Services removes a child with the written consent of the parent
10 or guardian, the proceedings under this act shall not apply, unless
11 the division files a complaint to commence proceedings under
12 this act.

1 8. Preliminary orders of court before complaint filed. a. The
2 juvenile and domestic relations court may enter an order directing
3 the temporary removal of a child from the place where he is residing
4 before the filing of a complaint under this act, if (1) the parent
5 or other person legally responsible for the child's care is absent
6 or, though present, was asked and refused to consent to the tem-
7 porary removal of the child and was informed of an intent to
8 apply for any order under this section; and (2) the child appears
9 so to suffer from the abuse or neglect of his parent or guardian
10 that his immediate removal is necessary to avoid imminent danger
11 to the child's life or health; and (3) there is not enough time to
12 file a complaint and hold a preliminary hearing.

13 b. The order shall specify the facility to which the child is to
14 be brought. Except for good cause shown or unless the child is
15 sooner returned to the place where he was residing, a complaint
16 shall be filed under this act within 3 days of the issuance of the
17 order.

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18 c. The juvenile and domestic relations court may enter an order
19 authorizing a physician or hospital to provide emergency medical
20 or surgical procedures before the filing of a complaint under this
21 act if (1) such procedures are necessary to safeguard the life or
22 health of the child; and (2) there is not enough time to file a
23 complaint and hold a preliminary hearing under section 11 hereof.

24 d. Any person who originates a proceeding under this act may
25 apply for through the Division of Youth and Family Services or
26 the court on its own motion may issue, an order of temporary
27 removal. The division shall make every reasonable effort to inform
28 the parent or guardian of any such application, confer with a
29 person wishing to make such an application and make such in-
30 quiries as will aid the court in disposing of such application.
31 Within 24 hours the Division of Youth and Family Services shall
32 report such application to the Office of Child Abuse Control of the
33 division.

34 e. Any person acting under the authority of this act may request
35 and shall receive appropriate assistance from local and State law
36 enforcement officials.

1 9. Emergency removal without court order. a. A peace officer
2 or a designated employee of a county department of probation
3 or a designated employee of the division may remove a child from
4 the place where he is residing, or any such person or any physician
5 treating such child may keep a child in his custody without an order
6 pursuant to section 8 thereof and without the consent of the parent
7 or guardian regardless of whether the parent or guardian is absent,
8 if the child is in such condition that his continuance in said place
9 or residence or in the care and custody of the parent or guardian
10 presents an imminent danger to the child's life or health; and

11 b. If a person authorized by this section removes or keeps custody
12 of a child, he shall (1) inform the Office of Child Abuse Control
13 immediately; (2) bring the child immediately to a place designated
14 by the Office of Child Abuse Control for this purpose, unless the
15 person is a physician treating the child and the child is or will be
16 presently admitted to a hospital, and (3) make every reasonable
17 effort to inform the parent or guardian of the facility to which
18 he has brought the child.

19 c. Any person or institution acting in good faith in the removal
20 or keeping of a child pursuant to this section shall have immunity
21 from any liability, civil or criminal, that might otherwise be in-
22 curred or imposed as a result of such removal or keeping.

23 d. Any person acting under the authority of this act may request

24 and shall receive appropriate assistance from local and State law
25 enforcement officials.

1 10. Action by the Office of Child Abuse Control upon emergency
2 removal. a. The Office of Child Abuse Control when informed that
3 there has been an emergency removal of a child from his home
4 without court order shall make every reasonable effort to com-
5 municate immediately with the child's parent or guardian and
6 advise the parent or guardian to appear in the appropriate juvenile
7 and domestic relations court on the next court day. The Office of
8 Child Abuse Control shall also advise the party making the removal
9 to appear.

10 b. The division shall cause a complaint to be filed under this act
11 immediately or on the first court day after such removal takes
12 place. The filing of the complaint and the commencement of the
13 hearing regarding the removal may be concurrent.

1 11. Preliminary orders after filing of complaint. a. In any case
2 where the child has been removed without court order, the juvenile
3 and domestic relations court shall hold a hearing on the next court
4 day to determine whether the child's interests require protection
5 pending a final order of disposition. In any other case under this
6 act, any person who may originate a proceeding may apply for, or
7 the court, on its own motion, may order a hearing at any time after
8 the complaint is filed to determine whether the child's interests
9 require protection pending a final order of disposition.

10 b. Upon such hearing, if the court finds that continued removal
11 is necessary to avoid an ongoing risk to the child's life or health,
12 it shall affirm the removal of the child to an appropriate place or
13 place him in the custody of a suitable person.

14 c. Upon such hearing the court may, for good cause shown, issue
15 a preliminary order of protection which may contain any of the
16 provisions authorized on the making of an order of protection
17 under section 35 hereof.

18 d. Upon such hearing, the court may, for good cause shown,
19 release the child to the custody of his parent or guardian from
20 whose custody or care the child was removed, pending a final order
21 of disposition, in accord with section 33 hereof.

22 e. Upon such hearing, the court may authorize a physician or
23 hospital to provide medical or surgical procedures if such pro-
24 cedures are necessary to safeguard the child's life or health.

25 f. If the court grants or denies a preliminary order requested
26 pursuant to this section, it shall state the grounds for such decision.

27 g. In all cases involving abuse or neglect the court shall order

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28 an examination of the child by a physician appointed or designated
 29 for the purpose by the division. As part of such examination, the
 30 physician shall arrange to have colored photographs taken as soon
 31 as practical of any areas of trauma visible on such child and may
 32 if indicated, arrange to have a radiological examination performed
 33 on the child. The physician, on the completion of such examination,
 34 shall forward the results thereof together with the color photo-
 35 graphs to the court ordering such examination. The court may
 36 dispense with such examination in those cases which were com-
 37 menced on the basis of a physical examination by a physician.
 38 Unless colored photographs have already been taken or unless
 39 there are no areas of visible trauma, the court shall arrange to have
 40 colored photographs taken even if the examination is dispensed
 41 with.

1 12. Application to return child temporarily removed. Upon the
 2 application of the parent or guardian temporarily removed under
 3 this act for an order returning the child, the court shall hold a
 4 hearing to determine whether the child should be returned; a. if
 5 there has not been a hearing on the removal of the child at which
 6 the parent or guardian was present or had an adequate opportunity
 7 to be present; or b. upon good cause shown. Except for good
 8 cause shown, such hearing shall be held within 3 court days of
 9 the application. Upon such hearing, the court shall grant the
 10 application, unless it finds: (1) where a complaint has not been
 11 filed, that the return presents an imminent risk to the child's life
 12 or health; or (2) where a complaint has been filed, that there is a
 13 substantial probability that the child will be found to be abused
 14 or neglected under this act, and that the final order of disposition
 15 will be an order of placement under section 34 hereof, or that,
 16 pending entry of a final order of disposition, temporary removal
 17 is necessary to avoid an imminent risk to the child's life or health.

1 13. Originating proceeding to determine abuse or neglect. a. A
 2 proceeding under this act is originated by the filing of a complaint
 3 in which facts sufficient to establish that a child is an abused or
 4 neglected child under this act are alleged.

5 b. Where more than one child is the responsibility of the parent
 6 or guardian it may be alleged in the same complaint that one or
 7 more children are abused or neglected children.

8 c. In cases of emergency, in addition to the removal of one child,
 9 any other child residing in the home may also be removed, even
 10 though there is not an allegation of abuse or neglect in reference
 11 thereto.

1 14. Persons who may originate proceedings. The following per-
2 sons may originate a proceeding under this act:

3 a. A parent or other person interested in the child.

4 b. A duly authorized agency, association, society or institution.

5 c. A peace officer.

6 d. Any person having knowledge or information of a nature
7 which convinces him that a child is abused or neglected.

8 e. A person on the court's direction.

9 f. The county prosecutor.

10 g. In cases where a private individual is unwilling or reluctant
11 to file a complaint, he may request the division to initiate a com-
12 plaint in his stead.

1 15. Preliminary procedure. The division may:

2 a. Confer with any person seeking to file a complaint, the
3 potential respondent, and other interested persons concerning the
4 advisability of filing a complaint under this act and

5 b. Attempt to adjust suitable cases before a complaint is filed
6 over which the court apparently would have jurisdiction.

7 c. The division shall not prevent any person or agency who
8 wishes to file a complaint under this act from having access to the
9 court for that purpose.

10 d. Efforts at adjustment under this section may not extend for
11 a period of more than 30 days without an order of a judge of the
12 court, who may extend the period for an additional 30 days.

13 e. The division shall not be authorized under this section to
14 compel any person to appear at any conference, produce any
15 papers, or visit any place.

16 f. The juvenile and domestic relations court and the division
17 shall deal with cases involving imminent physical harm or actual
18 physical harm on a priority basis.

1 16. Admissibility of statements made during a preliminary con-
2 ference. No statement made during a preliminary conference held
3 pursuant to section 15 hereof may be admitted into evidence at a
4 fact-finding hearing under this act or in a court of criminal
5 jurisdiction at any time prior to conviction.

1 17. Issuance of summons. On the filing of a complaint involving
2 abuse or neglect under this act, unless a warrant is issued pursuant
3 to section 19 hereof, the court shall cause a copy of the complaint
4 and a summons to be issued forthwith, clearly marked on the face
5 thereof, "Child Abuse-Neglect Case," requiring the parent or
6 guardian with whom the child is residing to appear at the court
7 within 3 court days regarding the complaint. The court shall also,

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8 unless dispensed with for good cause shown, require the person
9 thus summoned to produce the child at the time and place named.

