

LEGISLATIVE HISTORY CHECKLIST

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LAWS of 1999

CHAPTER: 53

NJSA:9:3-37

(Adoption and Safe Families Act -- conforms State law to Federal)

BILL NO: S1705(Substituted for A2951 - 1st Reprint)

SPONSOR(S):Gormley and Lipman

DATE INTRODUCED:February 18, 1999

COMMITTEE:

ASSEMBLY: -----

*SENATE:*Women's Issues: Budget

AMENDED DURING PASSAGE:Yes

DATES OF PASSAGE:

*ASSEMBLY:*March 29, 1999

*SENATE:*March 22, 1999

DATE OF APPROVAL:March 31, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: *Yes*1st Reprint

(Amendments during passage denoted by superscript numbers)

S1705

SPONSORS STATEMENT: *Yes* (Begins on page 39 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes*

March 15, 1999

March 18, 1999

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

A2951

SPONSORS STATEMENT: *Yes (Begins on page 39 of original bill)*

Bill and Sponsors Statement identical to S1705

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *No*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *Yes*

974.90 C36 1999

New Jersey. Legislature. Senate. Women's Issues.

Children and Family Services Committee.

Committee meeting on S1705, held February 25, 1999.

NEWSPAPER ARTICLES: *No*

§3 C. 9:3-45.2
§5 C. 9:6-8.19a
§19 C. 9:23-18
§§ 23-26, 52-53
C. 30:4C-11.1
To 30:4C-11.6
§28 C. 30:4C-12.2
§31 C. 30:4C-15.3
§50 C. 30:4C-61.2
§54 C. 30:4C-15.4
§56 Approp.
§57 T & E &
Note To
2A:158A-5

P.L. 1999, CHAPTER 53, *approved March 31, 1999*
Senate, No. 1705 (*First Reprint*)

1 **AN ACT** concerning children and families ¹**[and]**,¹ revising parts of
2 statutory law and making an appropriation¹.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1977, c.367 (C.9:3-37) is amended to read as
8 follows:

9 1. This act shall be liberally construed to the end that the best
10 interests of children be promoted and that the safety of children be of
11 paramount concern. Due regard shall be given to the rights of all
12 persons affected by an adoption.

13 (cf: P.L.1977, c.367, s.1)

14

15 2. Section 2 of P.L.1977, c.367 (C.9:3-38) is amended to read as
16 follows:

17 2. For the purposes of this act:

18 a. "Approved agency" means a nonprofit corporation, association
19 or agency, including any public agency, approved by the Department
20 of Human Services for the purpose of placing children for adoption in
21 New Jersey;

22 b. "Child" means a person under 18 years of age;

23 c. "Custody" means the general right to exercise continuing control
24 over the person of a child derived from court order or otherwise;

25 d. "Guardianship" means the right to exercise continuing control
26 over the person or property or both of a child which includes any
27 specific right of control over an aspect of the child's upbringing
28 derived from court order;

29 e. "Guardian ad litem" means a qualified person, not necessarily an

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SWF committee amendments adopted March 15, 1999.

1 attorney, appointed by the court under the provisions of this act or at
2 the discretion of the court to represent the interests of the child
3 whether or not the child is a named party in the action;

4 f. "Parent" means a birth parent or parents, including the birth
5 father of a child born out of wedlock who has acknowledged the child
6 or to whom the court has ordered notice to be given, or a parent or
7 parents by adoption;

8 g. "Placement for adoption" means the transfer of custody of a
9 child to a person for the purpose of adoption by that person;

10 h. "Plaintiff" means a prospective parent or parents who have filed
11 a complaint for adoption;

12 i. "Legal services" means the provision of counseling or advice
13 related to the law and procedure for adoption of a child, preparation
14 of legal documents, or representation of any person before a court or
15 administrative agency;

16 j. "Surrender" means a voluntary relinquishment of all parental
17 rights by a birth parent, previous adoptive parent, or other person or
18 agency authorized to exercise these rights by law, court order or
19 otherwise, for purposes of allowing a child to be adopted;

20 k. "Home study" means an approved agency's formal assessment
21 of the capacity and readiness of prospective adoptive parents to adopt
22 a child, including the agency's written report and recommendations
23 conducted in accordance with rules and regulations promulgated by
24 the Director of the Division of Youth and Family Services; and

25 l. "Intermediary" means any person, firm, partnership, corporation,
26 association or agency, which is not an approved agency as defined in
27 this section, who acts for or between any parent and any prospective
28 parent or acts on behalf of either in connection with **[a]** the placement
29 **[for adoption]** of the parent's child for adoption in the State or in any
30 other state or country. An intermediary in any other state or country
31 shall not receive money or other valuable consideration in connection
32 with the placement of a child for adoption in this State. An
33 intermediary in this State shall not receive money or other valuable
34 consideration in connection with the placement of a child for adoption
35 in this State or in any other state or country. The provisions of this
36 subsection shall not be construed to prohibit the receipt of money or
37 other valuable consideration specifically authorized in section 18 of
38 P.L.1993, c.345 (C.9:3-39.1).

39 (cf: P.L.1993, c.345, s.1)

40

41 3. (New section) In any case in which the Division of Youth and
42 Family Services accepts a child in its care or custody, the child's foster
43 parent, preadoptive parent or relative providing care for the child, as
44 applicable, shall receive written notice of and an opportunity to be
45 heard at any review or hearing held with respect to the child, but the
46 foster parent, preadoptive parent or relative shall not be made a party

1 to the review or hearing solely on the basis of the notice and
2 opportunity to be heard.

3

4 4. Section 1 of P.L.1971, c.437 (C.9:6-8.8) is amended to read as
5 follows:

6 1. ¹a.¹The purpose of this act is to provide for the protection of
7 children under 18 years of age who have had serious injury inflicted
8 upon them by other than accidental means. The safety of the children
9 served shall be of paramount concern. It is the intent of this legislation
10 to assure that the lives of innocent children are immediately
11 safeguarded from further injury and possible death and that the legal
12 rights of such children are fully protected.

13 ¹b. (1) In accordance with the provisions of paragraphs (2), (3),
14 and (4) of this subsection, when determining the reasonable efforts to
15 be made and when making the reasonable efforts, the child's health
16 and safety shall be of paramount concern.

17 (2) In any case in which the division accepts a child in care or
18 custody, the division shall make reasonable efforts, prior to placement,
19 to preserve the family in order to prevent the need for removing the
20 child from his home. After placement, the division shall make
21 reasonable efforts to make it possible for the child to safely return to
22 his home.

23 (3) Reasonable efforts to place a child for adoption or with a legal
24 guardian or in an alternative permanent placement may be made
25 concurrently with reasonable efforts to preserve and reunify the child's
26 family.

27 (4) In any case in which family reunification is not the permanency
28 plan for the child, reasonable efforts shall be made to place the child
29 in a timely manner and to complete the steps necessary to finalize the
30 permanent placement of the child.¹

31 (cf:P.L.1971, c. 437, s. 1)

32

33 5. (New section) In any case in which the Division of Youth and
34 Family Services accepts a child in its care or custody, the child's foster
35 parent, preadoptive parent or relative providing care for the child, as
36 applicable, shall receive written notice of and an opportunity to be
37 heard at any review or hearing held with respect to the child, but the
38 foster parent, preadoptive parent or relative shall not be made a party
39 to the review or hearing solely on the basis of the notice and
40 opportunity to be heard.

41

42 6. Section 2 of P.L.1974, c.119 (C.9:6-8.22) is amended to read as
43 follows:

44 2. The Superior Court, Chancery Division, Family Part in each
45 county shall have jurisdiction over all noncriminal proceedings
46 involving alleged cases of child abuse or neglect, and shall be charged

1 with the immediate protection of said children, whereby the safety of
2 the children shall be of paramount concern. All noncriminal cases
3 involving child abuse shall be commenced in or transferred to this
4 court from other courts as they are made known to the other courts.
5 Commencement of cases of child abuse or neglect must be the first
6 order of priority in the Family Part.
7 (cf: P.L.1991, c.91, s.198)

8
9 7. Section 4 of P.L.1974, c.119 (C.9:6-8.24) is amended to read as
10 follows:

11 4. Jurisdiction. a. Notwithstanding any other law to the contrary,
12 the Superior Court, Chancery Division, Family Part has exclusive
13 original jurisdiction over noncriminal proceedings under this act
14 alleging the abuse or neglect of a child.

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

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

20 d. If the matter in regard to the parent or guardian is referred to
21 the county prosecutor by the Family Part or otherwise the Family Part
22 may continue the proceeding under this act in regard to the child after
23 such referral. If the proceeding in regard to the child is continued, the
24 Family Part shall enter any preliminary order necessary to protect the
25 interests of the child pending a final order from the criminal courts.

26 e. Any hearing held before the Family Part may serve as a
27 permanency hearing to provide judicial review and approval of a
28 permanency plan for the child if all the requirements of section 50 of
29 P.L. , c. (C.)(pending before the Legislature as this bill) are met.
30 (cf: P.L.1991, c.91, s.200)

31
32 8. Section 8 of P.L.1974, c.119 (C.9:6-8.28) is amended to read as
33 follows:

34 8. Preliminary orders of court before preliminary hearing held. a.
35 The Superior Court, Chancery Division, Family Part may enter an
36 order, whereby the safety of the child shall be of paramount concern,
37 directing the temporary removal of a child from the place where he is
38 residing before a preliminary hearing under this act, if (1) the parent
39 or other person legally responsible for the child's care is absent or,
40 though present, was asked and refused to consent to the temporary
41 removal of the child and was informed of an intent to apply for any
42 order under this section; and (2) the child appears so to suffer from the
43 abuse or neglect of his parent or guardian that his immediate removal
44 is necessary to avoid imminent danger to the child's life, safety or
45 health; and (3) there is not enough time to hold a preliminary hearing.

46 b. The order shall specify the facility to which the child is to be

1 brought.

2 c. The Family Part may enter an order authorizing a physician or
3 hospital to provide emergency medical or surgical procedures before
4 a preliminary hearing is held under this act if (1) such procedures are
5 necessary to safeguard the life or health of the child; and (2) there is
6 not enough time to hold a preliminary hearing under section 11 hereof.

7 d. Any person who originates a proceeding pursuant to section 14
8 of this act may apply for through the Division of Youth and Family
9 Services or the court on its own motion may issue, an order of
10 temporary removal. The division shall make every reasonable effort to
11 inform the parent or guardian of any such application, confer with a
12 person wishing to make such an application and make such inquiries
13 as will aid the court in disposing of such application. Within 24 hours
14 the Division of Youth and Family Services shall report such
15 application to the central registry of the division.

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

19 (cf: P.L.1991, c.91, s.202)

20

21 9. Section 9 of P.L.1974, c.119 (C.9:6-8.29) is amended to read as
22 follows:

23 9. a. A police officer or a designated employee of **[a county**
24 **department of probation]** the Probation Division or a designated
25 employee of the division may remove a child from the place where he
26 is residing, or any such person or any physician treating such child may
27 keep a child in his custody without an order pursuant to section 8
28 **[thereof]** of P.L.1974, c.119 (C.9:6-8.28) and without the consent of
29 the parent or guardian regardless of whether the parent or guardian
30 is absent, if the child is in such condition that his continuance in said
31 place or residence or in the care and custody of the parent or guardian
32 presents an imminent danger to the child's life, safety or health, and
33 there is insufficient time to apply for a court order pursuant to section
34 8 of P.L.1974, c.119 (C.9:6-8.28), or any physician or hospital
35 treating such child may keep a child in custody pursuant to P.L.1973,
36 c.147 (C.9:6-8.16 et seq.)**], and].** The Division of Youth and Family
37 Services shall not be required to provide reasonable efforts to prevent
38 placement if removal of the child is necessary due to imminent danger
39 to the child's life, safety or health in accordance with section 24 of
40 P.L. , c. (C.)(pending before the Legislature as this bill).

41 b. If a person authorized by this section removes or keeps custody
42 of a child, he shall (1) inform the division immediately; (2) bring the
43 child immediately to a place designated by the division for this
44 purpose, and (3) make every reasonable effort to inform the parent or
45 guardian of the facility to which he has brought the child.

46 c. Any person or institution acting in good faith in the removal or

1 keeping of a child pursuant to this section shall have immunity from
2 any liability, civil or criminal, that might otherwise be incurred or
3 imposed as a result of such removal or keeping.

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

7 (cf: P.L.1977, c.209, s.8)

8

9 10. Section 11 of P.L.1974, c.119 (C.9:6-8.31) is amended to read
10 as follows:

11 11. Preliminary orders after filing of complaint. a. In any case
12 where the child has been removed without court order, except where
13 action has been taken pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.)
14 the Superior Court, Chancery Division, Family Part shall hold a
15 hearing on the next court day, whereby the safety of the child shall be
16 of paramount concern, to determine whether the child's interests
17 require protection pending a final order of disposition. In any other
18 case under this act, any person who may originate a proceeding may
19 apply for, or the court, on its own motion, may order a hearing at any
20 time after the complaint is filed to determine, with the safety of the
21 child of paramount concern, whether the child's interests require
22 protection pending a final order of disposition.

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

27 If the court determines that removal of the child by a physician,
28 police officer, designated employee of the Probation Division or
29 designated employee of the Division of Youth and Family Services was
30 necessary due to imminent danger to the child's life, safety or health,
31 the court shall find that the Division of Youth and Family Services was
32 not required to provide reasonable efforts to prevent placement of the
33 child in accordance with section 24 of P.L. , c. (C.)(pending
34 before the Legislature as this bill).

35 c. Upon such hearing the court may, for good cause shown, issue
36 a preliminary order of protection which may contain any of the
37 provisions authorized on the making of an order of protection under
38 section 35 **[hereof]** of P.L.1974, c.119 (C.9:6-8.55).

39 d. Upon such hearing, the court may, for good cause shown,
40 release the child to the custody of his parent or guardian from whose
41 custody or care the child was removed, pending a final order of
42 disposition, in accord with section 33 **[hereof]** of P.L.1974, c.119
43 (C.9:6-8.53).

44 e. Upon such hearing, the court may authorize a physician or
45 hospital to provide medical or surgical procedures if such procedures
46 are necessary to safeguard the child's life or health.

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

3 g. In all cases involving abuse or neglect the court shall order an
4 examination of the child by a physician appointed or designated for the
5 purpose by the division. As part of such examination, the physician
6 shall arrange to have color photographs taken as soon as practical of
7 any areas of trauma visible on such child and may if indicated, arrange
8 to have a radiological examination performed on the child. The
9 physician, on the completion of such examination, shall forward the
10 results thereof together with the color photographs to the court
11 ordering such examination.

12 (cf: P.L.1991, c.91, s.204)

13

14 11. Section 12 of P.L.1974, c.119 (C.9:6-8.32) is amended to read
15 as follows:

16 12. Upon the application of the parent or guardian of a child
17 temporarily removed **[moved]** under this act, the court shall hold a
18 hearing, whereby the safety of the child shall be of paramount concern,
19 to determine whether the child should be returned; a. if there has not
20 been a hearing on the removal of the child at which the parent or
21 guardian was present or had an adequate opportunity to be present;
22 or b. upon good cause shown. Except for good cause shown, such
23 hearing shall be held within 3 court days of the application. Upon such
24 hearing, the court shall grant the application, unless it finds that such
25 return presents an imminent risk to the child's life, safety or health.

26 (cf: P.L.1977, c.209, s.11)

27

28 12. Section 15 of P.L.1974, c.119 (C.9:6-8.35) is amended to read
29 as follows:

30 15. Preliminary procedure. The division may, with the safety of the
31 child of paramount concern:

32 a. Confer with any person seeking to file a complaint, the potential
33 respondent, and other interested persons concerning the advisability
34 of filing a complaint under this act; and

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

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

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

43 e. Such adjustment may include a preliminary conference held by
44 the division at its discretion upon written notice to the parent or
45 guardian and the potential complainant for the purpose of attempting
46 such adjustment, provided however that the division shall not be

1 authorized under this section to compel any person to appear at any
2 conference, produce any papers, or visit any place.

3 f. The Superior Court, Chancery Division, Family Part and the
4 division shall deal with cases involving imminent physical harm or
5 actual physical harm on a priority basis.

6 (cf: P.L.1991, c.91, s.205)

7

8 13. Section 20 of P.L.1974, c.119 (C.9:6-8.40) is amended to read
9 as follows:

10 20. Records involving abuse or neglect. When the division
11 receives a report or complaint that a child may be abused or neglected;
12 when the division provides services to a child; or when the division
13 receives a request from the Superior Court, Chancery Division, Family
14 Part to investigate **[such allegations]** an allegation of abuse or neglect,
15 the division may request of any and all public or private institutions,
16 or agencies including law enforcement agencies, or any private
17 practitioners, their records past and present pertaining to that child and
18 other children under the same care, custody and control. The division
19 shall not be charged a fee for the copying of the records. Records
20 kept pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982,
21 c.77 (C.2A:4A-20 et seq.) may be obtained by the division, upon
22 issuance by a court of an order on good cause shown directing these
23 records to be released to the division for the purpose of aiding in
24 evaluation to determine if the child is abused or neglected. In the
25 release of the aforementioned records, the source shall have immunity
26 from any liability, civil or criminal.

27 (cf: P.L.1991, c.91, s.206)

28

29 14. Section 29 of P.L.1974, c.119 (C.9:6-8.49) is amended to read
30 as follows:

31 29. **[In]** To ensure that the safety of children is of paramount
32 concern, when scheduling hearings and investigations, the court shall
33 give priority to proceedings under this act involving imminent or
34 actual physical harm, or in which a child has been removed from home
35 before a final order of disposition. Any adjournment granted in the
36 course of such a proceeding should be for as short a time as possible.

37 (cf: P.L.1974, c.119, s.29)

38

39 15. Section 34 of P.L.1974, c.119 (C.9:6-8.54) is amended to read
40 as follows:

41 34. a. For the purpose of section 31 **[hereof]** of P.L.1974, c.119
42 (C.9:6-8.51), the court may place the child in the custody of a relative
43 or other suitable person or the division for the placement of a child
44 after a finding that the division has made reasonable efforts to prevent
45 placement or that reasonable efforts to prevent placement were not
46 required in accordance with section 24 of P.L. , c. (C.)(pending

1 before the Legislature as this bill).

2 b. ¹ (1)¹ Placements under this section may be for an initial period
3 of **[18]** 12 months and the court, in its discretion, may at the
4 expiration of that period, upon a hearing make successive extensions
5 for additional periods of **[1]** up to one year each. ¹ **[**The place in
6 which or the person with which the child has been placed under this
7 section shall submit a report at the end of the term of placement,
8 making recommendations and giving such supporting data as is
9 appropriate.**]**¹ The court on its own motion may, at the conclusion of
10 any period of placement, hold a hearing concerning the need for
11 continuing the placement.

12 ¹(2) The court shall conduct a permanency hearing for the child no
13 later than 30 days after placement in cases in which the court has
14 determined that reasonable efforts to prevent placement are not
15 required pursuant to subsection a. of this section, or no later than 12
16 months after placement in cases in which the court has determined that
17 efforts to reunify the child with the parent or guardian are required.
18 The hearing shall include, but not necessarily be limited to,
19 consideration and evaluation of information provided by the division
20 and other interested parties regarding such matters as those listed in
21 subsection c. of section 50 of P.L. , c. (C.)(pending before the
22 Legislature as this bill).

23 (3) The court shall review the permanency plan for the child
24 periodically, as deemed appropriate by the court, to ensure that the
25 permanency plan is achieved.¹

26 c. No placement may be made or continued under this section
27 beyond the child's eighteenth birthday without his consent.

28 d. If the parent or person legally responsible for the care of any
29 such child or with whom such child resides receives public assistance
30 and care, any portion of which is attributable to such child, a copy of
31 the order of the court providing for the placement of such child from
32 his home shall be furnished to the appropriate county welfare board,
33 which shall reduce the public assistance and care furnished to such
34 parent or other person by the amount attributable to such child.

35 (cf: P.L.1977, c.209, s.26)

36

37 16. Section 2 of P.L.1987, c.175 (C.9:6-8.84) is amended to read
38 as follows:

39 2. As used in this act:

40 "Board" means the Child Fatality and Near Fatality Review Board
41 established under P.L.1997, c.175 (C.9:6-8.83 et al.).

42 "Child" means any person under the age of 18.

43 "Commissioner" means the Commissioner of Human Services.

44 **"[Diligent] Reasonable** efforts" means **[reasonable]** attempts by an
45 agency authorized by the Division of Youth and Family Services to
46 assist the parents in remedying the circumstances and conditions that

1 led to the placement of the child and in reinforcing the family
2 structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

3 "Division" means the Division of Youth and Family Services in the
4 Department of Human Services.

5 "Near fatality" means a case in which a child is in serious or critical
6 condition, as certified by a physician.

7 "Panel" means a citizen review panel as established under P.L.1997,
8 c.175 (C.9:6-8.83 et al.).

9 "Parent or guardian" means a person defined pursuant to section 1
10 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the
11 care, custody or control of a child or upon whom there is a legal duty
12 for such care.

13 "Sexual abuse" means contacts or actions between a child and a
14 parent or caretaker for the purpose of sexual stimulation of either that
15 person or another person. Sexual abuse includes:

16 a. the employment, use, persuasion, inducement, enticement or
17 coercion of any child to engage in, or assist any other person to
18 engage in, any sexually explicit conduct or simulation of such conduct;

19 b. sexual conduct including molestation, prostitution, other forms
20 of sexual exploitation of children or incest; or

21 c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1
22 and a prohibited sexual act as defined in N.J.S.2C:24-4.

23 "Significant bodily injury" means a temporary loss of the
24 functioning of any bodily member or organ or temporary loss of any
25 one of the five senses.

26 "Withholding of medically indicated treatment" means the failure to
27 respond to a child's life-threatening conditions by providing treatment,
28 including appropriate nutrition, hydration, and medication which, in
29 the treating physician's reasonable judgment, will most likely be
30 effective in ameliorating or correcting all such conditions. The term
31 does not include the failure to provide treatment, other than
32 appropriate nutrition, hydration, or medication to a child when, in the
33 treating physician's reasonable medical judgment:

34 a. the child is chronically and irreversibly comatose;

35 b. the provision of such treatment would merely prolong dying, not
36 be effective in ameliorating or correcting all of the child's
37 life-threatening conditions, or otherwise be futile in terms of the
38 survival of the child; or

39 c. the provision of such treatment would be virtually futile in terms
40 of the survival of the child and the treatment itself under such
41 circumstances would be inhumane.

42 (cf: P.L.1997, c.175, s.2)

43

44 17. Section 5 of P.L.1997, c.175 (C.9:6-8.87) is amended to read
45 as follows:

46 5. In any case in which the division accepts a child in care or

1 custody, including placement, the division shall not be required to
2 provide **[diligent]** reasonable efforts to reunify the child with a parent
3 **[who has been found by a court of competent jurisdiction to have**
4 **committed murder, aggravated manslaughter or manslaughter of**
5 **another child of the parent; to have aided or abetted, attempted,**
6 **conspired or solicited to commit the murder, aggravated manslaughter**
7 **or manslaughter of the child or another child of the parent; or to have**
8 **committed, or attempted to commit, an assault that resulted, or could**
9 **have resulted, in the significant bodily injury to the child or another**
10 **child of the parent]** if an exception to the requirement to provide
11 reasonable efforts has been established in accordance with section 25
12 of P.L. , c. (C.) (pending before the Legislature as this bill).
13 (cf: P.L.1997,c.175,s.5).

14

15 18. Section 2 of P.L.1991, c.290 (C.9:6B-2) is amended to read as
16 follows:

17 2. The Legislature finds and declares that:

18 a. A child placed outside his home by the Department of Human
19 Services, the Department of Health and Senior Services or a board of
20 education, or an agency or organization with which the applicable
21 department contracts to provide services has certain specific rights
22 separate from and independent of the child's parents or legal guardian
23 by virtue of his placement in another residential setting;

24 b. The State has an affirmative obligation to recognize and protect
25 these rights through its articulation of a clear and specific bill of rights
26 that reflects the best interests of the child whereby the safety of the
27 child is of paramount concern and an affirmation by the State of its
28 commitment to enforce these rights in order to protect and promote
29 the welfare of the child placed outside his home; and

30 c. The obligation of the State to recognize and protect the rights
31 of the child placed outside his home shall be fulfilled in the context of
32 a clear and consistent policy to promote the child's eventual return to
33 his home or placement in an alternative permanent setting, which this
34 Legislature has expressly declared to be in the public interest in section
35 2 of the "Child Placement Review Act," P.L.1977, c.424
36 (C.30:4C-51).

37 (cf: P.L.1991, c.290, s.2)

38

39 19. (New section) a. The Commissioner of Human Services is
40 authorized on behalf of this State to develop, negotiate and enter into
41 the Interstate Compact on Adoption and Medical Assistance and other
42 interstate compacts, as determined by the commissioner to enhance
43 protection and permanency for children. When so entered into, and
44 for so long as it shall remain in force, such a compact shall have the
45 force and effect of law.

46 b. A compact entered into pursuant to the authority conferred by

1 subsection a. of this section shall include:

2 (1) a provision making it available for joinder by all states;

3 (2) a provision for withdrawal from the compact upon written
4 notice to the parties, with a period of one year between the date of the
5 notice and the effective date of the withdrawal;

6 (3) a requirement that the protections afforded by or pursuant to
7 the compact be covered by a written agreement between the agency
8 providing services and the parents, adoptive parents, or other
9 caregiver for the child and that the protections continue in force for
10 the duration of the written agreement for all children who, on the
11 effective date of the withdrawal, are receiving services from a party
12 state other than the one in which they reside; and

13 (4) such other provisions as may be appropriate to implement the
14 proper administration of the compact.

15

16 20. Section 1 of P.L.1951, c.138 (C.30:4C-1) is amended to read
17 as follows:

18 1. This act is to be administered strictly in accordance with the
19 general principles laid down in this section, which are declared to be
20 the public policy of this State, whereby the safety of children shall be
21 of paramount concern:

22 (a) That the preservation and strengthening of family life is a
23 matter of public concern as being in the interests of the general
24 welfare, ~~but in a case where a child has been placed outside the home~~
25 ~~due to circumstances that endanger the child's life,~~ ¹ **[and]** ¹ **but** the
26 health and safety of the child shall be the State's paramount concern
27 when making a decision on whether or not it is in the child's best
28 interest to preserve the family unit;

29 (b) That the prevention and correction of dependency and
30 delinquency among children should be accomplished so far as
31 practicable through welfare services which will seek to continue the
32 living of such children in their own homes;

33 (c) That necessary welfare services to children should be
34 strengthened and extended through the development of private and
35 voluntary agencies qualified to provide such services;

36 (d) That wherever in this State necessary welfare services are not
37 available to children who are dependent or adjudged delinquent by
38 proper judicial tribunal, or in danger of so becoming, then such
39 services should be provided by this State until such times as they are
40 made available by private and voluntary agencies; **[and]**

41 (e) That the State may assist private, public and voluntary agencies
42 to construct, purchase, upgrade or renovate youth facilities for the
43 residential care or day treatment of children in need of these services;
44 and

45 (f) That each child placed outside his home by the State has the
46 need for permanency: through return to the child's own home, if the

1 child can be returned home without endangering the child's health or
2 safety; through adoption, if family reunification is not possible; or
3 through an alternative permanent placement, if termination of parental
4 rights is not appropriate.

5 (cf: P.L.1999, c.22, s.1)

6
7 21. Section 3 of P.L.1951, c.138 (C.30:4C-3) is amended to read
8 as follows:

9 3. The **【Bureau of Childrens】** Division of Youth and Family
10 Services, in administering the provisions of this act, whereby the
11 safety of children shall be of paramount concern, shall:

12 (a) provide care and custody for children eligible therefor in such
13 manner that the children may, so far as practicable, continue to live in
14 their own homes and family life be thereby preserved and
15 strengthened;

16 (b) provide necessary welfare services as may be required by such
17 children, so far as practicable, without assumption of custody;

18 (c) encourage the development of private and voluntary agencies
19 qualified to provide welfare services for children to the end that
20 through cooperative effort the need for such services may be limited
21 or reduced; and

22 (d) for each child placed outside his home by the division, provide
23 permanency through return of the child to the child's own home, if the
24 child can be returned home without endangering the child's health or
25 safety; through adoption, if family reunification is not possible; or
26 through an alternative permanent placement, if termination of parental
27 rights is not appropriate.

28 (cf: P.L.1962, c.197, s.9)

29
30 22. Section 11 of P.L.1951, c.138 (C.30:4C-11) is amended to
31 read as follows:

32 11. Whenever it shall appear that any child within this State is of
33 such circumstances that the child's safety or welfare will be endangered
34 unless proper care or custody is provided, an application setting forth
35 the facts in the case may be filed with the Division of Youth and
36 Family Services by a parent or other relative of such child, by a person
37 standing in loco parentis to such child, by a person or association or
38 agency or public official having a special interest in such child or by
39 the child himself, seeking that the division accept and provide such
40 care or custody of such child as the circumstances may require. Such
41 application shall be in writing, and shall contain a statement of the
42 relationship to or special interest in such child which justifies the filing
43 of such application. The provisions of this section shall be deemed to
44 include an application on behalf of an unborn child when the
45 prospective mother is within this State at the time of application for
46 such services.

1 Upon receipt of an application as provided in this section, the
2 division shall verify the statements set forth in such application and
3 shall investigate all the matters pertaining to the circumstances of the
4 child. If upon such verification and investigation it shall appear (a)
5 that the safety or welfare of such child will be endangered unless
6 proper care or custody is provided; (b) that the needs of such child
7 cannot properly be provided for by financial assistance as made
8 available by the laws of this State; (c) that there is no person legally
9 responsible for the support of such child whose identity and
10 whereabouts are known and who is willing and able to provide for the
11 care and support required by such child; and (d) that such child, if
12 suffering from a mental or physical disability requiring institutional
13 care, is not immediately admissible to any public institution providing
14 such care; then the division may accept and provide such care or
15 custody as the circumstances of such child may require.

16 (cf: P.L.1991, c.275, s.1)

17

18 23. (New section) a. In accordance with the provisions of
19 subsections b., c., and d. of this section, when determining the
20 reasonable efforts to be made and when making the reasonable efforts,
21 the child's health and safety shall be of paramount concern.

22 b. In any case in which the division accepts a child in care or
23 custody, the division shall make reasonable efforts, prior to placement,
24 to preserve the family in order to prevent the need for removing the
25 child from his home. After placement, the division shall make
26 reasonable efforts to make it possible for the child to safely return to
27 his home.

28 c. Reasonable efforts to place a child for adoption or with a legal
29 guardian or in an alternative permanent placement may be made
30 concurrently with reasonable efforts to preserve and reunify the child's
31 family.

32 d. In any case in which family reunification is not the permanency
33 plan for the child, reasonable efforts shall be made to place the child
34 in a timely manner and to complete the steps necessary to finalize the
35 permanent placement of the child.

36

37 24. (New section) In any case in which the Division of Youth and
38 Family Services accepts a child in care or custody, including
39 placement, the division shall not be required to provide reasonable
40 efforts to prevent placement of the child if a court of competent
41 jurisdiction has determined that both of the following criteria are met:

42 a. One of the following actions has occurred:

43 (1) the parent has subjected the child to aggravated circumstances
44 of abuse, neglect, cruelty or abandonment,

45 (2) the parent has been convicted of murder, aggravated
46 manslaughter or manslaughter of a child; aiding or abetting,

1 attempting, conspiring or soliciting to commit murder, aggravated
2 manslaughter or manslaughter of a child; committing or attempting to
3 commit an assault that resulted, or could have resulted, in the
4 significant bodily injury to a child; or committing a similarly serious
5 criminal act which resulted, or could have resulted, in the death or
6 significant bodily injury to a child,

7 (3) the rights of the parent to another of the parent's children have
8 been involuntarily terminated or

9 (4) removal of the child was required due to imminent danger to
10 the child's life, safety or health; and

11 b. Efforts to prevent placement were not reasonable due to risk of
12 harm to the child's health or safety.

13 When determining whether reasonable efforts are required to
14 prevent placement, the health and safety of the child shall be of
15 paramount concern to the court.

16

17 25. (New section) In any case in which the Division of Youth and
18 Family Services accepts a child in care or custody, including
19 placement, the division shall not be required to provide reasonable
20 efforts to reunify the child with a parent if a court of competent
21 jurisdiction has determined that:

22 a. The parent has subjected the child to aggravated circumstances
23 of abuse, neglect, cruelty or abandonment;

24 b. The parent has been convicted of murder, aggravated
25 manslaughter or manslaughter of a child; aiding or abetting,
26 attempting, conspiring or soliciting to commit murder, aggravated
27 manslaughter or manslaughter of a child; committing or attempting to
28 commit an assault that resulted, or could have resulted, in significant
29 bodily injury to a child; or committing a similarly serious criminal act
30 which resulted, or could have resulted, in the death of or significant
31 bodily injury to a child; or

32 c. The rights of the parent to another of the parent's children have
33 been involuntarily terminated.

34 When determining whether reasonable efforts are required to
35 reunify the child with the parent, the health and safety of the child and
36 the child's need for permanency shall be of paramount concern to the
37 court.

38 This section shall not be construed to prohibit the division from
39 providing reasonable efforts to reunify the family, if the division
40 determines that family reunification is in the child's best interests.

41 A permanency plan for the child may be established at the same
42 hearing at which the court determines that reasonable efforts are not
43 required to reunify the child with the parent, if the hearing meets all of
44 the requirements of a permanency hearing pursuant to section 50 of
45 P.L. , c. (C)(pending before the Legislature as this bill).

1 26. (New section) Any hearing held before the Family Part of the
2 Chancery Division of the Superior Court may serve as a permanency
3 hearing to provide judicial review and approval of a permanency plan
4 for the child if all the requirements of section 50 of P.L. , c.
5 (C.)(pending before the Legislature as this bill) are met.

6
7 27. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
8 read as follows:

9 12. Whenever it shall appear that the parent or parents, guardian,
10 or person having custody and control of any child within this State is
11 unfit to be entrusted with the care and education of such child, or shall
12 fail to provide such child with proper protection, maintenance and
13 education, or shall fail to ensure the health and safety of the child, or
14 is endangering the welfare of such child, a written or oral complaint
15 may be filed with the Division of Youth and Family Services by any
16 person or by any public or private agency or institution interested in
17 such child. When such a complaint is filed by a public or private
18 agency or institution, it shall be accompanied by a summary setting
19 forth the reason for such complaint and other social history of the
20 child and his family's situation which justifies such complaint; or, if this
21 is not feasible, such summary shall be made available to the Division
22 of Youth and Family Services as soon thereafter as possible. Upon
23 receipt of a complaint as provided in this section, the Division of
24 Youth and Family Services shall investigate, or shall cause to be
25 investigated, the statements set forth in such complaint. If the
26 circumstances so warrant, the parent, parents, guardian, or person
27 having custody and control of the child shall be afforded an
28 opportunity to file an application for care, as provided in section 11 of
29 P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or
30 person having custody and control of the child shall refuse to permit
31 or shall in any way impede investigation, and the division determines
32 that further investigation is necessary in the best interests of the child,
33 the division may thereupon apply to the Family Part of the Chancery
34 Division of the Superior Court in the county where the child resides,
35 for an order directing the parent, parents, guardian, or person having
36 custody and control of the child to permit immediate investigation.
37 The court, upon such application, may proceed to hear the matter in
38 a summary manner and if satisfied that the best interests of the child
39 so require may issue an order as requested.

40 If, after such investigation has been completed, it appears that the
41 child requires care and supervision by the Division of Youth and
42 Family Services or other action to ensure the health and safety of the
43 child, but the parent, parents, guardian, or person having custody and
44 control of the child continue to refuse to apply for care in the manner
45 provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or to take
46 action to ensure the health and safety of the child, the division may

1 apply to the Family Part of the Chancery Division of the Superior
2 Court in the county where the child resides for an order making the
3 child a ward of the court and placing such child under the care and
4 supervision of the Division of Youth and Family Services.

5 The court, at a summary hearing held upon notice to the Division
6 of Youth and Family Services, and to the parent, parents, guardian, or
7 person having custody and control of the child, if satisfied that the best
8 interests of the child so require, may issue an order as requested,
9 which order shall have the same force and effect as the acceptance of
10 a child for care by the division as provided in section 11 of P.L.1951,
11 c.138 (C.30:4C-11); provided, however, that such order shall not be
12 effective beyond a period of six months from the date of entry unless
13 the court, upon application by the Division of Youth and Family
14 Services, at a summary hearing held upon notice to the parent, parents,
15 guardian, or person having custody of the child, extends the time of
16 the order.

