

30:4C-1.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 130
NJSA: 30:4C-1.1 (Restructures child protective services in DHS)
BILL NO: A2985 (Substituted for S1648)

SPONSOR(S): Previte and others

DATE INTRODUCED: June 3, 2004

COMMITTEE: **ASSEMBLY:** Family, Women and Children's Services

SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 10, 2004

SENATE: June 17, 2004

DATE OF APPROVAL: August 27, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

A2985

[SPONSOR'S STATEMENT:](#) (Begins on page 143 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1648

[SPONSOR'S STATEMENT:](#) (Begins on 144 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

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VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"DYFS reform bill signed," 8-28-2004 Burlington County Times, p.A5

"McGreevey signs DYFS reform bill," 8-28-2004 The Times, p.A4

"Governor highlights overhaul at DYFS," 8-28-2004 Asbury Park Press, p.A1.

"DYFS overhaul gets gov focus," 8-28-2004 Home News Tribune, p.A1

"McGreevey signs new child-welfare legislation," 8-28-2004 Philadelphia Inquirer,p.B1

"Governor signs DYFS bill," 8-28-2004 Courier News, p.A3

"Expansive DYFS reforms become law," 8-28-2004 p.5

§1
C.30:4C-1.1
§§2-4
C.30:4C-2.2
to
30:4C-2.4
§126
C.30:4C-2.5
§127
Repealer
§128
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§129
Note to
§§88 & 128

P.L. 2004, CHAPTER 130, *approved August 27, 2004*
Assembly, No. 2985 (*First Reprint*)

1 **AN ACT** concerning child protective services and revising various
2 parts of the statutory law.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. New Jersey must improve the ability of its child welfare system
9 to protect children from abuse and neglect, and to provide services to
10 at-risk children and families in order to prevent harm to their children;

11 b. Recent data and assessments of the child welfare system in this
12 State demonstrate the need for a new approach to delivering services
13 to this vulnerable population, and the system must therefore be
14 reformed;

15 c. Because the safety of children must always be paramount,
16 allegations of child abuse and neglect must be investigated quickly and
17 thoroughly and protective actions must be taken immediately if
18 necessary;

19 d. Concerns about the safety, permanency and well-being of
20 children require significant changes in: the organization of the child
21 welfare system, the ability to implement best practices within the
22 system; the development of effective services to meet the needs of
23 children and families; and the elimination of impediments to the quick
24 and efficient management of abuse and neglect cases;

25 e. Children need safe, stable and positive relationships with caring
26 adults in order to thrive; and, if their parents are incapable of
27 providing such a caring relationship, the State must look to other
28 families to provide this kind of relationship;

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 Assembly AFW committee amendments adopted June 3, 2004.

1 f. To ensure the best outcomes for children and their families, these
2 substitute families must be viewed and treated as "resource families"
3 and provided with appropriate support, training and responsibilities,
4 which will include: expedited licensure for this purpose, equalized
5 payment rates for care among the various types of resource families,
6 and enhanced access to necessary support services tailored to their
7 respective needs;

8 g. Youths must be provided with supports and services in their
9 communities that will enable them to grow into healthy and productive
10 adults; and those youths who previously received child welfare
11 services must continue to receive those services beyond the age of 18,
12 up to age 21, as appropriate;

13 h. This act is necessary in order to make the initial statutory
14 changes required under a comprehensive child welfare reform plan
15 issued by the Department of Human Services as part of a federal class
16 action settlement, which is designed to address the deficiencies
17 identified in the child welfare system in this State over a five-year
18 period;

19 i. The comprehensive child welfare reform plan calls for changes
20 in the approach taken by the State to case practice, recruitment and
21 support of resource families, partnering with the community, creating
22 and delivering services to children and families, providing support and
23 training to the child welfare system workforce, and ensuring
24 accountability and continuous quality improvement within the system;

25 j. This act is designed to allow the Division of Youth and Family
26 Services to focus its mission on abused and neglected children by
27 creating the Division of Child Behavioral Health Services and the
28 Division of Prevention and Community ¹[Development] Partnerships¹
29 in order to build the capacity to meet the needs of children and families
30 in those respective areas of the child welfare system, with all three
31 divisions operating under a deputy commissioner who is responsible
32 for the Office of Children's Services established under this act;

33 k. This act is also designed to enable the Division of Youth and
34 Family Services to better focus on issues relating to abused and
35 neglected children by transferring its responsibilities for licensure and
36 investigating institutional abuse to the Department of Human Services,
37 as well as transferring other responsibilities to the department that will
38 be assigned to the new Division of Child Behavioral Health Services
39 and the new Division of Prevention and Community ¹[Development]
40 Partnerships¹; and

41 1. This act will otherwise enhance the quality of the child welfare
42 system in New Jersey by facilitating the transition to other needed
43 long-term systemic changes with regard to out-of-home placements
44 and permanency options for children who cannot live with their birth
45

46 2. (New section) There is established the Office of Children's

1 Services in the Department of Human Services, which shall be under
2 the direction of the Deputy Commissioner for Children's Services. The
3 office shall oversee such entities within the department as are
4 designated by the Commissioner of Human Services, including, but not
5 limited to, the Division of Youth and Family Services, the Division of
6 Child Behavioral Health Services and the Division of Prevention and
7 Community ¹[Development] Partnerships¹.

8
9 3. (New section) Notwithstanding any provision of law to the
10 contrary, the Department of Human Services, through the Office of
11 Children's Services or as otherwise designated by the Commissioner
12 of Human Services, shall provide services to individuals who are
13 between 18 and 21 years of age and meet the following conditions:

14 a. The individual was receiving services from the Office of
15 Children's Services, or otherwise from the department as designated
16 by the commissioner, on or after the individual's 16th birthday;

17 b. The individual, on or after the individual's 18th birthday, has not
18 refused or requested that these services be terminated, as applicable;
19 and

20 c. The Office of Children's Services or another entity designated by
21 the commissioner determines that a continuation of services would be
22 in the individual's best interest and would assist the individual to
23 become an independent and productive adult.

24
25 4. (New section) a. There is established the New Jersey Child
26 Welfare Training Academy in the Department of Human Services for
27 the purpose of providing a training program to meet the needs of the
28 child welfare system Statewide. The training program shall provide:

29 (1) pre-service and in-service training for public employees of the
30 child welfare system;

31 (2) training opportunities for community-based entities and other
32 child welfare system stakeholders as designated by the commissioner;
33 and

34 (3) pre-service and in-service training for resource families.

35 b. The academy shall be responsible for developing and managing
36 the training activities provided under this program, for which purpose
37 it shall:

38 (1) administer, coordinate and evaluate all training activities under
39 the program;

40 (2) seek to partner with social work and other professionals to
41 ensure that the training provided under the program reflects best
42 practices;

43 (3) develop training curricula, resources and products;

44 (4) schedule and provide notice of training events and provide
45 training materials for those events;

46 (5) employ and compensate training event instructors as necessary;

1 (6) create mechanisms and processes to assess, identify and
2 monitor training needs for public employees of the child welfare
3 system, including competency-based training;

4 (7) create mechanisms and processes to evaluate the effectiveness
5 of the training provided under the program;

6 (8) provide for the development of multimedia training tools to
7 inform, educate and train public agency staff, resource families and
8 others in the child welfare system;

9 (9) determine the minimum number of pre-service and in-service
10 training hours required of, and ensure the availability of sufficient
11 training opportunities for, public agency staff Statewide; and

12 (10) conduct any other activities necessary to develop, implement
13 and manage the training program.

14 c. The training provided to resource families pursuant to this
15 section shall include courses in the role of caregivers as part of the
16 care and treatment of children requiring out-of-home placement. A
17 resource family parent shall be required to complete the number of
18 hours of pre-service and in-service training prescribed under the
19 training program as a condition of licensure under P.L.2001, c.419
20 (C.30:4C-27.3 et seq.).

21

22 5. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read
23 as follows:

24 23. Predispositional evaluation. a. Before making a disposition,
25 the court may refer the juvenile to an appropriate individual, agency
26 or institution for examination and evaluation.

27 b. In arriving at a disposition, the court may also consult with such
28 individuals and agencies as may be appropriate to the juvenile's
29 situation, including the county probation division, the [Division of
30 Youth and Family] Department of Human Services, the Juvenile
31 Justice Commission established pursuant to section 2 of P.L.1995,
32 c.284 (C.52:17B-170), the county youth services commission, school
33 personnel, clergy, law enforcement authorities, family members and
34 other interested and knowledgeable parties. In so doing, the court
35 may convene a predispositional conference to discuss and recommend
36 disposition.

37 c. The predisposition report ordered pursuant to the Rules of Court
38 may include a statement by the victim of the offense for which the
39 juvenile has been adjudicated delinquent or by the nearest relative of
40 a homicide victim. The statement may include the nature and extent of
41 any physical harm or psychological or emotional harm or trauma
42 suffered by the victim, the extent of any loss to include loss of earnings
43 or ability to work suffered by the victim and the effect of the crime
44 upon the victim's family. The probation division shall notify the victim
45 or nearest relative of a homicide victim of his right to make a
46 statement for inclusion in the predisposition report if the victim or

1 relative so desires. Any statement shall be made within 20 days of
2 notification by the probation division. The report shall further include
3 information on the financial resources of the juvenile. This
4 information shall be made available on request to the Victims of Crime
5 Compensation Board established pursuant to section 3 of P.L.1971,
6 c.317 (C.52:4B-3) or to any officer authorized under section 3 of
7 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,
8 restitution or fine. Any predisposition report prepared pursuant to this
9 section shall include an analysis of the circumstances attending the
10 commission of the act, the impact of the offense on the community, the
11 offender's history of delinquency or criminality, family situation,
12 financial resources, the financial resources of the juvenile's parent or
13 guardian, and information concerning the parent or guardian's exercise
14 of supervision and control relevant to commission of the act.