1 18. Service of summons. a. In cases involving abuse, or neglect
2 the complaint and summons shall be served within 2 court days
3 after their issuance. If they cannot be served within that time,
4 such fact shall be reported to the court with the reasons therefor
5 within 3 court days after their issuance and the court shall there-
6 after issue a warrant in accordance with the provisions of section
7 19 of this act. The court shall also, unless dispensed with for good
8 cause shown, direct that the child be brought before the court.

9 b. Service of a summons and complaint shall be made by de-
10 livery of a true copy thereof to the person summoned at least 24
11 hours before the time stated therein for appearance.

12 c. If after reasonable effort, personal service is not made, the
13 court may at any stage in the proceedings make an order providing
14 for substituted service in the manner provided for substituted
15 service in civil process.

1 19. Issuance of warrant and reports. a. The court may issue a
2 warrant directing the parent or guardian with whom the child is
3 residing to be brought before the court, when a complaint is filed
4 with the court under this act and it appears that (1) the summons
5 cannot be served; or (2) the summoned person has refused to obey
6 the summons; or (3) the parent or guardian is likely to leave the
7 jurisdiction; or (4) a summons, in the court's opinion, would be in-
8 effectual; or (5) the safety of the child is endangered.

9 b. When issuing a warrant under this section, the court may
10 also direct that the child be brought before the court.

11 c. In any case involving abuse, or neglect the warrant shall be
12 clearly marked on the face thereof "Child Abuse-Neglect Case."
13 If a warrant is not executed within 2 court days of its issuance
14 such fact shall be reported to the court within 3 court days of its
15 issuance.

1 20. Records involving abuse or neglect. When the division
2 receives a report or complaint that a child may be abused or
3 neglected; or when the division receives a request from the juvenile
4 and domestic relations court to investigate such allegations, the
5 division may request of any and all public or private institutions,
6 or agencies including law enforcement agencies, or any private
7 practitioners, their records past and present pertaining to that
8 child and other children under the same care, custody and control.
9 These records will be released to the division for the purpose of
10 aiding in evaluation to determine if the child is abused or neglected.

11 In the release of the aforementioned records, the source shall have
12 immunity from any liability, civil or criminal.

1 21. Required findings concerning notice. No hearing may com-
2 mence under this act unless the court enters a finding:

3 a. That the parent or guardian is present at the hearing or has
4 been served with a copy of the complaint; or

5 b. If the parent or guardian is not present, that every reasonable
6 effort has been made to effect service under sections 18 and 19
7 hereof.

1 22. Effect of absence of parent or guardian. If the parent or
2 guardian is not present, the court may proceed to head a complaint
3 under this act only if the child is represented by a law guardian.
4 If the parent or guardian thereafter makes a motion to the court
5 that a resulting disposition be vacated and asks for a rehearing, the
6 court shall grant the motion on an affidavit showing such relation-
7 ship or responsibility unless the court finds that the parent or
8 guardian willfully refused to appear at the hearing in which case
9 the court may deny the motion.

1 23. Notice of rights. a. The court shall advise the parent or
2 guardian of his right to have an adjournment to retain counsel and
3 consult with him. The court shall advise the respondent that if he
4 is indigent, he may apply for an attorney through the Office of the
5 Public Defender. The court shall also inform the child of his right
6 to be represented by a law guardian.

7 b. The general public may be excluded from any hearing under
8 this act, and only such persons and the representatives of
9 authorized agencies may be admitted thereto as have an interest
10 in the case.

1 24. Definition of "fact-finding hearing." When used in this act
2 the term "fact-finding hearing" means a hearing to determine
3 whether the child is an abused or neglected child as defined herein.

1 25. Definition of "dispositional hearing." When used in this act
2 the term "dispositional hearing" means a hearing to determine
3 what order should be made.

1 26. Evidence. a. In any hearing under this act (1) proof of the
2 abuse or neglect of one child shall be admissible evidence on the
3 issue of the abuse or neglect of any other child of, or the responsi-
4 bility of, the parent or guardian and (2) proof of injuries
5 sustained by a child or of the condition of a child of such a nature
6 as would ordinarily not be sustained or exist except by reason of
7 the acts or omissions of the parent or guardian shall be prima facie
8 evidence that a child of, or who is the responsibility of such person

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9 is an abused or neglected child, and (3) any writing, record or
10 photograph, whether in the form of an entry in a book or other-
11 wise, made as a memorandum or record of any condition, act,
12 transaction, occurrence or event relating to a child in an abuse or
13 neglect proceeding of any hospital or any other public or private
14 institution or agency shall be admissible in evidence in proof of
15 that condition, act, transaction, occurrence or event, if the judge
16 finds that it was made in the regular course of the business of any
17 hospital or any other public or private institution or agency, and
18 that it was in the regular course of such business to make it, at
19 the time of the condition, act, transaction, occurrence or event, or
20 within a reasonable time thereafter, shall be prima facie evidence
21 of the facts contained in such certification. A certification by some-
22 one other than the head of the hospital or agency shall be
23 accompanied by a photocopy of a delegation of authority signed by
24 both the head of the hospital or agency and by such other em-
25 ployees. All other circumstances of the making of the memor-
26 andum, record or photograph, including lack of personal
27 knowledge of the making, may be proved to affect its weight, but
28 they shall not affect its admissibility and (4) previous statements
29 made by the child relating to any allegations of abuse or neglect
30 shall be admissible in evidence; provided, however, that no such
31 statement, if uncorroborated, shall be sufficient to make a fact find-
32 ing of abuse or neglect and (5) neither the privilege attaching to
33 confidential communications between husband and wife, nor the
34 physician-patient and related privileges, nor the social worker
35 client privilege, shall be a ground for excluding evidence which
36 otherwise would be admissible.

37 b. In a fact-finding hearing (1) any determination that the child
38 is an abused or neglected child must be based on a preponderance
39 of the evidence and (2) except as otherwise provided by this act,
40 only competent, material and relevant evidence may be admitted.

41 c. In a dispositional hearing and during all other stages of a
42 proceeding under this act, except a fact-finding hearing, only ma-
43 terial and relevant evidence may be admitted.

1 27. Sequence of hearings. a. Upon completion of the fact-finding
2 hearing, the dispositional hearing may commence immediately
3 after the required findings are made.

4 b. Reports prepared by the probation department or the Division
5 for use by the court at any time for the making of an order of
6 disposition shall be deemed confidential information furnished to
7 the court which the court in a proper case may, in its discretion,

8 withhold from or disclose in whole or in part to the law guardian,
9 attorney as defined herein, or other appropriate person. Such re-
10 ports may not be furnished to the court prior to the completion of a
11 fact-finding hearing, but may be used in a dispositional hearing.

1 28. Adjournments. a. The court may adjourn a fact-finding
2 hearing or a dispositional hearing for good cause shown on its own
3 motion or on the motion of the county prosecutor, the law guardian,
4 or the respondent's attorney. If so requested, the court shall not
5 proceed with a fact-finding hearing earlier than 3 days after service
6 of summons and complaint, unless emergency medical or surgical
7 procedures are necessary to safeguard the life and health of the
8 child. Adjournment may not exceed 30 court days, without addi-
9 tional court appearance.

10 b. At the conclusion of a fact-finding hearing and after it has
11 made findings required before a dispositional hearing may com-
12 mence, the court may adjourn the proceedings to enable it to make
13 inquiry into the surroundings, conditions, and capacities of the
14 persons involved in the proceedings.

1 29. Special consideration in certain cases. In scheduling hearings
2 and investigations, the court shall give priority to proceedings
3 under this act involving imminent or actual physical harm, or in
4 which a child has been removed from home before a final order of
5 disposition. Any adjournment granted in the course of such a pro-
6 ceeding should be for as short a time as possible.

1 30. Sustaining or dismissing complaint. a. If facts sufficient to
2 sustain the complaint are established in accordance with article 4
3 of this act, the court shall, subject to the provisions of subsection c.
4 hereof, enter an order finding that the child is an abused neglected
5 child and shall state the grounds for said findings.

6 b. If the proof does not conform to the specific allegations of the
7 complaint, the court may amend the allegations to conform to the
8 proof; provided, however, that in such case the respondent shall be
9 given reasonable time to prepare to answer the amended
10 allegations.

11 c. If facts sufficient to sustain the complaint under this act are
12 not established, or the court concludes that its assistance is not
13 required on the record before it, the court shall dismiss the com-
14 plaint and shall state the grounds for the dismissal.

15 d. If the court makes a finding of abuse or neglect, it shall
16 determine, based upon the facts adduced during the fact-finding
17 hearing, and upon any other facts presented to it, whether a pre-
18 liminary order pursuant to section 11 hereof is required to protect

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19 the child's interests pending a final order of disposition. The court
 20 shall state the grounds for its determination. In addition, a child
 21 found to be abused or neglected may be removed and remanded to
 22 a place designated by the court or be placed in the custody of a
 23 suitable person, pending a final order of disposition, if the court
 24 finds that there is a substantial probability that the final order of
 25 disposition will be an order of placement under the section 34
 26 hereof.