17 Immediately after the court's order and while the child is in the
18 division's care, the division shall initiate a search for the child's
19 **'[natural]'** mother or father, if they are not known to the division.
20 The search shall be initiated within 30 days of the court order. The
21 search will be completed when all sources contacted have either
22 responded to the inquiry or failed to respond within 45 days. The
23 results shall be valid for six months after the date it was completed.
24 (cf: P.L.1991, c.275, s.2)

25

26 28. (New section) In any case in which the Division of Youth and
27 Family Services accepts a child in its care or custody, the child's foster
28 parent, preadoptive parent or relative providing care for the child, as
29 applicable, shall receive written notice of and an opportunity to be
30 heard at any review or hearing held with respect to the child, but the
31 foster parent, preadoptive parent or relative shall not be made a party
32 to the review or hearing solely on the basis of the notice and
33 opportunity to be heard.

34

35 29. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
36 read as follows:

37 15. Whenever (a) it appears that a court wherein a complaint has
38 been proffered as provided in chapter 6 of Title 9 of the Revised
39 Statutes, has entered a conviction against the parent or parents,
40 guardian, or person having custody and control of any child because
41 of abuse, abandonment, neglect of or cruelty to such child; or (b)
42 (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best
43 interests of any child under the care or custody of the Division of
44 Youth and Family Services require that he be placed under
45 guardianship; or (d) it appears that a parent or guardian of a child,
46 following the acceptance of such child by the division pursuant to

1 section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following
2 the placement or commitment of such child in the care of an
3 authorized agency, whether in an institution or in a foster home, and
4 notwithstanding the **[diligent]** reasonable efforts of such agency to
5 encourage and strengthen the parental relationship, has failed for a
6 period of one year to remove the circumstances or conditions that led
7 to the removal or placement of the child, although physically and
8 financially able to do so, notwithstanding the division's **[diligent]**
9 reasonable efforts to assist the parent or guardian in remedying the
10 conditions; (e) the parent has abandoned the child; or (f) the parent of
11 a child has been found by a criminal court of competent jurisdiction to
12 have committed murder, aggravated manslaughter or manslaughter of
13 another child of the parent; to have aided or abetted, attempted,
14 conspired, or solicited to commit such murder, aggravated
15 manslaughter or manslaughter of the child or another child of the
16 parent; or to have committed, or attempted to commit, an assault that
17 resulted, or could have resulted, in the significant bodily injury to the
18 child or another child of the parent; or the parent has committed a
19 similarly serious act which resulted, or could have resulted, in the
20 death or significant bodily injury to the child or another child of the
21 parent; a petition to terminate the parental rights of the child's parents,
22 setting forth the facts in the case, **[may]** shall be filed by the division
23 with the Family Part of the Chancery Division of the Superior Court
24 in the county where such child may be at the time of the filing of such
25 petition. ¹**[The]** ¹**A** petition shall be filed¹ as soon as any one of the
26 circumstances in subsections (a) through (f) of this section is
27 established, but¹ no later than when the child has been in ¹**[foster**
28 **care]** placement¹ for 15 of the most recent 22 months, unless the
29 division establishes an exception to the requirement to seek ¹**[a]**¹
30 termination of parental rights in accordance with section 31 of
31 P.L. , c. (C.)(pending before the Legislature as this bill). Upon
32 filing the petition, the division shall initiate concurrent efforts to
33 identify, recruit, process and approve a qualified family to adopt the
34 child.

35 A petition as provided in this section may be filed by any person or
36 any association or agency, interested in such child[, or by the division
37 in the circumstances set forth in items (c),(d), (e) and (f) hereof] ¹in
38 the circumstances set forth in subsections (a) and (f) of this section¹.
39 The division shall seek to be joined as a party to a petition filed to
40 terminate the parental rights of a child in the care and custody of the
41 division unless the division has established an exception to the
42 requirement to seek termination of parental rights in accordance with
43 section 31 of P.L. , c. (C.)(pending before the Legislature as this
44 bill).

45 (cf: P.L.1997, c.175, s.17)

1 30. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to
2 read as follows:

3 7. a. The division shall initiate a petition to terminate parental
4 rights on the grounds of the "best interests of the child" pursuant to
5 subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
6 following standards are met:

7 (1) The child's safety, health **[and]** or development **[have]** has
8 been or will continue to be endangered by the parental relationship;

9 (2) The parent is unwilling or unable to eliminate the harm facing
10 the child or is unable or unwilling to provide a safe and stable home
11 for the child and the delay of permanent placement will add to the
12 harm. Such harm may include evidence that separating the child from
13 his foster parents would cause serious and enduring emotional or
14 psychological harm to the child;

15 (3) The division has made **[diligent]** reasonable efforts to provide
16 services to help the parent correct the circumstances which led to the
17 child's placement outside the home and the court has considered
18 alternatives to termination of parental rights; and

19 (4) Termination of parental rights will not do more harm than
20 good.

21 b. The division shall initiate a petition to terminate parental rights
22 on the ground that the "parent has abandoned the child" pursuant to
23 subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
24 following standards are met:

25 (1) a court finds that for a period of six or more months:

26 (a) the parent, although able to have contact, has had no contact
27 with the child, the child's foster parent or the division; and

28 (b) the parent's whereabouts are unknown, notwithstanding the
29 division's **[diligent]** reasonable efforts to locate the parent; or

30 (2) where the identities of the parents are unknown and the
31 division has exhausted all reasonable methods of attempting
32 identification, the division may immediately file for termination of
33 parental rights upon the completion of the law enforcement
34 investigation.

35 c. As used in this section and in section 15 of P.L.1951, c.138
36 (C.30:4C-15) "**[diligent]** reasonable efforts" mean **[reasonable]**
37 attempts by an agency authorized by the division to assist the parents
38 in remedying the circumstances and conditions that led to the
39 placement of the child and in reinforcing the family structure,
40 including, but not limited to:

41 (1) consultation and cooperation with the parent in developing a
42 plan for appropriate services;

43 (2) providing services that have been agreed upon, to the family,
44 in order to further the goal of family reunification;

45 (3) informing the parent at appropriate intervals of the child's
46 progress, development and health; and

1 (4) facilitating appropriate visitation.

2 d. The division shall not be required to provide "[diligent]
3 reasonable efforts" as defined in subsection c. of this section prior to
4 filing a petition for the termination of parental rights [pursuant to (f)
5 of section 15 of P.L.1951, c.138 (C.30:4C-15)] if an exception to the
6 requirement to provide reasonable efforts to reunify the family has
7 been established pursuant to section 25 of P.L. , c.
8 (C.)(pending before the Legislature as this bill).
9 (cf: P.L.1997, c.175, s.18)

10

11 31. (New section) The Division of Youth and Family Services
12 shall not be required to file a petition seeking the termination of
13 parental rights if:

14 a. The child is being cared for by a relative and a permanent plan
15 for the child can be achieved without termination of parental rights;

16 b. The division has documented in the case plan, which shall be
17 available for court review, a compelling reason for determining that
18 filing the petition would not be in the best interests of the child; or

19 c. The division is required to provide reasonable efforts to reunify
20 the family but the division has not provided to the family of the child,
21 consistent with the time period in the case plan, such services as the
22 division deems necessary for the safe return of the child to his home.

23

24 32. Section 20 of P.L.1951, c.138 (C.30:4C-20) is amended to
25 read as follows:

26 20. If upon the completion of such hearing the court is satisfied
27 that the best interests of such child require that he be placed under
28 proper guardianship, such court shall make an order terminating
29 parental rights and committing such child to the guardianship and
30 control of the [Bureau of Childrens] Division of Youth and Family
31 Services, and such child shall thereupon become the legal ward of
32 [such bureau, and such bureau] the division, which shall be the legal
33 guardian of such child for all purposes, including the placement of
34 such child for adoption.

35 If the court shall have made an interlocutory order as provided in
36 section 17 [hereof] of P.L.1951, c.138 (C.30:4C-17), but at the final
37 hearing a further order of commitment shall not be made as provided
38 in this section, the [Bureau of Childrens] Division of Youth and
39 Family Services shall return the child forthwith to the parent or
40 parents, guardian or person having had custody of the child
41 immediately prior to the filing of the petition; provided, however, that
42 if [such] the return does not ensure the safety of the child or if the
43 parent or parents, guardian or person having had custody cannot be
44 found or, for other reason satisfactory to the court, is unable to accept
45 the child, the [Bureau of Childrens Services] division, upon order of

1 the court, may place the child with such other person or persons who,
2 at the time of final hearing, expressed willingness to accept the child,
3 but such order shall in no wise be construed as a grant of custody or
4 guardianship. In all such cases the interlocutory order shall continue
5 in full force and effect until the **[Bureau of Childrens Services]**
6 division shall have made disposition of the child as provided herein or
7 as otherwise provided by law, but in no case for a period longer than
8 30 days after the final hearing.
9 (cf: P.L.1962, c.197, s.21)

10

11 33. Section 2 of P.L.1992, c.139 (C.30:4C-26.11) shall be
12 amended to read as follows:

13 2. The Legislature finds and declares that:

14 a. It is in the public interest, whereby the safety of the child is of
15 paramount concern, to afford every child placed outside of his home
16 by the Division of Youth and Family Services the opportunity for
17 eventual return to his home or placement in an alternative permanent
18 home;

19 b. If it has been determined that reuniting the child with the
20 **[natural]** child's parents or placing the child for adoption will not
21 serve a child's best interest, the child's best interest may be served
22 through a transfer to long-term foster care custody with the child's
23 foster parent; and

24 c. It is the purpose of this act to establish conditions and
25 procedures for the transfer of a child to long-term foster care custody.
26 (cf: P.L.1992, c.139, s.2)

27

28 34. Section 1 of P.L.1985, c.396 (C.30:4C-26.8) is amended to
29 read as follows:

30 1. a. A person, in addition to meeting other requirements as may
31 be established by the Department of Human Services, shall become a
32 foster parent or eligible to adopt a child only upon the completion of
33 an investigation to ascertain if there is a State or federal record of
34 criminal history for the prospective foster or adoptive parent or any
35 other adult residing in the prospective parent's home. The
36 investigation shall be conducted by the Division of State Police in the
37 Department of Law and Public Safety and shall include an examination
38 of its own files and the obtaining of a similar examination by federal
39 authorities.

40 b. If the prospective foster or adoptive parent or any adult residing
41 in the prospective parent's home has a record of criminal history, the
42 Department of Human Services shall review the record with respect to
43 the type and date of the criminal offense and make a determination as
44 to the suitability of the person to become a foster parent or adoptive
45 parent or the suitability of placing a child in that person's home, as the
46 case may be.

1 c. For the purposes of this section, a conviction for one of the
2 offenses enumerated in subsections d. or e. of this section has occurred
3 if the person has been convicted under the laws of this State or any
4 other state or jurisdiction for an offense that is substantially equivalent
5 to the offenses enumerated in these subsections.

6 d. A person shall be disqualified from being a foster parent or shall
7 not be eligible to adopt a child if that person or any adult residing in
8 that person's household ever committed a crime which resulted in a
9 conviction for:

10 (1) a crime against a child, including endangering the welfare of
11 a child and child pornography pursuant to N.J.S.2C:24-4; or child
12 abuse, neglect, or abandonment pursuant to R.S.9:6-3;

13 (2) murder pursuant to N.J.S. 2C:11-3 or manslaughter pursuant
14 to N.J.S.2C:11-4;

15 (3) aggravated assault which would constitute a crime of the
16 second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

17 (4) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

18 (5) kidnapping and related offenses including criminal restraint;
19 false imprisonment; interference with custody; criminal coercion; or
20 enticing a child into a motor vehicle, structure, or isolated area
21 pursuant to N.J.S.2C:13-1 through 2C:13-6;

22 (6) sexual assault, criminal sexual contact or lewdness pursuant to
23 N.J.S.2C:14-2 through N.J.S.2C:14-4;

24 (7) robbery which would constitute a crime of the first degree
25 pursuant to N.J.S.2C:15-1;

26 (8) burglary which would constitute a crime of the second degree
27 pursuant to N.J.S.2C:18-2;

28 (9) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17
29 et seq.);

30 (10) endangering the welfare of an incompetent person pursuant
31 to N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled
32 person pursuant to N.J.S.2C:24-8;

33 (11) terrorist threats pursuant to N.J.S.2C:12-3;

34 (12) arson pursuant to N.J.S.2C:17-1, or causing or risking
35 widespread injury or damage which would constitute a crime of the
36 second degree pursuant to N.J.S.2C:17-2; or

37 (13) an attempt or conspiracy to commit an offense listed in
38 paragraphs (1) through (12) of this subsection.

39 e. A person shall be disqualified from being a foster parent or shall
40 not be eligible to adopt a child if that person or any adult residing in
41 that person's household was convicted of one of the following crimes
42 and the date of release from confinement occurred during the
43 preceding five years:

44 (1) simple assault pursuant to subsection a. of N.J.S.2C:12-1;

45 (2) aggravated assault which would constitute a a crime of the
46 fourth degree pursuant to subsection b. of N.J.S.2C:12-1;

1 (3) a drug-related crime pursuant to P.L.1987, c.106 (C.2C:35-1
2 et seq.);

3 (4) robbery which would constitute a crime of the second degree
4 pursuant to N.J.S.2C:15-1;

5 (5) burglary which would constitute a crime of the third degree
6 pursuant to N.J.S.2C:18-2; or

7 (6) an attempt or conspiracy to commit an offense listed in
8 paragraphs (1) through (5) of this subsection.

9 For the purposes of this subsection, the “date of release from
10 confinement” means the date of termination of court-ordered
11 supervision through probation, parole, or residence in a correctional
12 facility, whichever date occurs last.

13 (cf: P.L.1985, c.396, s.1)

14

15 35. Section 1 of P.L.1989, c.21 (C.30:4C-26.9) is amended to
16 read as follows:

17 1. The Department of Human Services may grant **[provisional]**
18 approval to a prospective foster **[or adoptive]** parent for a period not
19 to exceed six months, upon completion of the State portion of the
20 criminal history record investigation required pursuant to P.L.1985,
21 c.396 (C.30:4C-26.8), pending completion and review of the federal
22 portion of the criminal history record investigation required pursuant
23 to that act, if (1) the State portion of the criminal history record
24 investigation indicates no information which would disqualify the
25 person, (2) the prospective foster **[or adoptive]** parent and any adult
26 residing in the prospective foster parent's home submit a sworn
27 statement to the Department of Human Services attesting that the
28 person does not have a record of criminal history which would
29 disqualify the person and (3) there is substantial compliance with
30 department standards for foster homes indicating there is no risk to a
31 child's health or safety.

32 (cf: P.L.1989, c.21, s.1)

33

34 36. Section 4 of P.L.1992, c.139 (C.30:4C-26.13) shall be
35 amended to read as follows:

36 4. The division may file a petition seeking long-term foster care
37 custody of a child in the **[family part]** Family Part of the Chancery
38 Division of the Superior Court. The petition shall be verified and shall
39 show that:

40 a. The child has reached the age of 12, or there are unique
41 circumstances which make the age of the child irrelevant;

42 b. **[Efforts]** Unless an exception to make reasonable efforts to
43 reunify the family of the child has been established in accordance with
44 section 25 of P.L. , c. (C.)(pending before the Legislature as this
45 bill), reasonable efforts have been made for at least one year by the
46 division to reunite the child with the child's **[biological]** family and it

1 has been documented in the case record that the attempts have been
2 unsuccessful;

3 c. **[Diligent] Reasonable** efforts have been made by the division
4 to place the child for adoption for at least one year and it has been
5 documented in the case record that the attempts have been
6 unsuccessful, or the division has made the determination that adoption
7 is not **[in the child's best interest]** ¹ **[appropriate] in the child's best**
8 **interests**¹; and

9 d. The child has resided as a foster child in the home of the
10 person seeking long-term foster care custody for at least one year and
11 wishes to remain with his foster parent.

12 The division shall attach to the long-term foster care custody
13 petition a written agreement signed by the child and the child's foster
14 parent and, where in concurrence, the child's parent, which delineates
15 the conditions of the custody arrangement. The consent of the child's
16 parent is desirable, but not necessary if all other conditions have been
17 met.

18 (cf: P.L.1992, c.139, s.4)

19

20 37. Section 2 of P.L.1977, c.424 (C.30:4C-51) is amended to read
21 as follows:

22 2. The Legislature declares that it is in the public interest, whereby
23 the safety of children shall be of paramount concern, to afford every
24 child placed outside his home by the Division of Youth and Family
25 Services with the opportunity for eventual return to his home or
26 placement in an alternative permanent home; that it is the obligation
27 of the State to promote this end through effective planning and
28 regular review of each child's placement; and that it is the purpose of
29 this act to establish procedures for both administrative and judicial
30 review of each child's placement in order to ensure that such
31 placement ensures the safety and health and serves the best interest of
32 the child.

33 (cf: P.L.1977, c.424, s.2)

34

35 38. Section 3 of P.L.1977, c.424 (C.30:4C-52) is amended to read
36 as follows:

37 3. As used in this act, unless the context indicates otherwise:

38 a. "Child" means any person less than 18 years of age;

39 b. "Child placed outside his home" means a child under the care,
40 custody or guardianship of the division, through voluntary agreement
41 or court order, who resides in a foster home, group home, residential
42 treatment facility, shelter for the care of abused or neglected children
43 or juveniles considered as juvenile-family crisis cases, or independent
44 living arrangement operated by or approved for payment by the
45 division, or a child who has been placed by the division in the home of
46 a person who is not related to the child and does not receive any

1 payment for the care of the child from the division, or a child placed
2 by the court in juvenile-family crisis cases pursuant to P.L.1982, c.77
3 (C.2A:4A-20 et seq.), but does not include a child placed by the court
4 in the home of a person related to the child who does not receive any
5 payment from the division for the care of the child;

6 c. "County of supervision" means the county in which the division
7 has established responsibility for supervision of the child;

8 d. "Division" means the Division of Youth and Family Services in
9 the Department of Human Services;

10 e. "Temporary caretaker" means a foster parent as defined in
11 section 1 of P.L.1962, c.136 (C.30:4C-26.4) or a director of a group
12 home or residential treatment facility;

13 f. "Designated agency" means an agency designated by the court
14 pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.) to develop a family
15 services plan.

16 (cf: P.L.1987, c.252, s.1)

17

18 39. Section 4 of P.L.1977, c.424 (C.30:4C-53) is amended to read
19 as follows:

20 4. Within five calendar days after the placement of a child outside
21 his home pursuant to a voluntary agreement, the division or the
22 designated agency, as the case may be, shall file notice of such
23 placement with the **[family part]** Family Part of the Chancery Division
24 of the Superior Court in the child's county of supervision. Such notice
25 shall be in the form of a petition encaptioned "In the matter of
26, a minor" and shall include the date and type of placement
27 and the reasons for such placement, which shall include the specific
28 efforts to prevent the placement or the specific situation which the
29 division has documented to establish an exception to the requirement
30 to make reasonable efforts to prevent placement in accordance with
31 section 24 of P.L. , c. (C.)(pending before the Legislature as
32 this bill). Such filing shall establish a continuing jurisdiction of the
33 court over the placement of the child.

34 The division shall also file immediate notice with the court of any
35 change in placement and of the permanent placement or return home
36 of the child. The court's jurisdiction shall cease upon receipt of such
37 notification of the return home or alternative permanent placement of
38 the child, except as permitted pursuant to subsection e. of section 8 of
39 P.L.1984, c.85 (C.30:4C-61.1).

40 (cf: P.L.1987, c.252, s.2)

41

42 40. Section 1 of P.L.1991 c.448 (C.30:4C-53.1) is amended to
43 read as follows:

44 1. The Legislature finds and declares that it is in the public
45 interest, whereby the safety of children shall be of paramount concern,
46 to afford every child placed outside his home by the division with

1 permanency through return to his own home, if the child can be
2 returned home without endangering the child's health or safety;
3 through adoption, if family reunification is not possible; or through an
4 alternative permanent placement, if termination of parental rights is not
5 appropriate:

6 a. Due to the severity of health and social problems such as AIDS,
7 drug abuse and homelessness, the Division of Youth and Family
8 Services in the Department of Human Services often works with
9 families over a period of many years, and the children of these families
10 often spend a majority of their young lives in foster care; and

11 b. Research has shown that the longer children remain in the foster
12 care system, the greater number of placements they experience. As a
13 result of these multiple placements, from ¹**[natural] birth**¹ family to
14 foster home and from one foster home to another foster home,
15 children develop emotional and psychological problems, making it
16 more difficult for them to develop a positive self-image; and

17 c. For the majority of these children, placement in residential
18 treatment facilities becomes the only viable option left to the division
19 because it is more difficult for the division to find adoptive homes for
20 them when, and if, adoption becomes a case goal; and

21 d. The obligation of the State to recognize and protect the rights
22 of children in the child welfare system should be fulfilled in the context
23 of a clear and consistent policy which limits the repeated placement of
24 children in foster care and promotes the eventual placement of these
25 children in stable and safe permanent homes.

26 (cf: P.L.1991, c.448, s.1)

27

28 41. Section 3 of P.L.1991 c.448 (C.30:4C-53.3) is amended to
29 read as follows:

30 3. a. The division shall not treat a child's repeated placement into
31 foster care as an initial placement. The child's revised placement plan,
32 updated at the time of the child's repeated placement, shall summarize
33 the child's prior history with the division regarding previous
34 placements, the findings of the child placement review board, as well
35 as a copy of the court order for the removal of the child from the
36 custody of his parents or guardian. The revised placement plan shall
37 be used by the division when preparing the child's repeated placement
38 plan pursuant to this section.

39 b. Whenever a child is placed again into foster care, the division
40 shall prepare a repeated placement plan which shall ensure the **[goal]**
41 goals of safety and permanency through the safe return of the child to
42 his parents or, if this is not possible, through the State's assumption of
43 guardianship for the purpose of finding the child an adoptive home or,
44 if termination of parental rights is not appropriate, through an
45 alternative permanent placement. The plan shall be prepared within
46 30 days after the child's repeated placement and submitted to the

1 court. The plan shall be valid for 12 months after the date the child
2 was placed again into foster care.

3 c. The repeated placement plan shall include, but not be limited to:

4 (1) The specific reasons for the repeated placement of the child,
5 including a description of the problems or conditions in the home of
6 the parents or guardian which necessitated the child's removal, and a
7 summary of the efforts made by the division to prevent the child's
8 repeated placement or the exception to the requirement to make
9 reasonable efforts to prevent placement in accordance with section 24
10 of P.L. , c. (C.)(pending before the Legislature as this bill);

11 (2) The specific actions to be taken by the child's parents or
12 guardian to eliminate the identified problems or conditions which were
13 the basis of the child's repeated placement into foster care, which
14 actions shall be taken within a specific time limit agreed upon by the
15 child's caseworker and the parents or guardian;

16 (3) The social services to be provided to the **【child's parents or**
17 **guardian, the】** child and the foster parents during the period the child
18 is in foster care and the social services to be provided to the child's
19 parent or guardian, or the exception to the requirement to make
20 reasonable efforts toward family reunification in accordance with
21 section 25 of P.L. , c. (C.)(pending before the Legislature as
22 this bill), and the goal for the child and anticipated date for achieving
23 the goal. The purpose of the supportive services shall be to promote
24 the child's best interest and to facilitate his safe return to his
25 ¹**【natural】**¹ home, placement for adoption or an alternative permanent
26 placement. Services to facilitate adoption or an alternative permanent
27 placement may be provided concurrently with services to reunify the
28 child with the parent or guardian;

29 (4) An assessment of the division's ability to obtain a child's birth
30 certificate, locate the child's parents for future contact and have access
31 to the child's extended family, in the event that **【an adoption】** a plan
32 for adoption or an alternative permanent placement becomes
33 necessary; **【and】**

34 (5) A stipulation that the child be placed with his prior foster
35 family, if possible and if in the child's best interest, to provide the child
36 with continuity and stability in his living environment; and

37 (6) A permanency plan for the child and the reasonable efforts of
38 the division to achieve that plan, if: the division has established an
39 exception to the requirement to provide reasonable efforts toward
40 family reunification in accordance with section 25 of P.L. , c.
41 (C.)(pending before the Legislature as this bill); or the child has,
42 in any period of 22 consecutive months, been in any placement or
43 placements for a total of 12 months.

44 The permanency plan shall include whether and, if applicable,
45 when:

46 (a) the child will be returned to the parent or guardian, if the child

1 can be returned home without endangering the child's health or safety;

2 (b) the division has determined that family reunification is not
3 possible, and the division shall file a petition for the termination of
4 parental rights for the purpose of adoption; or

5 (c) the division has determined that termination of parental rights
6 is not appropriate in accordance with section 31 of P.L. , c.
7 (C.)(pending before the Legislature as this bill), and the child shall
8 be placed in an alternative permanent placement.

9 (cf: P.L.1991, c.448, s.3)

10

11 42. Section 4 of P.L.1991, c.448 (C.30:4C-53.4) is amended to
12 read as follows:

13 4. If the division is required to provide reasonable efforts toward
14 family reunification, and if the parents or guardian of the child are
15 unwilling or unable to remedy the problems or conditions outlined in
16 the child's repeated placement plan within the specified time limit
17 【and】 despite 【diligent】 reasonable efforts by the division, and if the
18 permanency plan for the child requires the termination of parental
19 rights, the division shall file a petition 【for guardianship】 to terminate
20 the rights of the child's parents with the family part of the Chancery
21 Division of the Superior Court pursuant to section 15 of P.L.1951,
22 c.138 (C.30:4C-15). The division shall concurrently provide services
23 to facilitate the child's placement into an adoptive home.

24 The court shall set a hearing, with notice to all parties, on the
25 guardianship petition within 45 days from the date the petition was
26 filed.

27 (cf: P.L.1991, c.448, s.4)

28

29 43. Section 5 of P.L.1977, c.424 (C.30:4C-54) is amended to read
30 as follows:

31 5. The court shall, within 15 days following receipt of the notice
32 of the initial placement pursuant to a voluntary agreement, determine,
33 based solely upon the petition and other affidavits and written
34 materials submitted to the court, whether or not reasonable efforts
35 have been made to prevent the placement and whether or not the
36 continuation of the child in his home would be contrary to the welfare
37 of the child, and either approve the placement or order the return of
38 the child to his home, except that, lack of reasonable efforts to prevent
39 placement shall not be the sole basis for the court's order of a return
40 of the child to his home.

41 If the division has documented an exception to the requirement to
42 provide reasonable efforts towards family reunification, the court shall
43 make a finding of whether reasonable efforts are required in
44 accordance with section 25 of P.L. , c. (C.) (pending before
45 the Legislature as this bill). The child's health, safety and need for
46 permanency shall be of paramount concern to the court when it makes

1 its finding.

2 The court also may require the submission of supplementary
3 material or schedule a summary hearing if:

4 a. The court has before it conflicting statements of material fact;

5 b. The court determines that it is in the best interest of the child;

6 or

7 c. The child's parents or legal guardian requests the hearing.

8 The court shall provide written notice to the parties involved in the
9 hearing at least five days prior to the hearing. The court shall provide
10 written notice of the date, time and place of such hearing to the
11 parents or legal guardian of the child, the child or the child's counsel,
12 the child's temporary caretaker, the division, and any other party the
13 court deems appropriate. If the child's caretaker is a foster parent,
14 preadoptive parent or relative, the caretaker shall receive written
15 notice of and an opportunity to be heard at the hearing, but the
16 caretaker shall not be made a party to the hearing solely on the basis
17 of the notice and opportunity to be heard.

18 (cf: P.L.1987, c.252, s.3)

19

20 44. Section 6 of P.L.1977, c.424 (C.30:4C-55) is amended to read
21 as follows:

22 6. The division shall prepare and revise, when necessary, in
23 consultation with the child's parents or legal guardian and, when
24 appropriate, the child, a placement plan for each child placed outside
25 his home. The placement plan shall include:

26 a. A statement of the goal for the permanent placement or return
27 home of the child and anticipated date that the goal will be achieved;

28 b. The intermediate objectives relating to the attainment of the
29 goal; **[and]**

30 c. A statement of the duties and responsibilities of the division, the
31 parents or legal guardian and the temporary caretaker, including the
32 services to be provided by the division to the child**],** the parents or
33 legal guardian,**]** and to the temporary caretaker

34 d. A statement of the services to be provided to the parent or legal
35 guardian or an exception to the requirement to provide reasonable
36 efforts toward family reunification in accordance with section 25 of
37 P.L. _____, c. _____)(pending before the Legislature as this bill).

38 Services to facilitate adoption or an alternative permanent placement
39 may be provided concurrently with services to reunify the child with
40 the parent or guardian; and

41 e. A permanency plan for the child and the division's reasonable
42 efforts to achieve that plan, if: the division has established an
43 exception to the requirement to provide reasonable efforts toward
44 family reunification in accordance with section 25 of P.L. _____, c.
45 (C. _____)(pending before the Legislature as this bill); or the child has
46 been in placement for 12 months.

1 The permanency plan shall include whether and, if applicable,
2 when:

3 (a) the child shall be returned to the parent or guardian, if the
4 child can be returned home without endangering the child's health or
5 safety;

6 (b) the division has determined that family reunification is not
7 possible, and the division shall file a petition for the termination of
8 parental rights for the purpose of adoption; or

9 (c) the division has determined that termination of parental rights
10 is not appropriate in accordance with section 31 of P.L. , c.
11 (C.) (pending before the Legislature as this bill) and the child
12 shall be placed in an alternative permanent placement.

13 (cf: P.L.1977, c.424, s.6)

14

15 45. Section 9 of P.L.1977, c.424 (C.30:4C-58) is amended to read
16 as follows:

17 9. Each board shall act on behalf of the ¹ **【family part】 Family**
18 **Part¹** of the Chancery Division of the Superior Court in reviewing the
19 case of every child placed outside his home pursuant to a voluntary
20 agreement, to determine whether the best interests and safety of the
21 child are being served by such placement.

22 Each board shall also act on behalf of the ¹ **【family part】 Family**
23 **Part¹** of the Chancery Division of the Superior Court in reviewing the
24 case of each child placed outside his home by the division in
25 accordance with a court order pursuant to P.L.1974, c.119
26 (C.9:6-8.21 et seq.), section 12 of P.L.1951, c.138 (C.30:4C-12),
27 section 24 of P.L.1982, c.77 (C.2A:4A-43) or section 25 of P.L.1982,
28 c.77 (C.2A:4A-44). The division or designated agency shall submit to
29 the board within 30 days of a child's placement, a placement plan
30 prepared in accordance with the provisions of P.L.1977, c.424
31 (C.30:4C-50 et seq.).

32 A board shall initiate a review of a placement pursuant to a
33 voluntary agreement or in accordance with a court order within 45
34 days following the initial or repeated placement and shall complete the
35 review within 15 days thereafter. A periodic review shall take place at
36 least every 12 months thereafter.

37 The board may schedule additional reviews on its own motion,
38 upon the request of any person listed in section 5 of P.L.1977, c.424
39 (C.30:4C-54) or upon an order of the court.

40 Notwithstanding the provisions of section 3 of P.L.1977, c.424
41 (C.30:4C-52) to the contrary, if a child placed outside his home attains
42 18 years of age or older and his out of home placement costs are being
43 paid by the division, the board shall continue to conduct periodic
44 reviews until the division terminates supervision.

45 All such reviews shall include, but not necessarily be limited to, the
46 consideration and evaluation of such matters as:

- 1 a. The appropriateness of the goal and objectives of the placement
- 2 plan and anticipated date that the goal will be achieved;
- 3 b. The appropriateness of the services provided to the child[, the
- 4 parents or legal guardian] and to the temporary caretaker;
- 5 c. Whether the child has siblings who are also placed outside of
- 6 their home;
- 7 d. Whether the wishes of the child were considered regarding
- 8 placement and development of the placement plan, when appropriate;
- 9 e. Whether the division, the parents or legal guardian and the
- 10 temporary caretaker are fulfilling their respective responsibilities in
- 11 accordance with the placement plan;
- 12 f. Whether the parents or legal guardian have been afforded the
- 13 opportunity and been encouraged to participate in a program of
- 14 regular visitation with the child;
- 15 g. Whether there are obstacles which hinder or prevent the
- 16 attainment of the placement plan objectives and goal; [and]
- 17 h. The circumstances surrounding the placement;
- 18 i. The appropriateness of the services provided to the parent or
- 19 legal guardian or the circumstances which do not require the division
- 20 to make reasonable efforts toward family reunification in accordance
- 21 with section 25 of P.L. , c. (C.)(pending before the Legislature
- 22 as this bill); and
- 23 j. The appropriateness of the division's permanency plan and the
- 24 division's reasonable efforts to achieve that plan, if an exception to the
- 25 requirement to provide reasonable efforts toward family reunification
- 26 has been established in accordance with section 25 of P.L. , c.
- 27 (C.)(pending before the Legislature as this bill) or the child has
- 28 been in placement for 12 months.

29 In the case of a child in placement outside of his home on the
30 effective date of this act, the first review shall be completed as soon
31 as possible, but not later than 12 months following such effective date.
32 (cf: P.L.1987, c.252, s.5)

33
34 46. Section 10 P.L.1977, c.424 (C.30:4C-59) is amended to read
35 as follows:

36 10. Each board shall provide written notice of the date, time and
37 place of each review at least 15 days in advance to the following, each
38 of whom shall be entitled to attend the review and to submit
39 information in writing to the board:

- 40 a. The division or agency;
- 41 b. The child;
- 42 c. The parents including a non-custodial parent or legal guardian;
- 43 d. The temporary caretaker;
- 44 e. Any other person or agency whom the board determines has an
- 45 interest in or information relating to the welfare of the child; [and]
- 46 f. The counsel for a parent, child or other interested party who has

1 provided or is providing representation in the case before the board;
2 and

3 If the child's caretaker is a foster parent, preadoptive parent or
4 relative, the caretaker shall receive written notice of and an
5 opportunity to be heard at the review, but the caretaker shall not be
6 made a party to the review solely on the basis of the notice and
7 opportunity to be heard.

8 The board may determine who may be in attendance at any
9 particular portion of its meeting. Nothing herein shall be interpreted
10 to exclude judges and court support staff from attending review board
11 meetings.

12 The written notice shall inform the person of his right to attend the
13 review and to submit written information and shall be prepared in a
14 manner which will encourage the person's attendance at the review.

15 Notice to the child may be waived by the court on a case by case
16 basis either on its own motion or on the petition of any of the above
17 persons in cases where the court determines that notice would be
18 harmful to the child. A waiver of notice to the child shall not waive the
19 notice requirement to counsel for the child or other representatives of
20 the child.

21 The review board may seek information from any agency which has
22 been involved with the child, parents or legal guardian or temporary
23 caretaker. If the agency fails to provide the requested information, the
24 court may, upon the request of the board, issue a subpoena to the
25 agency for the information.

26 The board shall conduct a review and make recommendations
27 based upon the written materials; provided, however, that the board
28 shall afford any party or person entitled to notice pursuant to this
29 section a reasonable opportunity to appear and to present his views
30 and recommendations. Upon the request of the board, the ¹ **【family part】** Family Part¹ of the Chancery Division of the Superior Court may
31 subpoena a person to attend the review board meeting.

32 A designated agency shall provide relevant and necessary
33 information to the board regarding a child who is reviewed by the
34 board.

35 (cf: P.L.1987, c.252, s.7)

36

37
38 47. Section 11 of P.L.1977, c.424 (C.30:4C-60) is amended to
39 read as follows:

40 11. Within 10 days after the completion of such review, the board
41 shall submit a written report to the ¹ **【family part】** Family Part¹ of the
42 Chancery Division of the Superior Court and the division. Such report
43 shall offer one of the following findings, stating the specific reasons
44 therefor:

45 a. That continued placement of the child outside of the home is
46 not in the child's best interest and the child should be returned home

1 within two weeks and that the division or designated agency, as
2 appropriate, shall provide reasonable and available services which are
3 necessary to implement the return home;

4 b. That continued placement outside of the home is in the child's
5 best interest on a temporary basis until the long-term goal is achieved,
6 which long-term goal is:

7 (1) Return to the child's parents or legal guardian,

8 (2) Adoption,

9 (3) Permanent placement with a relative,

10 (4) Long-term foster care custody,

11 (5) Independent living, **[or]**

12 (6) Institutionalization, or

13 (7) An alternative permanent placement;

14 c. That continued placement outside of the home on a temporary
15 basis is in the child's best interest, but that there is not sufficient
16 information for the board to make a recommendation, therefore, the
17 board requests the court to order the division or designated agency, as
18 appropriate, to provide the needed information within two weeks of
19 the court order.