15 Information concerning financial resources included in the report
16 shall be made available to any officer authorized to collect payment on
17 any assessment, restitution or fine.

18 (cf: P.L.2001, c.408, s.2)

19

20 6. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read
21 as follows:

22 24. Disposition of delinquency cases. a. In determining the
23 appropriate disposition for a juvenile adjudicated delinquent the court
24 shall weigh the following factors:

25 (1) The nature and circumstances of the offense;

26 (2) The degree of injury to persons or damage to property caused
27 by the juvenile's offense;

28 (3) The juvenile's age, previous record, prior social service
29 received and out-of-home placement history;

30 (4) Whether the disposition supports family strength, responsibility
31 and unity and the well-being and physical safety of the juvenile;

32 (5) Whether the disposition provides for reasonable participation
33 by the child's parent, guardian, or custodian, provided, however, that
34 the failure of a parent or parents to cooperate in the disposition shall
35 not be weighed against the juvenile in arriving at an appropriate
36 disposition;

37 (6) Whether the disposition recognizes and treats the unique
38 physical, psychological and social characteristics and needs of the
39 child;

40 (7) Whether the disposition contributes to the developmental needs
41 of the child, including the academic and social needs of the child where
42 the child has mental retardation or learning disabilities;

43 (8) Any other circumstances related to the offense and the
44 juvenile's social history as deemed appropriate by the court;

45 (9) The impact of the offense on the victim or victims;

46 (10) The impact of the offense on the community; and

1 (11) The threat to the safety of the public or any individual posed
2 by the child.

3 b. If a juvenile is adjudged delinquent, and except to the extent that
4 an additional specific disposition is required pursuant to subsection e.
5 or f. of this section, the court may order incarceration pursuant to
6 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the
7 following dispositions:

8 (1) Adjourn formal entry of disposition of the case for a period not
9 to exceed 12 months for the purpose of determining whether the
10 juvenile makes a satisfactory adjustment, and if during the period of
11 continuance the juvenile makes such an adjustment, dismiss the
12 complaint; provided that if the court adjourns formal entry of
13 disposition of delinquency for a violation of an offense defined in
14 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall
15 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may
16 waive imposition of the penalty set forth in N.J.S.2C:35-16 for
17 juveniles adjudicated delinquent;

18 (2) Release the juvenile to the supervision of the juvenile's parent
19 or guardian;

20 (3) Place the juvenile on probation to the chief probation officer of
21 the county or to any other suitable person who agrees to accept the
22 duty of probation supervision for a period not to exceed three years
23 upon such written conditions as the court deems will aid rehabilitation
24 of the juvenile;

25 (4) Transfer custody of the juvenile to any relative or other person
26 determined by the court to be qualified to care for the juvenile;

27 (5) Place the juvenile under the care and responsibility of the
28 Department of Human Services [under the responsibility of the
29 Division of Youth and Family Services] so that the commissioner may
30 designate a division or organizational unit in the department pursuant
31 to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing
32 services in or out of the home. Within 14 days, unless for good cause
33 shown, but not later than 30 days, the Department of Human Services
34 shall submit to the court a service plan, which shall be presumed valid,
35 detailing the specifics of any disposition order. The plan shall be
36 developed within the limits of fiscal and other resources available to
37 the department. If the court determines that the service plan is
38 inappropriate, given existing resources, the department may request a
39 hearing on that determination;

40 (6) Place the juvenile under the care and custody of the
41 Commissioner of [the Department of] Human Services for the
42 purpose of receiving the services of the Division of Developmental
43 Disabilities of that department, provided that the juvenile has been
44 determined to be eligible for those services under P.L.1965, c.59, s.16
45 (C.30:4-25.4);

46 (7) Commit the juvenile, pursuant to applicable laws and the Rules

1 of Court governing civil commitment, to the Department of Human
2 Services under the responsibility of the Division of **[Mental]** Child
3 Behavioral Health Services for the purpose of placement in a suitable
4 public or private hospital or other residential facility for the treatment
5 of persons who are mentally ill, on the ground that the juvenile is in
6 need of involuntary commitment;

7 (8) Fine the juvenile an amount not to exceed the maximum
8 provided by law for such a crime or offense if committed by an adult
9 and which is consistent with the juvenile's income or ability to pay and
10 financial responsibility to the juvenile's family, provided that the fine
11 is specially adapted to the rehabilitation of the juvenile or to the
12 deterrence of the type of crime or offense. If the fine is not paid due
13 to financial limitations, the fine may be satisfied by requiring the
14 juvenile to submit to any other appropriate disposition provided for in
15 this section;

16 (9) Order the juvenile to make restitution to a person or entity who
17 has suffered loss resulting from personal injuries or damage to
18 property as a result of the offense for which the juvenile has been
19 adjudicated delinquent. The court may determine the reasonable
20 amount, terms and conditions of restitution. If the juvenile
21 participated in the offense with other persons, the participants shall be
22 jointly and severally responsible for the payment of restitution. The
23 court shall not require a juvenile to make full or partial restitution if
24 the juvenile reasonably satisfies the court that the juvenile does not
25 have the means to make restitution and could not reasonably acquire
26 the means to pay restitution;

27 (10) Order that the juvenile perform community services under the
28 supervision of a probation division or other agency or individual
29 deemed appropriate by the court. Such services shall be compulsory
30 and reasonable in terms of nature and duration. Such services may be
31 performed without compensation, provided that any money earned by
32 the juvenile from the performance of community services may be
33 applied towards any payment of restitution or fine which the court has
34 ordered the juvenile to pay;

35 (11) Order that the juvenile participate in work programs which are
36 designed to provide job skills and specific employment training to
37 enhance the employability of job participants. Such programs may be
38 without compensation, provided that any money earned by the juvenile
39 from participation in a work program may be applied towards any
40 payment of restitution or fine which the court has ordered the juvenile
41 to pay;

42 (12) Order that the juvenile participate in programs emphasizing
43 self-reliance, such as intensive outdoor programs teaching survival
44 skills, including but not limited to camping, hiking and other
45 appropriate activities;

46 (13) Order that the juvenile participate in a program of academic

1 or vocational education or counseling, such as a youth service bureau,
2 requiring attendance at sessions designed to afford access to
3 opportunities for normal growth and development. This may require
4 attendance after school, evenings and weekends;

5 (14) Place the juvenile in a suitable residential or nonresidential
6 program for the treatment of alcohol or narcotic abuse, provided that
7 the juvenile has been determined to be in need of such services;

8 (15) Order the parent or guardian of the juvenile to participate in
9 appropriate programs or services when the court has found either that
10 such person's omission or conduct was a significant contributing factor
11 towards the commission of the delinquent act, or, under its authority
12 to enforce litigant's rights, that such person's omission or conduct has
13 been a significant contributing factor towards the ineffective
14 implementation of a court order previously entered in relation to the
15 juvenile;

16 (16) (a) Place the juvenile in a nonresidential program operated by
17 a public or private agency, providing intensive services to juveniles for
18 specified hours, which may include education, counseling to the
19 juvenile and the juvenile's family if appropriate, vocational training,
20 employment counseling, work or other services;

21 (b) Place the juvenile under the custody of the Juvenile Justice
22 Commission established pursuant to section 2 of P.L.1995, c.284
23 (C.52:17B-170) for placement with any private group home or private
24 residential facility with which the commission has entered into a
25 purchase of service contract;

26 (17) Instead of or in addition to any disposition made according to
27 this section, the court may postpone, suspend, or revoke for a period
28 not to exceed two years the driver's license, registration certificate, or
29 both of any juvenile who used a motor vehicle in the course of
30 committing an act for which the juvenile was adjudicated delinquent.
31 In imposing this disposition and in deciding the duration of the
32 postponement, suspension, or revocation, the court shall consider the
33 severity of the delinquent act and the potential effect of the loss of
34 driving privileges on the juvenile's ability to be rehabilitated. Any
35 postponement, suspension, or revocation shall be imposed
36 consecutively with any custodial commitment;

37 (18) Order that the juvenile satisfy any other conditions reasonably
38 related to the rehabilitation of the juvenile;

39 (19) Order a parent or guardian who has failed or neglected to
40 exercise reasonable supervision or control of a juvenile who has been
41 adjudicated delinquent to make restitution to any person or entity who
42 has suffered a loss as a result of that offense. The court may
43 determine the reasonable amount, terms and conditions of restitution;
44 or

45 (20) Place the juvenile, if eligible, in an appropriate juvenile
46 offender program established pursuant to P.L.1997, c.81 (C.30:8-61

1 et al.).