1 31. Disposition of adjudication. a. At the conclusion of a dis-
 2 positional hearing under this act, the court shall enter an order of
 3 disposition: (1) suspending judgment in accord with section 32
 4 hereof; (2) releasing the child to the custody of his parents or
 5 guardian in accord with section 33 hereof; (3) placing the child in
 6 accord with section 34 hereof; (4) making an order of protection
 7 in accord with section 35 hereof; (5) placing the respondent on
 8 probation in accord with section 36 hereof; (6) requiring that an
 9 individual found guilty of child abuse or neglect submit to psy-
 10 chiatric evaluation or care, and this order may be carried out in
 11 conjunction with any other order of disposition.

12 b. The court shall state the grounds for any disposition made
 13 under this section.

1 32. Suspended judgment. a. The court shall define permissible
 2 terms and conditions of a suspended judgment. These terms and
 3 conditions shall relate to the acts or omissions of the parent or
 4 guardian.

5 b. The maximum duration of any term or condition of a
 6 suspended judgment shall be 1 year, unless the court finds at the
 7 conclusion of that period, upon a hearing, that exceptional circum-
 8 stances required an extension thereof for an additional year.

1 33. Release to custody of parent or guardian. a. If the order of
 2 disposition releases the child to the custody of his parent or
 3 guardian responsible for his care at the time of the filing of the
 4 complaint, the court may place the child under supervision of the
 5 division or may enter an order of protection under section 35
 6 hereof.

7 b. The court shall define permissible terms and conditions of
 8 supervision under this section. The maximum duration of any such
 9 term or condition shall not exceed a period of 1 year, unless the
 10 court finds at the conclusion of that period of 1 year, upon a hear-
 11 ing, that exceptional circumstances require an extension thereof
 12 for an additional year.

1 34. Placement. a. For the purposes of section 31 hereof, the court

2 may place the child in the custody of a relative or other suitable
3 person or the division for the placement of a child.

4 b. Placements under this section may be for an initial period of
5 18 months and the court, in its discretion, may at the expiration
6 of that period, upon a hearing make successive extensions for addi-
7 tional periods of 1 year each. The place in which or the person
8 with which the child has been placed under this section shall submit
9 a report at the end of the year of placement, making recommenda-
10 tions and giving such supporting data as is appropriate. The court
11 on its own motion may, at the conclusion of any period of place-
12 ment, hold a hearing concerning the need for continuing the place-
13 ment.

14 c. No placement may be made or continued under this section
15 beyond the child's eighteenth birthday without his consent and in
16 no event past his twenty-first birthday.

17 d. If the parent or person legally responsible for the care of any
18 such child or with whom such child resides receives public assist-
19 ance and care, any portion of which is attributable to such child, a
20 copy of the order of the court providing for the placement of such
21 child from his home shall be furnished to the appropriate county
22 welfare board, which shall reduce the public assistance and care
23 furnished to such parent or other person by the amount attribut-
24 able to such child.

1 35. Order of protection. The court may make an order of pro-
2 tection in assistance or as a condition of any other order made
3 under this act. The order of protection may set forth reasonable
4 conditions of behavior to be observed for a specified time by a per-
5 son who is before the court and is a parent or guardian responsible
6 for the child's care or the spouse of the parent or guardian, or
7 both. Such an order may require any such person: a. To stay
8 away from the home, the other spouse or the child; b. To permit a
9 parent to visit the child at stated periods; c. To abstain from offen-
10 sive conduct against the child or against the other parent or against
11 any person to whom custody of the child is awarded; d. To give
12 proper attention to the care of the home; and e. To refrain from
13 acts of commission or omission that tend to make the home not a
14 proper place for the child.

15 The court may also award custody of the child, during the term
16 of the order of protection to either parent or to an appropriate
17 relative; however, nothing in this section shall be construed to give
18 the court power to place or board out any child or to commit a
19 child to the custody of an institution or agency. In making orders

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20 of protection, the court shall so act as to insure that in the care,
 21 protection, discipline and guardianship of the child, his religious
 22 faith shall be preserved and protected.

1 36. Probation supervision. The court may place the respondent
 2 under the supervision of the probation department and the court
 3 shall define permissible terms and conditions of said supervision.
 4 The maximum duration of any such term or condition shall not
 5 exceed a period of 2 years, unless the court finds at the conclusion
 6 of that period that exceptional circumstances required an extension
 7 thereof for an additional year.

1 37. Abandoned child. If the court finds that a child was
 2 abandoned by his parents or guardian, it may make an order so
 3 finding and may discharge the child to the custody of the Division
 4 which shall provide for such child as authorized by law.

1 38. Provisions for psychiatric evaluation or care. In cases where,
 2 in the opinion of the court, an individual found guilty of child abuse
 3 or neglect, appears to be in need of psychiatric care, the court may
 4 order the individual to submit to a psychiatric evaluation. On the
 5 basis of the evaluation, the court may order the individual to
 6 submit to extended psychiatric care. The court will determine the
 7 ability to pay and the method of payment for the care, as it orders.

1 39. Staying, modifying, setting aside or vacating orders. For
 2 good cause shown and after due notice, the court on its own motion,
 3 or that of the county prosecutor, the law guardian, or the re-
 4 spondent's attorney, may stay execution of arrest, set aside,
 5 modify or vacate any order issued in the course of a proceeding
 6 under this act. The court must state the grounds for this action.

1 40. Petition to terminate placement. Any interested person act-
 2 ing on behalf of a child placed under section 34 hereof or the child's
 3 parents or guardian may petition the court for any order terminat-
 4 ing the placement. The petition must be verified and must show:

5 a. That an application for the child's return to his home was
 6 made to an appropriate person after expiration of the Order of
 7 Placement provided for in section 34 hereof;

8 b. That the application was denied or was not granted within
 9 30 days from the day application was made; and

10 c. The grounds for the petition.

1 41. Service of petition; answer. A copy of a petition under sec-
 2 tion 40 hereof shall promptly be served upon the division or the in-
 3 dividual having custody of the child under section 34 whose duty it
 4 shall be to file an answer to the petition within 5 days.

1 42. Examination of petition and answer; hearing. The court

2 shall promptly examine the petition and answer. If the court con-
3 cludes that a hearing should be held, it may proceed upon due notice
4 to all concerned parties to hear the facts and determine whether
5 continued placement serves the purposes of this act. If the court
6 concludes that a hearing is not necessary, it shall enter an order
7 granting or denying the petition.

1 43. Orders on hearing. a. If the court determines after hearing
2 that continued placement serves the purposes of this act, it shall
3 deny the petition. The court may, on its own motion, reduce the
4 duration of the placement, change the agency or institution in
5 which the child is placed, or direct the division to make such other
6 arrangements for the child's care and welfare as the facts of the
7 case may require.

8 b. If the court determines, after hearing, that continued place-
9 ment does not serve the purposes of this act, the court shall dis-
10 charge the child from the custody of the division or person given
11 custody under section 34 hereof.

1 44. Successive petitions. If a petition under section 40 hereof is
2 denied, it may not again be filed with the court for a period of 90
3 days after the denial, unless the order of denial permits refileing at
4 an earlier time.

1 45. If under section 34, custody of the child is given to a party
2 other than the division, and that party is no longer able to continue
3 custody of the child, the court may authorize the division to
4 arrange for the child's care by another person or assume guardian-
5 ship of the child.

1 46. Failure to comply with terms and conditions of suspended
2 judgment. If a parent or guardian responsible for a child's care is
3 brought before the court for failing to comply with the terms and
4 conditions of a suspended judgment issued under section 32 hereof,
5 and if, after hearing, the court is satisfied by competent proof that
6 the parent or guardian did so, the court may revoke the suspension
7 of judgment and enter any order that might have been made at the
8 time judgment was suspended.

1 47. Failure to comply with terms and conditions of probation.
2 If a parent or guardian is brought before the court for failing to
3 comply with the terms and conditions of an order of probation
4 issued under section 36 hereof, or of an order of protection issued
5 under section 35 or section 11 hereof, and if, after hearing, the
6 court is satisfied by competent proof that the parent or guardian
7 did so willfully and without just cause, the court may revoke the
8 order of probation or of protection and enter any order that might
9 have been made at the time the order of probation was made.

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1 48. Effect of running away from place of placement. If a child
2 placed under section 34 hereof runs away from the place of place-
3 ment, the court may, after hearing, revoke the order of placement
4 and may make any order, including an order of placement, that
5 might have been made at the time the order of placement was made.
6 The court may require that the child be present at such hearing
7 and shall appoint a law guardian to represent him.

1 49. Release from responsibility under order of placement. Those
2 responsible for the operation of a place where a child has been
3 placed under section 34 hereof may petition the court for leave to
4 return the child to the court and, for good cause shown, to be re-
5 leased from responsibility under the order of placement. After
6 hearing the court may grant the petition and make any order, in-
7 cluding an order of placement, that might have been made at the
8 time the order of placement was made.

1 50. Appealable orders. An appeal may be taken as of right from
2 any order of disposition and from any other order made pursuant
3 to this act. An appeal from an intermediate or final order or
4 decision in a case involving child abuse may be taken as of right to
5 the appellate division of the Superior Court and shall have pref-
6 erence over all other matters. Pending the determination of such
7 appeal, such order or decision shall be stayed where the effect of
8 such order or decision would be to discharge the child, if the
9 juvenile and domestic relations court or the court before which
10 such appeal is pending finds that such a stay is necessary to avoid
11 imminent risk to the child's life or health.

1 51. There shall be appropriated from the general fund such
2 funds as are necessary to implement the provisions and to effec-
3 tuate the purposes of this act as shall be included in any general
4 or supplemental appropriation act.