20 d. (Deleted by amendment, P.L.1987, c.252.)

21 In addition to the finding, the board shall state in its report if the
22 placement plan satisfies the criteria provided in section 9 of P.L.1977,
23 c.424 (C.30:4C-58) and if it does not, that the placement plan should
24 be modified or a new plan should be developed.

25 When making its finding pursuant to this section, the child's health,
26 safety and need for permanency shall be of paramount concern to the
27 board. The board shall give priority to the goal of return to the child's
28 parents or legal guardian unless that goal is not in the best interest of
29 the child. If the return has not been achieved within one year, and
30 after considering the family's efforts**[,]**; the division's or designated
31 agency's provision of reasonable and available services, if reasonable
32 efforts are required; or other relevant factors**[,]**; the board shall
33 recommend another permanent plan for the child **[which shall include**
34 permanent placement with a relative through adoption or legal custody
35 or adoption by a non-relative. But, if return to a child's parents or legal
36 guardian, permanent placement with a relative or adoption is not
37 possible or is not in the best interest of the child, the board shall
38 recommend an alternative long-term plan for the child**].**

39 In addition to the finding, the board shall state the reasons and
40 additional factors it deems appropriate to explain its conclusions.
41 When any change in the plan or situation of the child is recommended,
42 the board shall state its specific recommendations and the factual basis
43 therefor.

44 In accordance with section 8 of P.L.1985, c.85 (C.30:4C-61.1), the
45 board may recommend that the division shall not return a child to his
46 home prior to a review by the board and an order of the court.

1 Within 10 days of the completion of its review, the board shall
2 provide to those persons entitled to notice under section 10 of
3 P.L.1977, c.424 (C.30:4C-59) the specific finding made pursuant to
4 this section, unless the board recommends that the finding shall not be
5 provided to specific individuals as provided in this paragraph. The
6 court may waive notice of findings to the child on a case-by-case basis
7 on its own motion or on the petition of a person listed in section 10 of
8 P.L.1977, c.424 (C.30:4C-59) in cases where the court determines that
9 the nature of the findings would be harmful to the child, or if notice to
10 the child of review was waived. The court may waive notice of
11 findings to persons included in subsection e. of section 10 of P.L.1977,
12 c.424 (C.30:4C-59) on the recommendation of the board or on the
13 petition of other persons entitled to notice.

14 (cf: P.L.1987, c.252, s.8)

15

16 48. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to
17 read as follows:

18 12. a. Upon review of the board's report, the ¹['family
19 part'] Family Part¹ of the Chancery Division of the Superior Court
20 shall issue an order concerning the child's placement which it deems
21 will best serve the health, safety and interests of the child. The court
22 shall issue the order within 21 calendar days of the court's receipt of
23 the board's report unless the court schedules a summary hearing. The
24 court shall either:

25 (1) Order the return of the child to his parents or legal guardian
26 within two weeks and order the division or designated agency, as
27 appropriate, to provide any reasonable and available services which are
28 necessary to implement the return home;

29 (2) Order continued placement on a temporary basis until the
30 long-term goal is achieved; or

31 (3) Order continued placement on a temporary basis but that the
32 division shall provide further information within two weeks to the
33 court, which information shall be reviewed by the board within 30 days
34 of its receipt.

35 (4) (Deleted by amendment, P.L.1987, c.252.)

36 In accordance with section 8 of P.L.1984, c.85 (C.30:4C-61.1), the
37 court may order that the division shall not return a child to his home
38 prior to review by the board and an order of the court.

39 In addition, if the placement plan does not satisfy the criteria of
40 section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that
41 the placement plan be modified or that a new plan be developed within
42 30 days.

43 b. In reviewing the report, the court may request that, where
44 available, any written or oral information submitted to the board be
45 provided to the court. The court shall make a determination based
46 upon the report and any other information before it; provided,

1 however, that the court may schedule a summary hearing if:

2 (1) The court has before it conflicting statements of material fact
3 which it cannot resolve without a hearing; or

4 (2) A party entitled to participate in the proceedings requests a
5 hearing; or

6 (3) The court concludes that the interests of justice require that a
7 hearing be held[, the court may schedule a summary hearing]; or

8 (4) The board recommends that a hearing be held due to lack of
9 compliance with the placement plan, including achievement of the
10 permanent placement identified in the permanency plan¹; or

11 (5) The division has documented an exception to the requirement
12 to provide reasonable efforts toward family reunification pursuant to
13 section 25 of P.L. , c. (C.)(pending before the Legislature as this
14 bill); or

15 (6) If the review is to serve as a permanency hearing¹.

16 c. Notice of such hearing, including a statement of the dispositional
17 alternatives of the court, shall be provided at least 30 days in advance,
18 unless the court finds that it is in the best interest of the child to
19 provide less notice in order to conduct the hearing sooner. Notice
20 shall be provided to the following persons unless the court determines
21 it is not in the best interests of the child:

22 (1) The division;

23 (2) The child;

24 (3) The child's parents including a non-custodial parent or legal
25 guardian;

26 (4) The review board;

27 (5) The temporary caretaker; **[and]**

28 (6) The counsel for any parent, child or other interested party who
29 has provided or is providing representation in the case before the
30 board; and

31 (7) If the child's caretaker is a foster parent, preadoptive parent
32 or relative, the caretaker shall receive written notice of and an
33 opportunity to be heard at the hearing, but the caretaker shall not be
34 made a party to the hearing solely on the basis of the notice and
35 opportunity to be heard.

36 The court may also request or order additional information from
37 any other persons or agencies which the court determines have an
38 interest in or information relating to the welfare of the child.

39 The court shall hold the hearing within 60 days of receipt of the
40 board's report and shall issue its order within 15 days of the hearing.

41 d. The court shall send a copy of its order concerning the child's
42 placement to all persons listed in subsection c. of this section, except
43 that, if notice to the child of the board review was waived pursuant to
44 section 10 of P.L.1977, c.424 (C.30:4C-59), the court may waive the
45 requirement of sending a copy of its order to the child.

46 e. Any person who receives a copy of the court order shall comply

1 with the confidentiality requirements established by the Supreme Court
2 for the purposes of this act.

3 (cf: P.L.1987, c.252, s.9)

4

5 49. Section 8 of P.L.1984, c.85 (C.30:4C-61.1) is amended to
6 read as follows:

7 8. a. If the division proposes to return a child home, although the
8 return home is either prohibited by the placement plan approved by the
9 court or expressly contingent upon certain conditions in the placement
10 plan that have not been met, the division shall promptly notify the
11 board and the court in writing.

12 b. The board shall conduct a special review within 15 days of
13 receipt of the notice provided pursuant to subsection a. or f. of this
14 section to consider and evaluate the reasons for the proposed action
15 and determine whether the action ensures the safety and serves the
16 best interests of the child. The board shall provide written notice of
17 the special review pursuant to section 10 of P.L.1977, c.424
18 (C.30:4C-59), except that the 15-day advance notice requirement is
19 waived. The board shall submit its report to the court pursuant to
20 section 11 of P.L.1977, c.424 (C.30:4C-60), except that the board
21 shall submit the report within five days of completion of the special
22 review.

23 c. The court shall review the board's recommendations within
24 10 days and issue an order within five days unless a summary hearing
25 is scheduled concerning the child's placement pursuant to section 12
26 of P.L.1977, c.424 (C.30:4C-61), except that if a party entitled to
27 participate in the proceeding requests a hearing, the court shall hold
28 a summary hearing within 15 days of receipt of the board's report
29 unless the court determines that the request for the hearing is
30 frivolous. The court shall issue its order within five days of the
31 hearing.

32 d. The division shall not return the child home unless the court
33 approves the division's proposed action and orders the return home of
34 the child.

35 e. Notwithstanding the provisions of this section to the contrary,
36 in an emergency situation, the court may waive the special review
37 provisions of this section and approve the return home, upon the
38 request of the division to do so. The request of the division for a
39 court waiver of the special review provisions shall be accompanied by
40 a written statement from the division declaring and finding that the
41 out-of-home placement has been disrupted, that no appropriate
42 alternative placement for the child can be found in the home of a
43 relative, a foster home, group home, shelter, residential care facility or
44 other setting following the change in placement, and that the return
45 home will not endanger the health [and], safety or welfare of the
46 child. The written statement submitted with a request shall also

1 outline the specific reasons for the findings made. The division shall
2 conduct an on-site visit of the home of a child when in an emergency
3 situation the division plans to request of the court a waiver of the
4 special review provisions. A report of the on-site visit shall be
5 included with the request.

6 If the court approves the division's request, the division shall
7 promptly notify the board of the court's approval of the request. The
8 board shall conduct a review of the change in the placement plan
9 within 15 days of the date the child is returned home. The division
10 shall conduct a minimum of two on-site visits to the home of a child
11 returned there in an emergency situation within the first 10 days of the
12 return to ascertain the continued health, safety and welfare of the
13 child. The court, upon granting a request for a waiver, may require
14 additional on-site visits. A detailed written report of each on-site visit
15 to the home of a child returned in an emergency situation shall
16 promptly be submitted to the court and to the child placement review
17 board.

18 Notwithstanding any other provisions of law to the contrary, the
19 court shall retain jurisdiction over the placement of the child after a
20 child has been returned home in an emergency situation for up to six
21 months unless there is a subsequent court hearing or court order.

22 In any case where, following a court order for the implementation
23 of a placement plan, the board determines upon re-review of the case
24 that there has been insufficient effort on the part of the division or any
25 other parties toward implementation of the court ordered plan, the
26 board may petition the court for an order to show cause as to why the
27 plan is not being implemented as ordered.

28 f. If, subsequent to the review and approval of a plan by the court,
29 the division proposes to change the long-term goal in the plan or
30 otherwise substantially modify the plan, it shall notify the court and the
31 board in writing, within five days. The board shall schedule review of
32 the modification. The division shall continue to implement the current
33 court ordered plan until the court orders a modified or new plan.

34 g. Nothing in this section is intended to limit the court's authority
35 to exercise its regular remedies for enforcement of an order.

36 (cf: P.L.1987, c.252, s.10)

37

38 50. (New section) a. A permanency hearing shall be held that
39 provides review and approval by the court of the placement plan:

40 (1) within 30 days after the determination of an exception to the
41 reasonable effort requirement to reunify the child with the parent in
42 accordance with section 25 of P.L. , c. (C.)(pending before
43 the Legislature as this bill); or

44 (2) no later than 12 months after the child has been in placement.

45 b. Written notice of the date, time and place of the permanency
46 hearing shall be provided at least 15 days in advance to the following,

1 each of whom shall be entitled to attend the hearing and to submit
2 written information to the court:

- 3 (1) the division or agency;
- 4 (2) the child;
- 5 (3) the parents, including a non-custodial parent or legal guardian;
- 6 (4) the temporary caretaker;
- 7 (5) any other person or agency whom the court determines has an
8 interest in or information relating to the welfare of the child;
- 9 (6) the counsel for a parent, child or other interested party who
10 has provided or is providing representation in the case before the
11 court; and
- 12 (7) the child's foster parent, preadoptive parent or relative
13 providing care for the child shall also receive written notice of and an
14 opportunity to be heard at the hearing, but the foster parent,
15 preadoptive parent or relative shall not be made a party to the hearing
16 solely on the basis of the notice and opportunity to be heard.

17 c. The hearing shall include, but not necessarily be limited to,
18 consideration and evaluation of information provided by the division
19 and other interested parties regarding such matters as:

- 20 (1) a statement of the goal for the permanent placement or return
21 home of the child and the anticipated date that the goal will be
22 achieved;
- 23 (2) the intermediate objectives relating to the attainment of the
24 goal;
- 25 (3) a statement of the duties and responsibilities of the division,
26 the parents or legal guardian and the temporary caretaker, including
27 the services to be provided by the division to the child and to the
28 temporary caretaker;
- 29 (4) a statement of the services to be provided to the parent or
30 legal guardian or an exception to the requirement to provide
31 reasonable efforts toward family reunification in accordance with
32 section 25 of P.L. , c. (C.)(pending before the Legislature as
33 this bill). Services to facilitate adoption or an alternative permanent
34 placement may be provided concurrently with services to reunify the
35 child with the parent or guardian;
- 36 (5) a permanency plan which includes whether and, if applicable,
37 when:
 - 38 (a) the child shall be returned to the parent or guardian, if the
39 child can be returned home without endangering the child's health or
40 safety;
 - 41 (b) the division has determined that family reunification is not
42 possible and the division shall file a petition for the termination of
43 parental rights for the purpose of adoption; or
 - 44 (c) the division has determined that termination of parental rights
45 is not appropriate in accordance with section 31 of P.L. , c.
46 (C.)(pending before the Legislature as this bill) and the child

1 shall be placed in an alternative permanent placement.

2 d. If the court approves a permanency plan for the child, the court
3 shall make a specific finding of the reasonable efforts made thus far by
4 the division and the appropriateness of the reasonable efforts to
5 achieve the permanency plan.

6

7 51. Section 2 of P.L.1992, c.111 (C.30:4C-67) is amended to read
8 as follows:

9 2. The Legislature finds and declares that it is the intent of the
10 Legislature to preserve the sanctity of the family unit, to the extent
11 that the preservation does not jeopardize the safety of children, which
12 shall be of paramount concern, and to prevent the unnecessary
13 out-of-home placement of emotionally disturbed children, whether in
14 New Jersey or out-of-State.

15 The Legislature further finds and declares that it is in the best
16 interest of children that an individualized, appropriate child and family
17 driven care system be developed so that children with special
18 emotional needs and their families receive safe and appropriate
19 educational, nonresidential, residential and family supportive services.
20 (cf: P.L.1992, c.111, s.2)

21

22 ¹52. The Commissioner Human Services shall report to the
23 Legislature and the Governor within 18 months of the date of
24 enactment of this act on the implementation of the act.¹

25

26 ¹[52.] 53.¹ The Commissioner of Human Services, pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), shall adopt rules and regulations to implement the provisions of
29 this act. ¹The commissioner shall provide an opportunity for public
30 input in the development of the rules and regulations.¹

31

32 ¹54. When a petition is filed under section 15 of P.L.1951, c.138
33 (C.30:4C-15), the court shall provide the parent with notice of his
34 right to retain counsel and consult with him. The court shall advise
35 the parent that if he is indigent, he may obtain an attorney through the
36 Office of the Public Defender who is authorized to provide such
37 representation pursuant to this section.

38 The court shall appoint legal representation for the child from the
39 Law Guardian Program in the Office of the Public Defender. The
40 attorney appointed by the court to represent the child shall represent
41 such child in all proceedings before the Superior Court, Chancery
42 Division, Family Part filed pursuant to chapter 6 of Title 9 of the
43 Revised Statutes and chapter 4C of Title 30 of the Revised Statutes
44 unless relieved by the court upon application for substitution counsel
45 or other just cause.¹

1 ¹55. Section 1 of P.L.1974, c.119 (C.9:6-8.21) is amended to read
2 as follows:

3 1. As used in this act, unless the specific context indicates
4 otherwise:

5 a. "Parent or guardian" means any natural parent, adoptive
6 parent, foster parent, stepparent, or any person, who has assumed
7 responsibility for the care, custody or control of a child or upon whom
8 there is a legal duty for such care. Parent or guardian includes a
9 teacher, employee or volunteer, whether compensated or
10 uncompensated, of an institution who is responsible for the child's
11 welfare and any other staff person of an institution regardless of
12 whether or not the person is responsible for the care or supervision of
13 the child. Parent or guardian also includes a teaching staff member or
14 other employee, whether compensated or uncompensated, of a day
15 school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

16 b. "Child" means any child alleged to have been abused or
17 neglected.

18 c. "Abused or neglected child" means a child less than 18 years
19 of age whose parent or guardian, as herein defined, (1) inflicts or
20 allows to be inflicted upon such child physical injury by other than
21 accidental means which causes or creates a substantial risk of death,
22 or serious or protracted disfigurement, or protracted impairment of
23 physical or emotional health or protracted loss or impairment of the
24 function of any bodily organ; (2) creates or allows to be created a
25 substantial or ongoing risk of physical injury to such child by other
26 than accidental means which would be likely to cause death or serious
27 or protracted disfigurement, or protracted loss or impairment of the
28 function of any bodily organ; (3) commits or allows to be committed
29 an act of sexual abuse against the child; (4) or a child whose physical,
30 mental, or emotional condition has been impaired or is in imminent
31 danger of becoming impaired as the result of the failure of his parent
32 or guardian, as herein defined, to exercise a minimum degree of care
33 (a) in supplying the child with adequate food, clothing, shelter,
34 education, medical or surgical care though financially able to do so or
35 though offered financial or other reasonable means to do so, or (b) in
36 providing the child with proper supervision or guardianship, by
37 unreasonably inflicting or allowing to be inflicted harm, or substantial
38 risk thereof, including the infliction of excessive corporal punishment;
39 or by any other acts of a similarly serious nature requiring the aid of
40 the court; (5) or a child who has been willfully abandoned by his
41 parent or guardian, as herein defined; (6) or a child upon whom
42 excessive physical restraint has been used under circumstances which
43 do not indicate that the child's behavior is harmful to himself, others
44 or property; (7) or a child who is in an institution and (a) has been
45 placed there inappropriately for a continued period of time with the
46 knowledge that the placement has resulted or may continue to result

1 in harm to the child's mental or physical well-being or (b) who has
2 been willfully isolated from ordinary social contact under
3 circumstances which indicate emotional or social deprivation.

4 A child shall not be considered abused or neglected pursuant to
5 paragraph (7) of subsection c. of this section if the acts or omissions
6 described therein occur in a day school as defined in this section.

7 No child who in good faith is under treatment by spiritual means
8 alone through prayer in accordance with the tenets and practices of a
9 recognized church or religious denomination by a duly accredited
10 practitioner thereof shall for this reason alone be considered to be
11 abused or neglected.

12 d. "Law guardian" means an attorney admitted to the practice of
13 law in this State, regularly employed by the Office of the Public
14 Defender or appointed by the court, and designated under this act to
15 represent minors in alleged cases of child abuse or neglect and in
16 termination of parental rights proceedings.

17 e. "Attorney" means an attorney admitted to the practice of law
18 in this State who shall be privately retained; or, in the instance of an
19 indigent parent or guardian, an attorney from the Office of the Public
20 Defender or an attorney appointed by the court who shall be appointed
21 in order to avoid conflict between the interests of the child and the
22 parent or guardian in regard to representation.

23 f. "Division" means the Division of Youth and Family Services in
24 the Department of Human Services unless otherwise specified.

25 g. "Institution" means a public or private facility in the State
26 which provides children with out of home care, supervision or
27 maintenance. Institution includes, but is not limited to, a correctional
28 facility, detention facility, treatment facility, day care center,
29 residential school, shelter and hospital.

30 h. "Day school" means a public or private school which provides
31 general or special educational services to day students in grades
32 kindergarten through 12. Day school does not include a residential
33 facility, whether public or private, which provides care on a 24-hour
34 basis.¹

35 (cf:P.L. 1994,c.58,s.39)

36

37 ¹56. a. There is appropriated \$600,000 from the General Fund to
38 the Office of the Public Defender in the Department of the Treasury
39 for Fiscal Year 1999 to provide representation for children and
40 indigent parents in proceedings to terminate parental rights pursuant
41 to Title 30 of the Revised Statutes. In addition to the amount
42 hereinabove appropriated, there is appropriated such additional sums
43 as may be required for Trial and Appellate services to children and
44 indigent parents, the expenditure of which shall be subject to the
45 approval of the Director of the Division of Budget and Accounting.

46 b. In accordance with the provisions of section 10 of P.L.1967,

1 c.43 (C.2A:158A-10), the office may contract with attorneys in private
2 practice, Legal Services of New Jersey or other qualified public
3 interest organizations to provide the representation of children and
4 indigent parents, as it deems appropriate.¹

5
6 ¹57. The Office of the Public Defender shall report to the
7 Legislature and Governor by October 1, 1999 on the number of cases
8 for which it has provided representation pursuant to sections 54, 55
9 and 56 of P.L. , c. (pending before the Legislature as this bill) and
10 whether and to what extent the representation was provided by
11 contract with attorneys in private practice or other public interest
12 organizations. The report shall include recommendations as to how
13 and by whom the representation should be provided in Fiscal Year
14 2000 and as to how the State can ensure, to the maximum extent
15 possible, that the same legal counsel can continue to represent the
16 interests of the child or parent throughout proceedings under Titles 9
17 and 30 of the Revised Statutes.¹

18
19 ¹[53.] 58.¹ This act shall take effect immediately.

20
21
22
23
24 Implements federal "Adoption and Safe Families Act of 1997."

SENATE, No. 1705

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED FEBRUARY 18, 1999

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator WYNONA M. LIPMAN

District 29 (Essex and Union)

SYNOPSIS

Implements federal "Adoption and Safe Families Act of 1997."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning children and families and revising parts of
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1977, c.367 (C.9:3-37) is amended to read as
8 follows:

9 1. This act shall be liberally construed to the end that the best
10 interests of children be promoted and that the safety of children be of
11 paramount concern. Due regard shall be given to the rights of all
12 persons affected by an adoption.

13 (cf: P.L.1977, c.367, s.1)

14

15 2. Section 2 of P.L.1977, c.367 (C.9:3-38) is amended to read as
16 follows:

17 2. For the purposes of this act:

18 a. "Approved agency" means a nonprofit corporation, association
19 or agency, including any public agency, approved by the Department
20 of Human Services for the purpose of placing children for adoption in
21 New Jersey;

22 b. "Child" means a person under 18 years of age;

23 c. "Custody" means the general right to exercise continuing control
24 over the person of a child derived from court order or otherwise;

25 d. "Guardianship" means the right to exercise continuing control
26 over the person or property or both of a child which includes any
27 specific right of control over an aspect of the child's upbringing
28 derived from court order;

29 e. "Guardian ad litem" means a qualified person, not necessarily an
30 attorney, appointed by the court under the provisions of this act or at
31 the discretion of the court to represent the interests of the child
32 whether or not the child is a named party in the action;

33 f. "Parent" means a birth parent or parents, including the birth
34 father of a child born out of wedlock who has acknowledged the child
35 or to whom the court has ordered notice to be given, or a parent or
36 parents by adoption;

37 g. "Placement for adoption" means the transfer of custody of a
38 child to a person for the purpose of adoption by that person;

39 h. "Plaintiff" means a prospective parent or parents who have filed
40 a complaint for adoption;

41 i. "Legal services" means the provision of counseling or advice
42 related to the law and procedure for adoption of a child, preparation
43 of legal documents, or representation of any person before a court 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.

Matter underlined thus is new matter.

1 administrative agency;

2 j. "Surrender" means a voluntary relinquishment of all parental
3 rights by a birth parent, previous adoptive parent, or other person or
4 agency authorized to exercise these rights by law, court order or
5 otherwise, for purposes of allowing a child to be adopted;

6 k. "Home study" means an approved agency's formal assessment
7 of the capacity and readiness of prospective adoptive parents to adopt
8 a child, including the agency's written report and recommendations
9 conducted in accordance with rules and regulations promulgated by
10 the Director of the Division of Youth and Family Services; and

11 l. "Intermediary" means any person, firm, partnership, corporation,
12 association or agency, which is not an approved agency as defined in
13 this section, who acts for or between any parent and any prospective
14 parent or acts on behalf of either in connection with **[a]** the placement
15 **[for adoption]** of the parent's child for adoption in the State or in any
16 other state or country. An intermediary in any other state or country
17 shall not receive money or other valuable consideration in connection
18 with the placement of a child for adoption in this State. An
19 intermediary in this State shall not receive money or other valuable
20 consideration in connection with the placement of a child for adoption
21 in this State or in any other state or country. The provisions of this
22 subsection shall not be construed to prohibit the receipt of money or
23 other valuable consideration specifically authorized in section 18 of
24 P.L.1993, c.345 (C.9:3-39.1).

25 (cf: P.L.1993, c.345, s.1)

26

27 3. (New section) In any case in which the Division of Youth and
28 Family Services accepts a child in its care or custody, the child's foster
29 parent, preadoptive parent or relative providing care for the child, as
30 applicable, shall receive written notice of and an opportunity to be
31 heard at any review or hearing held with respect to the child, but the
32 foster parent, preadoptive parent or relative shall not be made a party
33 to the review or hearing solely on the basis of the notice and
34 opportunity to be heard.

35

36 4. Section 1 of P.L.1971, c.437 (C.9:6-8.8) is amended to read as
37 follows:

38 1. The purpose of this act is to provide for the protection of
39 children under 18 years of age who have had serious injury inflicted
40 upon them by other than accidental means. The safety of the children
41 served shall be of paramount concern. It is the intent of this legislation
42 to assure that the lives of innocent children are immediately
43 safeguarded from further injury and possible death and that the legal
44 rights of such children are fully protected.

45 (cf: P.L.1971, c.437, s.1)

1 5. (New section) In any case in which the Division of Youth and
2 Family Services accepts a child in its care or custody, the child's foster
3 parent, preadoptive parent or relative providing care for the child, as
4 applicable, shall receive written notice of and an opportunity to be
5 heard at any review or hearing held with respect to the child, but the
6 foster parent, preadoptive parent or relative shall not be made a party
7 to the review or hearing solely on the basis of the notice and
8 opportunity to be heard.

9
10 6. Section 2 of P.L.1974, c.119 (C.9:6-8.22) is amended to read as
11 follows:

12 2. The Superior Court, Chancery Division, Family Part in each
13 county shall have jurisdiction over all noncriminal proceedings
14 involving alleged cases of child abuse or neglect, and shall be charged
15 with the immediate protection of said children, whereby the safety of
16 the children shall be of paramount concern. All noncriminal cases
17 involving child abuse shall be commenced in or transferred to this
18 court from other courts as they are made known to the other courts.
19 Commencement of cases of child abuse or neglect must be the first
20 order of priority in the Family Part.
21 (cf: P.L.1991, c.91, s.198)

22
23 7. Section 4 of P.L.1974, c.119 (C.9:6-8.24) is amended to read as
24 follows:

25 4. Jurisdiction. a. Notwithstanding any other law to the contrary,
26 the Superior Court, Chancery Division, Family Part has exclusive
27 original jurisdiction over noncriminal proceedings under this act
28 alleging the abuse or neglect of a child.

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

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

34 d. If the matter in regard to the parent or guardian is referred to
35 the county prosecutor by the Family Part or otherwise the Family Part
36 may continue the proceeding under this act in regard to the child after
37 such referral. If the proceeding in regard to the child is continued, the
38 Family Part shall enter any preliminary order necessary to protect the
39 interests of the child pending a final order from the criminal courts.

40 e. Any hearing held before the Family Part may serve as a
41 permanency hearing to provide judicial review and approval of a
42 permanency plan for the child if all the requirements of section 50 of
43 P.L. , c. (C.)(pending before the Legislature as this bill) are met.
44 (cf: P.L.1991, c.91, s.200)

45
46 8. Section 8 of P.L.1974, c.119 (C.9:6-8.28) is amended to read as

1 follows:

2 8. Preliminary orders of court before preliminary hearing held. a.
3 The Superior Court, Chancery Division, Family Part may enter an
4 order, whereby the safety of the child shall be of paramount concern,
5 directing the temporary removal of a child from the place where he is
6 residing before a preliminary hearing under this act, if (1) the parent
7 or other person legally responsible for the child's care is absent or,
8 though present, was asked and refused to consent to the temporary
9 removal of the child and was informed of an intent to apply for any
10 order under this section; and (2) the child appears so to suffer from the
11 abuse or neglect of his parent or guardian that his immediate removal
12 is necessary to avoid imminent danger to the child's life, safety or
13 health; and (3) there is not enough time to hold a preliminary hearing.

14 b. The order shall specify the facility to which the child is to be
15 brought.

16 c. The Family Part may enter an order authorizing a physician or
17 hospital to provide emergency medical or surgical procedures before
18 a preliminary hearing is held under this act if (1) such procedures are
19 necessary to safeguard the life or health of the child; and (2) there is
20 not enough time to hold a preliminary hearing under section 11 hereof.

21 d. Any person who originates a proceeding pursuant to section 14
22 of this act may apply for through the Division of Youth and Family
23 Services or the court on its own motion may issue, an order of
24 temporary removal. The division shall make every reasonable effort to
25 inform the parent or guardian of any such application, confer with a
26 person wishing to make such an application and make such inquiries
27 as will aid the court in disposing of such application. Within 24 hours
28 the Division of Youth and Family Services shall report such
29 application to the central registry of the division.

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

33 (cf: P.L.1991, c.91, s.202)

34

35 9. Section 9 of P.L.1974, c.119 (C.9:6-8.29) is amended to read as
36 follows:

37 9. a. A police officer or a designated employee of **[a county**
38 **department of probation]** the Probation Division or a designated
39 employee of the division may remove a child from the place where he
40 is residing, or any such person or any physician treating such child may
41 keep a child in his custody without an order pursuant to section 8
42 **[thereof]** of P.L.1974, c.119 (C.9:6-8.28) and without the consent of
43 the parent or guardian regardless of whether the parent or guardian
44 is absent, if the child is in such condition that his continuance in said
45 place or residence or in the care and custody of the parent or guardian
46 presents an imminent danger to the child's life, safety or health, and

1 there is insufficient time to apply for a court order pursuant to section
2 8 of P.L.1974, c.119 (C.9:6-8.28), or any physician or hospital
3 treating such child may keep a child in custody pursuant to P.L.1973,
4 c.147 (C.9:6-8.16 et seq.)], and]. The Division of Youth and Family
5 Services shall not be required to provide reasonable efforts to prevent
6 placement if removal of the child is necessary due to imminent danger
7 to the child's life, safety or health in accordance with section 24 of
8 P.L. , c. (C.)(pending before the Legislature as this bill).

9 b. If a person authorized by this section removes or keeps custody
10 of a child, he shall (1) inform the division immediately; (2) bring the
11 child immediately to a place designated by the division for this
12 purpose, and (3) make every reasonable effort to inform the parent or
13 guardian of the facility to which he has brought the child.

14 c. Any person or institution acting in good faith in the removal or
15 keeping of a child pursuant to this section shall have immunity from
16 any liability, civil or criminal, that might otherwise be incurred or
17 imposed as a result of such removal or keeping.

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

21 (cf: P.L.1977, c.209, s.8)

22
23 10. Section 11 of P.L.1974, c.119 (C.9:6-8.31) is amended to read
24 as follows:

25 11. Preliminary orders after filing of complaint. a. In any case
26 where the child has been removed without court order, except where
27 action has been taken pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.)
28 the Superior Court, Chancery Division, Family Part shall hold a
29 hearing on the next court day, whereby the safety of the child shall be
30 of paramount concern, to determine whether the child's interests
31 require protection pending a final order of disposition. In any other
32 case under this act, any person who may originate a proceeding may
33 apply for, or the court, on its own motion, may order a hearing at any
34 time after the complaint is filed to determine, with the safety of the
35 child of paramount concern, whether the child's interests require
36 protection pending a final order of disposition.

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

41 If the court determines that removal of the child by a physician,
42 police officer, designated employee of the Probation Division or
43 designated employee of the Division of Youth and Family Services was
44 necessary due to imminent danger to the child's life, safety or health,
45 the court shall find that the Division of Youth and Family Services was
46 not required to provide reasonable efforts to prevent placement of the

1 child in accordance with section 24 of P.L. , c. (C.)(pending
2 before the Legislature as this bill).

3 c. Upon such hearing the court may, for good cause shown, issue
4 a preliminary order of protection which may contain any of the
5 provisions authorized on the making of an order of protection under
6 section 35 **[hereof]** of P.L.1974, c.119 (C.9:6-8.55).

7 d. Upon such hearing, the court may, for good cause shown,
8 release the child to the custody of his parent or guardian from whose
9 custody or care the child was removed, pending a final order of
10 disposition, in accord with section 33 **[hereof]** of P.L.1974, c.119
11 (C.9:6-8.53).

12 e. Upon such hearing, the court may authorize a physician or
13 hospital to provide medical or surgical procedures if such procedures
14 are necessary to safeguard the child's life or health.

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

17 g. In all cases involving abuse or neglect the court shall order an
18 examination of the child by a physician appointed or designated for the
19 purpose by the division. As part of such examination, the physician
20 shall arrange to have color photographs taken as soon as practical of
21 any areas of trauma visible on such child and may if indicated, arrange
22 to have a radiological examination performed on the child. The
23 physician, on the completion of such examination, shall forward the
24 results thereof together with the color photographs to the court
25 ordering such examination.

26 (cf: P.L.1991, c.91, s.204)

27

28 11. Section12 of P.L.1974, c.119 (C.9:6-8.32) is amended to read
29 as follows:

30 12. Upon the application of the parent or guardian of a child
31 temporarily removed **[moved]** under this act, the court shall hold a
32 hearing, whereby the safety of the child shall be of paramount concern,
33 to determine whether the child should be returned; a. if there has not
34 been a hearing on the removal of the child at which the parent or
35 guardian was present or had an adequate opportunity to be present;
36 or b. upon good cause shown. Except for good cause shown, such
37 hearing shall be held within 3 court days of the application. Upon such
38 hearing, the court shall grant the application, unless it finds that such
39 return presents an imminent risk to the child's life, safety or health.

40 (cf: P.L.1977, c.209, s.11)

41

42 12. Section 15 of P.L.1974, c.119 (C.9:6-8.35) is amended to read
43 as follows:

44 15. Preliminary procedure. The division may, with the safety of the
45 child of paramount concern:

46 a. Confer with any person seeking to file a complaint, the potential

1 respondent, and other interested persons concerning the advisability
2 of filing a complaint under this act; and

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

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

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

11 e. Such adjustment may include a preliminary conference held by
12 the division at its discretion upon written notice to the parent or
13 guardian and the potential complainant for the purpose of attempting
14 such adjustment, provided however that the division shall not be
15 authorized under this section to compel any person to appear at any
16 conference, produce any papers, or visit any place.

17 f. The Superior Court, Chancery Division, Family Part and the
18 division shall deal with cases involving imminent physical harm or
19 actual physical harm on a priority basis.

20 (cf: P.L.1991, c.91, s.205)

21

22 13. Section 20 of P.L.1974, c.119 (C.9:6-8.40) is amended to read
23 as follows:

24 20. Records involving abuse or neglect. When the division
25 receives a report or complaint that a child may be abused or neglected;
26 when the division provides services to a child; or when the division
27 receives a request from the Superior Court, Chancery Division, Family
28 Part to investigate **【such allegations】** an allegation of abuse or neglect,
29 the division may request of any and all public or private institutions,
30 or agencies including law enforcement agencies, or any private
31 practitioners, their records past and present pertaining to that child and
32 other children under the same care, custody and control. The division
33 shall not be charged a fee for the copying of the records. Records
34 kept pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982,
35 c.77 (C.2A:4A-20 et seq.) may be obtained by the division, upon
36 issuance by a court of an order on good cause shown directing these
37 records to be released to the division for the purpose of aiding in
38 evaluation to determine if the child is abused or neglected. In the
39 release of the aforementioned records, the source shall have immunity
40 from any liability, civil or criminal.

41 (cf: P.L.1991, c.91, s.206)

42

43 14. Section 29 of P.L.1974, c.119 (C.9:6-8.49) is amended to read
44 as follows:

45 29. **【In】** To ensure that the safety of children is of paramount
46 concern, when scheduling hearings and investigations, the court shall

1 give priority to proceedings under this act involving imminent or
2 actual physical harm, or in which a child has been removed from home
3 before a final order of disposition. Any adjournment granted in the
4 course of such a proceeding should be for as short a time as possible.
5 (cf: P.L.1974, c.119, s.29)

6
7 15. Section 34 of P.L.1974, c.119 (C.9:6-8.54) is amended to read
8 as follows:

9 34. a. For the purpose of section 31 **[hereof]** of P.L.1974, c.119
10 (C.9:6-8.51), the court may place the child in the custody of a relative
11 or other suitable person or the division for the placement of a child
12 after a finding that the division has made reasonable efforts to prevent
13 placement or that reasonable efforts to prevent placement were not
14 required in accordance with section 24 of P.L. , c. (C.)(pending
15 before the Legislature as this bill).