2 c. (1) Except as otherwise provided in subsections e. and f. of this
3 section, if the county in which the juvenile has been adjudicated
4 delinquent has a juvenile detention facility meeting the physical and
5 program standards established pursuant to this subsection by the
6 Juvenile Justice Commission, the court may, in addition to any of the
7 dispositions not involving placement out of the home enumerated in
8 this section, incarcerate the juvenile in the youth detention facility in
9 that county for a term not to exceed 60 consecutive days. Counties
10 which do not operate their own juvenile detention facilities may
11 contract for the use of approved commitment programs with counties
12 with which they have established agreements for the use of
13 pre-disposition juvenile detention facilities. The Juvenile Justice
14 Commission shall promulgate such rules and regulations from time to
15 time as deemed necessary to establish minimum physical facility and
16 program standards for the use of juvenile detention facilities pursuant
17 to this subsection.

18 (2) No juvenile may be incarcerated in any county detention facility
19 unless the county has entered into an agreement with the Juvenile
20 Justice Commission concerning the use of the facility for sentenced
21 juveniles. Upon agreement with the county, the Juvenile Justice
22 Commission shall certify detention facilities which may receive
23 juveniles sentenced pursuant to this subsection and shall specify the
24 capacity of the facility that may be made available to receive such
25 juveniles; provided, however, that in no event shall the number of
26 juveniles incarcerated pursuant to this subsection exceed 50% of the
27 maximum capacity of the facility.

28 (3) The court may fix a term of incarceration under this subsection
29 where:

30 (a) The act for which the juvenile was adjudicated delinquent, if
31 committed by an adult, would have constituted a crime or repetitive
32 disorderly persons offense;

33 (b) Incarceration of the juvenile is consistent with the goals of
34 public safety, accountability and rehabilitation and the court is clearly
35 convinced that the aggravating factors substantially outweigh the
36 mitigating factors as set forth in section 25 of P.L.1982, c.77
37 (C.2A:4A-44); and

38 (c) The detention facility has been certified for admission of
39 adjudicated juveniles pursuant to paragraph (2).

40 (4) If as a result of incarceration of adjudicated juveniles pursuant
41 to this subsection, a county is required to transport a predisposition
42 juvenile to a juvenile detention facility in another county, the costs of
43 such transportation shall be borne by the Juvenile Justice Commission.

44 d. Whenever the court imposes a disposition upon an adjudicated
45 delinquent which requires the juvenile to perform a community service,
46 restitution, or to participate in any other program provided for in this

1 section other than subsection c., the duration of the juvenile's
2 mandatory participation in such alternative programs shall extend for
3 a period consistent with the program goal for the juvenile and shall in
4 no event exceed one year beyond the maximum duration permissible
5 for the delinquent if the juvenile had been committed to a term of
6 incarceration.

7 e. In addition to any disposition the court may impose pursuant to
8 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
9 following orders shall be included in dispositions of the adjudications
10 set forth below:

11 (1) An order of incarceration for a term of the duration authorized
12 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
13 or an order to perform community service pursuant to paragraph (10)
14 of subsection b. of this section for a period of at least 60 days, if the
15 juvenile has been adjudicated delinquent for an act which, if committed
16 by an adult, would constitute the crime of theft of a motor vehicle, or
17 the crime of unlawful taking of a motor vehicle in violation of
18 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding
19 in violation of subsection b. of N.J.S.2C:29-2;

20 (2) An order of incarceration for a term of the duration authorized
21 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
22 which shall include a minimum term of 60 days during which the
23 juvenile shall be ineligible for parole, if the juvenile has been
24 adjudicated delinquent for an act which, if committed by an adult,
25 would constitute the crime of aggravated assault in violation of
26 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree
27 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or
28 theft of a motor vehicle, in a case in which the juvenile has previously
29 been adjudicated delinquent for an act, which if committed by an adult,
30 would constitute unlawful taking of a motor vehicle or theft of a motor
31 vehicle;

32 (3) An order to perform community service pursuant to paragraph
33 (10) of subsection b. of this section for a period of at least 30 days, if
34 the juvenile has been adjudicated delinquent for an act which, if
35 committed by an adult, would constitute the fourth degree crime of
36 unlawful taking of a motor vehicle in violation of subsection b. of
37 N.J.S.2C:20-10;

38 (4) An order of incarceration for a term of the duration authorized
39 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
40 which shall include a minimum term of 30 days during which the
41 juvenile shall be ineligible for parole, if the juvenile has been
42 adjudicated delinquent for an act which, if committed by an adult,
43 would constitute the crime of unlawful taking of a motor vehicle in
44 violation of N.J.S.2C:20-10 or the third degree crime of eluding in
45 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has
46 previously been adjudicated delinquent for an act which, if committed

1 by an adult, would constitute either theft of a motor vehicle, the
2 unlawful taking of a motor vehicle or eluding.

3 f. (1) The minimum terms of incarceration required pursuant to
4 subsection e. of this section shall be imposed regardless of the weight
5 or balance of factors set forth in this section or in section 25 of
6 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those
7 factors shall determine the length of the term of incarceration
8 appropriate, if any, beyond any mandatory minimum term required
9 pursuant to subsection e. of this section.

10 (2) When a court in a county that does not have a juvenile
11 detention facility or a contractual relationship permitting incarceration
12 pursuant to subsection c. of this section is required to impose a term
13 of incarceration pursuant to subsection e. of this section, the court
14 may, subject to limitations on commitment to State correctional
15 facilities of juveniles who are under the age of 11 or developmentally
16 disabled, set a term of incarceration consistent with subsection c.
17 which shall be served in a State correctional facility. When a juvenile
18 who because of age or developmental disability cannot be committed
19 to a State correctional facility or cannot be incarcerated in a county
20 facility, the court shall order a disposition appropriate as an alternative
21 to any incarceration required pursuant to subsection e.

22 (3) For purposes of subsection e. of this section, in the event that
23 a "boot camp" program for juvenile offenders should be developed and
24 is available, a term of commitment to such a program shall be
25 considered a term of incarceration.

26 g. Whenever the court imposes a disposition upon an adjudicated
27 delinquent which requires the juvenile to perform a community service,
28 restitution, or to participate in any other program provided for in this
29 section, the order shall include provisions which provide balanced
30 attention to the protection of the community, accountability for
31 offenses committed, fostering interaction and dialogue between the
32 offender, victim and community and the development of competencies
33 to enable the child to become a responsible and productive member of
34 the community.

35 (cf: P.L.2001, c.408, s.3)

36

37 7. Section 13 of P.L.1982, c.80 (C.2A:4A-88) is amended to read
38 as follows:

39 13. Temporary placement. Placement of the juvenile prior to the
40 placement hearing or pending determination by the court concerning
41 placement under a family service plan, pursuant to section 14 of
42 P.L.1982, c.80 (C.2A:4A-89), shall be made in a host shelter, [foster]
43 resource family or group home, a county shelter care facility as defined
44 by law, or other suitable family setting. In no event shall such
45 placement be arranged in a secure detention or other facility or in a
46 secure correctional institution for the detention or treatment of

1 juveniles accused of crimes or adjudged delinquent.

2 (cf: P.L.1995, c.280, s.17)

3

4 8. Section 17 of P.L.1985, c.278 (C.2A:17-56.20) is amended to
5 read as follows:

6 17. a. In enforcing all existing and future orders for support, and
7 notwithstanding other provisions to the contrary, the State IV-D
8 agency, without a new order, shall have the authority to assess interest
9 or late payment fees on any support order not paid within 30 days of
10 the due date.

11 b. The late payment fee or interest shall be determined by the State
12 IV-D agency within amounts specified by the federal Department of
13 Health and Human Services.

14 c. The fee or interest shall accrue as arrearages accumulate and
15 shall not be reduced upon partial payment of arrears. The fee or
16 interest may be collected only after the full amount of overdue support
17 is paid and all State requirements for notice to the obligor have been
18 met.

19 d. The collection of the fee or interest shall not directly or
20 indirectly reduce the amount of current or overdue support paid to the
21 obligee to whom it is owed.

22 e. The late payment fee or interest shall be uniformly applied in all
23 cases administered under the State IV-D program, including public
24 assistance, nonpublic assistance, and [foster care] resource family
25 cases.

26 (cf: P.L.1985, c.278, s.17)

27

28 9. N.J.S.2A:22-3 is amended to read as follows:

29 2A:22-3. The adoption, when granted by the court, shall have the
30 following effect:

31 a. The right of the person adopted, and of such persons as legally
32 represent him on his death, to take and inherit intestate personal and
33 real property from his natural parents and their kindred shall not be
34 altered by the adoption.

35 b. In all other respects, all rights, privileges and obligations due
36 from the natural parents to the person adopted and from the person
37 adopted to them and all relations existing between such person and
38 them shall be at an end, including the right of the natural parents and
39 their kindred to take and inherit intestate personal and real property
40 from and through the person adopted.

41 c. All rights, privileges and obligations due from the parents by
42 adoption to the person adopted and from the person adopted to them
43 and all relations between such person and them shall be the same as
44 if the person adopted had been born to them in lawful wedlock,
45 including the right to take and inherit intestate personal and real
46 property from and through each other.