1 52. The division shall promulgate such rules and regulations that
2 will facilitate compliance with this act.

1 53. Severability. If any provision of this act or the application
2 thereof to any person or circumstances is held to be invalid, the
3 remainder of the act and application of such provision to other
4 persons or circumstances shall not be affected thereby.

1 54. This act shall take effect immediately but shall remain in-
2 operative for 90 days thereafter, but any action or appointments
3 necessary to effectuate this act may be made or taken prior
4 thereto.

STATEMENT

This bill recognizes that children have certain legal rights, most important of these being the right of protection from physical abuse and neglect.

The purpose of this bill is to insure that these rights will be adequately protected by the appropriate courts and social service agencies. Any proceedings under this bill will be carried out with the best interest of the child or children involved as the primary concern.

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SENATE LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 1217

STATE OF NEW JERSEY

DATED: MAY 2, 1974

Senate Bill No. 1217 would centralize proceedings within the juvenile and domestic relations court of each county for the purpose of adjudicating all cases involving alleged abuse or neglect of children under the age of 18.

The bill would authorize the temporary removal of a child from the place where he or she is residing, with the consent of the parent or legal guardian, if it is determined the child is abused or neglected. If consent is refused, the court would be able to enter an order directing temporary removal of the child, if (1) the parent were absent or refused temporary removal, (2) there appears to be imminent danger to the child's life or health, and (3) there is not enough time to file a complaint or hold a hearing. The court might also order emergency medical or surgical procedures prior to a complaint being filed if (1) the life or health of the child is in jeopardy or (2) there is not enough time to file a complaint.

Emergency removal from custody of the parent or guardian without a court order and without consent would be authorized, if the situation presented an imminent danger to the child's life or health, regardless of whether the parent or guardian is absent.

Any person or institution acting in good faith in the removal or keeping of a child would have immunity from any civil or criminal liability.

The following persons may originate a proceeding under the bill:

- a. A parent or other person interested in the child;
- b. A duly authorized agency, association, society or institution;
- c. A peace officer;
- d. Any person having knowledge or information of a nature which convinces him that a child is abused or neglected;
- e. A person on the court's direction;
- f. The county prosecutor; or

g. In cases where a private individual is unwilling or reluctant to file a complaint, the division may be requested to initiate a complaint.

Once notified of an emergency removal of a child from his or her home, the probation department or the Bureau of Children's Services would cause a complaint to be filed with the court which would hold a hearing within 3 days after the filing of the complaint.

Once a complaint is filed and summonses and warrants issued, the court would proceed with a "fact-finding hearing" and then a "dispositional hearing," with the child at all times being represented by counsel, a law guardian, or a guardian ad litem.

At the conclusion of the dispositional hearing the court could (1) suspend judgment, (2) release the child to the parents' custody, (3) place the child elsewhere, (4) set forth certain conditions to protect the child who is returned to the home (5) place the respondent on probation, or (6) order psychiatric evaluation or care.

The court could order placement of the child in the custody of a relative or other suitable person or the Commissioner of Institutions and Agencies, or of such other office, board or department as may be authorized to receive children as public charges, or a duly authorized association, agency, society or an institution suitable for child placement. Initial placement could be up to 18 months, with successive 1-year extensions.

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SENATE AMENDMENTS TO
SENATE, No. 1217

STATE OF NEW JERSEY

ADOPTED MAY 13, 1974

Amend page 1, title, line 2, after "neglect," insert "revising parts of the statutory law".

Amend page 2, section 1, line 43, after "Services", insert "in the Department of Institutions and Agencies".

Amend page 5, section 8, line 32, omit "Office of Child Abuse Control", insert "the central registry".

Amend page 5, section 9, line 12, omit "Office of Child Abuse Control", insert "division".

Amend page 5, section 9, line 14, omit "Office of Child Abuse Control", insert "division".

Amend page 6, section 10, line 1, omit "Office of Child Abuse Control", insert "division".

Amend page 6, section 10, line 2, omit "Office of Child Abuse Control", insert "division".

Amend page 6, section 10, lines 7, 8, omit "Office of Child Abuse Control", insert "division".

Amend page 17, section 52, line 2, after line 2, insert new sections 53 and 54 as follows:

"53. Section 2 of P. L. 1971, c. 437 (C. 9:6-8.9) is amended to read as follows:

2. For purposes of this act:

[a.] "Abused child" means a child under the age of 18 years **[who has been subjected to child abuse]** *whose parent, guardian, or other person having his custody and control*

a. Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;

b. Creates or allows to be created a substantial or ongoing risk of

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

physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; or

c. Commits or allows to be committed an act of sexual abuse against the child;

d. Or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, or such other person having his custody and control, to exercise a minimum degree of care (1) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (2) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court; or

e. Who has been willfully abandoned by his parent or guardian, or such other person having his custody and control.

[b. "Child abuse" means and shall include any of the acts described in R. S. 9:6-1, including abuse, abandonment, cruelty and neglect, which acts result in serious physical or mental injury by other than accidental means.]"

"54. Article 2 of chapter 6 of Title 9 of the Revised Statutes (R. S. 9:6-9 to 9:6-12) and P. L. 1964, c. 30 (C. 9:6-8.1 to 9:6-8.7) are repealed."

Amend page 17, section 53, line 1, omit "53.", insert "55."

Amend page 17, section 54, line 1, omit "54.", insert "56."

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ASSEMBLY AMENDMENTS TO
SENATE, No. 1217
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 16, 1974

Amend page 13, section 31, lines 9, 10, omit "guilty of child abuse or neglect submit to psychiatric evaluation or care", and insert "to have abused or neglected a child accept therapeutic services".

Amend page 15, section 38, lines 1-7, omit section 38., insert new section 38. as follows:

"38. Provision for therapeutic services. In cases where, in the opinion of the court, an individual found to have abused or neglected a child appears to be in need of therapeutic services, the court may order the individual to accept such services or evaluation for such services, including, but not limited to, homemaker services, functional education, group self-help programs, and professional therapy; provided, however, that the court may not commit any person to any residential mental health facility without the consent of such person or after a hearing held pursuant to the requirements of R. S. 30:4-23 et seq. The court shall determine the ability to pay and the method of payment for the care, as it orders."

CHAPTER 119 INTRODUCED APRIL 29, 1974
APPROVED 10-10-74

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1217

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1974

By Senators DODD, McGAHN, MENZA, FELDMAN, FAY, BATE-
MAN, BEADLESTON, DUGAN, HIRKALA, MARESSA, HORN,
LYNCH, DWYER, MUSTO, BUEHLER, GARRAMONE, SCAR-
DINO, ORECHIO, DAVENPORT, RUSSO, BEDELL, LIPMAN,
GREENBERG, HUGHES, TUMULTY, MARTINDELL, AM-
MOND, ZANE, SKEVIN, MERLINO, WALLWORK, DUMONT,
PARKER, CAFIERO, VREELAND and HAGEDORN

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the manner of disposition of cases of child
abuse or neglect, **revising parts of the statutory law** and pro-
viding for an appropriation.

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

1 1. As used in this act, unless the specific context indicates other-
2 wise:

3 a. "Parent or guardian" means any natural parent, adoptive
4 parent, foster parent, stepparent, or any person, who has assumed
5 responsibility for the care of a child or upon whom there is a legal
6 duty for such care.

7 b. "Child" means any child alleged to have been abused or
8 neglected.

9 c. "Abused or neglected child" means a child less than 18 years
10 of age whose parent or guardian, as herein defined, (1) inflicts or
11 allows to be inflicted upon such child physical injury by other
12 than accidental means which causes or creates a substantial risk
13 of death, or serious or protracted disfigurement, or protracted
13a impairment of physical or emotional health or protracted loss or
14 impairment of the function of any bodily organ; (2) creates or
15 allows to be created a substantial or ongoing risk of physical injury
16 to such child by other than accidental means which would be
17 likely to cause death or serious or protracted disfigurement, or

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

18 protracted loss or impairment of the function of any bodily organ;
 19 or (3) commits or allows to be committed an act of sexual abuse
 20 against the child; (4) or a child whose physical, mental, or emo-
 21 tional condition has been impaired or is in imminent danger of
 22 becoming impaired as the result of the failure of his parent or
 23 guardian, as herein defined, to exercise a minimum degree of care
 24 (a) in supplying the child with adequate food, clothing, shelter,
 25 education, medical or surgical care though financially able to do
 26 so or though offered financial or other reasonable means to do so,
 27 or (b) in providing the child with proper supervision or guardian-
 28 ship, by unreasonably inflicting or allowing to be inflicted harm,
 29 or substantial risk thereof, including the infliction of excessive
 30 corporal punishment; or by any other acts of a similarly serious
 31 nature requiring the aid of the court; or (5) who has been willfully
 32 abandoned by his parent or guardian, as herein defined.

33 d. "Law guardian," means an attorney admitted to the practice
 34 of law in this State, regularly employed by the Office of the Public
 35 Defender, and designated under this act to represent minors in
 36 alleged cases of child abuse or neglect.

37 e. "Attorney" means an attorney admitted to the practice of
 38 law in this State who shall be privately retained; or, in the instance
 39 of an indigent parent or guardian, a pool attorney from the Office
 40 of the Public Defender appointed in order to avoid conflict between
 41 the interests of the child and the parent or guardian in regard to
 42 representation.

