



CHAPTER 147 LAWS OF N. J. 19 73  
APPROVED 5-24-73

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1204

# STATE OF NEW JERSEY

INTRODUCED MAY 15, 1972

By Assemblymen MENZA, OWENS, HORN, Assemblywoman FEN-  
WICK, Assemblymen BAER, BURSTEIN, SINSIMER,  
PELLECCHIA, HICKS and FLORIO

Referred to Committee on Institutions and Welfare

AN ACT concerning child abuse, providing for protective custody  
of children under certain circumstances, and supplementing chap-  
ter 6 of Title 9 of the Revised Statutes.

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

1 1. Any physician examining or treating any child \***[of the age of**  
2 **12 years or under]**,\* or the director or his designate of any hospital  
3 or similar institution to which any child \***[of the age of 12 years or**  
4 **under.]**\* has been brought for care or treatment, is empowered to  
5 take the said child into protective custody when the child has  
6 suffered serious physical injury or injuries, and the most probable  
7 inference from the medical and factual information supplied, is  
8 that the said injury or injuries were inflicted upon the child by  
9 another person by other than accidental means, and the person  
10 suspected of inflicting, or permitting to be inflicted, the said injury  
11 upon the child, is a person into whose custody the child would  
12 normally be returned.

1 2. The physician or the director or his designate of a hospital  
2 or similar institution taking a child into such protective custody  
3 shall immediately report his action to the Bureau of Children's  
4 Services *\*or its successor, the Division of Youth and Family*  
5 *Services,\** by calling its local emergency telephone service main-  
6 tained pursuant to section 5 of P. L. 1971, c. 437 (C. 9:6-8.12).

1 3. The Bureau of Children's Services *\*or its successor, the Divi-*  
1A *sion of Youth and Family Services,\** shall upon receipt of such  
2 report, take action to insure the safety of the child under section 4  
3 of P. L. 1971, c. 437 (C. 9:6-8.11). The said report shall be deemed

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

4 an oral complaint under section 12 of P. L. 1951, c. 138  
5 (C. 30:4C-12), and the Bureau of Children's Services \*or its  
5A successor, the Division of Youth and Family Services,\* shall in-  
6 vestigate the circumstances under which the child was injured and  
7 may, after such investigation has been completed, apply for a court  
8 order placing the child under its care and supervision, pursuant to  
9 section 12 of P. L. 1951, c. 138 (C. 30:4C-12).

1 4. a. The Bureau of Children's Services \*or its successor, the  
1A Division of Youth and Family Services,\* shall immediately after  
2 the receipt of such report, and after making a determination to  
3 take the child into protective custody, shall serve or attempt to  
4 serve, written notice upon the parents or guardian that the said  
5 child has been taken into protective custody. The notice shall con-  
6 tain a statement of the maximum duration of the protective cus-  
7 tody and the location of the child during protective custody.

8 b. The parents or guardian of a child in protective custody may,  
9 upon request and in the reasonable discretion of the physician,  
10 director, or his designate, or appropriate official of the Bureau of  
11 Children's Services, \*or its successor, the Division of Youth and  
11A Family Services,\* visit the said child, provided that the life or  
12 health of the child will not be endangered by such visit.

13 c. The entire period of protective custody shall not exceed \***[72**  
14 **hours]**\* \*3 court days.\* The protective custody may be terminated  
15 earlier at the discretion of the reporting physician, director or  
16 appropriate official of the Bureau of Children's Services \*or its  
17 successor, the Division of Youth and Family Services, or upon order  
18 of the court.\*

19 \***[d. At the expiration of the 72 hours the child shall be returned**  
20 **to the custody of his parent or guardian, unless the child shall have**  
21 **been returned earlier or unless an order of the court shall direct**  
22 **otherwise.]**\*

1 5. Any physician or director of a hospital or similar institution  
2 who takes a child into protective custody pursuant to this act shall  
3 have immunity from any civil and criminal liability that might  
4 otherwise be incurred or imposed. Any such person shall have the  
5 same immunity with respect to testimony given in any judicial pro-  
6 ceeding resulting therefrom.

1 6. This act shall take effect immediately.

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2 report, take action to insure the safety of the child under section 4  
3 of P. L. 1971, c. 437 (C. 9:6-8.11). The said report shall be deemed  
4 an oral complaint under section 12 of P. L. 1951, c. 138  
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6 vestigate the circumstances under which the child was injured and  
7 may, after such investigation has been completed, apply for a court

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7 tody and the location of the child during protective custody.

8 b. The parents or guardian of a child in protective custody may,  
9 upon request and in the reasonable discretion of the physician,  
10 director, or his designate, or appropriate official of the Bureau of  
11 Children's Services, visit the said child, provided that the life or  
12 health of the child will not be endangered by such visit.

13 c. The entire period of protective custody shall not exceed 72  
14 hours. The protective custody may be terminated earlier at the  
15 discretion of the reporting physician, director or appropriate official  
16 of the Bureau of Children's Services.