1 Except, however, that:

2 a. The person adopted shall not be capable of taking property
3 expressly limited by a will or any other instrument to the heirs of the
4 body of the adopting parent or parents, nor property coming on
5 intestacy from the collateral kindred of the adopting parent or parents
6 by right of representation; and

7 b. On the death of the parent or parents by adoption and the
8 subsequent death of the person adopted, without issue or a spouse, the
9 property of the deceased parent or parents by adoption shall descend
10 to and be distributed among the heirs and next of kin of the parent or
11 parents by adoption and not to the heirs and next of kin of the person
12 adopted; and

13 c. If the parent or parents by adoption shall have another child or
14 other children entitled to take and inherit from them on intestacy, such
15 children and the person adopted shall, respectively, take and inherit
16 intestate personal and real property from and through each other as
17 if all had been children of the same parents born in lawful wedlock;
18 and

19 d. Where a parent who has procured a divorce, or a surviving
20 parent, having lawful custody of a child, lawfully marries again, or
21 where an adult unmarried person who has become a **[foster] resource**
22 **family** parent and has lawful custody of a child, marries, and such
23 parent or **[foster] resource family** parent consents that the person who
24 thus becomes the stepfather or the stepmother of the person so
25 adopted may adopt the person so adopted, the rights, privileges and
26 obligations due from the parent or **[foster] resource family** parent, so
27 consenting, to the person adopted and from the person adopted to
28 such parent and the relations existing between them shall not be
29 altered by the adoption.

30 (cf: N.J.S.2A:22-3)

31

32 10. Section 1 of P.L.1992, c.109 (C.2A:61B-1) is amended to read
33 as follows:

34 1. a. As used in this act:

35 (1) "Sexual abuse" means an act of sexual contact or sexual
36 penetration between a child under the age of 18 years and an adult. A
37 parent, **[foster] resource family** parent, guardian or other person
38 standing in loco parentis within the household who knowingly permits
39 or acquiesces in sexual abuse by any other person also commits sexual
40 abuse, except that it is an affirmative defense if the parent, **[foster]**
41 **resource family** parent, guardian or other person standing in loco
42 parentis was subjected to, or placed in, reasonable fear of physical or
43 sexual abuse by the other person so as to undermine the person's
44 ability to protect the child.

45 (2) "Sexual contact" means an intentional touching by the victim
46 or actor, either directly or through clothing, of the victim's or actor's

1 intimate parts for the purpose of sexually arousing or sexually
2 gratifying the actor. Sexual contact of the adult with himself must be
3 in view of the victim whom the adult knows to be present.

4 (3) "Sexual penetration" means vaginal intercourse, cunnilingus,
5 fellatio or anal intercourse between persons or insertion of the hand,
6 finger or object into the anus or vagina either by the adult or upon the
7 adult's instruction.

8 (4) "Intimate parts" means the following body parts: sexual organs,
9 genital area, anal area, inner thigh, groin, buttock or breast of a
10 person.

11 (5) "Injury or illness" includes psychological injury or illness,
12 whether or not accompanied by physical injury or illness.

13 b. In any civil action for injury or illness based on sexual abuse, the
14 cause of action shall accrue at the time of reasonable discovery of the
15 injury and its causal relationship to the act of sexual abuse. Any such
16 action shall be brought within two years after reasonable discovery.

17 c. Nothing in this act is intended to preclude the court from finding
18 that the statute of limitations was tolled in a case because of the
19 plaintiff's mental state, duress by the defendant, or any other equitable
20 grounds. Such a finding shall be made after a plenary hearing. At the
21 plenary hearing the court shall hear all credible evidence and the Rules
22 of Evidence shall not apply, except for Rule 403 or a valid claim of
23 privilege. The court may order an independent psychiatric evaluation
24 of the plaintiff in order to assist in the determination as to whether the
25 statute of limitations was tolled.

26 d. (1) Evidence of the victim's previous sexual conduct shall not
27 be admitted nor reference made to it in the presence of a jury except
28 as provided in this subsection. When the defendant seeks to admit
29 such evidence for any purpose, the defendant must apply for an order
30 of the court before the trial or preliminary hearing, except that the
31 court may allow the motion to be made during trial if the court
32 determines that the evidence is newly discovered and could not have
33 been obtained earlier through the exercise of due diligence. After the
34 application is made, the court shall conduct a hearing in camera to
35 determine the admissibility of the evidence. If the court finds that
36 evidence offered by the defendant regarding the sexual conduct of the
37 victim is relevant and that the probative value of the evidence offered
38 is not outweighed by its collateral nature or by the probability that its
39 admission will create undue prejudice, confusion of the issues, or
40 unwarranted invasion of the privacy of the victim, the court shall enter
41 an order setting forth with specificity what evidence may be introduced
42 and the nature of the questions which shall be permitted, and the
43 reasons why the court finds that such evidence satisfies the standards
44 contained in this section. The defendant may then offer evidence
45 under the order of the court.

46 (2) In the absence of clear and convincing proof to the contrary,

1 evidence of the victim's sexual conduct occurring more than one year
2 before the date of the offense charged is presumed to be inadmissible
3 under this section.

4 (3) Evidence of the victim's previous sexual conduct shall not be
5 considered relevant unless it is material to proving that the source of
6 semen, pregnancy or disease is a person other than the defendant. For
7 the purposes of this subsection, "sexual conduct" shall mean any
8 conduct or behavior relating to sexual activities of the victim,
9 including but not limited to previous or subsequent experience of
10 sexual penetration or sexual contact, use of contraceptives, living
11 arrangement and life style.

12 e. (1) The court may, on motion and after conducting a hearing in
13 camera, order the taking of the testimony of a victim on closed circuit
14 television at the trial, out of the view of the jury, defendant, or
15 spectators upon making findings as provided in paragraph (2) of this
16 subsection.

17 (2) An order under this section may be made only if the court finds
18 that the victim is 16 years of age or younger and that there is a
19 substantial likelihood that the victim would suffer severe emotional or
20 mental distress if required to testify in open court. The order shall be
21 specific as to whether the victim will testify outside the presence of
22 spectators, the defendant, the jury, or all of them and shall be based on
23 specific findings relating to the impact of the presence of each.

24 (3) A motion seeking closed circuit testimony under paragraph (1)
25 of this subsection may be filed by:

- 26 (a) The victim or the victim's attorney, parent or legal guardian;
- 27 (b) The defendant or the defendant's counsel; or
- 28 (c) The trial judge on the judge's own motion.

29 (4) The defendant's counsel shall be present at the taking of
30 testimony in camera. If the defendant is not present, he and his
31 attorney shall be able to confer privately with each other during the
32 testimony by a separate audio system.

33 (5) If testimony is taken on closed circuit television pursuant to the
34 provisions of this act, a stenographic recording of that testimony shall
35 also be required. A typewritten transcript of that testimony shall be
36 included in the record on appeal. The closed circuit testimony itself
37 shall not constitute part of the record on appeal except on motion for
38 good cause shown.

39 f. (1) The name, address, and identity of a victim or a defendant
40 shall not appear on the complaint or any other public record as defined
41 in P.L.1963, c.73 (C.47:1A-1 et seq.). In their place initials or a
42 fictitious name shall appear.

43 (2) Any report, statement, photograph, court document, complaint
44 or any other public record which states the name, address and identity
45 of a victim shall be confidential and unavailable to the public.

46 (3) The information described in this subsection shall remain

1 confidential and unavailable to the public unless the victim consents to
2 the disclosure or if the court, after a hearing, determines that good
3 cause exists for the disclosure. The hearing shall be held after notice
4 has been made to the victim and to the defendant and the defendant's
5 counsel.

6 (4) Nothing contained herein shall prohibit the court from imposing
7 further restrictions with regard to the disclosure of the name, address,
8 and identity of the victim when it deems it necessary to prevent trauma
9 or stigma to the victim.

10 g. In accordance with R.5:3-2 of the Rules Governing the Courts
11 of the State of New Jersey, the court may, on its own or a party's
12 motion, direct that any proceeding or portion of a proceeding
13 involving a victim sixteen years of age or younger be conducted in
14 camera.

15 h. A plaintiff who prevails in a civil action pursuant to this act shall
16 be awarded damages in the amount of \$10,000, plus reasonable
17 attorney's fees, or actual damages, whichever is greater. Actual
18 damages shall consist of compensatory and punitive damages and costs
19 of suit, including reasonable attorney's fees. Compensatory damages
20 may include, but are not limited to, damages for pain and suffering,
21 medical expenses, emotional trauma, diminished childhood, diminished
22 enjoyment of life, costs of counseling, and lost wages.

23 (cf: P.L.1999, c.393, s.1)

24

25 11. Section 1 of P.L.1993, c.214 (C.2A:61C-1) is amended to read
26 as follows:

27 1. a. A person who commits the offense of shoplifting as defined
28 in N.J.S.2C:20-11 or a person who commits the offense of theft as
29 defined in Chapter 20 of Title 2C of the New Jersey Statutes by
30 stealing food or drink from an eating establishment shall be liable for
31 any criminal penalties imposed by law and shall be liable to the
32 merchant in a civil action in an amount equal to the following:

33 (1) The value of the merchandise as damages, not to exceed
34 ~~[\$500.00]~~ \$500, if the merchandise cannot be restored to the
35 merchant in its original condition;

36 (2) Additional damages, if any, arising from the incident, not to
37 include any loss of time or wages incurred by the merchant in
38 connection with the apprehension of the defendant; and

39 (3) A civil penalty payable to the merchant in an amount of up to
40 \$150.