43 f. "Division" means the Division of Youth and Family Services
 44 *in the Department of Institutions and Agencies* unless otherwise
 45 specified.

1 2. The juvenile and domestic relations court in each county shall
 2 have jurisdiction over all proceedings involving alleged cases of
 3 child abuse or neglect, and shall be charged with the immediate
 4 protection of said children. All cases involving alleged cases of
 5 child abuse shall be commenced in or transferred to this court from
 6 other courts as they are made known to the other courts. Cases
 7 of child abuse or neglect must be the first order of priority in the
 8 juvenile and domestic relations court.

1 3. a. Any minor who is the subject of a child abuse or neglect
 2 proceeding under this act must be represented by a law guardian
 3 to help protect his interests and to help him express his wishes
 4 to the court. However, nothing in this act shall be construed to
 5 preclude any other interested person or agency from appearing by
 6 counsel.

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7 b. The juvenile and domestic relations court, on its own motion,
8 will make appointments of law guardians.

1 4. Jurisdiction. a. Notwithstanding any other law to the contrary,
2 the juvenile and domestic relations court has exclusive original
3 jurisdiction over proceedings under this act alleging the abuse or
4 neglect of a child.

5 b. In determining the jurisdiction of the court under this act,
6 the age of the child at the time the proceedings are initiated is
7 controlling.

8 c. In determining the jurisdiction of the court under this act, the
9 child need not be currently in the care or custody of his parent or
10 guardian, as defined herein.

11 d. If the matter in regard to the parent or guardian is referred
12 to the county prosecutor, the juvenile and domestic relations court
13 may continue the proceeding under this act in regard to the child
14 after such referral. If the proceeding in regard to the child is
15 continued, the juvenile and domestic relations court may enter any
16 preliminary order necessary to protect the interests of the child
17 pending a final order from the criminal courts.

1 5. Transfer to and from the domestic relations court. a. The
2 juvenile and domestic relations court may refer such proceeding,
3 in regard to the parent or guardian, to the appropriate county
4 prosecutor, if it concludes upon further hearing that the processes
5 of the juvenile and domestic relations court are inappropriate or
6 insufficient. The juvenile and domestic relations court may continue
7 the proceeding under this act with regard to the child after such
8 referral, and if the proceeding is continued with regard to the
9 child the said court may enter any preliminary order necessary to
10 protect the interest of the child, pending a final order of disposition
11 from the criminal court.

12 b. Any criminal complaint charging facts amounting to abuse
13 or neglect under this act may be transferred by the county prose-
14 cutor or the criminal court in which the complaint was made, to
15 the juvenile and domestic relations court, in the county in which
16 the former court is located, unless said juvenile and domestic
17 relations court has transferred the proceedings to such court.
18 If the county prosecutor or criminal court receive a complaint
19 which amounts to child abuse or neglect and decide to retain that
20 complaint for criminal prosecution, the county prosecutor or
21 criminal court shall refer the proceeding with regard to the child
22 to the juvenile and domestic relations court. The juvenile and
23 domestic relations court shall then, upon hearing, determine what

24 further action is appropriate. If the county prosecutor or the
25 criminal court refers a matter with regard to the parent or
26 guardian, or child, and there appears to be no basis for action in
27 the juvenile and domestic relations court, the proceeding may be
28 terminated. If the juvenile and domestic relations court determines
29 a complaint should be filed, proceedings under this act shall be
30 commenced immediately.

31 c. Nothing in this act shall be interpreted to preclude the county
32 prosecutor from bringing criminal action against the parent or
33 guardian or any other person even though the child involved is
34 initially or ultimately the subject of proceedings in the juvenile
35 and domestic relations court.

1 6. Venue. Proceedings under this act may be originated in the
2 county in which the child resides or is domiciled at the time of the
3 filing of the complaint, or in the county in which the person having
4 custody of the child resides or is domiciled.

1 7. Temporary removal with consent. a. A peace officer or an
2 agency, institution or individual may temporarily remove a child
3 from the place where he is residing with the consent of his parent
4 or other person legally responsible for his care, if the child is
5 determined to be an abused or neglected child under this act. If
6 the child is not returned within 3 working days from the date of
7 removal, the procedure required pursuant to this act shall be ap-
8 plied immediately. b. However, if the Division of Youth and Family
9 Services removes a child with the written consent of the parent
10 or guardian, the proceedings under this act shall not apply, unless
11 the division files a complaint to commence proceedings under
12 this act.

1 8. Preliminary orders of court before complaint filed. a. The
2 juvenile and domestic relations court may enter an order directing
3 the temporary removal of a child from the place where he is residing
4 before the filing of a complaint under this act, if (1) the parent
5 or other person legally responsible for the child's care is absent
6 or, though present, was asked and refused to consent to the tem-
7 porary removal of the child and was informed of an intent to
8 apply for any order under this section; and (2) the child appears
9 so to suffer from the abuse or neglect of his parent or guardian
10 that his immediate removal is necessary to avoid imminent danger
11 to the child's life or health; and (3) there is not enough time to
12 file a complaint and hold a preliminary hearing.

13 b. The order shall specify the facility to which the child is to
14 be brought. Except for good cause shown or unless the child is

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15 sooner returned to the place where he was residing, a complaint
16 shall be filed under this act within 3 days of the issuance of the
17 order.

18 c. The juvenile and domestic relations court may enter an order
19 authorizing a physician or hospital to provide emergency medical
20 or surgical procedures before the filing of a complaint under this
21 act if (1) such procedures are necessary to safeguard the life or
22 health of the child; and (2) there is not enough time to file a
23 complaint and hold a preliminary hearing under section 11 hereof.

24 d. Any person who originates a proceeding under this act may
25 apply for through the Division of Youth and Family Services or
26 the court on its own motion may issue, an order of temporary
27 removal. The division shall make every reasonable effort to inform
28 the parent or guardian of any such application, confer with a
29 person wishing to make such an application and make such in-
30 quiries as will aid the court in disposing of such application.
31 Within 24 hours the Division of Youth and Family Services shall
32 report such application to the ***Office of Child Abuse Control***
33 *the central registry* of the division.

34 e. Any person acting under the authority of this act may request
35 and shall receive appropriate assistance from local and State law
36 enforcement officials.

1 9. Emergency removal without court order. a. A peace officer
2 or a designated employee of a county department of probation
3 or a designated employee of the division may remove a child from
4 the place where he is residing, or any such person or any physician
5 treating such child may keep a child in his custody without an order
6 pursuant to section 8 thereof and without the consent of the parent
7 or guardian regardless of whether the parent or guardian is absent,
8 if the child is in such condition that his continuance in said place
9 or residence or in the care and custody of the parent or guardian
10 presents an imminent danger to the child's life or health; and

11 b. If a person authorized by this section removes or keeps custody
12 of a child, he shall (1) inform the ***Office of Child Abuse Con-**
13 **trol*** *division* immediately; (2) bring the child immediately to
14 a place designated by the ***Office of Child Abuse Control***
15 *division* for this purpose, unless the person is a physician treat-
16 ing the child and the child is or will be presently admitted to a
17 hospital, and (3) make every reasonable effort to inform the parent
18 or guardian of the facility to which he has brought the child.

19 c. Any person or institution acting in good faith in the removal
20 or keeping of a child pursuant to this section shall have immunity

21 from any liability, civil or criminal, that might otherwise be in-
 22 curred or imposed as a result of such removal or keeping.

23 d. Any person acting under the authority of this act may request
 24 and shall receive appropriate assistance from local and State law
 25 enforcement officials.

1 10. Action by the ***[Office of Child Abuse Control]*** *division**
 2 upon emergency removal. a. The ***[Office of Child Abuse Control]***
 3 *division** when informed that there has been an emergency re-
 4 moval of a child from his home without court order shall make
 5 every reasonable effort to communicate immediately with the
 6 child's parent or guardian and advise the parent or guardian to
 7 appear in the appropriate juvenile and domestic relations court
 8 on the next court day. The ***[Office of Child Abuse Control]***
 9 *division** shall also advise the party making the removal to appear.

10 b. The division shall cause a complaint to be filed under this act
 11 immediately or on the first court day after such removal takes
 12 place. The filing of the complaint and the commencement of the
 13 hearing regarding the removal may be concurrent.

1 11. Preliminary orders after filing of complaint. a. In any case
 2 where the child has been removed without court order, the juvenile
 3 and domestic relations court shall hold a hearing on the next court
 4 day to determine whether the child's interests require protection
 5 pending a final order of disposition. In any other case under this
 6 act, any person who may originate a proceeding may apply for, or
 7 the court, on its own motion, may order a hearing at any time after
 8 the complaint is filed to determine whether the child's interests
 9 require protection pending a final order of disposition.

10 b. Upon such hearing, if the court finds that continued removal
 11 is necessary to avoid an ongoing risk to the child's life or health,
 12 it shall affirm the removal of the child to an appropriate place or
 13 place him in the custody of a suitable person.

14 c. Upon such hearing the court may, for good cause shown, issue
 15 a preliminary order of protection which may contain any of the
 16 provisions authorized on the making of an order of protection
 17 under section 35 hereof.

18 d. Upon such hearing, the court may, for good cause shown,
 19 release the child to the custody of his parent or guardian from
 20 whose custody or care the child was removed, pending a final order
 21 of disposition, in accord with section 33 hereof.

22 e. Upon such hearing, the court may authorize a physician or
 23 hospital to provide medical or surgical procedures if such pro-
 24 cedures are necessary to safeguard the child's life or health.