16 b. Placements under this section may be for an initial period of
17 **[18]** 12 months and the court, in its discretion, may at the expiration
18 of that period, upon a hearing make successive extensions for
19 additional periods of **[1]** up to one year each. The place in which or
20 the person with which the child has been placed under this section shall
21 submit a report at the end of the term of placement, making
22 recommendations and giving such supporting data as is appropriate.
23 The court on its own motion may, at the conclusion of any period of
24 placement, hold a hearing concerning the need for continuing the
25 placement.

26 c. No placement may be made or continued under this section
27 beyond the child's eighteenth birthday without his consent.

28 d. If the parent or person legally responsible for the care of any
29 such child or with whom such child resides receives public assistance
30 and care, any portion of which is attributable to such child, a copy of
31 the order of the court providing for the placement of such child from
32 his home shall be furnished to the appropriate county welfare board,
33 which shall reduce the public assistance and care furnished to such
34 parent or other person by the amount attributable to such child.

35 (cf: P.L.1977, c.209, s.26)

36
37 16. Section 2 of P.L.1987, c.175 (C.9:6-8.84) is amended to read
38 as follows:

39 2. As used in this act:

40 "Board" means the Child Fatality and Near Fatality Review Board
41 established under P.L.1997, c.175 (C.9:6-8.83 et al.).

42 "Child" means any person under the age of 18.

43 "Commissioner" means the Commissioner of Human Services.

44 **"[Diligent] Reasonable** efforts" means **[reasonable]** attempts by an
45 agency authorized by the Division of Youth and Family Services to
46 assist the parents in remedying the circumstances and conditions that

1 led to the placement of the child and in reinforcing the family
2 structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

3 "Division" means the Division of Youth and Family Services in the
4 Department of Human Services.

5 "Near fatality" means a case in which a child is in serious or critical
6 condition, as certified by a physician.

7 "Panel" means a citizen review panel as established under P.L.1997,
8 c.175 (C.9:6-8.83 et al.).

9 "Parent or guardian" means a person defined pursuant to section 1
10 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the
11 care, custody or control of a child or upon whom there is a legal duty
12 for such care.

13 "Sexual abuse" means contacts or actions between a child and a
14 parent or caretaker for the purpose of sexual stimulation of either that
15 person or another person. Sexual abuse includes:

16 a. the employment, use, persuasion, inducement, enticement or
17 coercion of any child to engage in, or assist any other person to
18 engage in, any sexually explicit conduct or simulation of such conduct;

19 b. sexual conduct including molestation, prostitution, other forms
20 of sexual exploitation of children or incest; or

21 c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1
22 and a prohibited sexual act as defined in N.J.S.2C:24-4.

23 "Significant bodily injury" means a temporary loss of the
24 functioning of any bodily member or organ or temporary loss of any
25 one of the five senses.

26 "Withholding of medically indicated treatment" means the failure to
27 respond to a child's life-threatening conditions by providing treatment,
28 including appropriate nutrition, hydration, and medication which, in
29 the treating physician's reasonable judgment, will most likely be
30 effective in ameliorating or correcting all such conditions. The term
31 does not include the failure to provide treatment, other than
32 appropriate nutrition, hydration, or medication to a child when, in the
33 treating physician's reasonable medical judgment:

34 a. the child is chronically and irreversibly comatose;

35 b. the provision of such treatment would merely prolong dying, not
36 be effective in ameliorating or correcting all of the child's
37 life-threatening conditions, or otherwise be futile in terms of the
38 survival of the child; or

39 c. the provision of such treatment would be virtually futile in terms
40 of the survival of the child and the treatment itself under such
41 circumstances would be inhumane.

42 (cf: P.L.1997, c.175, s.2)

43

44 17. Section 5 of P.L.1997, c.175 (C.9:6-8.87) is amended to read
45 as follows:

46 5. In any case in which the division accepts a child in care or

1 custody, including placement, the division shall not be required to
2 provide **[diligent]** reasonable efforts to reunify the child with a parent
3 **[who has been found by a court of competent jurisdiction to have**
4 **committed murder, aggravated manslaughter or manslaughter of**
5 **another child of the parent; to have aided or abetted, attempted,**
6 **conspired or solicited to commit the murder, aggravated manslaughter**
7 **or manslaughter of the child or another child of the parent; or to have**
8 **committed, or attempted to commit, an assault that resulted, or could**
9 **have resulted, in the significant bodily injury to the child or another**
10 **child of the parent]** if an exception to the requirement to provide
11 reasonable efforts has been established in accordance with section 25
12 of P.L. , c. (C.) (pending before the Legislature as this bill).
13 (cf: P.L.1997,c.175,s.5).
14

15 18. Section 2 of P.L.1991, c.290 (C.9:6B-2) is amended to read as
16 follows:

17 2. The Legislature finds and declares that:

18 a. A child placed outside his home by the Department of Human
19 Services, the Department of Health and Senior Services or a board of
20 education, or an agency or organization with which the applicable
21 department contracts to provide services has certain specific rights
22 separate from and independent of the child's parents or legal guardian
23 by virtue of his placement in another residential setting;

24 b. The State has an affirmative obligation to recognize and protect
25 these rights through its articulation of a clear and specific bill of rights
26 that reflects the best interests of the child whereby the safety of the
27 child is of paramount concern and an affirmation by the State of its
28 commitment to enforce these rights in order to protect and promote
29 the welfare of the child placed outside his home; and

30 c. The obligation of the State to recognize and protect the rights
31 of the child placed outside his home shall be fulfilled in the context of
32 a clear and consistent policy to promote the child's eventual return to
33 his home or placement in an alternative permanent setting, which this
34 Legislature has expressly declared to be in the public interest in section
35 2 of the "Child Placement Review Act," P.L.1977, c.424
36 (C.30:4C-51).

37 (cf: P.L.1991, c.290, s.2)
38

39 19. (New section) a. The Commissioner of Human Services is
40 authorized on behalf of this State to develop, negotiate and enter into
41 the Interstate Compact on Adoption and Medical Assistance and other
42 interstate compacts, as determined by the commissioner to enhance
43 protection and permanency for children. When so entered into, and
44 for so long as it shall remain in force, such a compact shall have the
45 force and effect of law.

46 b. A compact entered into pursuant to the authority conferred by

1 subsection a. of this section shall include:

2 (1) a provision making it available for joinder by all states;

3 (2) a provision for withdrawal from the compact upon written
4 notice to the parties, with a period of one year between the date of the
5 notice and the effective date of the withdrawal;

6 (3) a requirement that the protections afforded by or pursuant to
7 the compact be covered by a written agreement between the agency
8 providing services and the parents, adoptive parents, or other
9 caregiver for the child and that the protections continue in force for
10 the duration of the written agreement for all children who, on the
11 effective date of the withdrawal, are receiving services from a party
12 state other than the one in which they reside; and

13 (4) such other provisions as may be appropriate to implement the
14 proper administration of the compact.

15

16 20. Section 1 of P.L.1951, c.138 (C.30:4C-1) is amended to read
17 as follows:

18 1. This act is to be administered strictly in accordance with the
19 general principles laid down in this section, which are declared to be
20 the public policy of this State, whereby the safety of children shall be
21 of paramount concern:

22 (a) That the preservation and strengthening of family life is a
23 matter of public concern as being in the interests of the general
24 welfare, **[but in a case where a child has been placed outside the home**
25 **due to circumstances that endanger the child's life,] and** the health and
26 safety of the child shall be the State's paramount concern when making
27 a decision on whether or not it is in the child's best interest to preserve
28 the family unit;

29 (b) That the prevention and correction of dependency and
30 delinquency among children should be accomplished so far as
31 practicable through welfare services which will seek to continue the
32 living of such children in their own homes;

33 (c) That necessary welfare services to children should be
34 strengthened and extended through the development of private and
35 voluntary agencies qualified to provide such services;

36 (d) That wherever in this State necessary welfare services are not
37 available to children who are dependent or adjudged delinquent by
38 proper judicial tribunal, or in danger of so becoming, then such
39 services should be provided by this State until such times as they are
40 made available by private and voluntary agencies; **[and]**

41 (e) That the State may assist private, public and voluntary agencies
42 to construct, purchase, upgrade or renovate youth facilities for the
43 residential care or day treatment of children in need of these services;
44 and

45 (f) That each child placed outside his home by the State has the
46 need for permanency: through return to the child's own home, if the

1 child can be returned home without endangering the child's health or
2 safety; through adoption, if family reunification is not possible; or
3 through an alternative permanent placement, if termination of parental
4 rights is not appropriate.

5 (cf: P.L.1999, c.22, s.1)

6
7 21. Section 3 of P.L.1951, c.138 (C.30:4C-3) is amended to read
8 as follows:

9 3. The **【Bureau of Childrens】** Division of Youth and Family
10 Services, in administering the provisions of this act, whereby the
11 safety of children shall be of paramount concern, shall:

12 (a) provide care and custody for children eligible therefor in such
13 manner that the children may, so far as practicable, continue to live in
14 their own homes and family life be thereby preserved and
15 strengthened;

16 (b) provide necessary welfare services as may be required by such
17 children, so far as practicable, without assumption of custody;

18 (c) encourage the development of private and voluntary agencies
19 qualified to provide welfare services for children to the end that
20 through cooperative effort the need for such services may be limited
21 or reduced; and

22 (d) for each child placed outside his home by the division, provide
23 permanency through return of the child to the child's own home, if the
24 child can be returned home without endangering the child's health or
25 safety; through adoption, if family reunification is not possible; or
26 through an alternative permanent placement, if termination of parental
27 rights is not appropriate.

28 (cf: P.L.1962, c.197, s.9)

29
30 22. Section 11 of P.L.1951, c.138 (C.30:4C-11) is amended to
31 read as follows:

32 11. Whenever it shall appear that any child within this State is of
33 such circumstances that the child's safety or welfare will be endangered
34 unless proper care or custody is provided, an application setting forth
35 the facts in the case may be filed with the Division of Youth and
36 Family Services by a parent or other relative of such child, by a person
37 standing in loco parentis to such child, by a person or association or
38 agency or public official having a special interest in such child or by
39 the child himself, seeking that the division accept and provide such
40 care or custody of such child as the circumstances may require. Such
41 application shall be in writing, and shall contain a statement of the
42 relationship to or special interest in such child which justifies the filing
43 of such application. The provisions of this section shall be deemed to
44 include an application on behalf of an unborn child when the
45 prospective mother is within this State at the time of application for
46 such services.

1 Upon receipt of an application as provided in this section, the
2 division shall verify the statements set forth in such application and
3 shall investigate all the matters pertaining to the circumstances of the
4 child. If upon such verification and investigation it shall appear (a)
5 that the safety or welfare of such child will be endangered unless
6 proper care or custody is provided; (b) that the needs of such child
7 cannot properly be provided for by financial assistance as made
8 available by the laws of this State; (c) that there is no person legally
9 responsible for the support of such child whose identity and
10 whereabouts are known and who is willing and able to provide for the
11 care and support required by such child; and (d) that such child, if
12 suffering from a mental or physical disability requiring institutional
13 care, is not immediately admissible to any public institution providing
14 such care; then the division may accept and provide such care or
15 custody as the circumstances of such child may require.

16 (cf: P.L.1991, c.275, s.1)

17

18 23. (New section) a. In accordance with the provisions of
19 subsections b., c., and d. of this section, when determining the
20 reasonable efforts to be made and when making the reasonable efforts,
21 the child's health and safety shall be of paramount concern.

22 b. In any case in which the division accepts a child in care or
23 custody, the division shall make reasonable efforts, prior to placement,
24 to preserve the family in order to prevent the need for removing the
25 child from his home. After placement, the division shall make
26 reasonable efforts to make it possible for the child to safely return to
27 his home.

28 c. Reasonable efforts to place a child for adoption or with a legal
29 guardian or in an alternative permanent placement may be made
30 concurrently with reasonable efforts to preserve and reunify the child's
31 family.

32 d. In any case in which family reunification is not the permanency
33 plan for the child, reasonable efforts shall be made to place the child
34 in a timely manner and to complete the steps necessary to finalize the
35 permanent placement of the child.

36

37 24. (New section) In any case in which the Division of Youth and
38 Family Services accepts a child in care or custody, including
39 placement, the division shall not be required to provide reasonable
40 efforts to prevent placement of the child if a court of competent
41 jurisdiction has determined that both of the following criteria are met:

42 a. One of the following actions has occurred:

43 (1) the parent has subjected the child to aggravated circumstances
44 of abuse, neglect, cruelty or abandonment,

45 (2) the parent has been convicted of murder, aggravated
46 manslaughter or manslaughter of a child; aiding or abetting,

1 attempting, conspiring or soliciting to commit murder, aggravated
2 manslaughter or manslaughter of a child; committing or attempting to
3 commit an assault that resulted, or could have resulted, in the
4 significant bodily injury to a child; or committing a similarly serious
5 criminal act which resulted, or could have resulted, in the death or
6 significant bodily injury to a child,

7 (3) the rights of the parent to another of the parent's children have
8 been involuntarily terminated or

9 (4) removal of the child was required due to imminent danger to
10 the child's life, safety or health; and

11 b. Efforts to prevent placement were not reasonable due to risk of
12 harm to the child's health or safety.

13 When determining whether reasonable efforts are required to
14 prevent placement, the health and safety of the child shall be of
15 paramount concern to the court.

16

17 25. (New section) In any case in which the Division of Youth and
18 Family Services accepts a child in care or custody, including
19 placement, the division shall not be required to provide reasonable
20 efforts to reunify the child with a parent if a court of competent
21 jurisdiction has determined that:

22 a. The parent has subjected the child to aggravated circumstances
23 of abuse, neglect, cruelty or abandonment;

24 b. The parent has been convicted of murder, aggravated
25 manslaughter or manslaughter of a child; aiding or abetting,
26 attempting, conspiring or soliciting to commit murder, aggravated
27 manslaughter or manslaughter of a child; committing or attempting to
28 commit an assault that resulted, or could have resulted, in significant
29 bodily injury to a child; or committing a similarly serious criminal act
30 which resulted, or could have resulted, in the death of or significant
31 bodily injury to a child; or

32 c. The rights of the parent to another of the parent's children have
33 been involuntarily terminated.

34 When determining whether reasonable efforts are required to
35 reunify the child with the parent, the health and safety of the child and
36 the child's need for permanency shall be of paramount concern to the
37 court.

38 This section shall not be construed to prohibit the division from
39 providing reasonable efforts to reunify the family, if the division
40 determines that family reunification is in the child's best interests.

41 A permanency plan for the child may be established at the same
42 hearing at which the court determines that reasonable efforts are not
43 required to reunify the child with the parent, if the hearing meets all of
44 the requirements of a permanency hearing pursuant to section 50 of
45 P.L. , c. (C)(pending before the Legislature as this bill).

1 26. (New section) Any hearing held before the Family Part of the
2 Chancery Division of the Superior Court may serve as a permanency
3 hearing to provide judicial review and approval of a permanency plan
4 for the child if all the requirements of section 50 of P.L. , c.
5 (C.)(pending before the Legislature as this bill) are met.

6
7 27. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
8 read as follows:

9 12. Whenever it shall appear that the parent or parents, guardian,
10 or person having custody and control of any child within this State is
11 unfit to be entrusted with the care and education of such child, or shall
12 fail to provide such child with proper protection, maintenance and
13 education, or shall fail to ensure the health and safety of the child, or
14 is endangering the welfare of such child, a written or oral complaint
15 may be filed with the Division of Youth and Family Services by any
16 person or by any public or private agency or institution interested in
17 such child. When such a complaint is filed by a public or private
18 agency or institution, it shall be accompanied by a summary setting
19 forth the reason for such complaint and other social history of the
20 child and his family's situation which justifies such complaint; or, if this
21 is not feasible, such summary shall be made available to the Division
22 of Youth and Family Services as soon thereafter as possible. Upon
23 receipt of a complaint as provided in this section, the Division of
24 Youth and Family Services shall investigate, or shall cause to be
25 investigated, the statements set forth in such complaint. If the
26 circumstances so warrant, the parent, parents, guardian, or person
27 having custody and control of the child shall be afforded an
28 opportunity to file an application for care, as provided in section 11 of
29 P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or
30 person having custody and control of the child shall refuse to permit
31 or shall in any way impede investigation, and the division determines
32 that further investigation is necessary in the best interests of the child,
33 the division may thereupon apply to the Family Part of the Chancery
34 Division of the Superior Court in the county where the child resides,
35 for an order directing the parent, parents, guardian, or person having
36 custody and control of the child to permit immediate investigation.
37 The court, upon such application, may proceed to hear the matter in
38 a summary manner and if satisfied that the best interests of the child
39 so require may issue an order as requested.

40 If, after such investigation has been completed, it appears that the
41 child requires care and supervision by the Division of Youth and
42 Family Services or other action to ensure the health and safety of the
43 child, but the parent, parents, guardian, or person having custody and
44 control of the child continue to refuse to apply for care in the manner
45 provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or to take
46 action to ensure the health and safety of the child, the division may

1 apply to the Family Part of the Chancery Division of the Superior
2 Court in the county where the child resides for an order making the
3 child a ward of the court and placing such child under the care and
4 supervision of the Division of Youth and Family Services.

5 The court, at a summary hearing held upon notice to the Division
6 of Youth and Family Services, and to the parent, parents, guardian, or
7 person having custody and control of the child, if satisfied that the best
8 interests of the child so require, may issue an order as requested,
9 which order shall have the same force and effect as the acceptance of
10 a child for care by the division as provided in section 11 of P.L.1951,
11 c.138 (C.30:4C-11); provided, however, that such order shall not be
12 effective beyond a period of six months from the date of entry unless
13 the court, upon application by the Division of Youth and Family
14 Services, at a summary hearing held upon notice to the parent, parents,
15 guardian, or person having custody of the child, extends the time of
16 the order.

17 Immediately after the court's order and while the child is in the
18 division's care, the division shall initiate a search for the child's natural
19 mother or father, if they are not known to the division. The search
20 shall be initiated within 30 days of the court order. The search will be
21 completed when all sources contacted have either responded to the
22 inquiry or failed to respond within 45 days. The results shall be valid
23 for six months after the date it was completed.

24 (cf: P.L.1991, c.275, s.2)

25

26 28. (New section) In any case in which the Division of Youth and
27 Family Services accepts a child in its care or custody, the child's foster
28 parent, preadoptive parent or relative providing care for the child, as
29 applicable, shall receive written notice of and an opportunity to be
30 heard at any review or hearing held with respect to the child, but the
31 foster parent, preadoptive parent or relative shall not be made a party
32 to the review or hearing solely on the basis of the notice and
33 opportunity to be heard.

34

35 29. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
36 read as follows:

37 15. Whenever (a) it appears that a court wherein a complaint has
38 been proffered as provided in chapter 6 of Title 9 of the Revised
39 Statutes, has entered a conviction against the parent or parents,
40 guardian, or person having custody and control of any child because
41 of abuse, abandonment, neglect of or cruelty to such child; or (b)
42 (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best
43 interests of any child under the care or custody of the Division of
44 Youth and Family Services require that he be placed under
45 guardianship; or (d) it appears that a parent or guardian of a child,
46 following the acceptance of such child by the division pursuant to

1 section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following
2 the placement or commitment of such child in the care of an
3 authorized agency, whether in an institution or in a foster home, and
4 notwithstanding the **[diligent]** reasonable efforts of such agency to
5 encourage and strengthen the parental relationship, has failed for a
6 period of one year to remove the circumstances or conditions that led
7 to the removal or placement of the child, although physically and
8 financially able to do so, notwithstanding the division's **[diligent]**
9 reasonable efforts to assist the parent or guardian in remedying the
10 conditions; (e) the parent has abandoned the child; or (f) the parent of
11 a child has been found by a criminal court of competent jurisdiction to
12 have committed murder, aggravated manslaughter or manslaughter of
13 another child of the parent; to have aided or abetted, attempted,
14 conspired, or solicited to commit such murder, aggravated
15 manslaughter or manslaughter of the child or another child of the
16 parent; or to have committed, or attempted to commit, an assault that
17 resulted, or could have resulted, in the significant bodily injury to the
18 child or another child of the parent; or the parent has committed a
19 similarly serious act which resulted, or could have resulted, in the
20 death or significant bodily injury to the child or another child of the
21 parent; a petition to terminate the parental rights of the child's parents,
22 setting forth the facts in the case, [may] shall be filed by the division
23 with the Family Part of the Chancery Division of the Superior Court
24 in the county where such child may be at the time of the filing of such
25 petition. The petition shall be filed no later than when the child has
26 been in foster care for 15 of the most recent 22 months, unless the
27 division establishes an exception to the requirement to seek a
28 termination of parental rights in accordance with section 31 of
29 P.L. , c. (C.)(pending before the Legislature as this bill). Upon
30 filing the petition, the division shall initiate concurrent efforts to
31 identify, recruit, process and approve a qualified family to adopt the
32 child.

33 A petition as provided in this section may be filed by any person or
34 any association or agency, interested in such child**[**, or by the division
35 in the circumstances set forth in items (c),(d), (e) and (f) hereof**]**. The
36 division shall seek to be joined as a party to a petition filed to
37 terminate the parental rights of a child in the care and custody of the
38 division unless the division has established an exception to the
39 requirement to seek termination of parental rights in accordance with
40 section 31 of P.L. , c. (C.)(pending before the Legislature as
41 this bill).

42 (cf: P.L.1997, c.175, s.17)

43

44 30. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to
45 read as follows:

46 7. a. The division shall initiate a petition to terminate parental

1 rights on the grounds of the "best interests of the child" pursuant to
2 subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
3 following standards are met:

4 (1) The child's safety, health **[and]** or development **[have]** has
5 been or will continue to be endangered by the parental relationship;

6 (2) The parent is unwilling or unable to eliminate the harm facing
7 the child or is unable or unwilling to provide a safe and stable home
8 for the child and the delay of permanent placement will add to the
9 harm. Such harm may include evidence that separating the child from
10 his foster parents would cause serious and enduring emotional or
11 psychological harm to the child;

12 (3) The division has made **[diligent]** reasonable efforts to provide
13 services to help the parent correct the circumstances which led to the
14 child's placement outside the home and the court has considered
15 alternatives to termination of parental rights; and

16 (4) Termination of parental rights will not do more harm than
17 good.

18 b. The division shall initiate a petition to terminate parental rights
19 on the ground that the "parent has abandoned the child" pursuant to
20 subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
21 following standards are met:

22 (1) a court finds that for a period of six or more months:

23 (a) the parent, although able to have contact, has had no contact
24 with the child, the child's foster parent or the division; and

25 (b) the parent's whereabouts are unknown, notwithstanding the
26 division's **[diligent]** reasonable efforts to locate the parent; or

27 (2) where the identities of the parents are unknown and the
28 division has exhausted all reasonable methods of attempting
29 identification, the division may immediately file for termination of
30 parental rights upon the completion of the law enforcement
31 investigation.

32 c. As used in this section and in section 15 of P.L.1951, c.138
33 (C.30:4C-15) "**[diligent]** reasonable efforts" mean **[reasonable]**
34 attempts by an agency authorized by the division to assist the parents
35 in remedying the circumstances and conditions that led to the
36 placement of the child and in reinforcing the family structure,
37 including, but not limited to:

38 (1) consultation and cooperation with the parent in developing a
39 plan for appropriate services;

40 (2) providing services that have been agreed upon, to the family,
41 in order to further the goal of family reunification;

42 (3) informing the parent at appropriate intervals of the child's
43 progress, development and health; and

44 (4) facilitating appropriate visitation.

45 d. The division shall not be required to provide "**[diligent]**
46 reasonable efforts" as defined in subsection c. of this section prior to

1 filing a petition for the termination of parental rights **【**pursuant to (f)
2 of section 15 of P.L.1951, c.138 (C.30:4C-15)**】** if an exception to the
3 requirement to provide reasonable efforts to reunify the family has
4 been established pursuant to section 25 of P.L. _____, c.
5 (C. _____)(pending before the Legislature as this bill).
6 (cf: P.L.1997, c.175, s.18)

7
8 31. (New section) The Division of Youth and Family Services
9 shall not be required to file a petition seeking the termination of
10 parental rights if:

11 a. The child is being cared for by a relative and a permanent plan
12 for the child can be achieved without termination of parental rights;

13 b. The division has documented in the case plan, which shall be
14 available for court review, a compelling reason for determining that
15 filing the petition would not be in the best interests of the child; or

16 c. The division is required to provide reasonable efforts to reunify
17 the family but the division has not provided to the family of the child,
18 consistent with the time period in the case plan, such services as the
19 division deems necessary for the safe return of the child to his home.

20

21 32. Section 20 of P.L.1951, c.138 (C.30:4C-20) is amended to
22 read as follows:

23 20. If upon the completion of such hearing the court is satisfied
24 that the best interests of such child require that he be placed under
25 proper guardianship, such court shall make an order terminating
26 parental rights and committing such child to the guardianship and
27 control of the **【Bureau of Childrens】** Division of Youth and Family
28 Services, and such child shall thereupon become the legal ward of
29 **【such bureau, and such bureau】** the division, which shall be the legal
30 guardian of such child for all purposes, including the placement of
31 such child for adoption.

32 If the court shall have made an interlocutory order as provided in
33 section 17 **【hereof】** of P.L.1951, c.138 (C.30:4C-17), but at the final
34 hearing a further order of commitment shall not be made as provided
35 in this section, the **【Bureau of Childrens】** Division of Youth and
36 Family Services shall return the child forthwith to the parent or
37 parents, guardian or person having had custody of the child
38 immediately prior to the filing of the petition; provided, however, that
39 if **【such】** the return does not ensure the safety of the child or if the
40 parent or parents, guardian or person having had custody cannot be
41 found or, for other reason satisfactory to the court, is unable to accept
42 the child, the **【Bureau of Childrens Services】** division, upon order of
43 the court, may place the child with such other person or persons who,
44 at the time of final hearing, expressed willingness to accept the child,
45 but such order shall in no wise be construed as a grant of custody or

1 guardianship. In all such cases the interlocutory order shall continue
2 in full force and effect until the **[Bureau of Childrens Services]**
3 division shall have made disposition of the child as provided herein or
4 as otherwise provided by law, but in no case for a period longer than
5 30 days after the final hearing.
6 (cf: P.L.1962, c.197, s.21)

7
8 33. Section 2 of P.L.1992, c.139 (C.30:4C-26.11) shall be
9 amended to read as follows:

10 2. The Legislature finds and declares that:

11 a. It is in the public interest, whereby the safety of the child is of
12 paramount concern, to afford every child placed outside of his home
13 by the Division of Youth and Family Services the opportunity for
14 eventual return to his home or placement in an alternative permanent
15 home;

16 b. If it has been determined that reuniting the child with the
17 **[natural]** child's parents or placing the child for adoption will not
18 serve a child's best interest, the child's best interest may be served
19 through a transfer to long-term foster care custody with the child's
20 foster parent; and

21 c. It is the purpose of this act to establish conditions and
22 procedures for the transfer of a child to long-term foster care custody.
23 (cf: P.L.1992, c.139, s.2)

24
25 34. Section 1 of P.L.1985, c.396 (C.30:4C-26.8) is amended to
26 read as follows:

27 1. a. A person, in addition to meeting other requirements as may
28 be established by the Department of Human Services, shall become a
29 foster parent or eligible to adopt a child only upon the completion of
30 an investigation to ascertain if there is a State or federal record of
31 criminal history for the prospective foster or adoptive parent or any
32 other adult residing in the prospective parent's home. The
33 investigation shall be conducted by the Division of State Police in the
34 Department of Law and Public Safety and shall include an examination
35 of its own files and the obtaining of a similar examination by federal
36 authorities.

37 b. If the prospective foster or adoptive parent or any adult residing
38 in the prospective parent's home has a record of criminal history, the
39 Department of Human Services shall review the record with respect to
40 the type and date of the criminal offense and make a determination as
41 to the suitability of the person to become a foster parent or adoptive
42 parent or the suitability of placing a child in that person's home, as the
43 case may be.

44 c. For the purposes of this section, a conviction for one of the
45 offenses enumerated in subsections d. or e. of this section has occurred
46 if the person has been convicted under the laws of this State or any

1 other state or jurisdiction for an offense that is substantially equivalent
2 to the offenses enumerated in these subsections.

3 d. A person shall be disqualified from being a foster parent or shall
4 not be eligible to adopt a child if that person or any adult residing in
5 that person's household ever committed a crime which resulted in a
6 conviction for:

7 (1) a crime against a child, including endangering the welfare of
8 a child and child pornography pursuant to N.J.S.2C:24-4; or child
9 abuse, neglect, or abandonment pursuant to R.S.9:6-3;

10 (2) murder pursuant to N.J.S. 2C:11-3 or manslaughter pursuant
11 to N.J.S.2C:11-4;

12 (3) aggravated assault which would constitute a crime of the
13 second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

14 (4) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

15 (5) kidnapping and related offenses including criminal restraint;
16 false imprisonment; interference with custody; criminal coercion; or
17 enticing a child into a motor vehicle, structure, or isolated area
18 pursuant to N.J.S.2C:13-1 through 2C:13-6;

19 (6) sexual assault, criminal sexual contact or lewdness pursuant to
20 N.J.S.2C:14-2 through N.J.S.2C:14-4;

21 (7) robbery which would constitute a crime of the first degree
22 pursuant to N.J.S.2C:15-1;

23 (8) burglary which would constitute a crime of the second degree
24 pursuant to N.J.S.2C:18-2;

25 (9) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17
26 et seq.);

27 (10) endangering the welfare of an incompetent person pursuant
28 to N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled
29 person pursuant to N.J.S.2C:24-8;

30 (11) terrorist threats pursuant to N.J.S.2C:12-3;

31 (12) arson pursuant to N.J.S.2C:17-1, or causing or risking
32 widespread injury or damage which would constitute a crime of the
33 second degree pursuant to N.J.S.2C:17-2; or

34 (13) an attempt or conspiracy to commit an offense listed in
35 paragraphs (1) through (12) of this subsection.

36 e. A person shall be disqualified from being a foster parent or shall
37 not be eligible to adopt a child if that person or any adult residing in
38 that person's household was convicted of one of the following crimes
39 and the date of release from confinement occurred during the
40 preceding five years:

41 (1) simple assault pursuant to subsection a. of N.J.S.2C:12-1;

42 (2) aggravated assault which would constitute a a crime of the
43 fourth degree pursuant to subsection b. of N.J.S.2C:12-1;

44 (3) a drug-related crime pursuant to P.L.1987, c.106 (C.2C:35-1
45 et seq.);

46 (4) robbery which would constitute a crime of the second degree

1 pursuant to N.J.S.2C:15-1;

2 (5) burglary which would constitute a crime of the third degree
3 pursuant to N.J.S.2C:18-2; or

4 (6) an attempt or conspiracy to commit an offense listed in
5 paragraphs (1) through (5) of this subsection.

6 For the purposes of this subsection, the “date of release from
7 confinement” means the date of termination of court-ordered
8 supervision through probation, parole, or residence in a correctional
9 facility, whichever date occurs last.

10 (cf: P.L.1985, c.396, s.1)

11

12 35. Section 1 of P.L.1989, c.21 (C.30:4C-26.9) is amended to
13 read as follows:

14 1. The Department of Human Services may grant **【provisional】**
15 approval to a prospective foster **【or adoptive】** parent for a period not
16 to exceed six months, upon completion of the State portion of the
17 criminal history record investigation required pursuant to P.L.1985,
18 c.396 (C.30:4C-26.8), pending completion and review of the federal
19 portion of the criminal history record investigation required pursuant
20 to that act, if (1) the State portion of the criminal history record
21 investigation indicates no information which would disqualify the
22 person, (2) the prospective foster **【or adoptive】** parent and any adult
23 residing in the prospective foster parent's home submit a sworn
24 statement to the Department of Human Services attesting that the
25 person does not have a record of criminal history which would
26 disqualify the person and (3) there is substantial compliance with
27 department standards for foster homes indicating there is no risk to a
28 child's health or safety.

29 (cf: P.L.1989, c.21, s.1)

30

31 36. Section 4 of P.L.1992, c.139 (C.30:4C-26.13) shall be
32 amended to read as follows:

33 4. The division may file a petition seeking long-term foster care
34 custody of a child in the **【family part】** Family Part of the Chancery
35 Division of the Superior Court. The petition shall be verified and shall
36 show that:

37 a. The child has reached the age of 12, or there are unique
38 circumstances which make the age of the child irrelevant;

39 b. **【Efforts】** Unless an exception to make reasonable efforts to
40 reunify the family of the child has been established in accordance with
41 section 25 of P.L. , c. (C.)(pending before the Legislature as
42 this bill), reasonable efforts have been made for at least one year by
43 the division to reunite the child with the child's **【biological】** family and
44 it has been documented in the case record that the attempts have been
45 unsuccessful;

46 c. **【Diligent】** Reasonable efforts have been made by the division

1 to place the child for adoption for at least one year and it has been
2 documented in the case record that the attempts have been
3 unsuccessful, or the division has made the determination that adoption
4 is not [in the child's best interest] appropriate; and

5 d. The child has resided as a foster child in the home of the person
6 seeking long-term foster care custody for at least one year and wishes
7 to remain with his foster parent.

8 The division shall attach to the long-term foster care custody
9 petition a written agreement signed by the child and the child's foster
10 parent and, where in concurrence, the child's parent, which delineates
11 the conditions of the custody arrangement. The consent of the child's
12 parent is desirable, but not necessary if all other conditions have been
13 met.

14 (cf: P.L.1992, c.139, s.4)

15
16 37. Section 2 of P.L.1977, c.424 (C.30:4C-51) is amended to read
17 as follows:

18 2. The Legislature declares that it is in the public interest, whereby
19 the safety of children shall be of paramount concern, to afford every
20 child placed outside his home by the Division of Youth and Family
21 Services with the opportunity for eventual return to his home or
22 placement in an alternative permanent home; that it is the obligation
23 of the State to promote this end through effective planning and
24 regular review of each child's placement; and that it is the purpose of
25 this act to establish procedures for both administrative and judicial
26 review of each child's placement in order to ensure that such
27 placement ensures the safety and health and serves the best interest of
28 the child.

29 (cf: P.L.1977, c.424, s.2)

30
31 38. Section 3 of P.L.1977, c.424 (C.30:4C-52) is amended to read
32 as follows:

33 3. As used in this act, unless the context indicates otherwise:

34 a. "Child" means any person less than 18 years of age;

35 b. "Child placed outside his home" means a child under the care,
36 custody or guardianship of the division, through voluntary agreement
37 or court order, who resides in a foster home, group home, residential
38 treatment facility, shelter for the care of abused or neglected children
39 or juveniles considered as juvenile-family crisis cases, or independent
40 living arrangement operated by or approved for payment by the
41 division, or a child who has been placed by the division in the home of
42 a person who is not related to the child and does not receive any
43 payment for the care of the child from the division, or a child placed
44 by the court in juvenile-family crisis cases pursuant to P.L.1982, c.77
45 (C.2A:4A-20 et seq.), but does not include a child placed by the court
46 in the home of a person related to the child who does not receive any

1 payment from the division for the care of the child;

2 c. "County of supervision" means the county in which the division
3 has established responsibility for supervision of the child;

4 d. "Division" means the Division of Youth and Family Services in
5 the Department of Human Services;

6 e. "Temporary caretaker" means a foster parent as defined in
7 section 1 of P.L.1962, c.136 (C.30:4C-26.4) or a director of a group
8 home or residential treatment facility;

9 f. "Designated agency" means an agency designated by the court
10 pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.) to develop a family
11 services plan.

12 (cf: P.L.1987, c.252, s.1)

13

14 39. Section 4 of P.L.1977, c.424 (C.30:4C-53) is amended to read
15 as follows:

16 4. Within five calendar days after the placement of a child outside
17 his home pursuant to a voluntary agreement, the division or the
18 designated agency, as the case may be, shall file notice of such
19 placement with the **[family part]** Family Part of the Chancery Division
20 of the Superior Court in the child's county of supervision. Such notice
21 shall be in the form of a petition encaptioned "In the matter of
22, a minor" and shall include the date and type of placement
23 and the reasons for such placement, which shall include the specific
24 efforts to prevent the placement or the specific situation which the
25 division has documented to establish an exception to the requirement
26 to make reasonable efforts to prevent placement in accordance with
27 section 24 of P.L. , c. (C.)(pending before the Legislature as
28 this bill). Such filing shall establish a continuing jurisdiction of the
29 court over the placement of the child.