41 b. A parent, guardian or other person having legal custody of a
42 minor who commits the offense of shoplifting or the offense of theft
43 of food or drink from an eating establishment shall be liable to the
44 merchant for the damages specified in subsection a. of this section.
45 This subsection shall not apply to a parent whose parental custody and
46 control of such minor has been removed by court order, decree,

1 judgment, military service, or marriage of such infant, or to a [foster]
2 resource family parent of such minor.

3 c. If a merchant institutes a civil action pursuant to the provisions
4 of this section, the prevailing party in that action shall be entitled to an
5 award of reasonable attorney's fees and reasonable court costs.

6 d. Limitations on civil action:

7 (1) Before a civil action may be commenced, the merchant shall
8 send a notice to the defendant's last known address giving the
9 defendant 20 days to respond. It is not a condition precedent to
10 maintaining an action under this act that the defendant has been
11 convicted of shoplifting or theft.

12 (2) No civil action under this act may be maintained if the
13 defendant has paid the merchant a penalty equal to the retail value of
14 the merchandise where the merchandise was not recovered in its
15 original condition, plus a sum of up to [~~\$150.00~~] \$150.

16 (3) The provisions of this act do not apply in any case where the
17 value of the merchandise exceeds [~~\$500.00~~] \$500.

18 e. If the person to whom a written demand is made complies with
19 such demand within 20 days following the receipt of the demand, that
20 person shall be given a written release from further civil liability with
21 respect to the specific act of shoplifting or theft.

22 (cf: P.L.1993, c.214, s.1)

23

24 12. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read
25 as follows:

26 2. a. Pursuant to the provisions of this section, the Superintendent
27 of State Police shall develop and maintain a system for making certain
28 information in the central registry established pursuant to subsection
29 d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by
30 means of electronic Internet technology.

31 b. The public may, without limitation, obtain access to the Internet
32 registry to view an individual registration record, any part of, or the
33 entire Internet registry concerning all offenders whose risk of
34 re-offense is high or for whom the court has ordered notification in
35 accordance with paragraph (3) of subsection c. of section 3 of
36 P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

37 c. Except as provided in subsection d. of this section, the public
38 may, without limitation, obtain access to the Internet registry to view
39 an individual registration record, any part of, or the entire Internet
40 registry concerning offenders whose risk of re-offense is moderate and
41 for whom the court has ordered notification in accordance with
42 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
43 (C.2C:7-8).

44 d. The individual registration record of an offender whose risk of
45 re-offense has been determined to be moderate and for whom the court
46 has ordered notification in accordance with paragraph (2) of

1 subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be
2 made available to the public on the Internet registry if the sole sex
3 offense committed by the offender which renders him subject to the
4 requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the
5 following:

6 (1) An adjudication of delinquency for any sex offense as defined
7 in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

8 (2) A conviction or acquittal by reason of insanity for a violation
9 of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the
10 offender was related to the victim by blood or affinity to the third
11 degree or was a [foster] resource family parent, a guardian, or stood
12 in loco parentis within the household; or

13 (3) A conviction or acquittal by reason of insanity for a violation
14 of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which the victim
15 assented to the commission of the offense but by reason of age was
16 not capable of giving lawful consent.

17 e. Notwithstanding the provisions of paragraph d. of this
18 subsection, the individual registration record of an offender to whom
19 an exception enumerated in paragraph (1), (2) or (3) of subsection d.
20 of this section applies shall be made available to the public on the
21 Internet registry if the State establishes by clear and convincing
22 evidence that, given the particular facts and circumstances of the
23 offense and the characteristics and propensities of the offender, the
24 risk to the general public posed by the offender is substantially similar
25 to that posed by offenders whose risk of re-offense is moderate and
26 who do not qualify under the enumerated exceptions.

27 f. The individual registration records of offenders whose risk of
28 re-offense is low or of offenders whose risk of re-offense is moderate
29 but for whom the court has not ordered notification in accordance with
30 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
31 (C.2C:7-8) shall not be available to the public on the Internet registry.

32 g. The information concerning a registered offender to be made
33 publicly available on the Internet shall include: the offender's name and
34 any aliases the offender has used or under which the offender may be
35 or may have been known; any sex offense as defined in subsection b.
36 of section 2 of P.L.1994, c.133 (C.2C:7-2) for which the offender was
37 convicted, adjudicated delinquent or acquitted by reason of insanity,
38 as the case may be; the date and location of disposition; a brief
39 description of any such offense, including the victim's gender and
40 indication of whether the victim was less than 18 years old or less than
41 13 years old; a general description of the offender's modus operandi,
42 if any; the determination of whether the risk of re-offense by the
43 offender is moderate or high; the offender's age, race, sex, date of
44 birth, height, weight, hair, eye color and any distinguishing scars or
45 tattoos; a photograph of the offender and the date on which the
46 photograph was entered into the registry; the make, model, color, year

1 and license plate number of any vehicle operated by the offender; and
2 the street address, zip code, municipality and county in which the
3 offender resides.

4 (cf: P.L.2001, c.167, s.2)

5
6 13. N.J.S.2C:14-2 is amended to read as follows:

7 2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual
8 assault if he commits an act of sexual penetration with another person
9 under any one of the following circumstances:

10 (1) The victim is less than 13 years old;

11 (2) The victim is at least 13 but less than 16 years old; and

12 (a) The actor is related to the victim by blood or affinity to the
13 third degree, or

14 (b) The actor has supervisory or disciplinary power over the victim
15 by virtue of the actor's legal, professional, or occupational status, or

16 (c) The actor is a [foster] resource family parent, a guardian, or
17 stands in loco parentis within the household;

18 (3) The act is committed during the commission, or attempted
19 commission, whether alone or with one or more other persons, of
20 robbery, kidnapping, homicide, aggravated assault on another,
21 burglary, arson or criminal escape;

22 (4) The actor is armed with a weapon or any object fashioned in
23 such a manner as to lead the victim to reasonably believe it to be a
24 weapon and threatens by word or gesture to use the weapon or object;

25 (5) The actor is aided or abetted by one or more other persons and
26 the actor uses physical force or coercion;

27 (6) The actor uses physical force or coercion and severe personal
28 injury is sustained by the victim;

29 (7) The victim is one whom the actor knew or should have known
30 was physically helpless, mentally defective or mentally incapacitated.

31 Aggravated sexual assault is a crime of the first degree.

32 b. An actor is guilty of sexual assault if he commits an act of sexual
33 contact with a victim who is less than 13 years old and the actor is at
34 least four years older than the victim.

35 c. An actor is guilty of sexual assault if he commits an act of sexual
36 penetration with another person under any one of the following
37 circumstances:

38 (1) The actor uses physical force or coercion, but the victim does
39 not sustain severe personal injury;

40 (2) The victim is on probation or parole, or is detained in a
41 hospital, prison or other institution and the actor has supervisory or
42 disciplinary power over the victim by virtue of the actor's legal,
43 professional or occupational status;

44 (3) The victim is at least 16 but less than 18 years old and:

45 (a) The actor is related to the victim by blood or affinity to the
46 third degree; or

1 (b) The actor has supervisory or disciplinary power of any nature
2 or in any capacity over the victim; or

3 (c) The actor is a [foster] resource family parent, a guardian, or
4 stands in loco parentis within the household;

5 (4) The victim is at least 13 but less than 16 years old and the actor
6 is at least four years older than the victim.

7 Sexual assault is a crime of the second degree.

8 (cf: P.L.2001, c.60, s.1)

9

10 14. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read
11 as follows:

12 4. a. When a person is charged with a criminal offense on a
13 warrant and the person is released from custody before trial on bail or
14 personal recognizance, the court, upon application of a law
15 enforcement officer or prosecuting attorney pursuant to section 3 of
16 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
17 e. of this section, shall as a condition of release issue an order
18 prohibiting the person from entering any place defined by subsection
19 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
20 zone surrounding the place or modifications as provided by subsection
21 f. of this section.

22 b. When a person is charged with a criminal offense on a summons,
23 the court, upon application of a law enforcement officer or prosecuting
24 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
25 except as provided in subsection e. of this section, shall, at the time of
26 the defendant's first appearance, issue an order prohibiting the person
27 from entering any place defined by subsection b. of section 3 of
28 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding
29 the place or modifications as provided by subsection f. of this section.

30 c. When a person is charged with a criminal offense on a juvenile
31 delinquency complaint and is released from custody at a detention
32 hearing pursuant to section 19 of P.L.1982, c.77 (C.2A:4A-38), the
33 court, upon application of a law enforcement officer or prosecuting
34 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
35 except as provided in subsection e. of this section, shall issue an order
36 prohibiting the person from entering any place defined by subsection
37 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
38 zone surrounding the place or modifications as provided by subsection
39 f. of this section.

40 d. When a person is charged with a criminal offense on a juvenile
41 delinquency complaint and is released without being detained pursuant
42 to section 15 or 16 of P.L.1982, c.77 (C.2A:4A:34 or C.2A:4A-35),
43 the law enforcement officer or prosecuting attorney shall prepare an
44 application pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) for
45 filing on the next court day.