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25 f. If the court grants or denies a preliminary order requested
26 pursuant to this section, it shall state the grounds for such decision.

27 g. In all cases involving abuse or neglect the court shall order
28 an examination of the child by a physician appointed or designated
29 for the purpose by the division. As part of such examination, the
30 physician shall arrange to have colored photographs taken as soon
31 as practical of any areas of trauma visible on such child and may
32 if indicated, arrange to have a radiological examination performed
33 on the child. The physician, on the completion of such examination,
34 shall forward the results thereof together with the color photo-
35 graphs to the court ordering such examination. The court may
36 dispense with such examination in those cases which were com-
37 menced on the basis of a physical examination by a physician.
38 Unless colored photographs have already been taken or unless
39 there are no areas of visible trauma, the court shall arrange to have
40 colored photographs taken even if the examination is dispensed
41 with.

1 12. Application to return child temporarily removed. Upon the
2 application of the parent or guardian temporarily removed under
3 this act for an order returning the child, the court shall hold a
4 hearing to determine whether the child should be returned; a. if
5 there has not been a hearing on the removal of the child at which
6 the parent or guardian was present or had an adequate opportunity
7 to be present; or b. upon good cause shown. Except for good
8 cause shown, such hearing shall be held within 3 court days of
9 the application. Upon such hearing, the court shall grant the
10 application, unless it finds: (1) where a complaint has not been
11 filed, that the return presents an imminent risk to the child's life
12 or health; or (2) where a complaint has been filed, that there is a
13 substantial probability that the child will be found to be abused
14 or neglected under this act, and that the final order of disposition
15 will be an order of placement under section 34 hereof, or that,
16 pending entry of a final order of disposition, temporary removal
17 is necessary to avoid an imminent risk to the child's life or health.

1 13. Originating proceeding to determine abuse or neglect. a. A
2 proceeding under this act is originated by the filing of a complaint
3 in which facts sufficient to establish that a child is an abused or
4 neglected child under this act are alleged.

5 b. Where more than one child is the responsibility of the parent
6 or guardian it may be alleged in the same complaint that one or
7 more children are abused or neglected children.

8 c. In cases of emergency, in addition to the removal of one child,

9 any other child residing in the home may also be removed, even
10 though there is not an allegation of abuse or neglect in reference
11 thereto.

1 14. Persons who may originate proceedings. The following per-
2 sons may originate a proceeding under this act:

- 3 a. A parent or other person interested in the child.
- 4 b. A duly authorized agency, association, society or institution.
- 5 c. A peace officer.
- 6 d. Any person having knowledge or information of a nature
7 which convinces him that a child is abused or neglected.
- 8 e. A person on the court's direction.
- 9 f. The county prosecutor.
- 10 g. In cases where a private individual is unwilling or reluctant
11 to file a complaint, he may request the division to initiate a com-
12 plaint in his stead.

1 15. Preliminary procedure. The division may:

- 2 a. Confer with any person seeking to file a complaint, the
3 potential respondent, and other interested persons concerning the
4 advisability of filing a complaint under this act and
- 5 b. Attempt to adjust suitable cases before a complaint is filed
6 over which the court apparently would have jurisdiction.
- 7 c. The division shall not prevent any person or agency who
8 wishes to file a complaint under this act from having access to the
9 court for that purpose.
- 10 d. Efforts at adjustment under this section may not extend for
11 a period of more than 30 days without an order of a judge of the
12 court, who may extend the period for an additional 30 days.
- 13 e. The division shall not be authorized under this section to
14 compel any person to appear at any conference, produce any
15 papers, or visit any place.
- 16 f. The juvenile and domestic relations court and the division
17 shall deal with cases involving imminent physical harm or actual
18 physical harm on a priority basis.

1 16. Admissibility of statements made during a preliminary con-
2 ference. No statement made during a preliminary conference held
3 pursuant to section 15 hereof may be admitted into evidence at a
4 fact-finding hearing under this act or in a court of criminal
5 jurisdiction at any time prior to conviction.

1 17. Issuance of summons. On the filing of a complaint involving
2 abuse or neglect under this act, unless a warrant is issued pursuant
3 to section 19 hereof, the court shall cause a copy of the complaint
4 and a summons to be issued forthwith, clearly marked on the face
5 thereof, "Child Abuse-Neglect Case," requiring the parent or

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6 guardian with whom the child is residing to appear at the court
 7 within 3 court days regarding the complaint. The court shall also,
 8 unless dispensed with for good cause shown, require the person
 9 thus summoned to produce the child at the time and place named.

1 18. Service of summons. a. In cases involving abuse, or neglect
 2 the complaint and summons shall be served within 2 court days
 3 after their issuance. If they cannot be served within that time,
 4 such fact shall be reported to the court with the reasons therefor
 5 within 3 court days after their issuance and the court shall there-
 6 after issue a warrant in accordance with the provisions of section
 7 19 of this act. The court shall also, unless dispensed with for good
 8 cause shown, direct that the child be brought before the court.

9 b. Service of a summons and complaint shall be made by de-
 10 livery of a true copy thereof to the person summoned at least 24
 11 hours before the time stated therein for appearance.

12 c. If after reasonable effort, personal service is not made, the
 13 court may at any stage in the proceedings make an order providing
 14 for substituted service in the manner provided for substituted
 15 service in civil process.

1 19. Issuance of warrant and reports. a. The court may issue a
 2 warrant directing the parent or guardian with whom the child is
 3 residing to be brought before the court, when a complaint is filed
 4 with the court under this act and it appears that (1) the summons
 5 cannot be served; or (2) the summoned person has refused to obey
 6 the summons; or (3) the parent or guardian is likely to leave the
 7 jurisdiction; or (4) a summons, in the court's opinion, would be in-
 8 effectual; or (5) the safety of the child is endangered.

9 b. When issuing a warrant under this section, the court may
 10 also direct that the child be brought before the court.

11 c. In any case involving abuse, or neglect the warrant shall be
 12 clearly marked on the face thereof "Child Abuse-Neglect Case."
 13 If a warrant is not executed within 2 court days of its issuance
 14 such fact shall be reported to the court within 3 court days of its
 15 issuance.

1 20. Records involving abuse or neglect. When the division
 2 receives a report or complaint that a child may be abused or
 3 neglected; or when the division receives a request from the juvenile
 4 and domestic relations court to investigate such allegations, the
 5 division may request of any and all public or private institutions,
 6 or agencies including law enforcement agencies, or any private
 7 practitioners, their records past and present pertaining to that
 8 child and other children under the same care, custody and control.

9 These records will be released to the division for the purpose of
10 aiding in evaluation to determine if the child is abused or neglected.
11 In the release of the aforementioned records, the source shall have
12 immunity from any liability, civil or criminal.

1 21. Required findings concerning notice. No hearing may com-
2 mence under this act unless the court enters a finding:

3 a. That the parent or guardian is present at the hearing or has
4 been served with a copy of the complaint; or

5 b. If the parent or guardian is not present, that every reasonable
6 effort has been made to effect service under sections 18 and 19
7 hereof.

1 22. Effect of absence of parent or guardian. If the parent or
2 guardian is not present, the court may proceed to head a complaint
3 under this act only if the child is represented by a law guardian.
4 If the parent or guardian thereafter makes a motion to the court
5 that a resulting disposition be vacated and asks for a rehearing, the
6 court shall grant the motion on an affidavit showing such relation-
7 ship or responsibility unless the court finds that the parent or
8 guardian willfully refused to appear at the hearing in which case
9 the court may deny the motion.

1 23. Notice of rights. a. The court shall advise the parent or
2 guardian of his right to have an adjournment to retain counsel and
3 consult with him. The court shall advise the respondent that if he
4 is indigent, he may apply for an attorney through the Office of the
5 Public Defender. The court shall also inform the child of his right
6 to be represented by a law guardian.

7 b. The general public may be excluded from any hearing under
8 this act, and only such persons and the representatives of
9 authorized agencies may be admitted thereto as have an interest
10 in the case.

1 24. Definition of "fact-finding hearing." When used in this act
2 the term "fact-finding hearing" means a hearing to determine
3 whether the child is an abused or neglected child as defined herein.

1 25. Definition of "dispositional hearing." When used in this act
2 the term "dispositional hearing" means a hearing to determine
3 what order should be made.

1 26. Evidence. a. In any hearing under this act (1) proof of the
2 abuse or neglect of one child shall be admissible evidence on the
3 issue of the abuse or neglect of any other child of, or the responsi-
4 bility of, the parent or guardian and (2) proof of injuries
5 sustained by a child or of the condition of a child of such a nature
6 as would ordinarily not be sustained or exist except by reason of

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7 the acts or omissions of the parent or guardian shall be prima facie
 8 evidence that a child of, or who is the responsibility of such person
 9 is an abused or neglected child, and (3) any writing, record or
 10 photograph, whether in the form of an entry in a book or other-
 11 wise, made as a memorandum or record of any condition, act,
 12 ~~transaction, occurrence or event relating to a child in an abuse or~~
 13 ~~neglect proceeding of any hospital or any other public or private~~
 14 ~~institution or agency shall be admissible in evidence in proof of~~
 15 that condition, act, transaction, occurrence or event, if the judge
 16 finds that it was made in the regular course of the business of any
 17 hospital or any other public or private institution or agency, and
 18 that it was in the regular course of such business to make it, at
 19 the time of the condition, act, transaction, occurrence or event, or
 20 within a reasonable time thereafter, shall be prima facie evidence
 21 of the facts contained in such certification. A certification by some-
 22 one other than the head of the hospital or agency shall be
 23 accompanied by a photocopy of a delegation of authority signed by
 24 both the head of the hospital or agency and by such other em-
 25 ployees. All other circumstances of the making of the memor-
 26 andum, record or photograph, including lack of personal
 27 knowledge of the making, may be proved to affect its weight, but
 28 they shall not affect its admissibility and (4) previous statements
 29 made by the child relating to any allegations of abuse or neglect
 30 shall be admissible in evidence; provided, however, that no such
 31 statement, if uncorroborated, shall be sufficient to make a fact find-
 32 ing of abuse or neglect and (5) neither the privilege attaching to
 33 confidential communications between husband and wife, nor the
 34 physician-patient and related privileges, nor the social worker
 35 client privilege, shall be a ground for excluding evidence which
 36 otherwise would be admissible.