30 The division shall also file immediate notice with the court of any
31 change in placement and of the permanent placement or return home
32 of the child. The court's jurisdiction shall cease upon receipt of such
33 notification of the return home or alternative permanent placement of
34 the child, except as permitted pursuant to subsection e. of section 8 of
35 P.L.1984, c.85 (C.30:4C-61.1).

36 (cf: P.L.1987, c.252, s.2)

37

38 40. Section 1 of P.L.1991 c.448 (C.30:4C-53.1) is amended to
39 read as follows:

40 1. The Legislature finds and declares that it is in the public
41 interest, whereby the safety of children shall be of paramount concern,
42 to afford every child placed outside his home by the division with
43 permanency through return to his own home, if the child can be
44 returned home without endangering the child's health or safety;
45 through adoption, if family reunification is not possible; or through an
46 alternative permanent placement, if termination of parental rights is not

1 appropriate:

2 a. Due to the severity of health and social problems such as AIDS,
3 drug abuse and homelessness, the Division of Youth and Family
4 Services in the Department of Human Services often works with
5 families over a period of many years, and the children of these families
6 often spend a majority of their young lives in foster care; and

7 b. Research has shown that the longer children remain in the foster
8 care system, the greater number of placements they experience. As a
9 result of these multiple placements, from natural family to foster home
10 and from one foster home to another foster home, children develop
11 emotional and psychological problems, making it more difficult for
12 them to develop a positive self-image; and

13 c. For the majority of these children, placement in residential
14 treatment facilities becomes the only viable option left to the division
15 because it is more difficult for the division to find adoptive homes for
16 them when, and if, adoption becomes a case goal; and

17 d. The obligation of the State to recognize and protect the rights
18 of children in the child welfare system should be fulfilled in the context
19 of a clear and consistent policy which limits the repeated placement of
20 children in foster care and promotes the eventual placement of these
21 children in stable and safe permanent homes.

22 (cf: P.L.1991, c.448, s.1)

23

24 41. Section 3 of P.L.1991 c.448 (C.30:4C-53.3) is amended to
25 read as follows:

26 3. a. The division shall not treat a child's repeated placement into
27 foster care as an initial placement. The child's revised placement plan,
28 updated at the time of the child's repeated placement, shall summarize
29 the child's prior history with the division regarding previous
30 placements, the findings of the child placement review board, as well
31 as a copy of the court order for the removal of the child from the
32 custody of his parents or guardian. The revised placement plan shall
33 be used by the division when preparing the child's repeated placement
34 plan pursuant to this section.

35 b. Whenever a child is placed again into foster care, the division
36 shall prepare a repeated placement plan which shall ensure the **[goal]**
37 goals of safety and permanency through the safe return of the child to
38 his parents or, if this is not possible, through the State's assumption of
39 guardianship for the purpose of finding the child an adoptive home or,
40 if termination of parental rights is not appropriate, through an
41 alternative permanent placement. The plan shall be prepared within
42 30 days after the child's repeated placement and submitted to the
43 court. The plan shall be valid for 12 months after the date the child
44 was placed again into foster care.

45 c. The repeated placement plan shall include, but not be limited to:

46 (1) The specific reasons for the repeated placement of the child,

1 including a description of the problems or conditions in the home of
2 the parents or guardian which necessitated the child's removal, and a
3 summary of the efforts made by the division to prevent the child's
4 repeated placement or the exception to the requirement to make
5 reasonable efforts to prevent placement in accordance with section 24
6 of P.L. , c. (C.)(pending before the Legislature as this bill);

7 (2) The specific actions to be taken by the child's parents or
8 guardian to eliminate the identified problems or conditions which were
9 the basis of the child's repeated placement into foster care, which
10 actions shall be taken within a specific time limit agreed upon by the
11 child's caseworker and the parents or guardian;

12 (3) The social services to be provided to the [child's parents or
13 guardian, the] child and the foster parents during the period the child
14 is in foster care and the social services to be provided to the child's
15 parent or guardian, or the exception to the requirement to make
16 reasonable efforts toward family reunification in accordance with
17 section 25 of P.L. , c. (C.)(pending before the Legislature as
18 this bill), and the goal for the child and anticipated date for achieving
19 the goal. The purpose of the supportive services shall be to promote
20 the child's best interest and to facilitate his safe return to his natural
21 home, placement for adoption or an alternative permanent placement.
22 Services to facilitate adoption or an alternative permanent placement
23 may be provided concurrently with services to reunify the child with
24 the parent or guardian;

25 (4) An assessment of the division's ability to obtain a child's birth
26 certificate, locate the child's parents for future contact and have access
27 to the child's extended family, in the event that [an adoption] a plan
28 for adoption or an alternative permanent placement becomes
29 necessary; [and]

30 (5) A stipulation that the child be placed with his prior foster
31 family, if possible and if in the child's best interest, to provide the child
32 with continuity and stability in his living environment; and

33 (6) A permanency plan for the child and the reasonable efforts of
34 the division to achieve that plan, if: the division has established an
35 exception to the requirement to provide reasonable efforts toward
36 family reunification in accordance with section 25 of P.L. , c.
37 (C.)(pending before the Legislature as this bill); or the child has,
38 in any period of 22 consecutive months, been in any placement or
39 placements for a total of 12 months.

40 The permanency plan shall include whether and, if applicable,
41 when:

42 (a) the child will be returned to the parent or guardian, if the child
43 can be returned home without endangering the child's health or safety;

44 (b) the division has determined that family reunification is not
45 possible, and the division shall file a petition for the termination of
46 parental rights for the purpose of adoption; or

1 (c) the division has determined that termination of parental rights
2 is not appropriate in accordance with section 31 of P.L. , c.
3 (C.)(pending before the Legislature as this bill), and the child shall
4 be placed in an alternative permanent placement.

5 (cf: P.L.1991, c.448, s.3)

6
7 42. Section 4 of P.L.1991, c.448 (C.30:4C-53.4) is amended to
8 read as follows:

9 4. If the division is required to provide reasonable efforts toward
10 family reunification, and if the parents or guardian of the child are
11 unwilling or unable to remedy the problems or conditions outlined in
12 the child's repeated placement plan within the specified time limit
13 **[and]** despite **[diligent]** reasonable efforts by the division, and if the
14 permanency plan for the child requires the termination of parental
15 rights, the division shall file a petition **[for guardianship]** to terminate
16 the rights of the child's parents with the family part of the Chancery
17 Division of the Superior Court pursuant to section 15 of P.L.1951,
18 c.138 (C.30:4C-15). The division shall concurrently provide services
19 to facilitate the child's placement into an adoptive home.

20 The court shall set a hearing, with notice to all parties, on the
21 guardianship petition within 45 days from the date the petition was
22 filed.

23 (cf: P.L.1991, c.448, s.4)

24
25 43. Section 5 of P.L.1977, c.424 (C.30:4C-54) is amended to read
26 as follows:

27 5. The court shall, within 15 days following receipt of the notice
28 of the initial placement pursuant to a voluntary agreement, determine,
29 based solely upon the petition and other affidavits and written
30 materials submitted to the court, whether or not reasonable efforts
31 have been made to prevent the placement and whether or not the
32 continuation of the child in his home would be contrary to the welfare
33 of the child, and either approve the placement or order the return of
34 the child to his home, except that, lack of reasonable efforts to prevent
35 placement shall not be the sole basis for the court's order of a return
36 of the child to his home.

37 If the division has documented an exception to the requirement to
38 provide reasonable efforts towards family reunification, the court shall
39 make a finding of whether reasonable efforts are required in
40 accordance with section 25 of P.L. , c. (C.) (pending before
41 the Legislature as this bill). The child's health, safety and need for
42 permanency shall be of paramount concern to the court when it makes
43 its finding.

44 The court also may require the submission of supplementary
45 material or schedule a summary hearing if:

46 a. The court has before it conflicting statements of material fact;

1 b. The court determines that it is in the best interest of the child;
2 or

3 c. The child's parents or legal guardian requests the hearing.

4 The court shall provide written notice to the parties involved in the
5 hearing at least five days prior to the hearing. The court shall provide
6 written notice of the date, time and place of such hearing to the
7 parents or legal guardian of the child, the child or the child's counsel,
8 the child's temporary caretaker, the division, and any other party the
9 court deems appropriate. If the child's caretaker is a foster parent,
10 preadoptive parent or relative, the caretaker shall receive written
11 notice of and an opportunity to be heard at the hearing, but the
12 caretaker shall not be made a party to the hearing solely on the basis
13 of the notice and opportunity to be heard.

14 (cf: P.L.1987, c.252, s.3)

15

16 44. Section 6 of P.L.1977, c.424 (C.30:4C-55) is amended to read
17 as follows:

18 6. The division shall prepare and revise, when necessary, in
19 consultation with the child's parents or legal guardian and, when
20 appropriate, the child, a placement plan for each child placed outside
21 his home. The placement plan shall include:

22 a. A statement of the goal for the permanent placement or return
23 home of the child and anticipated date that the goal will be achieved;

24 b. The intermediate objectives relating to the attainment of the
25 goal; **[and]**

26 c. A statement of the duties and responsibilities of the division, the
27 parents or legal guardian and the temporary caretaker, including the
28 services to be provided by the division to the child**[, the parents or**
29 **legal guardian,]** and to the temporary caretaker

30 d. A statement of the services to be provided to the parent or legal
31 guardian or an exception to the requirement to provide reasonable
32 efforts toward family reunification in accordance with section 25 of
33 P.L. _____, c. _____)(pending before the Legislature as this bill).
34 Services to facilitate adoption or an alternative permanent placement
35 may be provided concurrently with services to reunify the child with
36 the parent or guardian; and

37 e. A permanency plan for the child and the division's reasonable
38 efforts to achieve that plan, if: the division has established an
39 exception to the requirement to provide reasonable efforts toward
40 family reunification in accordance with section 25 of P.L. _____, c.
41 (C. _____)(pending before the Legislature as this bill); or the child has
42 been in placement for 12 months.

43 The permanency plan shall include whether and, if applicable,
44 when:

45 (a) the child shall be returned to the parent or guardian, if the
46 child can be returned home without endangering the child's health or

1 safety:

2 (b) the division has determined that family reunification is not
3 possible, and the division shall file a petition for the termination of
4 parental rights for the purpose of adoption; or

5 (c) the division has determined that termination of parental rights
6 is not appropriate in accordance with section 31 of P.L. _____, c.
7 (C. _____)(pending before the Legislature as this bill) and the child
8 shall be placed in an alternative permanent placement.

9 (cf: P.L.1977, c.424, s.6)

10

11 45. Section 9 of P.L.1977, c.424 (C.30:4C-58) is amended to read
12 as follows:

13 9. Each board shall act on behalf of the family part of the
14 Chancery Division of the Superior Court in reviewing the case of every
15 child placed outside his home pursuant to a voluntary agreement, to
16 determine whether the best interests and safety of the child are being
17 served by such placement.

18 Each board shall also act on behalf of the family part of the
19 Chancery Division of the Superior Court in reviewing the case of each
20 child placed outside his home by the division in accordance with a
21 court order pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.), section
22 12 of P.L.1951, c.138 (C.30:4C-12), section 24 of P.L.1982, c.77
23 (C.2A:4A-43) or section 25 of P.L.1982, c.77 (C.2A:4A-44). The
24 division or designated agency shall submit to the board within 30 days
25 of a child's placement, a placement plan prepared in accordance with
26 the provisions of P.L.1977, c.424 (C.30:4C-50 et seq.).

27 A board shall initiate a review of a placement pursuant to a
28 voluntary agreement or in accordance with a court order within 45
29 days following the initial or repeated placement and shall complete the
30 review within 15 days thereafter. A periodic review shall take place at
31 least every 12 months thereafter.

32 The board may schedule additional reviews on its own motion,
33 upon the request of any person listed in section 5 of P.L.1977, c.424
34 (C.30:4C-54) or upon an order of the court.

35 Notwithstanding the provisions of section 3 of P.L.1977, c.424
36 (C.30:4C-52) to the contrary, if a child placed outside his home attains
37 18 years of age or older and his out of home placement costs are being
38 paid by the division, the board shall continue to conduct periodic
39 reviews until the division terminates supervision.

40 All such reviews shall include, but not necessarily be limited to, the
41 consideration and evaluation of such matters as:

42 a. The appropriateness of the goal and objectives of the placement
43 plan and anticipated date that the goal will be achieved;

44 b. The appropriateness of the services provided to the child[, the
45 parents or legal guardian] and to the temporary caretaker;

46 c. Whether the child has siblings who are also placed outside of

1 their home;

2 d. Whether the wishes of the child were considered regarding
3 placement and development of the placement plan, when appropriate;

4 e. Whether the division, the parents or legal guardian and the
5 temporary caretaker are fulfilling their respective responsibilities in
6 accordance with the placement plan;

7 f. Whether the parents or legal guardian have been afforded the
8 opportunity and been encouraged to participate in a program of
9 regular visitation with the child;

10 g. Whether there are obstacles which hinder or prevent the
11 attainment of the placement plan objectives and goal; **[and]**

12 h. The circumstances surrounding the placement;

13 i. The appropriateness of the services provided to the parent or
14 legal guardian or the circumstances which do not require the division
15 to make reasonable efforts toward family reunification in accordance
16 with section 25 of P.L. , c. (C.)(pending before the Legislature
17 as this bill); and

18 j. The appropriateness of the division's permanency plan and the
19 division's reasonable efforts to achieve that plan, if an exception to the
20 requirement to provide reasonable efforts toward family reunification
21 has been established in accordance with section 25 of P.L. , c.
22 (C.)(pending before the Legislature as this bill) or the child has
23 been in placement for 12 months.

24 In the case of a child in placement outside of his home on the
25 effective date of this act, the first review shall be completed as soon
26 as possible, but not later than 12 months following such effective date.
27 (cf: P.L.1987, c.252, s.5)

28

29 46. Section 10 P.L.1977, c.424 (C.30:4C-59) is amended to read
30 as follows:

31 10. Each board shall provide written notice of the date, time and
32 place of each review at least 15 days in advance to the following, each
33 of whom shall be entitled to attend the review and to submit
34 information in writing to the board:

35 a. The division or agency;

36 b. The child;

37 c. The parents including a non-custodial parent or legal guardian;

38 d. The temporary caretaker;

39 e. Any other person or agency whom the board determines has an
40 interest in or information relating to the welfare of the child; **[and]**

41 f. The counsel for a parent, child or other interested party who has
42 provided or is providing representation in the case before the board;

43 and

44 If the child's caretaker is a foster parent, preadoptive parent or
45 relative, the caretaker shall receive written notice of and an
46 opportunity to be heard at the review, but the caretaker shall not be

1 made a party to the review solely on the basis of the notice and
2 opportunity to be heard.

3 The board may determine who may be in attendance at any
4 particular portion of its meeting. Nothing herein shall be interpreted
5 to exclude judges and court support staff from attending review board
6 meetings.

7 The written notice shall inform the person of his right to attend the
8 review and to submit written information and shall be prepared in a
9 manner which will encourage the person's attendance at the review.

10 Notice to the child may be waived by the court on a case by case
11 basis either on its own motion or on the petition of any of the above
12 persons in cases where the court determines that notice would be
13 harmful to the child. A waiver of notice to the child shall not waive the
14 notice requirement to counsel for the child or other representatives of
15 the child.

16 The review board may seek information from any agency which has
17 been involved with the child, parents or legal guardian or temporary
18 caretaker. If the agency fails to provide the requested information, the
19 court may, upon the request of the board, issue a subpoena to the
20 agency for the information.

21 The board shall conduct a review and make recommendations
22 based upon the written materials; provided, however, that the board
23 shall afford any party or person entitled to notice pursuant to this
24 section a reasonable opportunity to appear and to present his views
25 and recommendations. Upon the request of the board, the family part
26 of the Chancery Division of the Superior Court may subpoena a person
27 to attend the review board meeting.

28 A designated agency shall provide relevant and necessary
29 information to the board regarding a child who is reviewed by the
30 board.

31 (cf: P.L.1987, c.252, s.7)

32

33 47. Section 11 of P.L.1977, c.424 (C.30:4C-60) is amended to
34 read as follows:

35 11. Within 10 days after the completion of such review, the board
36 shall submit a written report to the family part of the Chancery
37 Division of the Superior Court and the division. Such report shall
38 offer one of the following findings, stating the specific reasons
39 therefor:

40 a. That continued placement of the child outside of the home is
41 not in the child's best interest and the child should be returned home
42 within two weeks and that the division or designated agency, as
43 appropriate, shall provide reasonable and available services which are
44 necessary to implement the return home;

45 b. That continued placement outside of the home is in the child's
46 best interest on a temporary basis until the long-term goal is achieved,

1 which long-term goal is:

- 2 (1) Return to the child's parents or legal guardian,
- 3 (2) Adoption,
- 4 (3) Permanent placement with a relative,
- 5 (4) Long-term foster care custody,
- 6 (5) Independent living, **[or]**
- 7 (6) Institutionalization, or
- 8 (7) An alternative permanent placement;

9 c. That continued placement outside of the home on a temporary
10 basis is in the child's best interest, but that there is not sufficient
11 information for the board to make a recommendation, therefore, the
12 board requests the court to order the division or designated agency, as
13 appropriate, to provide the needed information within two weeks of
14 the court order.

15 d. (Deleted by amendment, P.L.1987, c.252.)

16 In addition to the finding, the board shall state in its report if the
17 placement plan satisfies the criteria provided in section 9 of P.L.1977,
18 c.424 (C.30:4C-58) and if it does not, that the placement plan should
19 be modified or a new plan should be developed.

20 When making its finding pursuant to this section, the child's health,
21 safety and need for permanency shall be of paramount concern to the
22 board. The board shall give priority to the goal of return to the child's
23 parents or legal guardian unless that goal is not in the best interest of
24 the child. If the return has not been achieved within one year, and
25 after considering the family's efforts**[,];** the division's or designated
26 agency's provision of reasonable and available services, if reasonable
27 efforts are required; or other relevant factors**[,];** the board shall
28 recommend another permanent plan for the child **[which shall include**
29 permanent placement with a relative through adoption or legal custody
30 or adoption by a non-relative. But, if return to a child's parents or legal
31 guardian, permanent placement with a relative or adoption is not
32 possible or is not in the best interest of the child, the board shall
33 recommend an alternative long-term plan for the child**].**

34 In addition to the finding, the board shall state the reasons and
35 additional factors it deems appropriate to explain its conclusions.
36 When any change in the plan or situation of the child is recommended,
37 the board shall state its specific recommendations and the factual basis
38 therefor.

39 In accordance with section 8 of P.L.1985, c.85 (C.30:4C-61.1), the
40 board may recommend that the division shall not return a child to his
41 home prior to a review by the board and an order of the court.

42 Within 10 days of the completion of its review, the board shall
43 provide to those persons entitled to notice under section 10 of
44 P.L.1977, c.424 (C.30:4C-59) the specific finding made pursuant to
45 this section, unless the board recommends that the finding shall not be
46 provided to specific individuals as provided in this paragraph. The

1 court may waive notice of findings to the child on a case-by-case basis
2 on its own motion or on the petition of a person listed in section 10 of
3 P.L.1977, c.424 (C.30:4C-59) in cases where the court determines that
4 the nature of the findings would be harmful to the child, or if notice to
5 the child of review was waived. The court may waive notice of
6 findings to persons included in subsection e. of section 10 of P.L.1977,
7 c.424 (C.30:4C-59) on the recommendation of the board or on the
8 petition of other persons entitled to notice.
9 (cf: P.L.1987, c.252, s.8)

10

11 48. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to
12 read as follows:

13 12. a. Upon review of the board's report, the family part of the
14 Chancery Division of the Superior Court shall issue an order
15 concerning the child's placement which it deems will best serve the
16 health, safety and interests of the child. The court shall issue the order
17 within 21 calendar days of the court's receipt of the board's report
18 unless the court schedules a summary hearing. The court shall either:

19 (1) Order the return of the child to his parents or legal guardian
20 within two weeks and order the division or designated agency, as
21 appropriate, to provide any reasonable and available services which are
22 necessary to implement the return home;

23 (2) Order continued placement on a temporary basis until the
24 long-term goal is achieved; or

25 (3) Order continued placement on a temporary basis but that the
26 division shall provide further information within two weeks to the
27 court, which information shall be reviewed by the board within 30 days
28 of its receipt.

29 (4) (Deleted by amendment, P.L.1987, c.252.)

30 In accordance with section 8 of P.L.1984, c.85 (C.30:4C-61.1), the
31 court may order that the division shall not return a child to his home
32 prior to review by the board and an order of the court.

33 In addition, if the placement plan does not satisfy the criteria of
34 section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that
35 the placement plan be modified or that a new plan be developed within
36 30 days.

37 b. In reviewing the report, the court may request that, where
38 available, any written or oral information submitted to the board be
39 provided to the court. The court shall make a determination based
40 upon the report and any other information before it; provided,
41 however, that the court may schedule a summary hearing if:

42 (1) The court has before it conflicting statements of material fact
43 which it cannot resolve without a hearing; or

44 (2) A party entitled to participate in the proceedings requests a
45 hearing; or

46 (3) The court concludes that the interests of justice require that a

1 hearing be held~~],~~ the court may schedule a summary hearing~~];~~ or

2 (4) The board recommends that a hearing be held due to lack of
3 compliance with the placement plan, including achievement of the
4 permanent placement identified in the permanency plan.

5 c. Notice of such hearing, including a statement of the dispositional
6 alternatives of the court, shall be provided at least 30 days in advance,
7 unless the court finds that it is in the best interest of the child to
8 provide less notice in order to conduct the hearing sooner. Notice
9 shall be provided to the following persons unless the court determines
10 it is not in the best interests of the child:

11 (1) The division;

12 (2) The child;

13 (3) The child's parents including a non-custodial parent or legal
14 guardian;

15 (4) The review board;

16 (5) The temporary caretaker; ~~[and]~~

17 (6) The counsel for any parent, child or other interested party who
18 has provided or is providing representation in the case before the
19 board; ~~and~~

20 (7) If the child's caretaker is a foster parent, preadoptive parent
21 or relative, the caretaker shall receive written notice of and an
22 opportunity to be heard at the hearing, but the caretaker shall not be
23 made a party to the hearing solely on the basis of the notice and
24 opportunity to be heard.

25 The court may also request or order additional information from
26 any other persons or agencies which the court determines have an
27 interest in or information relating to the welfare of the child.

28 The court shall hold the hearing within 60 days of receipt of the
29 board's report and shall issue its order within 15 days of the hearing.

30 d. The court shall send a copy of its order concerning the child's
31 placement to all persons listed in subsection c. of this section, except
32 that, if notice to the child of the board review was waived pursuant to
33 section 10 of P.L.1977, c.424 (C.30:4C-59), the court may waive the
34 requirement of sending a copy of its order to the child.

35 e. Any person who receives a copy of the court order shall comply
36 with the confidentiality requirements established by the Supreme Court
37 for the purposes of this act.

38 (cf: P.L.1987, c.252, s.9)

39

40 49. Section 8 of P.L.1984, c.85 (C.30:4C-61.1) is amended to
41 read as follows:

42 8. a. If the division proposes to return a child home, although the
43 return home is either prohibited by the placement plan approved by the
44 court or expressly contingent upon certain conditions in the placement
45 plan that have not been met, the division shall promptly notify the
46 board and the court in writing.

1 b. The board shall conduct a special review within 15 days of
2 receipt of the notice provided pursuant to subsection a. or f. of this
3 section to consider and evaluate the reasons for the proposed action
4 and determine whether the action ensures the safety and serves the
5 best interests of the child. The board shall provide written notice of
6 the special review pursuant to section 10 of P.L.1977, c.424
7 (C.30:4C-59), except that the 15-day advance notice requirement is
8 waived. The board shall submit its report to the court pursuant to
9 section 11 of P.L.1977, c.424 (C.30:4C-60), except that the board
10 shall submit the report within five days of completion of the special
11 review.

12 c. The court shall review the board's recommendations within
13 10 days and issue an order within five days unless a summary hearing
14 is scheduled concerning the child's placement pursuant to section 12
15 of P.L.1977, c.424 (C.30:4C-61), except that if a party entitled to
16 participate in the proceeding requests a hearing, the court shall hold
17 a summary hearing within 15 days of receipt of the board's report
18 unless the court determines that the request for the hearing is
19 frivolous. The court shall issue its order within five days of the
20 hearing.

21 d. The division shall not return the child home unless the court
22 approves the division's proposed action and orders the return home of
23 the child.

24 e. Notwithstanding the provisions of this section to the contrary,
25 in an emergency situation, the court may waive the special review
26 provisions of this section and approve the return home, upon the
27 request of the division to do so. The request of the division for a
28 court waiver of the special review provisions shall be accompanied by
29 a written statement from the division declaring and finding that the
30 out-of-home placement has been disrupted, that no appropriate
31 alternative placement for the child can be found in the home of a
32 relative, a foster home, group home, shelter, residential care facility or
33 other setting following the change in placement, and that the return
34 home will not endanger the health ~~[and]~~, safety or welfare of the
35 child. The written statement submitted with a request shall also
36 outline the specific reasons for the findings made. The division shall
37 conduct an on-site visit of the home of a child when in an emergency
38 situation the division plans to request of the court a waiver of the
39 special review provisions. A report of the on-site visit shall be
40 included with the request.

41 If the court approves the division's request, the division shall
42 promptly notify the board of the court's approval of the request. The
43 board shall conduct a review of the change in the placement plan
44 within 15 days of the date the child is returned home. The division
45 shall conduct a minimum of two on-site visits to the home of a child
46 returned there in an emergency situation within the first 10 days of the

1 return to ascertain the continued health, safety and welfare of the
2 child. The court, upon granting a request for a waiver, may require
3 additional on-site visits. A detailed written report of each on-site visit
4 to the home of a child returned in an emergency situation shall
5 promptly be submitted to the court and to the child placement review
6 board.

7 Notwithstanding any other provisions of law to the contrary, the
8 court shall retain jurisdiction over the placement of the child after a
9 child has been returned home in an emergency situation for up to six
10 months unless there is a subsequent court hearing or court order.

11 In any case where, following a court order for the implementation
12 of a placement plan, the board determines upon re-review of the case
13 that there has been insufficient effort on the part of the division or any
14 other parties toward implementation of the court ordered plan, the
15 board may petition the court for an order to show cause as to why the
16 plan is not being implemented as ordered.

17 f. If, subsequent to the review and approval of a plan by the court,
18 the division proposes to change the long-term goal in the plan or
19 otherwise substantially modify the plan, it shall notify the court and the
20 board in writing, within five days. The board shall schedule review of
21 the modification. The division shall continue to implement the current
22 court ordered plan until the court orders a modified or new plan.

23 g. Nothing in this section is intended to limit the court's authority
24 to exercise its regular remedies for enforcement of an order.

25 (cf: P.L.1987, c.252, s.10)

26

27 50. (New section) a. A permanency hearing shall be held that
28 provides review and approval by the court of the placement plan:

29 (1) within 30 days after the determination of an exception to the
30 reasonable effort requirement to reunify the child with the parent in
31 accordance with section 25 of P.L. , c. (C.)(pending before
32 the Legislature as this bill); or

33 (2) no later than 12 months after the child has been in placement.

34 b. Written notice of the date, time and place of the permanency
35 hearing shall be provided at least 15 days in advance to the following,
36 each of whom shall be entitled to attend the hearing and to submit
37 written information to the court:

38 (1) the division or agency;

39 (2) the child;

40 (3) the parents, including a non-custodial parent or legal guardian;

41 (4) the temporary caretaker;

42 (5) any other person or agency whom the court determines has an
43 interest in or information relating to the welfare of the child;

44 (6) the counsel for a parent, child or other interested party who
45 has provided or is providing representation in the case before the
46 court; and

1 (7) the child's foster parent, preadoptive parent or relative
2 providing care for the child shall also receive written notice of and an
3 opportunity to be heard at the hearing, but the foster parent,
4 preadoptive parent or relative shall not be made a party to the hearing
5 solely on the basis of the notice and opportunity to be heard.

6 c. The hearing shall include, but not necessarily be limited to,
7 consideration and evaluation of information provided by the division
8 and other interested parties regarding such matters as:

9 (1) a statement of the goal for the permanent placement or return
10 home of the child and the anticipated date that the goal will be
11 achieved;

12 (2) the intermediate objectives relating to the attainment of the
13 goal;

14 (3) a statement of the duties and responsibilities of the division,
15 the parents or legal guardian and the temporary caretaker, including
16 the services to be provided by the division to the child and to the
17 temporary caretaker;

18 (4) a statement of the services to be provided to the parent or
19 legal guardian or an exception to the requirement to provide
20 reasonable efforts toward family reunification in accordance with
21 section 25 of P.L. , c. (C.)(pending before the Legislature as
22 this bill). Services to facilitate adoption or an alternative permanent
23 placement may be provided concurrently with services to reunify the
24 child with the parent or guardian;

25 (5) a permanency plan which includes whether and, if applicable,
26 when:

27 (a) the child shall be returned to the parent or guardian, if the
28 child can be returned home without endangering the child's health or
29 safety;

30 (b) the division has determined that family reunification is not
31 possible and the division shall file a petition for the termination of
32 parental rights for the purpose of adoption; or

33 (c) the division has determined that termination of parental rights
34 is not appropriate in accordance with section 31 of P.L. , c.
35 (C.)(pending before the Legislature as this bill) and the child
36 shall be placed in an alternative permanent placement.

37 d. If the court approves a permanency plan for the child, the court
38 shall make a specific finding of the reasonable efforts made thus far by
39 the division and the appropriateness of the reasonable efforts to
40 achieve the permanency plan.

41
42 51. Section 2 of P.L.1992, c.111 (C.30:4C-67) is amended to read
43 as follows:

44 2. The Legislature finds and declares that it is the intent of the
45 Legislature to preserve the sanctity of the family unit, to the extent
46 that the preservation does not jeopardize the safety of children, which

1 shall be of paramount concern, and to prevent the unnecessary
2 out-of-home placement of emotionally disturbed children, whether in
3 New Jersey or out-of-State.

4 The Legislature further finds and declares that it is in the best
5 interest of children that an individualized, appropriate child and family
6 driven care system be developed so that children with special
7 emotional needs and their families receive safe and appropriate
8 educational, nonresidential, residential and family supportive services.
9 (cf: P.L.1992, c.111, s.2)

10
11 52. The Commissioner of Human Services, pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.), shall adopt rules and regulations to implement the provisions of
14 this act.

15
16 53. This act shall take effect immediately.

17
18
19 STATEMENT

20
21 The purpose of this bill is to conform State law to the provisions
22 of the federal "Adoption and Safe Families Act of 1997," (ASFA)
23 Pub.L.105-89. The federal law is intended to assist state efforts to
24 balance family preservation and reunification with the child's health,
25 safety and need for permanency.

26 Specifically, the bill addresses the following issues:

27 -- The safety of children is of paramount concern: ASFA requires
28 that a child's safety be the paramount concern in all aspects of services
29 including when a child is placed outside of his home, and during the
30 determination of whether the permanent plan for a child under the care
31 or custody of the Division of Youth and Family Services (DYFS)
32 should be family reunification, adoption, or some alternative
33 placement. The bill clearly establishes as public policy in Titles 9 and
34 30 of the Revised Statutes that the safety of children shall be the
35 paramount concern, expanding the current State policy which protects
36 a child's best interests.

37 -- Reasonable efforts requirements and exceptions: The bill
38 amends Titles 9 and 30 of the Revised Statutes, including the "Child
39 Placement Review Act," (N.J.S.A.30:4C-50 et seq.) to incorporate
40 ASFA's requirements for reasonable efforts to prevent placement or
41 reunify families and exceptions to these requirements. These
42 exceptions are included in the bill. For example, ASFA requires that
43 reasonable efforts towards placement of a child for adoption or in
44 another permanent placement may be made concurrently with
45 reasonable efforts toward family preservation and reunification. When
46 a permanency plan has been developed, reasonable efforts must be

1 made to achieve the plan. Upon the filing of a petition to terminate
2 parental rights, reasonable efforts must be made to obtain a qualified
3 family for adoption. ASFA permits exceptions to the reasonable
4 efforts requirements that are triggered when a court of competent
5 jurisdiction has determined that (1) the parent has subjected the child
6 to aggravated circumstances, (2) the parent has committed certain
7 criminal offenses or (3) the parent's rights to another child have been
8 terminated involuntarily.

9 -- Permanency hearings: ASFA requires that a permanency hearing
10 be held when a state is not required to make reasonable efforts to
11 reunify a child with his parents or no later than when a child has been
12 in out-of-home placement for 12 months. The bill also adds language
13 to establish public policy recognizing a child's need for permanency
14 through a return to the home, if the child can be returned home
15 without endangering the child's health or safety; through adoption, if
16 family reunification is not possible; or through an alternative placement
17 plan, if termination of parental rights is not appropriate. Also, the bill
18 specifies that any hearing held before a court of competent jurisdiction
19 may serve as a permanency hearing to provide judicial review and
20 approval of a permanency plan for a child if the requirements for a
21 permanency hearing (established in the bill) are met.

22 -- Reduction of interjurisdictional barriers to adoption: The bill
23 authorizes the Department of Human Services (DHS) to enter into
24 interstate compacts which enhance protection and permanency for
25 children. The bill amends the State's adoption law, N.J.S.A. 9:3-37 et
26 seq., to specify that: (1) an intermediary in any state or country shall
27 not receive money or other consideration in connection with the
28 placement of a child in New Jersey; and (2) an intermediary in New
29 Jersey is prohibited from benefiting in connection with the placement
30 of a child for adoption in New Jersey or in any other state or country.

31 -- Termination of parental rights: The bill mirrors the provisions
32 of ASFA by requiring DYFS to seek termination of parental rights
33 when grounds are established, but no later than when a child has been
34 in placement for 15 out of the most recent 22 months, unless one of
35 the following exceptions is met: (1) the child is being cared for by a
36 relative; (2) the State has documented a compelling reason why
37 termination of parental rights would not be in the child's best interests;
38 or (3) the State has not provided to the child's family the services the
39 State deems necessary for the child's safe return home.

40 -- Notice to caregiver: ASFA requires that notice and an
41 opportunity to be heard be given to a child's foster parent, preadoptive
42 parent, or relative caregiver whenever there is a review or hearing
43 regarding the child. The bill includes this provision in applicable
44 sections of Titles 9 and 30 of the Revised Statutes.

45 -- Criminal History Record Information (CHRI) Checks: ASFA
46 requires CHRI checks on prospective foster and adoptive parents and

1 prohibits approval of applicants who have committed certain crimes.
2 State law currently requires these checks, but the bill amends
3 N.J.S.A.30:4C-26.8 to identify the specific crimes that prohibit
4 approval.

5 Finally, although ASFA does not address this issue, hospitals and
6 health care professionals have begun using document service
7 companies to provide records to DYFS. Since DYFS is a public
8 agency, this bill provides that DYFS shall not be charged a fee for the
9 copying of these records.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1705

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 15, 1999

The Senate Women's Issues, Children and Family Services Committee reports favorably Senate Bill No. 1705 with committee amendments.

As amended by committee, this bill conforms State law to the provisions of the federal "Adoption and Safe Families Act of 1997," (ASFA) Pub.L.105-89. The federal law is intended to assist state efforts to balance family preservation and reunification with the child's health, safety and need for permanency.

Specifically, the bill addresses the following issues:

-- The safety of children is of paramount concern: ASFA requires that a child's health and safety be the paramount concern in all aspects of services including when a child is placed outside of his home, and during the determination of whether the permanent plan for a child under the care or custody of the Division of Youth and Family Services (DYFS) should be family reunification, adoption, or some alternative placement. The bill clearly establishes as public policy in Titles 9 and 30 of the Revised Statutes that the health and safety of children shall be the paramount concern, expanding the current State policy which protects a child's best interests.

-- Reasonable efforts requirements and exceptions: The bill amends Titles 9 and 30 of the Revised Statutes, including the "Child Placement Review Act," (N.J.S.A.30:4C-50 et seq.) to incorporate ASFA's requirements for reasonable efforts to prevent placement or reunify families and exceptions to these requirements. These exceptions are included in the bill. For example, ASFA requires that reasonable efforts towards placement of a child for adoption or in another permanent placement may be made concurrently with reasonable efforts toward family preservation and reunification. When a permanency plan has been developed, reasonable efforts must be made to achieve the plan. Upon the filing of a petition to terminate parental rights, reasonable efforts must be made to obtain a qualified family for adoption. ASFA permits exceptions to the reasonable efforts requirements that are triggered when a court of competent

jurisdiction has determined that (1) the parent has subjected the child to aggravated circumstances, (2) the parent has committed certain criminal offenses or (3) the parent's rights to another child have been terminated involuntarily.