46 The law enforcement officer releasing the juvenile shall serve the

1 juvenile and his parent or guardian with written notice that an order
2 shall be issued by the Family Part of the Superior Court on the next
3 court day prohibiting the juvenile from entering any place defined by
4 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including
5 a buffer zone surrounding the place or modifications as provided by
6 subsection f. of this section.

7 The court shall issue such order on the first court day following the
8 release of the juvenile. If the restraints contained in the court order
9 differ from the restraints contained in the notice, the order shall not be
10 effective until the third court day following the issuance of the order.
11 The juvenile may apply to the court to stay or modify the order on the
12 grounds set forth in subsection e. of this section.

13 e. The court may forego issuing a restraining order for which
14 application has been made pursuant to section 3 of P.L.2001, c.365
15 (C.2C:35-5.9) only if the defendant establishes by clear and convincing
16 evidence that:

17 (1) the defendant lawfully resides at or has legitimate business on
18 or near the place, or otherwise legitimately needs to enter the place.
19 In such an event, the court shall not issue an order pursuant to this
20 section unless the court is clearly convinced that the need to bar the
21 person from the place in order to protect the public safety and the
22 rights, safety and health of the residents and persons working in the
23 place outweighs the person's interest in returning to the place. If the
24 balance of the interests of the person and the public so warrants, the
25 court may issue an order imposing conditions upon the person's entry
26 at, upon or near the place; or

27 (2) the issuance of an order would cause undue hardship to
28 innocent persons and would constitute a serious injustice which
29 overrides the need to protect the rights, safety and health of persons
30 residing in or having business in the place.

31 f. A restraining order issued pursuant to subsection a., b., c., d. or
32 h. of this section shall describe the place from which the person has
33 been barred and any conditions upon the person's entry into the place,
34 with sufficient specificity to enable the person to guide his conduct
35 accordingly and to enable a law enforcement officer to enforce the
36 order. The order shall also prohibit the person from entering an area
37 of up to 500 feet surrounding the place, unless the court rules that a
38 different buffer zone would better effectuate the purposes of this act.
39 In the discretion of the court, the order may contain modifications to
40 permit the person to enter the area during specified times for specified
41 purposes, such as attending school during regular school hours. When
42 appropriate, the court may append to the order a map depicting the
43 place. The person shall be given a copy of the restraining order and
44 any appended map and shall acknowledge in writing the receipt
45 thereof.

46 g. (1) The court shall provide notice of the restraining order to the

1 local law enforcement agency where the arrest occurred and to the
2 county prosecutor.

3 (2) Notwithstanding the provisions of section 1 of P.L.1982, c.79
4 (C.2A:4A-60), prior to the person's conviction or adjudication of
5 delinquency for a criminal offense, the local law enforcement agency
6 may post a copy of any orders issued pursuant to this section, or an
7 equivalent notice containing the terms of the order, upon one or more
8 of the principal entrances of the place or in any other conspicuous
9 location. Such posting shall be for the purpose of informing the
10 public, and the failure to post a copy of the order shall in no way
11 excuse any violation of the order.

12 (3) Notwithstanding the provisions of section 1 of P.L.1982, c.79
13 (C.2A:4A-60), prior to the person's conviction or adjudication of
14 delinquency for a criminal offense, any law enforcement agency may
15 publish a copy of any orders issued pursuant to this section, or an
16 equivalent notice containing the terms of the order, in a newspaper
17 circulating in the area of the restraining order. Such publication shall
18 be for the purpose of informing the public, and the failure to publish
19 a copy of the order shall in no way excuse any violation of the order.

20 (4) Notwithstanding the provisions of section 1 of P.L.1982, c.79
21 (C.2A:4A-60), prior to the person's conviction or adjudication of
22 delinquency for a criminal offense, any law enforcement agency may
23 distribute copies of any orders issued pursuant to this section, or an
24 equivalent notice containing the terms of the order, to residents or
25 businesses located within the area delineated in the order or, in the
26 case of a school or any government-owned property, to the
27 appropriate administrator, or to any tenant association representing the
28 residents of the affected area. Such distribution shall be for the
29 purpose of informing the public, and the failure to publish a copy of
30 the order shall in no way excuse any violation of the order.

31 h. When a person is convicted of or adjudicated delinquent for any
32 criminal offense, the court, upon application of a law enforcement
33 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
34 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
35 section, shall, by separate order or within the judgment of conviction,
36 issue an order prohibiting the person from entering any place defined
37 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
38 including a buffer zone surrounding the place or modifications as
39 provided by subsection f. of this section. Upon the person's conviction
40 or adjudication of delinquency for a criminal offense, a law
41 enforcement agency, in addition to posting, publishing, and
42 distributing the order or an equivalent notice pursuant to paragraphs
43 (2), (3) and (4) of subsection g. of this section, may also post, publish
44 and distribute a photograph of the person.

45 i. When a juvenile has been adjudicated delinquent for an act
46 which, if committed by an adult, would be a criminal offense, in

1 addition to an order required by subsection h. of this section or any
2 other disposition authorized by law, the court may order the juvenile
3 and any parent, guardian or any family member over whom the court
4 has jurisdiction to take such actions or obey such restraints as may be
5 necessary to facilitate the rehabilitation of the juvenile or to protect
6 public safety or to safeguard or enforce the rights of residents of the
7 place. The court may commit the juvenile to the care and
8 responsibility of the Department of Human Services [under the
9 responsibility of the Division of Youth and Family Services] until such
10 time as the juvenile reaches the age of 18 or until the order of removal
11 and restraint expires, whichever first occurs, or to such alternative
12 residential placement as is practicable.

13 j. An order issued pursuant to subsection a., b., c. or d. of this
14 section shall remain in effect until the case has been adjudicated or
15 dismissed, or for not less than two years, whichever is less. An order
16 issued pursuant to subsection h. of this section shall remain in effect
17 for such period of time as shall be fixed by the court but not longer
18 than the maximum term of imprisonment or incarceration allowed by
19 law for the underlying offense or offenses. When the court issues a
20 restraining order pursuant to subsection h. of this section and the
21 person is also sentenced to any form of probationary supervision or
22 participation in the Intensive Supervision Program, the court shall
23 make continuing compliance with the order an express condition of
24 probation or the Intensive Supervision Program. When the person has
25 been sentenced to a term of incarceration, continuing compliance with
26 the terms and conditions of the order shall be made an express
27 condition of the person's release from confinement or incarceration on
28 parole. At the time of sentencing or, in the case of a juvenile, at the
29 time of disposition of the juvenile case, the court shall advise the
30 defendant that the restraining order shall include a fixed time period in
31 accordance with this subsection and shall include that provision in the
32 judgment of conviction, dispositional order, separate order or order
33 vacating an existing restraining order, to the law enforcement agency
34 that made the arrest and to the county prosecutor.

35 k. All applications to stay or modify an order issued pursuant to
36 this act, including an order originally issued in municipal court, shall
37 be made in the Superior Court. The court shall immediately notify the
38 county prosecutor in writing whenever an application is made to stay
39 or modify an order issued pursuant to this act. If the court does not
40 issue a restraining order, the sentence imposed by the court for a
41 criminal offense as defined in subsection b. of this section shall not
42 become final for ten days in order to permit the appeal of the court's
43 findings by the prosecution.

44 l. Nothing in this section shall be construed in any way to limit the
45 authority of the court to take such other actions or to issue such
46 orders as may be necessary to protect the public safety or to safeguard

1 or enforce the rights of others with respect to the place.

2 m. Notwithstanding any other provision of this section, the court
3 may permit the person to return to the place to obtain personal
4 belongings and effects and, by court order, may restrict the time and
5 duration and provide for police supervision of such a visit.

6 (cf: P.L.2001, c.365, s.2)

7

8 15. N.J.S.3B:1-1 is amended to read as follows:

9 3B:1-1. As used in this title, unless otherwise defined:

10 "Administrator" includes general administrators of an intestate and
11 unless restricted by the subject or context, administrators with the will
12 annexed, substituted administrators, substituted administrators with
13 the will annexed, temporary administrators and administrators
14 pendente lite.

15 "Beneficiary," as it relates to trust beneficiaries, includes a person
16 who has any present or future interest, vested or contingent, and also
17 includes the owner of an interest by assignment or other transfer and
18 as it relates to a charitable trust, includes any person entitled to
19 enforce the trust.

20 "Child" means any individual, including a natural or adopted child,
21 entitled to take by intestate succession from the parent whose
22 relationship is involved and excludes any person who is only a
23 stepchild, a [foster] resource family child, a grandchild or any more
24 remote descendant.

25 "Claims" include liabilities whether arising in contract, or in tort or
26 otherwise, and liabilities of the estate which arise at or after the death
27 of the decedent, including funeral expenses and expenses of
28 administration, but does not include estate or inheritance taxes,
29 demands or disputes regarding title to specific assets alleged to be
30 included in the estate.

31 "Cofiduciary" means each of two or more fiduciaries jointly serving
32 in a fiduciary capacity.

33 "Devise," when used as a noun, means a testamentary disposition
34 of real or personal property and when used as a verb, means to dispose
35 of real or personal property by will.

36 "Devisee" means any person designated in a will to receive a devise.
37 In the case of a devise to an existing trust or trustee, or to a trustee on
38 trust described by will, trust or trustee is the devisee and the
39 beneficiaries are not devisees.