37 b. In a fact-finding hearing (1) any determination that the child
 38 is an abused or neglected child must be based on a preponderance
 39 of the evidence and (2) except as otherwise provided by this act,
 40 only competent, material and relevant evidence may be admitted.

41 c. In a dispositional hearing and during all other stages of a
 42 proceeding under this act, except a fact-finding hearing, only ma-
 43 terial and relevant evidence may be admitted.

1 27. Sequence of hearings. a. Upon completion of the fact-finding
 2 hearing, the dispositional hearing may commence immediately
 3 after the required findings are made.

4 b. Reports prepared by the probation department or the Division
 5 for use by the court at any time for the making of an order of

6 disposition shall be deemed confidential information furnished to
7 the court which the court in a proper case may, in its discretion,
8 withhold from or disclose in whole or in part to the law guardian,
9 attorney as defined herein, or other appropriate person. Such re-
10 ports may not be furnished to the court prior to the completion of a
11 fact-finding hearing, but may be used in a dispositional hearing.

1 28. Adjournments. a. The court may adjourn a fact-finding
2 hearing or a dispositional hearing for good cause shown on its own
3 motion or on the motion of the county prosecutor, the law guardian,
4 or the respondent's attorney. If so requested, the court shall not
5 proceed with a fact-finding hearing earlier than 3 days after service
6 of summons and complaint, unless emergency medical or surgical
7 procedures are necessary to safeguard the life and health of the
8 child. Adjournment may not exceed 30 court days, without addi-
9 tional court appearance.

10 b. At the conclusion of a fact-finding hearing and after it has
11 made findings required before a dispositional hearing may com-
12 mence, the court may adjourn the proceedings to enable it to make
13 inquiry into the surroundings, conditions, and capacities of the
14 persons involved in the proceedings.

1 29. Special consideration in certain cases. In scheduling hearings
2 and investigations, the court shall give priority to proceedings
3 under this act involving imminent or actual physical harm, or in
4 which a child has been removed from home before a final order of
5 disposition. Any adjournment granted in the course of such a pro-
6 ceeding should be for as short a time as possible.

1 30. Sustaining or dismissing complaint. a. If facts sufficient to
2 sustain the complaint are established in accordance with article 4
3 of this act, the court shall, subject to the provisions of subsection c.
4 hereof, enter an order finding that the child is an abused neglected
5 child and shall state the grounds for said findings.

6 b. If the proof does not conform to the specific allegations of the
7 complaint, the court may amend the allegations to conform to the
8 proof; provided, however, that in such case the respondent shall be
9 given reasonable time to prepare to answer the amended
10 allegations.

11 c. If facts sufficient to sustain the complaint under this act are
12 ~~not established, or the court concludes that its assistance is not~~
13 ~~required on the record before it, the court shall dismiss the com-~~
14 ~~plaint and shall state the grounds for the dismissal.~~

15 d. If the court makes a finding of abuse or neglect, it shall
16 determine, based upon the facts adduced during the fact-finding

17 hearing, and upon any other facts presented to it, whether a pre-
18 liminary order pursuant to section 11 hereof is required to protect
19 the child's interests pending a final order of disposition. The court
20 shall state the grounds for its determination. In addition, a child
21 found to be abused or neglected may be removed and remanded to
22 a place designated by the court or be placed in the custody of a
23 suitable person, pending a final order of disposition, if the court
24 finds that there is a substantial probability that the final order of
25 disposition will be an order of placement under the section 34
26 hereof.

1 31. Disposition of adjudication. a. At the conclusion of a dis-
2 positional hearing under this act, the court shall enter an order of
3 disposition: (1) suspending judgment in accord with section 32
4 hereof; (2) releasing the child to the custody of his parents or
5 guardian in accord with section 33 hereof; (3) placing the child in
6 accord with section 34 hereof; (4) making an order of protection
7 in accord with section 35 hereof; (5) placing the respondent on
8 probation in accord with section 36 hereof; (6) requiring that an
9 individual found ****[guilty of child abuse or neglect submit to psy-**
10 **chiatric evaluation or care]**** ***to have abused or neglected a child*
11 *accept therapeutic services***, and this order may be carried out in
11A conjunction with any other order of disposition.

12 b. The court shall state the grounds for any disposition made
13 under this section.

1 32. Suspended judgment. a. The court shall define permissible
2 terms and conditions of a suspended judgment. These terms and
3 conditions shall relate to the acts or omissions of the parent or
4 guardian.

5 b. The maximum duration of any term or condition of a
6 suspended judgment shall be 1 year, unless the court finds at the
7 conclusion of that period, upon a hearing, that exceptional circum-
8 stances required an extension thereof for an additional year.

1 33. Release to custody of parent or guardian. a. If the order of
2 disposition releases the child to the custody of his parent or
3 guardian responsible for his care at the time of the filing of the
4 complaint, the court may place the child under supervision of the
5 division or may enter an order of protection under section 35
6 hereof.

7 b. The court shall define permissible terms and conditions of
8 supervision under this section. The maximum duration of any such
9 term or condition shall not exceed a period of 1 year, unless the
10 court finds at the conclusion of that period of 1 year, upon a hear-

11 ing, that exceptional circumstances require an extension thereof
12 for an additional year.

1 34. Placement. a. For the purposes of section 31 hereof, the court
2 may place the child in the custody of a relative or other suitable
3 person or the division for the placement of a child.

4 b. Placements under this section may be for an initial period of
5 18 months and the court, in its discretion, may at the expiration
6 of that period, upon a hearing make successive extensions for addi-
7 tional periods of 1 year each. The place in which or the person
8 with which the child has been placed under this section shall submit
9 a report at the end of the year of placement, making recommenda-
10 tions and giving such supporting data as is appropriate. The court
11 on its own motion may, at the conclusion of any period of place-
12 ment, hold a hearing concerning the need for continuing the place-
13 ment.

14 c. No placement may be made or continued under this section
15 beyond the child's eighteenth birthday without his consent and in
16 no event past his twenty-first birthday.

17 d. If the parent or person legally responsible for the care of any
18 such child or with whom such child resides receives public assist-
19 ance and care, any portion of which is attributable to such child, a
20 copy of the order of the court providing for the placement of such
21 child from his home shall be furnished to the appropriate county
22 welfare board, which shall reduce the public assistance and care
23 furnished to such parent or other person by the amount attribut-
24 able to such child.

1 35. Order of protection. The court may make an order of pro-
2 tection in assistance or as a condition of any other order made
3 under this act. The order of protection may set forth reasonable
4 conditions of behavior to be observed for a specified time by a per-
5 son who is before the court and is a parent or guardian responsible
6 for the child's care or the spouse of the parent or guardian, or
7 both. Such an order may require any such person: a. To stay
8 away from the home, the other spouse or the child; b. To permit a
9 parent to visit the child at stated periods; c. To abstain from offen-
10 sive conduct against the child or against the other parent or against
11 any person to whom custody of the child is awarded; d. To give
12 proper attention to the care of the home; and e. To refrain from
13 acts of commission or omission that tend to make the home not a
14 proper place for the child.

15 The court may also award custody of the child, during the term
16 of the order of protection to either parent or to an appropriate
17 relative; however, nothing in this section shall be construed to give

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18 the court power to place or board out any child or to commit a
 19 child to the custody of an institution or agency. In making orders
 20 of protection, the court shall so act as to insure that in the care,
 21 protection, discipline and guardianship of the child, his religious
 22 faith shall be preserved and protected.

1 36. Probation supervision. The court may place the respondent
 2 under the supervision of the probation department and the court
 3 shall define permissible terms and conditions of said supervision.
 4 The maximum duration of any such term or condition shall not
 5 exceed a period of 2 years, unless the court finds at the conclusion
 6 of that period that exceptional circumstances required an extension
 7 thereof for an additional year.

1 37. Abandoned child. If the court finds that a child was
 2 abandoned by his parents or guardian, it may make an order so
 3 finding and may discharge the child to the custody of the Division
 4 which shall provide for such child as authorized by law.