-- Permanency hearings: ASFA requires that a permanency hearing be held when a state is not required to make reasonable efforts to reunify a child with his parents or no later than when a child has been in out-of-home placement for 12 months. The bill also adds language to establish public policy recognizing a child's need for permanency through a return to the home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative placement plan, if termination of parental rights is not appropriate. Also, the bill specifies that any hearing held before a court of competent jurisdiction shall serve as a permanency hearing to provide judicial review and approval of a permanency plan for a child if the requirements for a permanency hearing (established in the bill) are met.

-- Reduction of interjurisdictional barriers to adoption: The bill authorizes the Department of Human Services (DHS) to enter into interstate compacts which enhance protection and permanency for children. The bill amends the State's adoption law, N.J.S.A. 9:3-37 et seq., to specify that: (1) an intermediary in any state or country shall not receive money or other consideration in connection with the placement of a child in New Jersey; and (2) an intermediary in New Jersey is prohibited from benefiting in connection with the placement of a child for adoption in New Jersey or in any other state or country.

-- Termination of parental rights: The bill mirrors the provisions of ASFA by requiring DYFS to seek termination of parental rights as soon as the grounds provided in N.J.S.A. 30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months, unless one of the following exceptions is met: (1) the child is being cared for by a relative; (2) the State has documented a compelling reason why termination of parental rights would not be in the child's best interests; or (3) the State has not provided to the child's family the services the State deems necessary for the child's safe return home.

-- Notice to caregiver: ASFA requires that notice and an opportunity to be heard be given to a child's foster parent, preadoptive parent, or relative caregiver whenever there is a review or hearing regarding the child. The bill includes this provision in applicable sections of Titles 9 and 30 of the Revised Statutes.

-- Criminal History Record Information (CHRI) Checks: ASFA requires CHRI checks on prospective foster and adoptive parents and prohibits approval of applicants who have committed certain crimes. State law currently requires these checks, but the bill amends N.J.S.A.30:4C-26.8 to identify the specific crimes that prohibit approval.

Although ASFA does not address this issue, hospitals and health

care professionals have begun using document service companies to provide records to DYFS. Since DYFS is a public agency, this bill provides that DYFS shall not be charged a fee for the copying of these records.

The bill requires the court, when a termination of parental rights petition is filed under N.J.S.A.3:4C-15, to provide a parent with notice that he has the right to retain and consult with an attorney. If the parent is indigent, the court shall advise the parent that he may obtain counsel through the Office of the Public Defender. The bill also requires the court to appoint legal representation for the child from the Office of the Law Guardian in the Office of the Public Defender. The attorney appointed by the court shall represent the child in all proceedings filed under Titles 9 and 30 of the Revised Statutes unless relieved by the court upon application for substitution counsel or other just cause.

The bill also amends N.J.S.A.9:6-8.21 to provide that a law guardian may represent minors in termination of parental rights proceedings as well as in alleged cases of child abuse and neglect, as the law currently provides.

The bill also authorizes the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings under Title 30 of the Revised Statutes and appropriates \$600,000 for Fiscal Year 1999 (and such other sums as may be necessary) to the Office of the Public Defender to provide the representation. The appropriation authorizes the office to contract with attorneys in private practice, Legal Services of New Jersey and other qualified public interest organizations to provide the legal representation, as the office deems appropriate.

Finally, the bill directs the Public Defender to report to the Legislature and the Governor by October 1, 1999 on the number of cases for which it has provided representation and who provided the representation. The office shall recommend how and by whom the representation should be provided in Fiscal Year 2000 and how the State can ensure that a parent or child can have continuous legal representation throughout proceedings brought under Titles 9 and 30 of the Revised Statutes.

The committee amended the bill to:

- Establish the responsibility of DYFS under Title 9 of the Revised Statutes (when DYFS becomes involved with a child for protective services) to provide reasonable efforts towards family preservation or family reunification as well as to provide concurrent planning services for an alternative placement (section 4);
- Require that, in situations in which a child is the subject of protective services litigation under Title 9 of the Revised Statutes, a permanency hearing shall be held before the court and the court shall review the permanency plan periodically to ensure that it is achieved. Similarly, in situations in which a

review of a placement is being conducted in accordance with the "Child Placement Review Act," N.J.S.A. 30:4C-50 et seq., the court may schedule a summary hearing if the review will serve as a permanency hearing for the child (sections 15 and 48);

- Clarify in the statement of public policy in N.J.S.A.30:4C-1 that a child's health and safety takes priority over the preservation of the family unit (section 20);
- Clarify that DYFS shall seek termination of parental rights as soon as the grounds provided in N.J.S.A. 30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months (section 15);
- Limit the authority of a person or agency interested in the child to file a petition to terminate parental rights by deleting those situations in which DYFS has a responsibility to confirm that certain actions occurred (section 29);
- With respect to long-term foster care, retain the original language in N.J.S.A.30:4C-26.13 which requires a determination that adoption is "not in the child's best interest" rather than "not appropriate," as the bill originally provided (section 36);
- Authorize the court to schedule a summary hearing when a review of a placement under the "Child Placement Review Act," N.J.S.A.30:4C-50 et seq., will consider an exception to the requirement that DYFS provide reasonable efforts to reunify a child with his family (section 48);
- Require that the Commissioner of Human Services report to the Legislature and the Governor within 18 months on the implementation of the provisions of the bill and provide an opportunity for public input in the development of rules and regulations to implement the provisions of the bill (sections 52 and 53);
- Provide for legal representation of children and indigent parents in termination of parental rights proceedings (section 54);
- Amend N.J.S.A. 9:6-8.21 to provide that a law guardian may represent minors in termination of parental rights proceedings (section 55); and
- Authorize the Office of the Public Defender to provide representation to parents and children in termination of parental rights cases, appropriate \$600,000 and such other sums as may be necessary, to the office for Fiscal Year 1999 and require the office to report to the Legislature and the Governor by October 1, 1999 (sections 56 and 57).

Other amendments are technical and delete the word "natural" when it modifies parent and correct references to "Family Part" of the Chancery Division of the Superior Court.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1705

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1705 (1R).

This bill conforms State law to the provisions of the federal "Adoption and Safe Families Act of 1997," (ASFA) Pub.L.105-89. The federal law is intended to assist state efforts to balance family preservation and reunification with the child's health, safety and need for permanency.

Specifically, the bill addresses the following issues:

-- The safety of children is of paramount concern: ASFA requires that a child's health and safety be the paramount concern in all aspects of services including when a child is placed outside of his home, and during the determination of whether the permanent plan for a child under the care or custody of the Division of Youth and Family Services (DYFS) should be family reunification, adoption, or some alternative placement. The bill clearly establishes as public policy in Titles 9 and 30 of the Revised Statutes that the health and safety of children shall be the paramount concern, expanding the current State policy which protects a child's best interests.

-- Reasonable efforts requirements and exceptions: The bill amends Titles 9 and 30 of the Revised Statutes, including the "Child Placement Review Act," (N.J.S.A.30:4C-50 et seq.) to incorporate ASFA's requirements for reasonable efforts to prevent placement or reunify families and exceptions to these requirements. These exceptions are included in the bill. For example, ASFA requires that reasonable efforts towards placement of a child for adoption or in another permanent placement may be made concurrently with reasonable efforts toward family preservation and reunification. When a permanency plan has been developed, reasonable efforts must be made to achieve the plan. Upon the filing of a petition to terminate parental rights, reasonable efforts must be made to obtain a qualified family for adoption. ASFA permits exceptions to the reasonable efforts requirements that are triggered when a court of competent jurisdiction has determined that (1) the parent has subjected the child to aggravated circumstances, (2) the parent has committed certain criminal offenses or (3) the parent's rights to another child have been

terminated involuntarily.

-- Permanency hearings: ASFA requires that a permanency hearing be held when a state is not required to make reasonable efforts to reunify a child with his parents or no later than when a child has been in out-of-home placement for 12 months. The bill also adds language to establish public policy recognizing a child's need for permanency through a return to the home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative placement plan, if termination of parental rights is not appropriate. Also, the bill specifies that any hearing held before a court of competent jurisdiction shall serve as a permanency hearing to provide judicial review and approval of a permanency plan for a child if the requirements for a permanency hearing (established in the bill) are met.

-- Reduction of interjurisdictional barriers to adoption: The bill authorizes the Department of Human Services (DHS) to enter into interstate compacts which enhance protection and permanency for children. The bill amends the State's adoption law, N.J.S.A. 9:3-37 et seq., to specify that: (1) an intermediary in any state or country shall not receive money or other consideration in connection with the placement of a child in New Jersey; and (2) an intermediary in New Jersey is prohibited from benefiting in connection with the placement of a child for adoption in New Jersey or in any other state or country.

-- Termination of parental rights: The bill mirrors the provisions of ASFA by requiring DYFS to seek termination of parental rights as soon as the grounds provided in N.J.S.A. 30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months, unless one of the following exceptions is met: (1) the child is being cared for by a relative; (2) the State has documented a compelling reason why termination of parental rights would not be in the child's best interests; or (3) the State has not provided to the child's family the services the State deems necessary for the child's safe return home.

-- Notice to caregiver: ASFA requires that notice and an opportunity to be heard be given to a child's foster parent, preadoptive parent, or relative caregiver whenever there is a review or hearing regarding the child. The bill includes this provision in applicable sections of Titles 9 and 30 of the Revised Statutes.

-- Criminal History Record Information (CHRI) Checks: ASFA requires CHRI checks on prospective foster and adoptive parents and prohibits approval of applicants who have committed certain crimes. State law currently requires these checks, but the bill amends N.J.S.A.30:4C-26.8 to identify the specific crimes that prohibit approval.

Although ASFA does not address this issue, hospitals and health care professionals have begun using document service companies to provide records to DYFS. Since DYFS is a public agency, this bill provides that DYFS shall not be charged a fee for the copying of these

records.

The bill requires the court, when a petition is filed under N.J.S.A.3:4C-15, to provide a parent with notice that he has the right to retain and consult with an attorney. If the parent is indigent, the court shall advise the parent that he may obtain counsel through the Office of the Public Defender. The bill also requires the court to appoint legal representation for the child from the Office of the Law Guardian in the Office of the Public Defender. The attorney appointed by the court shall represent the child in all proceedings filed under Titles 9 and 30 of the Revised Statutes unless relieved by the court upon application for substitution counsel or other just cause.

The bill also amends N.J.S.A.9:6-8.21 to require that a law guardian represent minors in termination of parental rights proceedings.

The bill also authorizes the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings under Title 30 of the Revised Statutes and appropriates \$600,000 in Fiscal Year 1999 (and such other sums as may be necessary) to the Office of the Public Defender to provide the representation. The appropriation authorizes the office to contract with attorneys in private practice, Legal Services of New Jersey and other qualified public interest organizations to provide the legal representation.

Finally, the bill also authorizes the Public Defender to report to the Legislature and the Governor by October 1, 1999 on the number of cases for which it has provided representation and who provided the representation. The office shall recommend how and by whom the representation should be provided in Fiscal Year 2000 and how the State can ensure that a parent or child may have continuous legal representation throughout proceedings brought under Titles 9 and 30 of the Revised Statutes.

FISCAL IMPACT

This bill appropriates \$600,000 in Fiscal Year 1999 (and such other sums as may be necessary) to the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings under Title 30. The State has been in compliance with the the federal "Adoption and Safe Families Act of 1997" since its enactment in November 1997; the costs of that compliance are anticipated in the Governor's proposed Budget for FY1999-2000.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1705

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: MAY 3, 1999

BILL SUMMARY

Senate Bill No. 1705 (1R) of 1998 conforms State law to the provisions of the federal "Adoption and Safe Families Act of 1997," Pub.L.105-89, which is intended to assist state efforts to balance family preservation and reunification with the child's health, safety and need for permanency.

While virtually all of the amended legislation is related to changes required by Pub.L.105-89, the bill authorizes the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings and appropriates \$600,000 in FY 1999 (and such other sums as may be necessary) for this purpose.

AGENCY COMMENTS

No information has been provided by any agency affected by the legislation.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

Pub.L.105-89 was enacted November 1997 and the Division of Youth and Family Services (DYFS) has been complying with the provisions of the federal law to the extent permitted under State law. The FY 1999 appropriations act provided DYFS \$441.0 million (gross) to enable the division to comply with State and federal requirements, including Pub.L.105-89. The FY 2000 recommended budget provides \$459.8 million (gross) to enable DYFS to comply with State and federal requirements.

The adequacy of the \$600,000 appropriation to the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings cannot be determined as the

number of parents and children who may need representation and how complex the proceedings may be, are not known.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2951

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 11, 1999

Sponsored by:

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

Co-Sponsored by:

Assemblyman Charles, Assemblywoman Watson Coleman, Assemblymen

Payne and Romano

SYNOPSIS

Implements federal "Adoption and Safe Families Act of 1997."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/19/1999)

A2951 BAGGER, HECK

2

1 AN ACT concerning children and families and revising parts of
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1977, c.367 (C.9:3-37) is amended to read as
8 follows:

9 1. This act shall be liberally construed to the end that the best
10 interests of children be promoted and that the safety of children be of
11 paramount concern. Due regard shall be given to the rights of all
12 persons affected by an adoption.

13 (cf: P.L.1977, c.367, s.1)

14

15 2. Section 2 of P.L.1977, c.367 (C.9:3-38) is amended to read as
16 follows:

17 2. For the purposes of this act:

18 a. "Approved agency" means a nonprofit corporation, association
19 or agency, including any public agency, approved by the Department
20 of Human Services for the purpose of placing children for adoption in
21 New Jersey;

22 b. "Child" means a person under 18 years of age;

23 c. "Custody" means the general right to exercise continuing control
24 over the person of a child derived from court order or otherwise;

25 d. "Guardianship" means the right to exercise continuing control
26 over the person or property or both of a child which includes any
27 specific right of control over an aspect of the child's upbringing
28 derived from court order;

29 e. "Guardian ad litem" means a qualified person, not necessarily an
30 attorney, appointed by the court under the provisions of this act or at
31 the discretion of the court to represent the interests of the child
32 whether or not the child is a named party in the action;

33 f. "Parent" means a birth parent or parents, including the birth
34 father of a child born out of wedlock who has acknowledged the child
35 or to whom the court has ordered notice to be given, or a parent or
36 parents by adoption;

37 g. "Placement for adoption" means the transfer of custody of a
38 child to a person for the purpose of adoption by that person;

39 h. "Plaintiff" means a prospective parent or parents who have filed
40 a complaint for adoption;

41 i. "Legal services" means the provision of counseling or advice
42 related to the law and procedure for adoption of a child, preparation
43 of legal documents, or representation of any person before a court 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.

Matter underlined thus is new matter.

1 administrative agency;

2 j. "Surrender" means a voluntary relinquishment of all parental
3 rights by a birth parent, previous adoptive parent, or other person or
4 agency authorized to exercise these rights by law, court order or
5 otherwise, for purposes of allowing a child to be adopted;

6 k. "Home study" means an approved agency's formal assessment
7 of the capacity and readiness of prospective adoptive parents to adopt
8 a child, including the agency's written report and recommendations
9 conducted in accordance with rules and regulations promulgated by
10 the Director of the Division of Youth and Family Services; and

11 l. "Intermediary" means any person, firm, partnership, corporation,
12 association or agency, which is not an approved agency as defined in
13 this section, who acts for or between any parent and any prospective
14 parent or acts on behalf of either in connection with **[a]** the placement
15 **[for adoption]** of the parent's child for adoption in the State or in any
16 other state or country. An intermediary in any other state or country
17 shall not receive money or other valuable consideration in connection
18 with the placement of a child for adoption in this State. An
19 intermediary in this State shall not receive money or other valuable
20 consideration in connection with the placement of a child for adoption
21 in this State or in any other state or country. The provisions of this
22 subsection shall not be construed to prohibit the receipt of money or
23 other valuable consideration specifically authorized in section 18 of
24 P.L.1993, c.345 (C.9:3-39.1).

25 (cf: P.L.1993, c.345, s.1)

26

27 3. (New section) In any case in which the Division of Youth and
28 Family Services accepts a child in its care or custody, the child's foster
29 parent, preadoptive parent or relative providing care for the child, as
30 applicable, shall receive written notice of and an opportunity to be
31 heard at any review or hearing held with respect to the child, but the
32 foster parent, preadoptive parent or relative shall not be made a party
33 to the review or hearing solely on the basis of the notice and
34 opportunity to be heard.

35

36 4. Section 1 of P.L.1971, c.437 (C.9:6-8.8) is amended to read as
37 follows:

38 1. The purpose of this act is to provide for the protection of
39 children under 18 years of age who have had serious injury inflicted
40 upon them by other than accidental means. The safety of the children
41 served shall be of paramount concern. It is the intent of this legislation
42 to assure that the lives of innocent children are immediately
43 safeguarded from further injury and possible death and that the legal
44 rights of such children are fully protected.

45 (cf: P.L.1971, c.437, s.1)

1 5. (New section) In any case in which the Division of Youth and
2 Family Services accepts a child in its care or custody, the child's foster
3 parent, preadoptive parent or relative providing care for the child, as
4 applicable, shall receive written notice of and an opportunity to be
5 heard at any review or hearing held with respect to the child, but the
6 foster parent, preadoptive parent or relative shall not be made a party
7 to the review or hearing solely on the basis of the notice and
8 opportunity to be heard.

9
10 6. Section 2 of P.L.1974, c.119 (C.9:6-8.22) is amended to read
11 as follows:

12 2. The Superior Court, Chancery Division, Family Part in each
13 county shall have jurisdiction over all noncriminal proceedings
14 involving alleged cases of child abuse or neglect, and shall be charged
15 with the immediate protection of said children, whereby the safety of
16 the children shall be of paramount concern. All noncriminal cases
17 involving child abuse shall be commenced in or transferred to this
18 court from other courts as they are made known to the other courts.
19 Commencement of cases of child abuse or neglect must be the first
20 order of priority in the Family Part.

21 (cf: P.L.1991, c.91, s.198)

22
23 7. Section 4 of P.L.1974, c.119 (C.9:6-8.24) is amended to read
24 as follows:

25 4. Jurisdiction. a. Notwithstanding any other law to the contrary,
26 the Superior Court, Chancery Division, Family Part has exclusive
27 original jurisdiction over noncriminal proceedings under this act
28 alleging the abuse or neglect of a child.

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

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

34 d. If the matter in regard to the parent or guardian is referred to
35 the county prosecutor by the Family Part or otherwise the Family Part
36 may continue the proceeding under this act in regard to the child after
37 such referral. If the proceeding in regard to the child is continued, the
38 Family Part shall enter any preliminary order necessary to protect the
39 interests of the child pending a final order from the criminal courts.

40 e. Any hearing held before the Family Part may serve as a
41 permanency hearing to provide judicial review and approval of a
42 permanency plan for the child if all the requirements of section 50 of
43 P.L. , c. (C.) (pending before the Legislature as this bill) are met.

44 (cf: P.L.1991, c.91, s.200)

45
46 8. Section 8 of P.L.1974, c.119 (C.9:6-8.28) is amended to read

1 as follows:

2 8. Preliminary orders of court before preliminary hearing held. a.
3 The Superior Court, Chancery Division, Family Part may enter an
4 order, whereby the safety of the child shall be of paramount concern,
5 directing the temporary removal of a child from the place where he is
6 residing before a preliminary hearing under this act, if (1) the parent
7 or other person legally responsible for the child's care is absent or,
8 though present, was asked and refused to consent to the temporary
9 removal of the child and was informed of an intent to apply for any
10 order under this section; and (2) the child appears so to suffer from the
11 abuse or neglect of his parent or guardian that his immediate removal
12 is necessary to avoid imminent danger to the child's life, safety or
13 health; and (3) there is not enough time to hold a preliminary hearing.

14 b. The order shall specify the facility to which the child is to be
15 brought.

16 c. The Family Part may enter an order authorizing a physician or
17 hospital to provide emergency medical or surgical procedures before
18 a preliminary hearing is held under this act if (1) such procedures are
19 necessary to safeguard the life or health of the child; and (2) there is
20 not enough time to hold a preliminary hearing under section 11 hereof.

21 d. Any person who originates a proceeding pursuant to section 14
22 of this act may apply for through the Division of Youth and Family
23 Services or the court on its own motion may issue, an order of
24 temporary removal. The division shall make every reasonable effort to
25 inform the parent or guardian of any such application, confer with a
26 person wishing to make such an application and make such inquiries
27 as will aid the court in disposing of such application. Within 24 hours
28 the Division of Youth and Family Services shall report such
29 application to the central registry of the division.

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

33 (cf: P.L.1991, c.91, s.202)

34

35 9. Section 9 of P.L.1974, c.119 (C.9:6-8.29) is amended to read
36 as follows:

37 9. a. A police officer or a designated employee of **[a county**
38 **department of probation]** the Probation Division or a designated
39 employee of the division may remove a child from the place where he
40 is residing, or any such person or any physician treating such child may
41 keep a child in his custody without an order pursuant to section 8
42 **[thereof]** of P.L.1974, c.119 (C.9:6-8.28) and without the consent of
43 the parent or guardian regardless of whether the parent or guardian
44 is absent, if the child is in such condition that his continuance in said
45 place or residence or in the care and custody of the parent or guardian
46 presents an imminent danger to the child's life, safety or health, and

1 there is insufficient time to apply for a court order pursuant to section
2 8 of P.L.1974, c.119 (C.9:6-8.28), or any physician or hospital
3 treating such child may keep a child in custody pursuant to P.L.1973,
4 c.147 (C.9:6-8.16 et seq.)[, and]. The Division of Youth and Family
5 Services shall not be required to provide reasonable efforts to prevent
6 placement if removal of the child is necessary due to imminent danger
7 to the child's life, safety or health in accordance with section 24 of
8 P.L. , c. (C.) (pending before the Legislature as this bill).

9 b. If a person authorized by this section removes or keeps custody
10 of a child, he shall (1) inform the division immediately; (2) bring the
11 child immediately to a place designated by the division for this
12 purpose, and (3) make every reasonable effort to inform the parent or
13 guardian of the facility to which he has brought the child.

14 c. Any person or institution acting in good faith in the removal or
15 keeping of a child pursuant to this section shall have immunity from
16 any liability, civil or criminal, that might otherwise be incurred or
17 imposed as a result of such removal or keeping.

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

21 (cf: P.L.1977, c.209, s.8)

22
23 10. Section 11 of P.L.1974, c.119 (C.9:6-8.31) is amended to
24 read as follows:

25 11. Preliminary orders after filing of complaint. a. In any case
26 where the child has been removed without court order, except where
27 action has been taken pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.)
28 the Superior Court, Chancery Division, Family Part shall hold a
29 hearing on the next court day, whereby the safety of the child shall be
30 of paramount concern, to determine whether the child's interests
31 require protection pending a final order of disposition. In any other
32 case under this act, any person who may originate a proceeding may
33 apply for, or the court, on its own motion, may order a hearing at any
34 time after the complaint is filed to determine, with the safety of the
35 child of paramount concern, whether the child's interests require
36 protection pending a final order of disposition.

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

41 If the court determines that removal of the child by a physician,
42 police officer, designated employee of the Probation Division or
43 designated employee of the Division of Youth and Family Services was
44 necessary due to imminent danger to the child's life, safety or health,
45 the court shall find that the Division of Youth and Family Services was
46 not required to provide reasonable efforts to prevent placement of the

1 child in accordance with section 24 of P.L. , c. (C.)(pending
2 before the Legislature as this bill).

3 c. Upon such hearing the court may, for good cause shown, issue
4 a preliminary order of protection which may contain any of the
5 provisions authorized on the making of an order of protection under
6 section 35 **[hereof]** of P.L.1974, c.119 (C.9:6-8.55).

7 d. Upon such hearing, the court may, for good cause shown,
8 release the child to the custody of his parent or guardian from whose
9 custody or care the child was removed, pending a final order of
10 disposition, in accord with section 33 **[hereof]** of P.L.1974, c.119
11 (C.9:6-8.53).

12 e. Upon such hearing, the court may authorize a physician or
13 hospital to provide medical or surgical procedures if such procedures
14 are necessary to safeguard the child's life or health.

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

17 g. In all cases involving abuse or neglect the court shall order an
18 examination of the child by a physician appointed or designated for the
19 purpose by the division. As part of such examination, the physician
20 shall arrange to have color photographs taken as soon as practical of
21 any areas of trauma visible on such child and may if indicated, arrange
22 to have a radiological examination performed on the child. The
23 physician, on the completion of such examination, shall forward the
24 results thereof together with the color photographs to the court
25 ordering such examination.

26 (cf: P.L.1991, c.91, s.204)

27

28 11. Section12 of P.L.1974, c.119 (C.9:6-8.32) is amended to read
29 as follows:

30 12. Upon the application of the parent or guardian of a child
31 temporarily removed **[moved]** under this act, the court shall hold a
32 hearing, whereby the safety of the child shall be of paramount concern,
33 to determine whether the child should be returned; a. if there has not
34 been a hearing on the removal of the child at which the parent or
35 guardian was present or had an adequate opportunity to be present;
36 or b. upon good cause shown. Except for good cause shown, such
37 hearing shall be held within 3 court days of the application. Upon such
38 hearing, the court shall grant the application, unless it finds that such
39 return presents an imminent risk to the child's life, safety or health.

40 (cf: P.L.1977, c.209, s.11)

41

42 12. Section 15 of P.L.1974, c.119 (C.9:6-8.35) is amended to read
43 as follows:

44 15. Preliminary Procedure. The division may, with the safety of
45 the child of paramount concern:

46 a. Confer with any person seeking to file a complaint, the potential

1 respondent, and other interested persons concerning the advisability
2 of filing a complaint under this act; and

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

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

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

11 e. Such adjustment may include a preliminary conference held by
12 the division at its discretion upon written notice to the parent or
13 guardian and the potential complainant for the purpose of attempting
14 such adjustment, provided however that the division shall not be
15 authorized under this section to compel any person to appear at any
16 conference, produce any papers, or visit any place.

17 f. The Superior Court, Chancery Division, Family Part and the
18 division shall deal with cases involving imminent physical harm or
19 actual physical harm on a priority basis.

20 (cf: P.L.1991, c.91, s.205)

21

22 13. Section 20 of P.L.1974, c.119 (C.9:6-8.40) is amended to read
23 as follows:

24 20. Records involving abuse or neglect. When the division
25 receives a report or complaint that a child may be abused or neglected;
26 when the division provides services to a child; or when the division
27 receives a request from the Superior Court, Chancery Division, Family
28 Part to investigate **[such allegations]** an allegation of abuse or neglect,
29 the division may request of any and all public or private institutions,
30 or agencies including law enforcement agencies, or any private
31 practitioners, their records past and present pertaining to that child and
32 other children under the same care, custody and control. The division
33 shall not be charged a fee for the copying of the records. Records
34 kept pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982,
35 c.77 (C.2A:4A-20 et seq.) may be obtained by the division, upon
36 issuance by a court of an order on good cause shown directing these
37 records to be released to the division for the purpose of aiding in
38 evaluation to determine if the child is abused or neglected. In the
39 release of the aforementioned records, the source shall have immunity
40 from any liability, civil or criminal.

41 (cf: P.L.1991, c.91, s.206)

42

43 14. Section 29 of P.L.1974, c.119 (C.9:6-8.49) is amended to
44 read as follows:

45 29. **[In]** To ensure that the safety of children is of paramount
46 concern, when scheduling hearings and investigations, the court shall

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1 give priority to proceedings under this act involving imminent or
2 actual physical harm, or in which a child has been removed from home
3 before a final order of disposition. Any adjournment granted in the
4 course of such a proceeding should be for as short a time as possible.
5 (cf: P.L.1974, c.119, s.29)

6
7 15. Section 34 of P.L.1974, c.119 (C.9:6-8.54) is amended to
8 read as follows:

9 34. a. For the purpose of section 31 **[hereof]** of P.L.1974, c.119
10 (C.9:6-8.51), the court may place the child in the custody of a relative
11 or other suitable person or the division for the placement of a child
12 after a finding that the division has made reasonable efforts to prevent
13 placement or that reasonable efforts to prevent placement were not
14 required in accordance with section 24 of P.L. , c. (C.)(pending
15 before the Legislature as this bill).

16 b. Placements under this section may be for an initial period of
17 **[18]** 12 months and the court, in its discretion, may at the expiration
18 of that period, upon a hearing make successive extensions for
19 additional periods of **[1]** up to one year each. The place in which or
20 the person with which the child has been placed under this section
21 shall submit a report at the end of the term of placement, making
22 recommendations and giving such supporting data as is appropriate.
23 The court on its own motion may, at the conclusion of any period of
24 placement, hold a hearing concerning the need for continuing the
25 placement.

26 c. No placement may be made or continued under this section
27 beyond the child's eighteenth birthday without his consent.

28 d. If the parent or person legally responsible for the care of any
29 such child or with whom such child resides receives public assistance
30 and care, any portion of which is attributable to such child, a copy of
31 the order of the court providing for the placement of such child from
32 his home shall be furnished to the appropriate county welfare board,
33 which shall reduce the public assistance and care furnished to such
34 parent or other person by the amount attributable to such child.

35 (cf: P.L.1977, c.209, s.26)

36
37 16. Section 2 of P.L.1987, c.175 (C.9:6-8.84) is amended to read
38 as follows:

39 2. As used in this act:

40 "Board" means the Child Fatality and Near Fatality Review Board
41 established under P.L.1997, c.175 (C.9:6-8.83 et al.).

42 "Child" means any person under the age of 18.

43 "Commissioner" means the Commissioner of Human Services.

44 **"[Diligent] Reasonable** efforts" means **[reasonable]** attempts by an
45 agency authorized by the Division of Youth and Family Services to
46 assist the parents in remedying the circumstances and conditions that

1 led to the placement of the child and in reinforcing the family
2 structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

3 "Division" means the Division of Youth and Family Services in the
4 Department of Human Services.

5 "Near fatality" means a case in which a child is in serious or critical
6 condition, as certified by a physician.

7 "Panel" means a citizen review panel as established under P.L.1997,
8 c.175 (C.9:6-8.83 et al.).

9 "Parent or guardian" means a person defined pursuant to section 1
10 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the
11 care, custody or control of a child or upon whom there is a legal duty
12 for such care.

13 "Sexual abuse" means contacts or actions between a child and a
14 parent or caretaker for the purpose of sexual stimulation of either that
15 person or another person. Sexual abuse includes:

16 a. the employment, use, persuasion, inducement, enticement or
17 coercion of any child to engage in, or assist any other person to
18 engage in, any sexually explicit conduct or simulation of such conduct;

19 b. sexual conduct including molestation, prostitution, other forms
20 of sexual exploitation of children or incest; or

21 c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1
22 and a prohibited sexual act as defined in N.J.S.2C:24-4.

23 "Significant bodily injury" means a temporary loss of the
24 functioning of any bodily member or organ or temporary loss of any
25 one of the five senses.

26 "Withholding of medically indicated treatment" means the failure to
27 respond to a child's life-threatening conditions by providing treatment,
28 including appropriate nutrition, hydration, and medication which, in
29 the treating physician's reasonable judgment, will most likely be
30 effective in ameliorating or correcting all such conditions. The term
31 does not include the failure to provide treatment, other than
32 appropriate nutrition, hydration, or medication to a child when, in the
33 treating physician's reasonable medical judgment:

34 a. the child is chronically and irreversibly comatose;

35 b. the provision of such treatment would merely prolong dying, not
36 be effective in ameliorating or correcting all of the child's
37 life-threatening conditions, or otherwise be futile in terms of the
38 survival of the child; or

39 c. the provision of such treatment would be virtually futile in terms
40 of the survival of the child and the treatment itself under such
41 circumstances would be inhumane.

42 (cf: P.L.1997, c.175, s.2)

43

44 17. Section 5 of P.L.1997, c.175 (C.9:6-8.87) is amended to read
45 as follows:

46 5. In any case in which the division accepts a child in care or

1 custody, including placement, the division shall not be required to
2 provide **[diligent]** reasonable efforts to reunify the child with a parent
3 **[who has been found by a court of competent jurisdiction to have**
4 **committed murder, aggravated manslaughter or manslaughter of**
5 **another child of the parent; to have aided or abetted, attempted,**
6 **conspired or solicited to commit the murder, aggravated manslaughter**
7 **or manslaughter of the child or another child of the parent; or to have**
8 **committed, or attempted to commit, an assault that resulted, or could**
9 **have resulted, in the significant bodily injury to the child or another**
10 **child of the parent]** if an exception to the requirement to provide
11 reasonable efforts has been established in accordance with section 25
12 of P.L. , c. (C.)(pending before the Legislature as this bill).
13 (cf: P.L.1997, c.175, s.5).
14

15 18. Section 2 of P.L.1991, c.290 (C.9:6B-2) is amended to read as
16 follows:

17 2. The Legislature finds and declares that:

18 a. A child placed outside his home by the Department of Human
19 Services, the Department of Health and Senior Services or a board of
20 education, or an agency or organization with which the applicable
21 department contracts to provide services has certain specific rights
22 separate from and independent of the child's parents or legal guardian
23 by virtue of his placement in another residential setting;

24 b. The State has an affirmative obligation to recognize and protect
25 these rights through its articulation of a clear and specific bill of rights
26 that reflects the best interests of the child whereby the safety of the
27 child is of paramount concern and an affirmation by the State of its
28 commitment to enforce these rights in order to protect and promote
29 the welfare of the child placed outside his home; and

30 c. The obligation of the State to recognize and protect the rights
31 of the child placed outside his home shall be fulfilled in the context of
32 a clear and consistent policy to promote the child's eventual return to
33 his home or placement in an alternative permanent setting, which this
34 Legislature has expressly declared to be in the public interest in section
35 2 of the "Child Placement Review Act," P.L.1977, c.424
36 (C.30:4C-51).

37 (cf: P.L.1991, c.290, s.2)
38

39 19. (New section) a. The Commissioner of Human Services is
40 authorized on behalf of this State to develop, negotiate and enter into
41 the Interstate Compact on Adoption and Medical Assistance and other
42 interstate compacts, as determined by the commissioner to enhance
43 protection and permanency for children. When so entered into, and
44 for so long as it shall remain in force, such a compact shall have the
45 force and effect of law.

46 b. A compact entered into pursuant to the authority conferred by

1 subsection a. of this section shall include:

2 (1) a provision making it available for joinder by all states;

3 (2) a provision for withdrawal from the compact upon written
4 notice to the parties, with a period of one year between the date of the
5 notice and the effective date of the withdrawal;

6 (3) a requirement that the protections afforded by or pursuant to
7 the compact be covered by a written agreement between the agency
8 providing services and the parents, adoptive parents, or other
9 caregiver for the child and that the protections continue in force for
10 the duration of the written agreement for all children who, on the
11 effective date of the withdrawal, are receiving services from a party
12 state other than the one in which they reside; and

13 (4) such other provisions as may be appropriate to implement the
14 proper administration of the compact.

15

16 20. Section 1 of P.L.1951, c.138 (C.30:4C-1) is amended to read
17 as follows:

18 1. This act is to be administered strictly in accordance with the
19 general principles laid down in this section, which are declared to be
20 the public policy of this State, whereby the safety of children shall be
21 of paramount concern:

22 (a) That the preservation and strengthening of family life is a
23 matter of public concern as being in the interests of the general
24 welfare, **[but in a case where a child has been placed outside the home**
25 **due to circumstances that endanger the child's life,]** and the health and
26 safety of the child shall be the State's paramount concern when making
27 a decision on whether or not it is in the child's best interest to preserve
28 the family unit;

29 (b) That the prevention and correction of dependency and
30 delinquency among children should be accomplished so far as
31 practicable through welfare services which will seek to continue the
32 living of such children in their own homes;

33 (c) That necessary welfare services to children should be
34 strengthened and extended through the development of private and
35 voluntary agencies qualified to provide such services;

36 (d) That wherever in this State necessary welfare services are not
37 available to children who are dependent or adjudged delinquent by
38 proper judicial tribunal, or in danger of so becoming, then such
39 services should be provided by this State until such times as they are
40 made available by private and voluntary agencies; **[and]**

41 (e) That the State may assist private, public and voluntary agencies
42 to construct, purchase, upgrade or renovate youth facilities for the
43 residential care or day treatment of children in need of these services;
44 and

45 (f) That each child placed outside his home by the State has the
46 need for permanency: through return to the child's own home, if the

1 child can be returned home without endangering the child's health or
2 safety; through adoption, if family reunification is not possible; or
3 through an alternative permanent placement, if termination of parental
4 rights is not appropriate.