40 "Distributee" means any person who has received property of a
41 decedent from his personal representative other than as a creditor or
42 purchaser. A trustee is a distributee only to the extent of a distributed
43 asset or increment thereto remaining in his hands. A beneficiary of a
44 trust to whom the trustee has distributed property received from a
45 personal representative is a distributee of the personal representative.

46 "Domiciliary foreign fiduciary" means any fiduciary who has

1 received letters, or has been appointed, or is authorized to act as a
2 fiduciary, in the jurisdiction in which the decedent was domiciled at the
3 time of his death, in which the ward is domiciled or in which is located
4 the principal place of the administration of a trust.

5 "Estate" means all of the property of a decedent, minor or
6 incapacitated person, trust or other person whose affairs are subject
7 to this title as the property is originally constituted and as it exists
8 from time to time during administration.

9 "Fiduciary" includes executors, general administrators of an
10 intestate, administrators with the will annexed, substituted
11 administrators, substituted administrators with the will annexed,
12 guardians, substituted guardians, trustees, substituted trustees and,
13 unless restricted by the subject or context, temporary administrators,
14 administrators pendente lite, administrators ad prosequendum,
15 administrators ad litem and other limited fiduciaries.

16 "Guardian" means a person who has qualified as a guardian of the
17 person or estate of a minor or incapacitated person pursuant to
18 testamentary or court appointment, but excludes one who is merely a
19 guardian ad litem.

20 "Heirs" means those persons, including the surviving spouse, who
21 are entitled under the statutes of intestate succession to the property
22 of a decedent.

23 (cf: P.L.1997, c.379, s.2)

24

25 16. N.J.S.3B:1-2 is amended to read as follows:

26 3B:1-2. "Issue" of a person includes all of his lineal descendants,
27 natural or adopted, of all generations, with the relationship of parent
28 and child at each generation being determined by the definition of child
29 and parent.

30 "Local administration" means administration by a personal
31 representative appointed in this State.

32 "Local fiduciary" means any fiduciary who has received letters in
33 this State and excludes foreign fiduciaries who acquire the power of
34 local fiduciary pursuant to this title.

35 "Incapacitated person" means a person who is impaired by reason
36 of mental illness or mental deficiency to the extent that he lacks
37 sufficient capacity to govern himself and manage his affairs.

38 The term incapacitated person is also used to designate a person
39 who is impaired by reason of physical illness or disability, chronic use
40 of drugs, chronic alcoholism or other cause (except minority) to the
41 extent that he lacks sufficient capacity to govern himself and manage
42 his affairs.

43 The terms incapacity and incapacitated person refer to the state or
44 condition of an incapacitated person as hereinbefore defined.

45 "Minor" means a person who is under 18 years of age.

46 "Nonresident decedent" means a decedent who was domiciled in
47 another jurisdiction at the time of his death.

1 "Parent" means any person entitled to take or would be entitled to
2 take if the child, natural or adopted, died without a will, by intestate
3 succession from the child whose relationship is in question and
4 excludes any person who is a stepparent, [foster] resource family
5 parent or grandparent.

6 "Personal representative" includes executor, administrator,
7 successor personal representative, special administrator, and persons
8 who perform substantially the same function under the law governing
9 their status. "General personal representative" excludes special
10 administrator.

11 "Resident creditor" means a person domiciled in, or doing business
12 in this State, who is, or could be, a claimant against an estate.

13 "Security" includes any note, stock, treasury stock, bond, mortgage,
14 financing statement, debenture, evidence of indebtedness, certificate
15 of interest or participation in an oil, gas or mining title or lease or in
16 payments out of production under the title or lease, collateral, trust
17 certificate, transferable share, voting trust certificate or, in general,
18 any interest or instrument commonly known as a security or as a
19 security interest or any certificate of interest or participation, any
20 temporary or interim certificate, receipt or certificate of deposit for,
21 or any warrant or right to subscribe to or purchase, any of the
22 foregoing.

23 "Successor personal representative" means a personal
24 representative, other than a special administrator, who is appointed to
25 succeed a previously appointed personal representative.

26 "Successors" means those persons, other than creditors, who are
27 entitled to real and personal property of a decedent under his will or
28 the laws governing intestate succession.

29 "Testamentary trustee" means a trustee designated by will or
30 appointed to exercise a trust created by will.

31 "Trust" includes any express trust, private or charitable, with
32 additions thereto, wherever and however created. It also includes a
33 trust created by judgment under which the trust is to be administered
34 in the manner of an express trust. "Trust" excludes other constructive
35 trusts, and it excludes resulting trusts, guardianships, personal
36 representatives, trust accounts created under the "Multiple-party
37 Deposit Account Act," P.L.1979, c.491 [(C.17:161-1 et
38 seq.)](C.17:161-1 et seq.), gifts to minors under the "New Jersey
39 Uniform Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.),
40 business trusts providing for certificates to be issued to beneficiaries,
41 common trusts, security arrangements, liquidation trusts, and trusts for
42 the primary purpose of paying debts, dividends, interest, salaries,
43 wages, profits, pensions or employee benefits of any kind, and any
44 arrangement under which a person is nominee or escrowee for another.

45 "Ward" means a person for whom a guardian is appointed or a
46 person under the protection of the court.

47 "Will" means the last will and testament of a testator or testatrix

1 and includes any codicil.
2 (cf: P.L.1997, c.379, s.3)

3
4 17. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as
5 follows:

6 3. In any case in which the Division of Youth and Family Services
7 accepts a child in its care or custody, the child's [foster parent,
8 preadoptive] resource family parent or relative providing care for the
9 child, as applicable, shall receive written notice of and an opportunity
10 to be heard at any review or hearing held with respect to the child, but
11 the [foster parent, preadoptive] resource family parent or relative
12 shall not be made a party to the review or hearing solely on the basis
13 of the notice and opportunity to be heard.

14 (cf: P.L.1999, c.53, s.3)

15

16 18. Section 12 of P.L.1977, c.367 (C.9:3-48) is amended to read
17 as follows:

18 12. a. When the child to be adopted has not been received from an
19 approved agency, the prospective parent shall file with the court a
20 complaint for adoption. Upon receipt of the complaint, the court shall
21 by its order:

22 (1) Declare the child to be a ward of the court and declare that the
23 plaintiff shall have custody of the child subject to further order of the
24 court;

25 (2) Appoint an approved agency to make an investigation and
26 submit a written report to the court which shall include:

27 (a) the facts and circumstances surrounding the surrender of
28 custody by the child's parents and the placement of the child in the
29 home of the plaintiff, including the identity of any intermediary who
30 participated in the placement of the child;

31 (b) an evaluation of the child and of the plaintiff and the spouse of
32 the plaintiff if not the child's parent and any other person residing in
33 the prospective home; and

34 (c) any fees, expenses or costs paid by or on behalf of the adopting
35 parent in connection with the adoption.

36 The agency conducting the investigation shall, if it is able to,
37 contact the birth parent and confirm that counseling, if required by
38 section 18 of P.L.1993, c.345 (C.9:3-39.1), has either been provided
39 or waived by the birth parent. If not previously provided, the agency
40 shall advise the parent of the availability of such counseling through
41 the agency and shall provide such counseling if requested by the birth
42 parent or if the birth parent resides out of State or out of the country,
43 such counseling should be made available by or through an agency
44 approved to provide such counseling in the birth parent's state or
45 country of domicile. The agency shall further confirm that the birth
46 parent has been advised that the decision of the birth parent not to

1 place the child for adoption or the return of the child to the birth
2 parent can not be conditioned upon the repayment of expenses by the
3 birth parent to the adoptive parent.

4 All expenses and fees for the investigation and any counseling
5 provided shall be the responsibility of the plaintiff;

6 (3) Direct the plaintiff to cooperate with the approved agency
7 making the investigation and report;

8 (4) Fix a day for a preliminary hearing not less than two or more
9 than three months from the date of the filing of the complaint; except
10 that the hearing may be accelerated upon the application of the
11 approved agency and upon notice to the plaintiff if the agency
12 determines that removal of the child from the plaintiff's home is
13 required, in which case the court shall appoint a guardian ad litem to
14 represent the child at all future proceedings regarding the adoption.

15 Whenever the plaintiff is a stepparent of the child, the court, in its
16 discretion, may dispense with the agency investigation and report and
17 take direct evidence at the preliminary hearing of the facts and
18 circumstances surrounding the filing of the complaint for adoption.

19 Whenever a plaintiff is a brother, sister, grandparent, aunt, uncle,
20 or birth father of the child, the order may limit the investigation to an
21 inquiry concerning the status of the parents of the child and an
22 evaluation of the plaintiff. At least 10 days prior to the day fixed for
23 the preliminary hearing the approved agency shall file its report with
24 the court and serve a copy on the plaintiff; and

25 (5) Conduct a search of the records of the central registry
26 established pursuant to section 1 of P.L.1999, c.421 (C.2C:25-34),
27 upon the request of a surrogate and not more than 30 days prior to the
28 preliminary hearing, to determine whether a prospective adoptive
29 parent or any member of the parent's household has:

30 (a) had a domestic violence restraining order entered against them;
31 or

32 (b) been charged with a violation of a court order involving
33 domestic violence.