1 **[38. Provisions for psychiatric evaluation or care. In cases
 2 where, in the opinion of the court, an individual found guilty of
 3 child abuse or neglect, appears to be in need of psychiatric care, the
 4 court may order the individual to submit to a psychiatric evaluation.
 5 On the basis of the evaluation, the court may order the individual to
 6 submit to extended psychiatric care. The court will determine the
 7 ability to pay and the method of payment for the care, as it
 8 orders.]**

9 **38. Provision for therapeutic services. In cases where, in the
 10 opinion of the court, an individual found to have abused or neglected
 11 a child appears to be in need of therapeutic services, the court may
 12 order the individual to accept such services or evaluation for such
 13 services, including, but not limited to, homemaker services, func-
 14 tional education, group self-help programs, and professional
 15 therapy; provided, however, that the court may not commit any
 16 person to any residential mental health facility without the consent
 17 of such person or after a hearing held pursuant to the requirements
 18 of R. S. 30:4-23 et seq. The court shall determine the ability to
 19 pay and the method of payment for the care, as it orders.**

1 39. Staying, modifying, setting aside or vacating orders. For
 2 good cause shown and after due notice, the court on its own motion,
 3 or that of the county prosecutor, the law guardian, or the re-
 4 spondent's attorney, may stay execution of arrest, set aside,
 5 modify or vacate any order issued in the course of a proceeding
 6 under this act. The court must state the grounds for this action.

1 40. Petition to terminate placement. Any interested person act-

2 ing on behalf of a child placed under section 34 hereof or the child's
3 parents or guardian may petition the court for any order terminat-
4 ing the placement. The petition must be verified and must show:

5 a. That an application for the child's return to his home was
6 made to an appropriate person after expiration of the Order of
7 Placement provided for in section 34 hereof;

8 b. That the application was denied or was not granted within
9 30 days from the day application was made; and

10 c. The grounds for the petition.

1 41. Service of petition; answer. A copy of a petition under sec-
2 tion 40 hereof shall promptly be served upon the division or the in-
3 dividual having custody of the child under section 34 whose duty it
4 shall be to file an answer to the petition within 5 days.

1 42. Examination of petition and answer; hearing. The court
2 shall promptly examine the petition and answer. If the court con-
3 cludes that a hearing should be held, it may proceed upon due notice
4 to all concerned parties to hear the facts and determine whether
5 continued placement serves the purposes of this act. If the court
6 concludes that a hearing is not necessary, it shall enter an order
7 granting or denying the petition.

1 43. Orders on hearing. a. If the court determines after hearing
2 that continued placement serves the purposes of this act, it shall
3 deny the petition. The court may, on its own motion, reduce the
4 duration of the placement, change the agency or institution in
5 which the child is placed, or direct the division to make such other
6 arrangements for the child's care and welfare as the facts of the
7 case may require.

8 b. If the court determines, after hearing, that continued place-
9 ment does not serve the purposes of this act, the court shall dis-
10 charge the child from the custody of the division or person given
11 custody under section 34 hereof.

1 44. Successive petitions. If a petition under section 40 hereof is
2 denied, it may not again be filed with the court for a period of 90
3 days after the denial, unless the order of denial permits refileing at
4 an earlier time.

1 45. If under section 34, custody of the child is given to a party
2 other than the division, and that party is no longer able to continue
3 custody of the child, the court may authorize the division to
4 arrange for the child's care by another person or assume guardian-
5 ship of the child.

1 46. Failure to comply with terms and conditions of suspended
2 judgment. If a parent or guardian responsible for a child's care is

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3 brought before the court for failing to comply with the terms and
4 conditions of a suspended judgment issued under section 32 hereof,
5 and if, after hearing, the court is satisfied by competent proof that
6 the parent or guardian did so, the court may revoke the suspension
7 of judgment and enter any order that might have been made at the
8 time judgment was suspended.

1 47. Failure to comply with terms and conditions of probation.
2 If a parent or guardian is brought before the court for failing to
3 comply with the terms and conditions of an order of probation
4 issued under section 36 hereof, or of an order of protection issued
5 under section 35 or section 11 hereof, and if, after hearing, the
6 court is satisfied by competent proof that the parent or guardian
7 did so willfully and without just cause, the court may revoke the
8 order of probation or of protection and enter any order that might
9 have been made at the time the order of probation was made.

1 48. Effect of running away from place of placement. If a child
2 placed under section 34 hereof runs away from the place of place-
3 ment, the court may, after hearing, revoke the order of placement
4 and may make any order, including an order of placement, that
5 might have been made at the time the order of placement was made.
6 The court may require that the child be present at such hearing
7 and shall appoint a law guardian to represent him.

1 49. Release from responsibility under order of placement. Those
2 responsible for the operation of a place where a child has been
3 placed under section 34 hereof may petition the court for leave to
4 return the child to the court and, for good cause shown, to be re-
5 leased from responsibility under the order of placement. After
6 hearing the court may grant the petition and make any order, in-
7 cluding an order of placement, that might have been made at the
8 time the order of placement was made.

1 50. Appealable orders. An appeal may be taken as of right from
2 any order of disposition and from any other order made pursuant
3 to this act. An appeal from an intermediate or final order or
4 decision in a case involving child abuse may be taken as of right to
5 the appellate division of the Superior Court and shall have pref-
6 erence over all other matters. Pending the determination of such
7 appeal, such order or decision shall be stayed where the effect of
8 such order or decision would be to discharge the child, if the
9 juvenile and domestic relations court or the court before which
10 such appeal is pending finds that such a stay is necessary to avoid
11 imminent risk to the child's life or health.

1 51. There shall be appropriated from the general fund such
2 funds as are necessary to implement the provisions and to effec-

3 tuate the purposes of this act as shall be included in any general
4 or supplemental appropriation act.

1 52. The division shall promulgate such rules and regulations that
2 will facilitate compliance with this act.

1 *53. Section 2 of P. L. 1971, c. 437 (C. 9:6-8.9) is amended to
2 read as follows:

3 2. For purposes of this act:

4 [a.] "Abused child" means a child under the age of 18 years
5 [who has been subjected to child abuse] whose parent, guardian, or
6 other person having his custody and control

7 a. Inflicts or allows to be inflicted upon such child physical in-
8 jury by other than accidental means which causes or creates a sub-
9 stantial risk of death, or serious or protracted disfigurement, or
10 protracted impairment of physical or emotional health or pro-
11 tracted loss or impairment of the function of any bodily organ;

12 b. Creates or allows to be created a substantial or ongoing risk
13 of physical injury to such child by other than accidental means
14 which would be likely to cause death or serious or protracted dis-
15 figurement, or protracted loss or impairment of the function of any
16 bodily organ; or

17 c. Commits or allows to be committed an act of sexual abuse
18 against the child;

19 d. Or a child whose physical, mental, or emotional condition has
20 been impaired or is in imminent danger of becoming impaired as
21 the result of the failure of his parent or guardian, or such other per-
22 son having his custody and control, to exercise a minimum degree
23 of care (1) in supplying the child with adequate food, clothing,
24 shelter, education, medical or surgical care though financially able
25 to do so or though offered financial or other reasonable means to
26 do so, or (2) in providing the child with proper supervision or
27 guardianship, by unreasonably inflicting or allowing to be inflicted
28 harm, or substantial risk thereof, including the infliction of ex-
29 cessive corporal punishment; or by any other act of a similarly
30 serious nature requiring the aid of the court; or

31 e. Who has been willfully abandoned by his parent or guardian,
32 or such other person having his custody and control.

33 [b. "Child abuse" means and shall include any of the acts
34 described in R. S. 9:6-1, including abuse, abandonment, cruelty
35 and neglect, which acts result in serious physical or mental injury
36 by other than accidental means.]*

1 *54. Article 2 of chapter 6 of Title 9 of the Revised Statutes
2 (R. S. 9:6-9 to 9:6-12) and P. L. 1964, c. 30 (C. 9:6-8.1 to 9:6-8.7)
3 are repealed.*

1 *~~[53.]~~ *55.* Severability. If any provision of this act or the
2 application thereof to any person or circumstances is held to be
3 invalid, the remainder of the act and application of such provision
4 to other persons or circumstances shall not be affected thereby.

1 *~~[54.]~~ *56.* This act shall take effect immediately but shall re-
2 main inoperative for 90 days thereafter, but any action or appoint-
3 ments necessary to effectuate this act may be made or taken prior
4 thereto.

FROM THE OFFICE OF THE GOVERNOR

OCTOBER 10, 1974

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law Thursday two bills, one making the Delaware and Raritan Canal a state park and the other strengthening the state's law against child abuse.

The canal bill, S-963, sponsored by Senator John A. Lynch, D-Middlesex, preserves the historic waterway and its adjoining tow path as a recreational site. The measure was co-sponsored by Senators Joseph P. Merlino, D-Mercer; Raymond H. Bateman, R-Somerset, and Bernard J. Dwyer, D-Middlesex.

The canal system includes a 40-mile stretch from Bordentown to New Brunswick and a feeder canal that runs 20 miles along the Delaware River and joins the main canal at Trenton.

The new law establishes a nine-member commission to control development of the park and land use in the adjacent area.

"As the most densely populated state in the nation, New Jersey has a particular responsibility to preserve open space and to protect the environment," said Byrne.

The Governor said he expects the commission to judiciously balance the environmental protection objective against other needs of the region.

Byrne noted that the canal serves as a source of water supply for municipalities and private industry.

He said he would give top priority to appointing the members of the commission.

The other bill, S-1217, sponsored by Senator Frank J. Dodd, D-Essex, broadens the power of the Juvenile and Domestic Relations Court in dealing with child abuse cases.

Among other things, the new law authorizes the immediate removal from the home of an abused child and provides for legal representation for the child by the State Public Defender.

"This law should provide greater protection for the unfortunate victims of child abuse", said Byrne.

The law becomes effective in 90 days.