5 (cf: P.L.1999, c.22, s.1)

6
7 21. Section 3 of P.L.1951, c.138 (C.30:4C-3) is amended to read
8 as follows:

9 3. The **【Bureau of Childrens】** Division of Youth and Family
10 Services, in administering the provisions of this act, whereby the
11 safety of children shall be of paramount concern, shall:

12 (a) provide care and custody for children eligible therefor in such
13 manner that the children may, so far as practicable, continue to live in
14 their own homes and family life be thereby preserved and
15 strengthened;

16 (b) provide necessary welfare services as may be required by such
17 children, so far as practicable, without assumption of custody;

18 (c) encourage the development of private and voluntary agencies
19 qualified to provide welfare services for children to the end that
20 through cooperative effort the need for such services may be limited
21 or reduced; and

22 (d) for each child placed outside his home by the division, provide
23 permanency through return of the child to the child's own home, if the
24 child can be returned home without endangering the child's health or
25 safety; through adoption, if family reunification is not possible; or
26 through an alternative permanent placement, if termination of parental
27 rights is not appropriate.

28 (cf: P.L.1962, c.197, s.9)

29
30 22. Section 11 of P.L.1951, c.138 (C.30:4C-11) is amended to
31 read as follows:

32 11. Whenever it shall appear that any child within this State is of
33 such circumstances that the child's safety or welfare will be endangered
34 unless proper care or custody is provided, an application setting forth
35 the facts in the case may be filed with the Division of Youth and
36 Family Services by a parent or other relative of such child, by a person
37 standing in loco parentis to such child, by a person or association or
38 agency or public official having a special interest in such child or by
39 the child himself, seeking that the division accept and provide such
40 care or custody of such child as the circumstances may require. Such
41 application shall be in writing, and shall contain a statement of the
42 relationship to or special interest in such child which justifies the filing
43 of such application. The provisions of this section shall be deemed to
44 include an application on behalf of an unborn child when the
45 prospective mother is within this State at the time of application for
46 such services.

1 Upon receipt of an application as provided in this section, the
2 division shall verify the statements set forth in such application and
3 shall investigate all the matters pertaining to the circumstances of the
4 child. If upon such verification and investigation it shall appear (a)
5 that the safety or welfare of such child will be endangered unless
6 proper care or custody is provided; (b) that the needs of such child
7 cannot properly be provided for by financial assistance as made
8 available by the laws of this State; (c) that there is no person legally
9 responsible for the support of such child whose identity and
10 whereabouts are known and who is willing and able to provide for the
11 care and support required by such child; and (d) that such child, if
12 suffering from a mental or physical disability requiring institutional
13 care, is not immediately admissible to any public institution providing
14 such care; then the division may accept and provide such care or
15 custody as the circumstances of such child may require.

16 (cf: P.L.1991, c.275, s.1)

17

18 23. (New section) a. In accordance with the provisions of
19 subsections b., c., and d. of this section, when determining the
20 reasonable efforts to be made and when making the reasonable efforts,
21 the child's health and safety shall be of paramount concern.

22 b. In any case in which the division accepts a child in care or
23 custody, the division shall make reasonable efforts, prior to placement,
24 to preserve the family in order to prevent the need for removing the
25 child from his home. After placement, the division shall make
26 reasonable efforts to make it possible for the child to safely return to
27 his home.

28 c. Reasonable efforts to place a child for adoption or with a legal
29 guardian or in an alternative permanent placement may be made
30 concurrently with reasonable efforts to preserve and reunify the child's
31 family.

32 d. In any case in which family reunification is not the permanency
33 plan for the child, reasonable efforts shall be made to place the child
34 in a timely manner and to complete the steps necessary to finalize the
35 permanent placement of the child.

36

37 24. (New section) In any case in which the Division of Youth and
38 Family Services accepts a child in care or custody, including
39 placement, the division shall not be required to provide reasonable
40 efforts to prevent placement of the child if a court of competent
41 jurisdiction has determined that both of the following criteria are met:

42 a. One of the following actions has occurred:

43 (1) the parent has subjected the child to aggravated circumstances
44 of abuse, neglect, cruelty or abandonment,

45 (2) the parent has been convicted of murder, aggravated
46 manslaughter or manslaughter of a child; aiding or abetting,

1 attempting, conspiring or soliciting to commit murder, aggravated
2 manslaughter or manslaughter of a child; committing or attempting to
3 commit an assault that resulted, or could have resulted, in the
4 significant bodily injury to a child; or committing a similarly serious
5 criminal act which resulted, or could have resulted, in the death or
6 significant bodily injury to a child,

7 (3) the rights of the parent to another of the parent's children have
8 been involuntarily terminated or

9 (4) removal of the child was required due to imminent danger to
10 the child's life, safety or health; and

11 b. Efforts to prevent placement were not reasonable due to risk of
12 harm to the child's health or safety.

13 When determining whether reasonable efforts are required to
14 prevent placement, the health and safety of the child shall be of
15 paramount concern to the court.

16

17 25. (New section) In any case in which the Division of Youth and
18 Family Services accepts a child in care or custody, including
19 placement, the division shall not be required to provide reasonable
20 efforts to reunify the child with a parent if a court of competent
21 jurisdiction has determined that:

22 a. The parent has subjected the child to aggravated circumstances
23 of abuse, neglect, cruelty or abandonment;

24 b. The parent has been convicted of murder, aggravated
25 manslaughter or manslaughter of a child; aiding or abetting,
26 attempting, conspiring or soliciting to commit murder, aggravated
27 manslaughter or manslaughter of a child; committing or attempting to
28 commit an assault that resulted, or could have resulted, in significant
29 bodily injury to a child; or committing a similarly serious criminal act
30 which resulted, or could have resulted, in the death of or significant
31 bodily injury to a child; or

32 c. The rights of the parent to another of the parent's children have
33 been involuntarily terminated.

34 When determining whether reasonable efforts are required to
35 reunify the child with the parent, the health and safety of the child and
36 the child's need for permanency shall be of paramount concern to the
37 court.

38 This section shall not be construed to prohibit the division from
39 providing reasonable efforts to reunify the family, if the division
40 determines that family reunification is in the child's best interests.

41 A permanency plan for the child may be established at the same
42 hearing at which the court determines that reasonable efforts are not
43 required to reunify the child with the parent, if the hearing meets all of
44 the requirements of a permanency hearing pursuant to section 50 of
45 P.L. , c. (C.)(pending before the Legislature as this bill).

1 26. (New section) Any hearing held before the Family Part of the
2 Chancery Division of the Superior Court may serve as a permanency
3 hearing to provide judicial review and approval of a permanency plan
4 for the child if all the requirements of section 50 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) are met.

6
7 27. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
8 read as follows:

9 12. Whenever it shall appear that the parent or parents, guardian,
10 or person having custody and control of any child within this State is
11 unfit to be entrusted with the care and education of such child, or shall
12 fail to provide such child with proper protection, maintenance and
13 education, or shall fail to ensure the health and safety of the child, or
14 is endangering the welfare of such child, a written or oral complaint
15 may be filed with the Division of Youth and Family Services by any
16 person or by any public or private agency or institution interested in
17 such child. When such a complaint is filed by a public or private
18 agency or institution, it shall be accompanied by a summary setting
19 forth the reason for such complaint and other social history of the
20 child and his family's situation which justifies such complaint; or, if this
21 is not feasible, such summary shall be made available to the Division
22 of Youth and Family Services as soon thereafter as possible. Upon
23 receipt of a complaint as provided in this section, the Division of
24 Youth and Family Services shall investigate, or shall cause to be
25 investigated, the statements set forth in such complaint. If the
26 circumstances so warrant, the parent, parents, guardian, or person
27 having custody and control of the child shall be afforded an
28 opportunity to file an application for care, as provided in section 11 of
29 P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or
30 person having custody and control of the child shall refuse to permit
31 or shall in any way impede investigation, and the division determines
32 that further investigation is necessary in the best interests of the child,
33 the division may thereupon apply to the Family Part of the Chancery
34 Division of the Superior Court in the county where the child resides,
35 for an order directing the parent, parents, guardian, or person having
36 custody and control of the child to permit immediate investigation.
37 The court, upon such application, may proceed to hear the matter in
38 a summary manner and if satisfied that the best interests of the child
39 so require may issue an order as requested.

40 If, after such investigation has been completed, it appears that the
41 child requires care and supervision by the Division of Youth and
42 Family Services or other action to ensure the health and safety of the
43 child, but the parent, parents, guardian, or person having custody and
44 control of the child continue to refuse to apply for care in the manner
45 provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or to take
46 action to ensure the health and safety of the child, the division may

1 apply to the Family Part of the Chancery Division of the Superior
2 Court in the county where the child resides for an order making the
3 child a ward of the court and placing such child under the care and
4 supervision of the Division of Youth and Family Services.

5 The court, at a summary hearing held upon notice to the Division
6 of Youth and Family Services, and to the parent, parents, guardian, or
7 person having custody and control of the child, if satisfied that the best
8 interests of the child so require, may issue an order as requested,
9 which order shall have the same force and effect as the acceptance of
10 a child for care by the division as provided in section 11 of P.L.1951,
11 c.138 (C.30:4C-11); provided, however, that such order shall not be
12 effective beyond a period of six months from the date of entry unless
13 the court, upon application by the Division of Youth and Family
14 Services, at a summary hearing held upon notice to the parent, parents,
15 guardian, or person having custody of the child, extends the time of
16 the order.

17 Immediately after the court's order and while the child is in the
18 division's care, the division shall initiate a search for the child's natural
19 mother or father, if they are not known to the division. The search
20 shall be initiated within 30 days of the court order. The search will be
21 completed when all sources contacted have either responded to the
22 inquiry or failed to respond within 45 days. The results shall be valid
23 for six months after the date it was completed.

24 (cf: P.L.1991, c.275, s.2)

25
26 28. (New section) In any case in which the Division of Youth and
27 Family Services accepts a child in its care or custody, the child's foster
28 parent, preadoptive parent or relative providing care for the child, as
29 applicable, shall receive written notice of and an opportunity to be
30 heard at any review or hearing held with respect to the child, but the
31 foster parent, preadoptive parent or relative shall not be made a party
32 to the review or hearing solely on the basis of the notice and
33 opportunity to be heard.

34
35 29. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
36 read as follows:

37 15. Whenever (a) it appears that a court wherein a complaint has
38 been proffered as provided in chapter 6 of Title 9 of the Revised
39 Statutes, has entered a conviction against the parent or parents,
40 guardian, or person having custody and control of any child because
41 of abuse, abandonment, neglect of or cruelty to such child; or (b)
42 (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best
43 interests of any child under the care or custody of the Division of
44 Youth and Family Services require that he be placed under
45 guardianship; or (d) it appears that a parent or guardian of a child,
46 following the acceptance of such child by the division pursuant to

1 section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following
2 the placement or commitment of such child in the care of an
3 authorized agency, whether in an institution or in a foster home, and
4 notwithstanding the **[diligent]** reasonable efforts of such agency to
5 encourage and strengthen the parental relationship, has failed for a
6 period of one year to remove the circumstances or conditions that led
7 to the removal or placement of the child, although physically and
8 financially able to do so, notwithstanding the division's **[diligent]**
9 reasonable efforts to assist the parent or guardian in remedying the
10 conditions; (e) the parent has abandoned the child; or (f) the parent of
11 a child has been found by a criminal court of competent jurisdiction to
12 have committed murder, aggravated manslaughter or manslaughter of
13 another child of the parent; to have aided or abetted, attempted,
14 conspired, or solicited to commit such murder, aggravated
15 manslaughter or manslaughter of the child or another child of the
16 parent; or to have committed, or attempted to commit, an assault that
17 resulted, or could have resulted, in the significant bodily injury to the
18 child or another child of the parent; or the parent has committed a
19 similarly serious act which resulted, or could have resulted, in the
20 death or significant bodily injury to the child or another child of the
21 parent; a petition to terminate the parental rights of the child's parents,
22 setting forth the facts in the case, [may] shall be filed by the division
23 with the Family Part of the Chancery Division of the Superior Court
24 in the county where such child may be at the time of the filing of such
25 petition. The petition shall be filed no later than when the child has
26 been in foster care for 15 of the most recent 22 months, unless the
27 division establishes an exception to the requirement to seek a
28 termination of parental rights in accordance with section 31 of P.L. ,
29 c. (C.)(pending before the Legislature as this bill). Upon filing the
30 petition, the division shall initiate concurrent efforts to identify,
31 recruit, process and approve a qualified family to adopt the child.

32 A petition as provided in this section may be filed by any person or
33 any association or agency, interested in such child**],** or by the division
34 in the circumstances set forth in items (c),(d), (e) and (f) hereof**].** The
35 division shall seek to be joined as a party to a petition filed to
36 terminate the parental rights of a child in the care and custody of the
37 division unless the division has established an exception to the
38 requirement to seek termination of parental rights in accordance with
39 section 31 of P.L. , c. (C.)(pending before the Legislature as this
40 bill).

41 (cf: P.L.1997, c.175, s.17)

42

43 30. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to
44 read as follows:

45 7. a. The division shall initiate a petition to terminate parental
46 rights on the grounds of the "best interests of the child" pursuant to

1 subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
2 following standards are met:

3 (1) The child's safety, health **[and]** or development **[have]** has
4 been or will continue to be endangered by the parental relationship;

5 (2) The parent is unwilling or unable to eliminate the harm facing
6 the child or is unable or unwilling to provide a safe and stable home
7 for the child and the delay of permanent placement will add to the
8 harm. Such harm may include evidence that separating the child from
9 his foster parents would cause serious and enduring emotional or
10 psychological harm to the child;

11 (3) The division has made **[diligent]** reasonable efforts to provide
12 services to help the parent correct the circumstances which led to the
13 child's placement outside the home and the court has considered
14 alternatives to termination of parental rights; and

15 (4) Termination of parental rights will not do more harm than
16 good.

17 b. The division shall initiate a petition to terminate parental rights
18 on the ground that the "parent has abandoned the child" pursuant to
19 subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
20 following standards are met:

21 (1) a court finds that for a period of six or more months:

22 (a) the parent, although able to have contact, has had no contact
23 with the child, the child's foster parent or the division; and

24 (b) the parent's whereabouts are unknown, notwithstanding the
25 division's **[diligent]** reasonable efforts to locate the parent; or

26 (2) where the identities of the parents are unknown and the
27 division has exhausted all reasonable methods of attempting
28 identification, the division may immediately file for termination of
29 parental rights upon the completion of the law enforcement
30 investigation.

31 c. As used in this section and in section 15 of P.L.1951, c.138
32 (C.30:4C-15) "**[diligent]** reasonable efforts" mean **[reasonable]**
33 attempts by an agency authorized by the division to assist the parents
34 in remedying the circumstances and conditions that led to the
35 placement of the child and in reinforcing the family structure,
36 including, but not limited to:

37 (1) consultation and cooperation with the parent in developing a
38 plan for appropriate services;

39 (2) providing services that have been agreed upon, to the family,
40 in order to further the goal of family reunification;

41 (3) informing the parent at appropriate intervals of the child's
42 progress, development and health; and

43 (4) facilitating appropriate visitation.

44 d. The division shall not be required to provide "**[diligent]**
45 reasonable efforts" as defined in subsection c. of this section prior to
46 filing a petition for the termination of parental rights **[pursuant to (f)**

1 of section 15 of P.L.1951, c.138 (C.30:4C-15)] if an exception to the
2 requirement to provide reasonable efforts to reunify the family has
3 been established pursuant to section 25 of P.L. , c. (C.)(pending
4 before the Legislature as this bill).

5 (cf: P.L.1997, c.175, s.18)

6
7 31. (New section) The Division of Youth and Family Services
8 shall not be required to file a petition seeking the termination of
9 parental rights if:

10 a. The child is being cared for by a relative and a permanent plan
11 for the child can be achieved without termination of parental rights;

12 b. The division has documented in the case plan, which shall be
13 available for court review, a compelling reason for determining that
14 filing the petition would not be in the best interests of the child; or

15 c. The division is required to provide reasonable efforts to reunify
16 the family but the division has not provided to the family of the child,
17 consistent with the time period in the case plan, such services as the
18 division deems necessary for the safe return of the child to his home.

19
20 32. Section 20 of P.L.1951, c.138 (C.30:4C-20) is amended to
21 read as follows:

22 20. If upon the completion of such hearing the court is satisfied
23 that the best interests of such child require that he be placed under
24 proper guardianship, such court shall make an order terminating
25 parental rights and committing such child to the guardianship and
26 control of the **【Bureau of Childrens】** Division of Youth and Family
27 Services, and such child shall thereupon become the legal ward of
28 **【such bureau, and such bureau】** the division, which shall be the legal
29 guardian of such child for all purposes, including the placement of
30 such child for adoption.

31 If the court shall have made an interlocutory order as provided in
32 section 17 **【hereof】** of P.L.1951, c.138 (C.30:4C-17), but at the final
33 hearing a further order of commitment shall not be made as provided
34 in this section, the **【Bureau of Childrens】** Division of Youth and
35 Family Services shall return the child forthwith to the parent or
36 parents, guardian or person having had custody of the child
37 immediately prior to the filing of the petition; provided, however,
38 that if **【such】** the return does not ensure the safety of the child or if
39 the parent or parents, guardian or person having had custody cannot
40 be found or, for other reason satisfactory to the court, is unable to
41 accept the child, the **【Bureau of Childrens Services】** division, upon
42 order of the court, may place the child with such other person or
43 persons who, at the time of final hearing, expressed willingness to
44 accept the child, but such order shall in no wise be construed as a
45 grant of custody or guardianship. In all such cases the interlocutory
46 order shall continue in full force and effect until the **【Bureau of**

1 Childrens Services] division shall have made disposition of the child
2 as provided herein or as otherwise provided by law, but in no case for
3 a period longer than 30 days after the final hearing.
4 (cf: P.L.1962, c.197, s.21)

5
6 33. Section 2 of P.L.1992, c.139 (C.30:4C-26.11) shall be
7 amended to read as follows:

8 2. The Legislature finds and declares that:

9 a. It is in the public interest, whereby the safety of the child is of
10 paramount concern, to afford every child placed outside of his home
11 by the Division of Youth and Family Services the opportunity for
12 eventual return to his home or placement in an alternative permanent
13 home;

14 b. If it has been determined that reuniting the child with the
15 **[natural]** child's parents or placing the child for adoption will not
16 serve a child's best interest, the child's best interest may be served
17 through a transfer to long-term foster care custody with the child's
18 foster parent; and

19 c. It is the purpose of this act to establish conditions and
20 procedures for the transfer of a child to long-term foster care custody.
21 (cf: P.L.1992, c.139, s.2)

22
23 34. Section 1 of P.L.1985, c.396 (C.30:4C-26.8) is amended to
24 read as follows:

25 1. a. A person, in addition to meeting other requirements as may
26 be established by the Department of Human Services, shall become a
27 foster parent or eligible to adopt a child only upon the completion of
28 an investigation to ascertain if there is a State or federal record of
29 criminal history for the prospective foster or adoptive parent or any
30 other adult residing in the prospective parent's home. The
31 investigation shall be conducted by the Division of State Police in the
32 Department of Law and Public Safety and shall include an examination
33 of its own files and the obtaining of a similar examination by federal
34 authorities.

35 b. If the prospective foster or adoptive parent or any adult residing
36 in the prospective parent's home has a record of criminal history, the
37 Department of Human Services shall review the record with respect to
38 the type and date of the criminal offense and make a determination as
39 to the suitability of the person to become a foster parent or adoptive
40 parent or the suitability of placing a child in that person's home, as the
41 case may be.

42 c. For the purposes of this section, a conviction for one of the
43 offenses enumerated in subsections d. or e. of this section has occurred
44 if the person has been convicted under the laws of this State or any
45 other state or jurisdiction for an offense that is substantially equivalent
46 to the offenses enumerated in these subsections.

1 d. A person shall be disqualified from being a foster parent or shall
2 not be eligible to adopt a child if that person or any adult residing in
3 that person's household ever committed a crime which resulted in a
4 conviction for:

5 (1) a crime against a child, including endangering the welfare of a
6 child and child pornography pursuant to N.J.S.2C:24-4; or child abuse,
7 neglect, or abandonment pursuant to R.S.9:6-3;

8 (2) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to
9 N.J.S.2C:11-4;

10 (3) aggravated assault which would constitute a crime of the
11 second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

12 (4) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

13 (5) kidnapping and related offenses including criminal restraint;
14 false imprisonment; interference with custody; criminal coercion; or
15 enticing a child into a motor vehicle, structure, or isolated area
16 pursuant to N.J.S.2C:13-1 through 2C:13-6;

17 (6) sexual assault, criminal sexual contact or lewdness pursuant to
18 N.J.S.2C:14-2 through N.J.S.2C:14-4;

19 (7) robbery which would constitute a crime of the first degree
20 pursuant to N.J.S.2C:15-1;

21 (8) burglary which would constitute a crime of the second degree
22 pursuant to N.J.S.2C:18-2;

23 (9) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et
24 seq.);

25 (10) endangering the welfare of an incompetent person pursuant to
26 N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled
27 person pursuant to N.J.S.2C:24-8;

28 (11) terrorist threats pursuant to N.J.S.2C:12-3;

29 (12) arson pursuant to N.J.S.2C:17-1, or causing or risking
30 widespread injury or damage which would constitute a crime of the
31 second degree pursuant to N.J.S.2C:17-2; or

32 (13) an attempt or conspiracy to commit an offense listed in
33 paragraphs (1) through (12) of this subsection.

34 e. A person shall be disqualified from being a foster parent or shall
35 not be eligible to adopt a child if that person or any adult residing in
36 that person's household was convicted of one of the following crimes
37 and the date of release from confinement occurred during the
38 preceding five years:

39 (1) simple assault pursuant to subsection a. of N.J.S.2C:12-1;

40 (2) aggravated assault which would constitute a a crime of the
41 fourth degree pursuant to subsection b. of N.J.S.2C:12-1;

42 (3) a drug-related crime pursuant to P.L.1987, c.106 (C.2C:35-1
43 et seq.);

44 (4) robbery which would constitute a crime of the second degree
45 pursuant to N.J.S.2C:15-1;

46 (5) burglary which would constitute a crime of the third degree

1 pursuant to N.J.S.2C:18-2; or

2 (6) an attempt or conspiracy to commit an offense listed in
3 paragraphs (1) through (5) of this subsection.

4 For the purposes of this subsection, the “date of release from
5 confinement” means the date of termination of court-ordered
6 supervision through probation, parole, or residence in a correctional
7 facility, whichever date occurs last.

8 (cf: P.L.1985, c.396, s.1)

9

10 35. Section 1 of P.L.1989, c.21 (C.30:4C-26.9) is amended to
11 read as follows:

12 1. The Department of Human Services may grant **【provisional】**
13 approval to a prospective foster **【or adoptive】** parent for a period not
14 to exceed six months, upon completion of the State portion of the
15 criminal history record investigation required pursuant to P.L.1985,
16 c.396 (C.30:4C-26.8), pending completion and review of the federal
17 portion of the criminal history record investigation required pursuant
18 to that act, if (1) the State portion of the criminal history record
19 investigation indicates no information which would disqualify the
20 person, (2) the prospective foster **【or adoptive】** parent and any adult
21 residing in the prospective foster parent's home submit a sworn
22 statement to the Department of Human Services attesting that the
23 person does not have a record of criminal history which would
24 disqualify the person and (3) there is substantial compliance with
25 department standards for foster homes indicating there is no risk to a
26 child's health or safety.

27 (cf: P.L.1989, c.21, s.1)

28

29 36. Section 4 of P.L.1992, c.139 (C.30:4C-26.13) shall be
30 amended to read as follows:

31 4. The division may file a petition seeking long-term foster care
32 custody of a child in the **【family part】** Family Part of the Chancery
33 Division of the Superior Court. The petition shall be verified and shall
34 show that:

35 a. The child has reached the age of 12, or there are unique
36 circumstances which make the age of the child irrelevant;

37 b. **【Efforts】** Unless an exception to make reasonable efforts to
38 reunify the family of the child has been established in accordance with
39 section 25 of P.L. , c. (C.)(pending before the Legislature as this
40 bill), reasonable efforts have been made for at least one year by the
41 division to reunite the child with the child's **【biological】** family and it
42 has been documented in the case record that the attempts have been
43 unsuccessful;

44 c. **【Diligent】** Reasonable efforts have been made by the division
45 to place the child for adoption for at least one year and it has been
46 documented in the case record that the attempts have been

1 unsuccessful, or the division has made the determination that adoption
2 is not **[in the child's best interest]** appropriate; and

3 d. The child has resided as a foster child in the home of the person
4 seeking long-term foster care custody for at least one year and wishes
5 to remain with his foster parent.

6 The division shall attach to the long-term foster care custody
7 petition a written agreement signed by the child and the child's foster
8 parent and, where in concurrence, the child's parent, which delineates
9 the conditions of the custody arrangement. The consent of the child's
10 parent is desirable, but not necessary if all other conditions have been
11 met.

12 (cf: P.L.1992, c.139, s.4)

13

14 37. Section 2 of P.L.1977, c.424 (C.30:4C-51) is amended to
15 read as follows:

16 2. The Legislature declares that it is in the public interest, whereby
17 the safety of children shall be of paramount concern, to afford every
18 child placed outside his home by the Division of Youth and Family
19 Services with the opportunity for eventual return to his home or
20 placement in an alternative permanent home; that it is the obligation
21 of the State to promote this end through effective planning and
22 regular review of each child's placement; and that it is the purpose of
23 this act to establish procedures for both administrative and judicial
24 review of each child's placement in order to ensure that such
25 placement ensures the safety and health and serves the best interest of
26 the child.

27 (cf: P.L.1977, c.424, s.2)

28

29 38. Section 3 of P.L.1977, c.424 (C.30:4C-52) is amended to
30 read as follows:

31 3. As used in this act, unless the context indicates otherwise:

32 a. "Child" means any person less than 18 years of age;

33 b. "Child placed outside his home" means a child under the care,
34 custody or guardianship of the division, through voluntary agreement
35 or court order, who resides in a foster home, group home, residential
36 treatment facility, shelter for the care of abused or neglected children
37 or juveniles considered as juvenile-family crisis cases, or independent
38 living arrangement operated by or approved for payment by the
39 division, or a child who has been placed by the division in the home of
40 a person who is not related to the child and does not receive any
41 payment for the care of the child from the division, or a child placed
42 by the court in juvenile-family crisis cases pursuant to P.L.1982, c.77
43 (C.2A:4A-20 et seq.), but does not include a child placed by the court
44 in the home of a person related to the child who does not receive any
45 payment from the division for the care of the child;

46 c. "County of supervision" means the county in which the division

1 has established responsibility for supervision of the child;

2 d. "Division" means the Division of Youth and Family Services in
3 the Department of Human Services;

4 e. "Temporary caretaker" means a foster parent as defined in
5 section 1 of P.L.1962, c.136 (C.30:4C-26.4) or a director of a group
6 home or residential treatment facility;

7 f. "Designated agency" means an agency designated by the court
8 pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.) to develop a family
9 services plan.

10 (cf: P.L.1987, c.252, s.1)

11

12 39. Section 4 of P.L.1977, c.424 (C.30:4C-53) is amended to
13 read as follows:

14 4. Within five calendar days after the placement of a child outside
15 his home pursuant to a voluntary agreement, the division or the
16 designated agency, as the case may be, shall file notice of such
17 placement with the **[family part]** Family Part of the Chancery Division
18 of the Superior Court in the child's county of supervision. Such notice
19 shall be in the form of a petition encaptioned "In the matter of
20, a minor" and shall include the date and type of placement
21 and the reasons for such placement, which shall include the specific
22 efforts to prevent the placement or the specific situation which the
23 division has documented to establish an exception to the requirement
24 to make reasonable efforts to prevent placement in accordance with
25 section 24 of P.L. , c. (C.) (pending before the Legislature as this
26 bill). Such filing shall establish a continuing jurisdiction of the court
27 over the placement of the child.

28 The division shall also file immediate notice with the court of any
29 change in placement and of the permanent placement or return home
30 of the child. The court's jurisdiction shall cease upon receipt of such
31 notification of the return home or alternative permanent placement of
32 the child, except as permitted pursuant to subsection e. of section 8 of
33 P.L.1984, c.85 (C.30:4C-61.1).

34 (cf: P.L.1987, c.252, s.2)

35

36 40. Section 1 of P.L.1991 c.448 (C.30:4C-53.1) is amended to
37 read as follows:

38 1. The Legislature finds and declares that it is in the public
39 interest, whereby the safety of children shall be of paramount concern,
40 to afford every child placed outside his home by the division with
41 permanency through return to his own home, if the child can be
42 returned home without endangering the child's health or safety;
43 through adoption, if family reunification is not possible; or through an
44 alternative permanent placement, if termination of parental rights is not
45 appropriate:

46 a. Due to the severity of health and social problems such as

1 AIDS, drug abuse and homelessness, the Division of Youth and Family
2 Services in the Department of Human Services often works with
3 families over a period of many years, and the children of these families
4 often spend a majority of their young lives in foster care; and

5 b. Research has shown that the longer children remain in the foster
6 care system, the greater number of placements they experience. As a
7 result of these multiple placements, from natural family to foster home
8 and from one foster home to another foster home, children develop
9 emotional and psychological problems, making it more difficult for
10 them to develop a positive self-image; and

11 c. For the majority of these children, placement in residential
12 treatment facilities becomes the only viable option left to the division
13 because it is more difficult for the division to find adoptive homes for
14 them when, and if, adoption becomes a case goal; and

15 d. The obligation of the State to recognize and protect the rights
16 of children in the child welfare system should be fulfilled in the context
17 of a clear and consistent policy which limits the repeated placement of
18 children in foster care and promotes the eventual placement of these
19 children in stable and safe permanent homes.

20 (cf: P.L.1991, c.448, s.1)

21

22 41. Section 3 of P.L.1991 c.448 (C.30:4C-53.3) is amended to
23 read as follows:

24 3. a. The division shall not treat a child's repeated placement into
25 foster care as an initial placement. The child's revised placement plan,
26 updated at the time of the child's repeated placement, shall summarize
27 the child's prior history with the division regarding previous
28 placements, the findings of the child placement review board, as well
29 as a copy of the court order for the removal of the child from the
30 custody of his parents or guardian. The revised placement plan shall
31 be used by the division when preparing the child's repeated placement
32 plan pursuant to this section.

33 b. Whenever a child is placed again into foster care, the division
34 shall prepare a repeated placement plan which shall ensure the **[goal]**
35 goals of safety and permanency through the safe return of the child to
36 his parents or, if this is not possible, through the State's assumption of
37 guardianship for the purpose of finding the child an adoptive home or,
38 if termination of parental rights is not appropriate, through an
39 alternative permanent placement. The plan shall be prepared within 30
40 days after the child's repeated placement and submitted to the court.
41 The plan shall be valid for 12 months after the date the child was
42 placed again into foster care.

43 c. The repeated placement plan shall include, but not be limited to:

44 (1) The specific reasons for the repeated placement of the child,
45 including a description of the problems or conditions in the home of
46 the parents or guardian which necessitated the child's removal, and a

1 summary of the efforts made by the division to prevent the child's
2 repeated placement or the exception to the requirement to make
3 reasonable efforts to prevent placement in accordance with section 24
4 of P.L. , c. (C.) (pending before the Legislature as this bill);

5 (2) The specific actions to be taken by the child's parents or
6 guardian to eliminate the identified problems or conditions which were
7 the basis of the child's repeated placement into foster care, which
8 actions shall be taken within a specific time limit agreed upon by the
9 child's caseworker and the parents or guardian;

10 (3) The social services to be provided to the [child's parents or
11 guardian, the] child and the foster parents during the period the child
12 is in foster care and the social services to be provided to the child's
13 parent or guardian, or the exception to the requirement to make
14 reasonable efforts toward family reunification in accordance with
15 section 25 of P.L. , c. (C.)(pending before the Legislature as this
16 bill), and the goal for the child and anticipated date for achieving the
17 goal. The purpose of the supportive services shall be to promote the
18 child's best interest and to facilitate his safe return to his natural home,
19 placement for adoption or an alternative permanent placement.
20 Services to facilitate adoption or an alternative permanent placement
21 may be provided concurrently with services to reunify the child with
22 the parent or guardian;

23 (4) An assessment of the division's ability to obtain a child's birth
24 certificate, locate the child's parents for future contact and have access
25 to the child's extended family, in the event that [an adoption] a plan
26 for adoption or an alternative permanent placement becomes
27 necessary; [and]

28 (5) A stipulation that the child be placed with his prior foster
29 family, if possible and if in the child's best interest, to provide the child
30 with continuity and stability in his living environment; and

31 (6) A permanency plan for the child and the reasonable efforts of
32 the division to achieve that plan, if: the division has established an
33 exception to the requirement to provide reasonable efforts toward
34 family reunification in accordance with section 25 of P.L. , c.
35 (C.) (pending before the Legislature as this bill); or the child has, in
36 any period of 22 consecutive months, been in any placement or
37 placements for a total of 12 months.

38 The permanency plan shall include whether and, if applicable,
39 when:

40 (a) the child will be returned to the parent or guardian, if the child
41 can be returned home without endangering the child's health or safety;

42 (b) the division has determined that family reunification is not
43 possible, and the division shall file a petition for the termination of
44 parental rights for the purpose of adoption; or

45 (c) the division has determined that termination of parental rights
46 is not appropriate in accordance with section 31 of P.L. , c. (C.)

1 (pending before the Legislature as this bill), and the child shall be
2 placed in an alternative permanent placement.

3 (cf: P.L.1991, c.448, s.3)

4

5 42. Section 4 of P.L.1991, c.448 (C.30:4C-53.4) is amended to
6 read as follows:

7 4. If the division is required to provide reasonable efforts toward
8 family reunification, and if the parents or guardian of the child are
9 unwilling or unable to remedy the problems or conditions outlined in
10 the child's repeated placement plan within the specified time limit
11 **[and]** despite **[diligent]** reasonable efforts by the division, and if the
12 permanency plan for the child requires the termination of parental
13 rights, the division shall file a petition **[for guardianship]** to terminate
14 the rights of the child's parents with the family part of the Chancery
15 Division of the Superior Court pursuant to section 15 of P.L.1951,
16 c.138 (C.30:4C-15). The division shall concurrently provide services
17 to facilitate the child's placement into an adoptive home.

18 The court shall set a hearing, with notice to all parties, on the
19 guardianship petition within 45 days from the date the petition was
20 filed.

21 (cf: P.L.1991, c.448, s.4)

22

23 43. Section 5 of P.L.1977, c.424 (C.30:4C-54) is amended to
24 read as follows:

25 5. The court shall, within 15 days following receipt of the notice
26 of the initial placement pursuant to a voluntary agreement, determine,
27 based solely upon the petition and other affidavits and written
28 materials submitted to the court, whether or not reasonable efforts
29 have been made to prevent the placement and whether or not the
30 continuation of the child in his home would be contrary to the welfare
31 of the child, and either approve the placement or order the return of
32 the child to his home, except that, lack of reasonable efforts to prevent
33 placement shall not be the sole basis for the court's order of a return
34 of the child to his home.

35 If the division has documented an exception to the requirement to
36 provide reasonable efforts towards family reunification, the court shall
37 make a finding of whether reasonable efforts are required in
38 accordance with section 25 of P.L. , c. (C.) (pending before the
39 Legislature as this bill). The child's health, safety and need for
40 permanency shall be of paramount concern to the court when it makes
41 its finding.

42 The court also may require the submission of supplementary
43 material or schedule a summary hearing if:

44 a. The court has before it conflicting statements of material fact;

45 b. The court determines that it is in the best interest of the child;

46 or

1 c. The child's parents or legal guardian requests the hearing.

2 The court shall provide written notice to the parties involved in the
3 hearing at least five days prior to the hearing. The court shall provide
4 written notice of the date, time and place of such hearing to the
5 parents or legal guardian of the child, the child or the child's counsel,
6 the child's temporary caretaker, the division, and any other party the
7 court deems appropriate. If the child's caretaker is a foster parent,
8 preadoptive parent or relative, the caretaker shall receive written
9 notice of and an opportunity to be heard at the hearing, but the
10 caretaker shall not be made a party to the hearing solely on the basis
11 of the notice and opportunity to be heard.