17 d. At the expiration of the 72 hours the child shall be returned  
18 to the custody of his parent or guardian, unless the child shall have  
19 been returned earlier or unless an order of the court shall direct  
20 otherwise.

1 5. Any physician or director of a hospital or similar institution  
2 who takes a child into protective custody pursuant to this act shall  
3 have immunity from any civil and criminal liability that might  
4 otherwise be incurred or imposed. Any such person shall have the  
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6 ceeding resulting therefrom.

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#### STATEMENT

This bill closes a loophole in New Jersey's existing child protection legislation. There is presently no legal basis for preventing the return of "battered children" to the very parents who are suspected of inflicting the injury, after medical treatment by physicians or hospitals. This bill provides an extraordinary summary procedure for taking such seriously injured children of tender years into protective custody for a period up to but not in excess of 72 hours. At the same time, the bill incorporates safeguards to protect the parent-child relationship from undue disturbance based upon unfounded factual conclusions or arbitrary action.

ASSEMBLY COMMITTEE AMENDMENTS TO  
ASSEMBLY, No. 1204

STATE OF NEW JERSEY

ADOPTED NOVEMBER 20, 1972

Amend page 1, section 1, line 1, after "child", omit "of the age of".

Amend page 1, section 1, line 2, omit "12 years or under".

Amend page 1, section 1, line 3, omit "of the age of 12 years or".

Amend page 1, section 1, line 4, omit "under,".

Amend page 1, section 2, line 4, after "services", insert "or its successor, the Division of Youth and Family Services,".

Amend page 1, section 3, line 1, after "Services", insert "or its successor, the Division of Youth and Family Services,".

Amend page 1, section 3, line 5, after "Services", insert "or its successor, the Division of Youth and Family Services,".

Amend page 2, section 4, line 1, after "Services," insert "or its successor, the Division of Youth and Family Services,".

Amend page 2, section 4, line 11, after "Services," insert "or its successor, the Division of Youth and Family Services,".

Amend page 2, section 4, line 13, omit "72", insert "3 court days.".

Amend page 2, section 4, line 14, omit "hours.".

Amend page 2, section 4, line 16, after "Services", insert "or its successor, the Division of Youth and Family Services, or upon order of the court,".

Amend page 2, section 4, lines 17 through 20, omit all of lines 17, 18, 19 and 20.

SENATE INSTITUTIONS, HEALTH AND  
WELFARE COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1204**  
[Official Copy Reprint]

**STATE OF NEW JERSEY**

DATED: FEBRUARY 5, 1973

This bill supplements the child abuse law of the State (C. 9:6-8.1 to C. 9:6-8.15). It would permit a doctor or a hospital to take a child into protective custody when there is the probable inference that his physical injuries were inflicted purposely on him by some other person. This bill would permit the doctor or hospital, acting in coordination with the State's Division of Youth and Family Services, to keep such child in protective custody until a court determines whether the child should be returned to his parents or guardian. The period of protective custody is limited to 3 court days. This is intended to permit the period of protective custody to extend through weekends and holidays. The 72-hour maximum proposed in the original bill could mean a child would have to be returned to the parent or guardian before the court hearing. Without this change the child would have to be returned to the very persons who are often the ones who inflicted the injuries, his parents, guardian or other family members. Permitting the Division of Youth and Family Services to keep the child in custody for 3 court days will assure the child's protection from further injury and will provide time for an investigation and for all parties to arrange for legal representation.

FROM THE OFFICE OF THE GOVERNOR

MAY 24, 1973

FOR RELEASE:  
IMMEDIATE

Governor William T. Cahill today signed into law legislation designed to curb child abuse through protective custody which will shield children from those who have inflicted injury upon them.

In signing the legislation, Governor Cahill said:

"This bill will provide the defenseless child with a shield against those who have abused them. It will insure that children are given all the care and protection they need by not having them returned to those who might have inflicted injury upon them. The plight of the abused child is heartbreaking. It is a demonstration of hate and not love which is a child's due. This bill is a major step towards the saving of many children from the abuse that leaves not only physical but emotional scars that last a lifetime."

The bill, Assembly 1204, sponsored by Assemblyman Alexander J. Menza (D., Union), permits doctors and hospitals to take children into protective custody when there is a probable inference that physical injuries were intentionally inflicted upon such children. This protective custody is authorized when the person suspected of inflicting injury upon the child is the very person into whose custody such child would normally be returned.

The Governor noted that the protective custody would last a period of three court days to enable the parties involved to obtain legal counsel and arrange for a hearing in court. The doctor or hospital would cooperate with the Division of Youth and Family Services in the Department of Institutions and Agencies to insure the safety of such children in protective custody. Appropriate notices would be served by the Division on the parent or guardian of these children.

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The bill further stipulates that any physician or director of hospital or similar institution who takes a child into protective custody shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed.

Under the existing law, there is no other recourse than to return an abused child to the very person who might have inflicted injury, Governor [redacted] said. He further noted that the bill has sufficient safeguards to provide for the process through the Division of Youth and Family Services and the opportunity for judicial review.

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