12 (cf: P.L.1987, c.252, s.3)

13

14 44. Section 6 of P.L.1977, c.424 (C.30:4C-55) is amended to
15 read as follows:

16 6. The division shall prepare and revise, when necessary, in
17 consultation with the child's parents or legal guardian and, when
18 appropriate, the child, a placement plan for each child placed outside
19 his home. The placement plan shall include:

20 a. A statement of the goal for the permanent placement or return
21 home of the child and anticipated date that the goal will be achieved;

22 b. The intermediate objectives relating to the attainment of the
23 goal; **[and]**

24 c. A statement of the duties and responsibilities of the division, the
25 parents or legal guardian and the temporary caretaker, including the
26 services to be provided by the division to the child**[],** the parents or
27 legal guardian,**]** and to the temporary caretaker

28 d. A statement of the services to be provided to the parent or legal
29 guardian or an exception to the requirement to provide reasonable
30 efforts toward family reunification in accordance with section 25 of
31 P.L. , c. (C.) (pending before the Legislature as this bill). Services
32 to facilitate adoption or an alternative permanent placement may be
33 provided concurrently with services to reunify the child with the parent
34 or guardian; and

35 e. A permanency plan for the child and the division's reasonable
36 efforts to achieve that plan, if: the division has established an
37 exception to the requirement to provide reasonable efforts toward
38 family reunification in accordance with section 25 of P.L. , c. (C.)
39 (pending before the Legislature as this bill); or the child has been in
40 placement for 12 months.

41 The permanency plan shall include whether and, if applicable,
42 when:

43 (a) the child shall be returned to the parent or guardian, if the child
44 can be returned home without endangering the child's health or safety;

45 (b) the division has determined that family reunification is not
46 possible, and the division shall file a petition for the termination of

1 parental rights for the purpose of adoption; or
2 (c) the division has determined that termination of parental rights
3 is not appropriate in accordance with section 31 of P.L. , c. (C.)
4 (pending before the Legislature as this bill) and the child shall be
5 placed in an alternative permanent placement.
6 (cf: P.L.1977, c.424, s.6)

7
8 45. Section 9 of P.L.1977, c.424 (C.30:4C-58) is amended to
9 read as follows:

10 9. Each board shall act on behalf of the family part of the
11 Chancery Division of the Superior Court in reviewing the case of every
12 child placed outside his home pursuant to a voluntary agreement, to
13 determine whether the best interests and safety of the child are being
14 served by such placement.

15 Each board shall also act on behalf of the family part of the
16 Chancery Division of the Superior Court in reviewing the case of each
17 child placed outside his home by the division in accordance with a
18 court order pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.), section
19 12 of P.L.1951, c.138 (C.30:4C-12), section 24 of P.L.1982, c.77
20 (C.2A:4A-43) or section 25 of P.L.1982, c.77 (C.2A:4A-44). The
21 division or designated agency shall submit to the board within 30 days
22 of a child's placement, a placement plan prepared in accordance with
23 the provisions of P.L.1977, c.424 (C.30:4C-50 et seq.).

24 A board shall initiate a review of a placement pursuant to a
25 voluntary agreement or in accordance with a court order within 45
26 days following the initial or repeated placement and shall complete the
27 review within 15 days thereafter. A periodic review shall take place at
28 least every 12 months thereafter.

29 The board may schedule additional reviews on its own motion,
30 upon the request of any person listed in section 5 of P.L.1977, c.424
31 (C.30:4C-54) or upon an order of the court.

32 Notwithstanding the provisions of section 3 of P.L.1977, c.424
33 (C.30:4C-52) to the contrary, if a child placed outside his home attains
34 18 years of age or older and his out of home placement costs are being
35 paid by the division, the board shall continue to conduct periodic
36 reviews until the division terminates supervision.

37 All such reviews shall include, but not necessarily be limited to, the
38 consideration and evaluation of such matters as:

39 a. The appropriateness of the goal and objectives of the placement
40 plan and anticipated date that the goal will be achieved;

41 b. The appropriateness of the services provided to the child[, the
42 parents or legal guardian] and to the temporary caretaker;

43 c. Whether the child has siblings who are also placed outside of
44 their home;

45 d. Whether the wishes of the child were considered regarding
46 placement and development of the placement plan, when appropriate;

- 1 e. Whether the division, the parents or legal guardian and the
2 temporary caretaker are fulfilling their respective responsibilities in
3 accordance with the placement plan;
- 4 f. Whether the parents or legal guardian have been afforded the
5 opportunity and been encouraged to participate in a program of
6 regular visitation with the child;
- 7 g. Whether there are obstacles which hinder or prevent the
8 attainment of the placement plan objectives and goal; **[and]**
- 9 h. The circumstances surrounding the placement;
- 10 i. The appropriateness of the services provided to the parent or
11 legal guardian or the circumstances which do not require the division
12 to make reasonable efforts toward family reunification in accordance
13 with section 25 of P.L. , c. (C.) (pending before the Legislature as
14 this bill); and
- 15 j. The appropriateness of the division's permanency plan and the
16 division's reasonable efforts to achieve that plan, if an exception to the
17 requirement to provide reasonable efforts toward family reunification
18 has been established in accordance with section 25 of P.L. , c. (C.)
19 (pending before the Legislature as this bill) or the child has been in
20 placement for 12 months.

21 In the case of a child in placement outside of his home on the
22 effective date of this act, the first review shall be completed as soon
23 as possible, but not later than 12 months following such effective date.
24 (cf: P.L.1987, c.252, s.5)

25

26 46. Section 10 P.L.1977, c.424 (C.30:4C-59) is amended to
27 read as follows:

28 10. Each board shall provide written notice of the date, time and
29 place of each review at least 15 days in advance to the following, each
30 of whom shall be entitled to attend the review and to submit
31 information in writing to the board:

- 32 a. The division or agency;
- 33 b. The child;
- 34 c. The parents including a non-custodial parent or legal guardian;
- 35 d. The temporary caretaker;
- 36 e. Any other person or agency whom the board determines has
37 an interest in or information relating to the welfare of the child; **[and]**
- 38 f. The counsel for a parent, child or other interested party who
39 has provided or is providing representation in the case before the
40 board; and

41 If the child's caretaker is a foster parent, preadoptive parent or
42 relative, the caretaker shall receive written notice of and an
43 opportunity to be heard at the review, but the caretaker shall not be
44 made a party to the review solely on the basis of the notice and
45 opportunity to be heard.

46 The board may determine who may be in attendance at any

1 particular portion of its meeting. Nothing herein shall be interpreted
2 to exclude judges and court support staff from attending review board
3 meetings.

4 The written notice shall inform the person of his right to attend the
5 review and to submit written information and shall be prepared in a
6 manner which will encourage the person's attendance at the review.

7 Notice to the child may be waived by the court on a case by case
8 basis either on its own motion or on the petition of any of the above
9 persons in cases where the court determines that notice would be
10 harmful to the child. A waiver of notice to the child shall not waive the
11 notice requirement to counsel for the child or other representatives of
12 the child.

13 The review board may seek information from any agency which has
14 been involved with the child, parents or legal guardian or temporary
15 caretaker. If the agency fails to provide the requested information, the
16 court may, upon the request of the board, issue a subpoena to the
17 agency for the information.

18 The board shall conduct a review and make recommendations
19 based upon the written materials; provided, however, that the board
20 shall afford any party or person entitled to notice pursuant to this
21 section a reasonable opportunity to appear and to present his views
22 and recommendations. Upon the request of the board, the family part
23 of the Chancery Division of the Superior Court may subpoena a person
24 to attend the review board meeting.

25 A designated agency shall provide relevant and necessary
26 information to the board regarding a child who is reviewed by the
27 board.

28 (cf: P.L.1987, c.252, s.7)

29

30 47. Section 11 of P.L.1977, c.424 (C.30:4C-60) is amended to
31 read as follows:

32 11. Within 10 days after the completion of such review, the board
33 shall submit a written report to the family part of the Chancery
34 Division of the Superior Court and the division. Such report shall
35 offer one of the following findings, stating the specific reasons
36 therefor:

37 a. That continued placement of the child outside of the home is
38 not in the child's best interest and the child should be returned home
39 within two weeks and that the division or designated agency, as
40 appropriate, shall provide reasonable and available services which are
41 necessary to implement the return home;

42 b. That continued placement outside of the home is in the child's
43 best interest on a temporary basis until the long-term goal is achieved,
44 which long-term goal is:

45 (1) Return to the child's parents or legal guardian,

46 (2) Adoption,

- 1 (3) Permanent placement with a relative,
- 2 (4) Long-term foster care custody,
- 3 (5) Independent living, **[or]**
- 4 (6) Institutionalization, or
- 5 (7) An alternative permanent placement;

6 c. That continued placement outside of the home on a temporary
7 basis is in the child's best interest, but that there is not sufficient
8 information for the board to make a recommendation, therefore, the
9 board requests the court to order the division or designated agency, as
10 appropriate, to provide the needed information within two weeks of
11 the court order.

12 d. (Deleted by amendment, P.L.1987, c.252.)

13 In addition to the finding, the board shall state in its report if the
14 placement plan satisfies the criteria provided in section 9 of
15 P.L.1977, c.424 (C.30:4C-58) and if it does not, that the placement
16 plan should be modified or a new plan should be developed.

17 When making its finding pursuant to this section, the child's health,
18 safety and need for permanency shall be of paramount concern to the
19 board. The board shall give priority to the goal of return to the child's
20 parents or legal guardian unless that goal is not in the best interest of
21 the child. If the return has not been achieved within one year, and
22 after considering the family's efforts**[,];** the division's or designated
23 agency's provision of reasonable and available services, if reasonable
24 efforts are required; or other relevant factors**[,];** the board shall
25 recommend another permanent plan for the child **[which shall include**
26 permanent placement with a relative through adoption or legal custody
27 or adoption by a non-relative. But, if return to a child's parents or legal
28 guardian, permanent placement with a relative or adoption is not
29 possible or is not in the best interest of the child, the board shall
30 recommend an alternative long-term plan for the child**].**

31 In addition to the finding, the board shall state the reasons and
32 additional factors it deems appropriate to explain its conclusions.
33 When any change in the plan or situation of the child is recommended,
34 the board shall state its specific recommendations and the factual basis
35 therefor.

36 In accordance with section 8 of P.L.1985, c.85 (C.30:4C-61.1), the
37 board may recommend that the division shall not return a child to his
38 home prior to a review by the board and an order of the court.

39 Within 10 days of the completion of its review, the board shall
40 provide to those persons entitled to notice under section 10 of
41 P.L.1977, c.424 (C.30:4C-59) the specific finding made pursuant to
42 this section, unless the board recommends that the finding shall not be
43 provided to specific individuals as provided in this paragraph. The
44 court may waive notice of findings to the child on a case-by-case basis
45 on its own motion or on the petition of a person listed in section 10 of
46 P.L.1977, c.424 (C.30:4C-59) in cases where the court determines that

1 the nature of the findings would be harmful to the child, or if notice to
2 the child of review was waived. The court may waive notice of
3 findings to persons included in subsection e. of section 10 of P.L.1977,
4 c.424 (C.30:4C-59) on the recommendation of the board or on the
5 petition of other persons entitled to notice.

6 (cf: P.L.1987, c.252, s.8)

7

8 48. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to
9 read as follows:

10 12. a. Upon review of the board's report, the family part of the
11 Chancery Division of the Superior Court shall issue an order
12 concerning the child's placement which it deems will best serve the
13 health, safety and interests of the child. The court shall issue the order
14 within 21 calendar days of the court's receipt of the board's report
15 unless the court schedules a summary hearing. The court shall either:

16 (1) Order the return of the child to his parents or legal guardian
17 within two weeks and order the division or designated agency, as
18 appropriate, to provide any reasonable and available services which are
19 necessary to implement the return home;

20 (2) Order continued placement on a temporary basis until the
21 long-term goal is achieved; or

22 (3) Order continued placement on a temporary basis but that the
23 division shall provide further information within two weeks to the
24 court, which information shall be reviewed by the board within 30 days
25 of its receipt.

26 (4) (Deleted by amendment, P.L.1987, c.252.)

27 In accordance with section 8 of P.L.1984, c.85 (C.30:4C-61.1), the
28 court may order that the division shall not return a child to his home
29 prior to review by the board and an order of the court.

30 In addition, if the placement plan does not satisfy the criteria of
31 section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that
32 the placement plan be modified or that a new plan be developed within
33 30 days.

34 b. In reviewing the report, the court may request that, where
35 available, any written or oral information submitted to the board be
36 provided to the court. The court shall make a determination based
37 upon the report and any other information before it; provided,
38 however, that the court may schedule a summary hearing if:

39 (1) The court has before it conflicting statements of material fact
40 which it cannot resolve without a hearing; or

41 (2) A party entitled to participate in the proceedings requests a
42 hearing; or

43 (3) The court concludes that the interests of justice require that a
44 hearing be held[, the court may schedule a summary hearing]; or

45 (4) The board recommends that a hearing be held due to lack of
46 compliance with the placement plan, including achievement of the

1 permanent placement identified in the permanency plan.

2 c. Notice of such hearing, including a statement of the dispositional
3 alternatives of the court, shall be provided at least 30 days in advance,
4 unless the court finds that it is in the best interest of the child to
5 provide less notice in order to conduct the hearing sooner. Notice
6 shall be provided to the following persons unless the court determines
7 it is not in the best interests of the child:

8 (1) The division;

9 (2) The child;

10 (3) The child's parents including a non-custodial parent or legal
11 guardian;

12 (4) The review board;

13 (5) The temporary caretaker; **[and]**

14 (6) The counsel for any parent, child or other interested party who
15 has provided or is providing representation in the case before the
16 board; and

17 (7) If the child's caretaker is a foster parent, preadoptive parent or
18 relative, the caretaker shall receive written notice of and an
19 opportunity to be heard at the hearing, but the caretaker shall not be
20 made a party to the hearing solely on the basis of the notice and
21 opportunity to be heard.

22 The court may also request or order additional information from
23 any other persons or agencies which the court determines have an
24 interest in or information relating to the welfare of the child.

25 The court shall hold the hearing within 60 days of receipt of the
26 board's report and shall issue its order within 15 days of the hearing.

27 d. The court shall send a copy of its order concerning the child's
28 placement to all persons listed in subsection c. of this section, except
29 that, if notice to the child of the board review was waived pursuant to
30 section 10 of P.L.1977, c.424 (C.30:4C-59), the court may waive the
31 requirement of sending a copy of its order to the child.

32 e. Any person who receives a copy of the court order shall
33 comply with the confidentiality requirements established by the
34 Supreme Court for the purposes of this act.

35 (cf: P.L.1987, c.252, s.9)

36

37 49. Section 8 of P.L.1984, c.85 (C.30:4C-61.1) is amended to
38 read as follows:

39 8. a. If the division proposes to return a child home, although the
40 return home is either prohibited by the placement plan approved by the
41 court or expressly contingent upon certain conditions in the placement
42 plan that have not been met, the division shall promptly notify the
43 board and the court in writing.

44 b. The board shall conduct a special review within 15 days of
45 receipt of the notice provided pursuant to subsection a. or f. of this
46 section to consider and evaluate the reasons for the proposed action

1 and determine whether the action ensures the safety and serves the
2 best interests of the child. The board shall provide written notice of
3 the special review pursuant to section 10 of P.L.1977, c.424
4 (C.30:4C-59), except that the 15-day advance notice requirement is
5 waived. The board shall submit its report to the court pursuant to
6 section 11 of P.L.1977, c.424 (C.30:4C-60), except that the board
7 shall submit the report within five days of completion of the special
8 review.

9 c. The court shall review the board's recommendations within 10
10 days and issue an order within five days unless a summary hearing is
11 scheduled concerning the child's placement pursuant to section 12 of
12 P.L.1977, c.424 (C.30:4C-61), except that if a party entitled to
13 participate in the proceeding requests a hearing, the court shall hold
14 a summary hearing within 15 days of receipt of the board's report
15 unless the court determines that the request for the hearing is
16 frivolous. The court shall issue its order within five days of the
17 hearing.

18 d. The division shall not return the child home unless the court
19 approves the division's proposed action and orders the return home of
20 the child.

21 e. Notwithstanding the provisions of this section to the contrary,
22 in an emergency situation, the court may waive the special review
23 provisions of this section and approve the return home, upon the
24 request of the division to do so. The request of the division for a
25 court waiver of the special review provisions shall be accompanied by
26 a written statement from the division declaring and finding that the
27 out-of-home placement has been disrupted, that no appropriate
28 alternative placement for the child can be found in the home of a
29 relative, a foster home, group home, shelter, residential care facility or
30 other setting following the change in placement, and that the return
31 home will not endanger the health ~~and~~, safety or welfare of the
32 child. The written statement submitted with a request shall also
33 outline the specific reasons for the findings made. The division shall
34 conduct an on-site visit of the home of a child when in an emergency
35 situation the division plans to request of the court a waiver of the
36 special review provisions. A report of the on-site visit shall be
37 included with the request.

38 If the court approves the division's request, the division shall
39 promptly notify the board of the court's approval of the request. The
40 board shall conduct a review of the change in the placement plan
41 within 15 days of the date the child is returned home. The division
42 shall conduct a minimum of two on-site visits to the home of a child
43 returned there in an emergency situation within the first 10 days of the
44 return to ascertain the continued health, safety and welfare of the
45 child. The court, upon granting a request for a waiver, may require
46 additional on-site visits. A detailed written report of each on-site visit

1 to the home of a child returned in an emergency situation shall
2 promptly be submitted to the court and to the child placement review
3 board.

4 Notwithstanding any other provisions of law to the contrary, the
5 court shall retain jurisdiction over the placement of the child after a
6 child has been returned home in an emergency situation for up to six
7 months unless there is a subsequent court hearing or court order.

8 In any case where, following a court order for the implementation
9 of a placement plan, the board determines upon re-review of the case
10 that there has been insufficient effort on the part of the division or any
11 other parties toward implementation of the court ordered plan, the
12 board may petition the court for an order to show cause as to why the
13 plan is not being implemented as ordered.

14 f. If, subsequent to the review and approval of a plan by the
15 court, the division proposes to change the long-term goal in the plan
16 or otherwise substantially modify the plan, it shall notify the court and
17 the board in writing, within five days. The board shall schedule review
18 of the modification. The division shall continue to implement the
19 current court ordered plan until the court orders a modified or new
20 plan.

21 g. Nothing in this section is intended to limit the court's authority
22 to exercise its regular remedies for enforcement of an order.

23 (cf: P.L.1987, c.252, s.10)

24

25 50. (New section) a. A permanency hearing shall be held that
26 provides review and approval by the court of the placement plan:

27 (1) within 30 days after the determination of an exception to the
28 reasonable effort requirement to reunify the child with the parent in
29 accordance with section 25 of P.L. , c. (C.)(pending before the
30 Legislature as this bill); or

31 (2) no later than 12 months after the child has been in placement.

32 b. Written notice of the date, time and place of the permanency
33 hearing shall be provided at least 15 days in advance to the following,
34 each of whom shall be entitled to attend the hearing and to submit
35 written information to the court:

36 (1) the division or agency;

37 (2) the child;

38 (3) the parents, including a non-custodial parent or legal guardian;

39 (4) the temporary caretaker;

40 (5) any other person or agency whom the court determines has an
41 interest in or information relating to the welfare of the child;

42 (6) the counsel for a parent, child or other interested party who has
43 provided or is providing representation in the case before the court;

44 and

45 (7) the child's foster parent, preadoptive parent or relative
46 providing care for the child shall also receive written notice of and an

1 opportunity to be heard at the hearing, but the foster parent,
2 preadoptive parent or relative shall not be made a party to the hearing
3 solely on the basis of the notice and opportunity to be heard.

4 c. The hearing shall include, but not necessarily be limited to,
5 consideration and evaluation of information provided by the division
6 and other interested parties regarding such matters as:

7 (1) a statement of the goal for the permanent placement or return
8 home of the child and the anticipated date that the goal will be
9 achieved;

10 (2) the intermediate objectives relating to the attainment of the
11 goal;

12 (3) a statement of the duties and responsibilities of the division,
13 the parents or legal guardian and the temporary caretaker, including
14 the services to be provided by the division to the child and to the
15 temporary caretaker;

16 (4) a statement of the services to be provided to the parent or
17 legal guardian or an exception to the requirement to provide
18 reasonable efforts toward family reunification in accordance with
19 section 25 of P.L. , c. (C.)(pending before the Legislature as this
20 bill). Services to facilitate adoption or an alternative permanent
21 placement may be provided concurrently with services to reunify the
22 child with the parent or guardian;

23 (5) a permanency plan which includes whether and, if applicable,
24 when:

25 (a) the child shall be returned to the parent or guardian, if the
26 child can be returned home without endangering the child's health or
27 safety;

28 (b) the division has determined that family reunification is not
29 possible and the division shall file a petition for the termination of
30 parental rights for the purpose of adoption; or

31 (c) the division has determined that termination of parental rights
32 is not appropriate in accordance with section 31 of P.L. , c. (C.)
33 (pending before the Legislature as this bill) and the child shall be
34 placed in an alternative permanent placement.

35 d. If the court approves a permanency plan for the child, the court
36 shall make a specific finding of the reasonable efforts made thus far by
37 the division and the appropriateness of the reasonable efforts to
38 achieve the permanency plan.

39

40 51. Section 2 of P.L.1992, c.111 (C.30:4C-67) is amended to
41 read as follows:

42 2. The Legislature finds and declares that it is the intent of the
43 Legislature to preserve the sanctity of the family unit, to the extent
44 that the preservation does not jeopardize the safety of children, which
45 shall be of paramount concern, and to prevent the unnecessary
46 out-of-home placement of emotionally disturbed children, whether in

1 New Jersey or out-of-State.

2 The Legislature further finds and declares that it is in the best
3 interest of children that an individualized, appropriate child and family
4 driven care system be developed so that children with special
5 emotional needs and their families receive safe and appropriate
6 educational, nonresidential, residential and family supportive services.
7 (cf: P.L.1992, c.111, s.2)

8

9 52. The Commissioner of Human Services, pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), shall adopt rules and regulations to implement the provisions of
12 this act.

13

14 53. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 The purpose of this bill is to conform State law to the provisions
20 of the federal "Adoption and Safe Families Act of 1997," (ASFA)
21 Pub.L.105-89. The federal law is intended to assist state efforts to
22 balance family preservation and reunification with the child's health,
23 safety and need for permanency.

24 Specifically, the bill addresses the following issues:

25 -- The safety of children is of paramount concern: ASFA requires
26 that a child's safety be the paramount concern in all aspects of services
27 including when a child is placed outside of his home, and during the
28 determination of whether the permanent plan for a child under the care
29 or custody of the Division of Youth and Family Services (DYFS)
30 should be family reunification, adoption, or some alternative
31 placement. The bill clearly establishes as public policy in Titles 9 and
32 30 of the Revised Statutes that the safety of children shall be the
33 paramount concern, expanding the current State policy which protects
34 a child's best interests.

35 -- Reasonable efforts requirements and exceptions: The bill
36 amends Titles 9 and 30 of the Revised Statutes, including the "Child
37 Placement Review Act," (N.J.S.A.30:4C-50 et seq.) to incorporate
38 ASFA's requirements for reasonable efforts to prevent placement or
39 reunify families and exceptions to these requirements. These
40 exceptions are included in the bill. For example, ASFA requires that
41 reasonable efforts towards placement of a child for adoption or in
42 another permanent placement may be made concurrently with
43 reasonable efforts toward family preservation and reunification. When
44 a permanency plan has been developed, reasonable efforts must be
45 made to achieve the plan. Upon the filing of a petition to terminate
46 parental rights, reasonable efforts must be made to obtain a qualified

1 family for adoption. ASFA permits exceptions to the reasonable
2 efforts requirements that are triggered when a court of competent
3 jurisdiction has determined that (1) the parent has subjected the child
4 to aggravated circumstances, (2) the parent has committed certain
5 criminal offenses or (3) the parent's rights to another child have been
6 terminated involuntarily.

7 -- Permanency hearings: ASFA requires that a permanency hearing
8 be held when a state is not required to make reasonable efforts to
9 reunify a child with his parents or no later than when a child has been
10 in out-of-home placement for 12 months. The bill also adds language
11 to establish public policy recognizing a child's's need for permanency
12 through a return to the home, if the child can be returned home
13 without endangering the child's health or safety; through adoption, if
14 family reunification is not possible; or through an alternative placement
15 plan, if termination of parental rights is not appropriate. Also, the bill
16 specifies that any hearing held before a court of competent jurisdiction
17 may serve as a permanency hearing to provide judicial review and
18 approval of a permanency plan for a child if the requirements for a
19 permanency hearing (established in the bill) are met.

20 -- Reduction of interjurisdictional barriers to adoption: The bill
21 authorizes the Department of Human Services (DHS) to enter into
22 interstate compacts which enhance protection and permanency for
23 children. The bill amends the State's adoption law, N.J.S.A.9:3-37 et
24 seq., to specify that: (1) an intermediary in any state or country shall
25 not receive money or other consideration in connection with the
26 placement of a child in New Jersey; and (2) an intermediary in New
27 Jersey is prohibited from benefiting in connection with the placement
28 of a child for adoption in New Jersey or in any other state or country.

29 -- Termination of parental rights: The bill mirrors the provisions
30 of ASFA by requiring DYFS to seek termination of parental rights
31 when grounds are established, but no later than when a child has been
32 in placement for 15 out of the most recent 22 months, unless one of
33 the following exceptions is met: (1) the child is being cared for by a
34 relative; (2) the State has documented a compelling reason why
35 termination of parental rights would not be in the child's best interests;
36 or (3) the State has not provided to the child's family the services the
37 State deems necessary for the child's safe return home.

38 -- Notice to caregiver: ASFA requires that notice and an
39 opportunity to be heard be given to a child's foster parent, preadoptive
40 parent, or relative caregiver whenever there is a review or hearing
41 regarding the child. The bill includes this provision in applicable
42 sections of Titles 9 and 30 of the Revised Statutes.

43 -- Criminal History Record Information (CHRI) Checks: ASFA
44 requires CHRI checks on prospective foster and adoptive parents and
45 prohibits approval of applicants who have committed certain crimes.
46 State law currently requires these checks, but the bill amends

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1 N.J.S.A.30:4C-26.8 to identify the specific crimes that prohibit
2 approval.

3 Finally, although ASFA does not address this issue, hospitals and
4 health care professionals have begun using document service
5 companies to provide records to DYFS. Since DYFS is a public
6 agency, this bill provides that DYFS shall not be charged a fee for the
7 copying of these records.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2951

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2951 with committee amendments.

Assembly Bill No. 2951, as amended, conforms State law to the requirements of the federal "Adoption and Safe Families Act of 1997," (ASFA) Pub.L.105-89. The federal law is intended to assist state efforts to balance family preservation and reunification with the child's health, safety and need for permanency.

The bill addresses the following issues:

-- The safety of children is of paramount concern. ASFA requires that a child's health and safety be the paramount concern in all aspects of services, including when a child is placed outside of his home and during the determination of whether the permanent plan for a child under the care or custody of the Division of Youth and Family Services in the Department of Human Services (DYFS) should be family reunification, adoption, or some alternative placement. The bill clearly establishes as public policy in Titles 9 and 30 of the Revised Statutes that the health and safety of children shall be the paramount concern, expanding the current State policy that protects a child's best interests.

-- Reasonable efforts requirements and exceptions. The bill amends Titles 9 and 30 of the Revised Statutes, including the "Child Placement Review Act" (N.J.S.A.30:4C-50 et seq.), to incorporate ASFA's requirements for reasonable efforts to "prevent placement" (that is, to preserve or reunify families) and exceptions to these requirements. These exceptions are included in the bill. For example, ASFA requires that reasonable efforts towards placement of a child for adoption or in another permanent placement may be made concurrently with reasonable efforts toward family preservation and reunification. When a permanency plan has been developed, reasonable efforts must be made to achieve the plan. Upon the filing of a petition to terminate parental rights, reasonable efforts must be made to obtain a qualified family for adoption. ASFA permits exceptions to the reasonable efforts requirements that are triggered when a court of competent jurisdiction has determined that (1) the parent has subjected the child to aggravated circumstances, (2) the parent has committed certain

criminal offenses or (3) the parent's rights to another child have been terminated involuntarily.

-- Permanency hearings. ASFA requires that a permanency hearing be held when a state is not required to make reasonable efforts to reunify a child with his parents or no later than when a child has been in out-of-home placement for 12 months. The bill also adds language to establish public policy recognizing a child's need for permanency through a return to the home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative placement plan, if termination of parental rights is not appropriate. Also, the bill specifies that any hearing held before a court of competent jurisdiction shall serve as a permanency hearing to provide judicial review and approval of a permanency plan for a child if the requirements for a permanency hearing (established in the bill) are met.

-- Reduction of interjurisdictional barriers to adoption. The bill authorizes the Department of Human Services to enter into interstate compacts which enhance protection and permanency for children. The bill amends the State's adoption law, N.J.S.A.9:3-37 et seq., to specify that: (1) an intermediary in any state or country shall not receive money or other consideration in connection with the placement of a child in New Jersey; and (2) an intermediary in New Jersey is prohibited from benefiting in connection with the placement of a child for adoption in New Jersey or in any other state or country.

-- Termination of parental rights. The bill mirrors the provisions of ASFA by requiring DYFS to seek termination of parental rights as soon as the grounds provided in N.J.S.A.30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months, unless one of the following exceptions is met: (1) the child is being cared for by a relative; (2) the State has documented a compelling reason why termination of parental rights would not be in the child's best interests; or (3) the State has not provided to the child's family the services the State deems necessary for the child's safe return home.

-- Notice to caregiver. ASFA requires that notice and an opportunity to be heard be given to a child's foster parent, preadoptive parent, or relative caregiver whenever there is a review or hearing regarding the child. The bill includes this provision in applicable sections of Titles 9 and 30 of the Revised Statutes.

-- Criminal History Record Information (CHRI) Checks. ASFA requires CHRI checks on prospective foster and adoptive parents and prohibits approval of applicants who have committed certain crimes. State law currently requires these checks, but the bill amends N.J.S.A.30:4C-26.8 to identify the specific crimes that prohibit approval.

Although ASFA does not address this issue, hospitals and health care professionals have begun using document service companies to provide records to DYFS. As DYFS is a public agency, this bill

provides that DYFS shall not be charged a fee for the copying of these records.

The bill requires the court, when a petition is filed under N.J.S.A.3:4C-15, to provide a parent with notice that the parent has the right to retain and consult with an attorney. If the parent is indigent, the court shall advise the parent that the parent may obtain counsel through the Office of the Public Defender. The bill also requires the court to appoint legal representation for the child from the Office of the Law Guardian in the Office of the Public Defender. The attorney appointed by the court shall represent the child in all proceedings filed under Titles 9 and 30 of the Revised Statutes unless relieved by the court upon application for substitution counsel or other just cause.

The bill amends N.J.S.A.9:6-8.21 to require that a law guardian represent minors in termination of parental rights proceedings.

The bill authorizes the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings under Title 30 of the Revised Statutes and appropriates \$600,000 in Fiscal Year 1999 (and such other sums as may be necessary) to the Office of the Public Defender to provide the representation. The appropriation authorizes the office to contract with attorneys in private practice, Legal Services of New Jersey and other qualified public interest organizations to provide the legal representation.

The bill authorizes the Public Defender to report to the Legislature and the Governor by October 1, 1999 on the number of cases for which it has provided representation and who provided the representation. The office shall recommend how and by whom the representation should be provided in Fiscal Year 2000 and how the State can ensure that a parent or child may have continuous legal representation throughout proceedings brought under Titles 9 and 30 of the Revised Statutes.

FISCAL IMPACT:

This bill does not have an independent fiscal impact; the Division of Youth and Family Services has been meeting the requirements of the federal "Adoption and Safe Families Act of 1997" since its enactment. The bill codifies the provisions of the federal act in State law, as required by the federal act. The DYFS FY1999 adjusted appropriations of \$441 million and the FY2000 recommended appropriation of \$459.8 million should provide adequate funding for the ongoing division activities.

Information supplied by the Office of the Public Defender attempts to estimate its compliance costs and, depending on a number of variables, could be between \$1 million and \$1.5 million annually. The bill makes an FY1999 appropriation of \$600,000 from the General Fund to the Office of the Public Defender, and additional sums for Trial and Appellate services to children and indigent parents subject to

the approval of the Director of the Division of Budget and Accounting. The adequacy of this level of funding should be verified on the basis of the office's report, due by October 1, 1999, on the number of cases for which it has provided representation.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- Establish responsibility under Title 9 of the Revised Statutes (when DYFS becomes involved with a child) to provide reasonable efforts towards family preservation or family reunification as well as to provide concurrent planning services for an alternative placement (Section 4);
- Require that, in situations in which a child is the subject of protective services litigation under Title 9 of the Revised Statutes, a permanency hearing shall be held before the court and the court shall review the permanency plan periodically to ensure that it is achieved. Similarly, in situations in which a review of a placement is being conducted in accordance with the "Child Placement Review Act," N.J.S.A. 30:4C-50 et seq., the court may schedule a summary hearing if the review will serve as a permanency hearing for the child (Sections 15 and 48);
- Clarify in the statement of public policy in N.J.S.A.30:4C-1 that a child's health and safety takes priority over the preservation of the family unit (Section 20);
- Clarify that DYFS shall seek termination of parental rights as soon as the grounds provided in N.J.S.A. 30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months (Section 15);
- Limit the authority of a person or agency interested in the child to file a petition to terminate parental rights by deleting those situations in which DYFS has a responsibility to confirm that certain actions occurred (Section 29);
- With respect to long-term foster care, retain the original language in N.J.S.A.30:4C-26.13 which requires a determination that adoption is "not in the child's best interest" rather than "not appropriate," as the bill originally provided (Section 36);
- Authorize the court to schedule a summary hearing when a review of a placement under the "Child Placement Review Act," N.J.S.A.30:4C-50 et seq. will consider an exception to the requirement that DYFS provide reasonable efforts to reunify a child with his family (Section 48);
- Require that the Commissioner of Human Services report to the Legislature and the Governor within 18 months on the implementation of the provisions of the bill and provide an opportunity for public input in the development of rules and

regulations (Sections 52 and 53);

- Require the court, when a petition is filed under N.J.S.A.30:4C-15, to give a parent notice of his right to retain and consult with counsel and, if the parent is indigent, to advise the parent that he may obtain an attorney through the Office of the Public Defender. The court is also required to appoint legal representation for the child from the Office of the Law Guardian who shall represent the child in all proceedings filed under Titles 9 and 30;
- Amend N.J.S.A. 9:6-8.21 to require that a law guardian represent minors in termination of parental rights proceedings; and
- Authorize the Public Defender to provide representation to parents and children in termination of parental rights cases, appropriate \$600,000 and other sums, as may be necessary, to the office in Fiscal Year 1999 and to provide the representation through contracts. The office shall also report to the Legislature and the Governor by October 1, 1999 on the number of cases representation was provided, who provided the representation, how and by whom the representation should be provided in Fiscal Year 2000, and how the State can assure that parents and children may receive continuous legal representation in proceeding brought under Titles 9 and 30 of the Revised Statutes.

Other amendments are technical and delete the word "natural" when it modifies parent and corrects references to "Family Part" of the Chancery Division of the Superior Court.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2951

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 23, 1999

BILL SUMMARY

Assembly Bill No. 2951 (1R) of 1998 conforms State law to the provisions of the federal "Adoption and Safe Families Act of 1997," Pub.L.105-89, which is intended to assist state efforts to balance family preservation and reunification with the child's health, safety and need for permanency.

While virtually all of the amended legislation is related to changes required by Pub.L.105-89, the bill authorizes the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings and appropriates \$600,000 in FY 1999 (and such other sums as may be necessary) for this purpose.

AGENCY COMMENTS

No information has been provided by any agency affected by the legislation.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

Pub.L.105-89 was enacted November 1997 and the Division of Youth and Family Services (DYFS) has been complying with the provisions of the federal law to the extent permitted under State law. The FY 1999 appropriations act provided DYFS \$441.0 million (gross) to enable the division to comply with State and federal requirements, including Pub.L.105-89. The FY 2000 recommended budget provides \$459.8 million (gross) to enable DYFS to comply with State and federal requirements.

The adequacy of the \$600,000 appropriation to the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings cannot be determined as the number of parents and children who may need representation and how

complex the proceedings may be, are not known.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.