34 The court shall provide the results of the search to the surrogate for
35 inclusion in the court's adoption file. If the results of the search
36 contain any material findings or recommendations adverse to the
37 plaintiff, the surrogate shall provide the material findings or
38 recommendations to the approved agency.

39 In a case in which the plaintiff is a stepparent of the child and the
40 court dispenses with the agency investigation and report pursuant to
41 paragraph (4) of this subsection and the results of the court's search
42 contain any material findings or recommendations adverse to the
43 plaintiff, the surrogate shall serve a copy of that part of the results of
44 the search upon the plaintiff at least five days prior to the preliminary
45 hearing.

46 b. The preliminary hearing shall be in camera and shall have for its

1 purpose the determination of the circumstances under which the child
2 was relinquished by his parents and received into the home of the
3 plaintiff, the status of the parental rights of the parents, the fitness of
4 the child for adoption and the fitness of the plaintiff to adopt the child
5 and to provide a suitable home. If the report of the approved agency
6 pursuant to subsection a. of this section contains or the results of the
7 search of the central registry contain material findings or
8 recommendations adverse to the plaintiff, the presence of a
9 representative of the approved agency who has personal knowledge of
10 the investigation shall be required at the preliminary hearing. If in the
11 course of the preliminary hearing the court determines that there is
12 lack of jurisdiction, lack of qualification on the part of the plaintiff or
13 that the best interests of the child would not be promoted by the
14 adoption, the court shall deny the adoption and make such further
15 order concerning the custody and guardianship of the child as may be
16 deemed proper in the circumstances.

17 c. If upon completion of the preliminary hearing the court finds
18 that:

19 (1) The parents of the child do not have rights as to custody of the
20 child by reason of their rights previously having been terminated by
21 court order; or, the parents' objection has been contravened pursuant
22 to subsection a. of section 10 of P.L.1977, c.367 (C.9:3-46);

23 (2) The guardian, if any, should have no further control or
24 authority over the child;

25 (3) The child is fit for adoption; and

26 (4) The plaintiff is fit to adopt the child, the court shall: (a) issue
27 an order stating its findings, declaring that no parent or guardian of the
28 child has a right to custody or guardianship of the child; (b) terminate
29 the parental rights of that person, which order shall be a final order;
30 (c) fix a date for final hearing not less than six nor more than nine
31 months from the date of the preliminary hearing; and (d) appoint an
32 approved agency to supervise and evaluate the continuing placement
33 in accordance with subsection d. of this section. If the plaintiff is a
34 brother, sister, grandparent, aunt, uncle, birth father, stepparent or
35 [foster] resource family parent of the child, or if the child has been
36 in the home of the plaintiff for at least two years immediately
37 preceding the commencement of the adoption action, and if the court
38 is satisfied that the best interests of the child would be promoted by
39 the adoption, the court may dispense with this evaluation and final
40 hearing and enter a judgment of adoption immediately upon
41 completion of the preliminary hearing.

42 d. The approved agency appointed pursuant to subsection c. of this
43 section shall from time to time visit the home of the plaintiff and make
44 such further inquiry as may be necessary to observe and evaluate the
45 care being received by the child and the adjustment of the child and the
46 plaintiff as members of a family. At least 15 days prior to the final

1 hearing the approved agency shall file with the court a written report
2 of its findings, including a recommendation concerning the adoption,
3 and shall mail a copy of the report to the plaintiff.

4 If at any time following the preliminary hearing the approved
5 agency concludes that the best interests of the child would not be
6 promoted by the adoption, the court shall appoint a guardian ad litem
7 for the child and after a hearing held upon the application of the
8 approved agency and upon notice to the plaintiff, may modify or
9 revoke any order entered in the action and make such further order
10 concerning the custody and guardianship of the child as may be
11 deemed proper in the circumstances.

12 e. At the final hearing the court shall proceed in camera; except
13 that if the approved agency in its report pursuant to subsection d. of
14 this section has recommended that the adoption be granted, the final
15 hearing may be dispensed with and, if the court is satisfied that the
16 best interests of the child would be promoted by the adoption, a
17 judgment of adoption may be entered immediately.

18 The appearance of the approved agency at the final hearing shall not
19 be required unless its recommendations are adverse to the plaintiff or
20 unless ordered by the court. If its appearance is required, the
21 approved agency shall be entitled to present testimony and to
22 cross-examine witnesses and shall be subject to cross-examination with
23 respect to its report and recommendations in the matter.

24 f. If, based upon the report and the evidence presented, the court
25 is satisfied that the best interests of the child would be promoted by
26 the adoption, the court shall enter a judgment of adoption. If, based
27 upon the evidence, the court is not satisfied that the best interests of
28 the child would be promoted by the adoption, the court shall deny the
29 adoption and make such further order concerning the custody and
30 guardianship of the child as may be deemed proper in the
31 circumstances.

32 (cf: P.L.2003, c.286, s.3)

33

34 19. Section 19 of P.L.1997, c.367 (C.9:3-55) is amended to read
35 as follows:

36 19. a. A prospective parent who is not a brother, sister, aunt,
37 uncle, grandparent, [foster] resource family parent, birth father or
38 stepparent of the child to be adopted shall file before the complaint is
39 heard, in accordance with court rules, a detailed report which shall be
40 signed and verified by each prospective parent and shall disclose all
41 sums of money or other valuable consideration paid, given or agreed
42 to be given to any person, firm, partnership, corporation, association
43 or agency by or on behalf of the prospective parent in connection with
44 the adoption, and the names and addresses of each person, firm,
45 partnership, corporation, association or agency to whom the
46 consideration was given or promised. The report, a copy of which

1 shall be provided to the approved agency pursuant to section 11 or 12
2 of P.L.1977, c.367 (C.9:3-47 or C.9:3-48), shall include but not be
3 limited to expenses incurred or to be incurred by or on behalf of a
4 prospective parent in connection with:

- 5 (1) The birth of the child;
- 6 (2) The placement for adoption of the child with the prospective
7 parent;
- 8 (3) Medical or hospital care received by the mother or the child
9 during the mother's pre- and postnatal period; and
- 10 (4) Services relating to the adoption or to the placement for
11 adoption, including legal services, which were rendered or are to be
12 rendered to or for the benefit of the prospective parent, either parent
13 of the child or any other person or agency.

14 b. Whenever based upon a report filed pursuant to this section it
15 appears to the court that any person may have violated section 18 of
16 P.L.1993, c.345 (C.9:3-39.1) the court or the division may refer the
17 matter to the appropriate county prosecutor.

18 (cf: P.L.1993, c.345, s.17)

19

20 20. R.S.9:6-2 is amended to read as follows:

21 9:6-2. "Parent", as used in this chapter, shall include the stepfather
22 and stepmother and the adoptive or [foster] resource family parent.
23 "The person having the care, custody and control of any child", as
24 used in this chapter, shall mean any person who has assumed the care
25 of a child, or any person with whom a child is living at the time the
26 offense is committed, and shall include a teacher, employee or
27 volunteer, whether compensated or uncompensated, of an institution
28 as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is
29 responsible for the child's welfare, and a person who legally or
30 voluntarily assumes the care, custody, maintenance or support of the
31 child. Custodian also includes any other staff person of an institution
32 regardless of whether or not the person is responsible for the care or
33 supervision of the child. Custodian also includes a teaching staff
34 member or other employee, whether compensated or uncompensated,
35 of a day school as defined in section 1 of P.L.1974, c.119
36 (C.9:6-8.21).

37 (cf: P.L.1987, c.341, s.2)

38

39 21. Section 7 of P.L.1987, c.341 (C.9:6-3.1) is amended to read as
40 follow:

41 7. a. A teacher, employee, volunteer or staff person of an
42 institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who
43 is alleged to have committed an act of child abuse or neglect as defined
44 in R.S. 9:6-1, section 2 of P.L.1971, c.437 (C.9:6-8.9) and section 1
45 of P.L.1974, c.119 (C.9:6-8.21) shall be temporarily suspended by the
46 appointing authority from his position at the institution with pay, or

1 reassigned to other duties which would remove the risk of harm to the
2 child under the person's custody or control, if there is reasonable cause
3 for the appointing authority to believe that the life or health of the
4 alleged victim or other children at the institution is in imminent danger
5 due to continued contact between the alleged perpetrator and a child
6 at the institution.

7 A public employee suspended pursuant to this subsection shall be
8 accorded and may exercise due process rights, including notice of the
9 proposed suspension and a presuspension opportunity to respond and
10 any other due process rights provided under the laws of this State
11 governing public employment and under any applicable individual or
12 group contractual agreement. A private employee suspended pursuant
13 to this subsection shall be accorded and may exercise due process
14 rights provided for under the laws of this State governing private
15 employment and under any applicable individual or group employee
16 contractual agreement.

17 b. If the child abuse or neglect is the result of a single act occurring
18 in an institution, within 30 days of receipt of the report of child abuse
19 or neglect, the [division] Department of Human Services may request
20 that the chief administrator of the institution formulate a plan of
21 remedial action. The plan may include, but shall not be limited to,
22 action to be taken with respect to a teacher, employee, volunteer or
23 staff person of the institution to assure the health and safety of the
24 alleged victim and other children at the institution and to prevent
25 future acts of abuse or neglect. Within 30 days of the date the
26 [division] department requested the remedial plan, the chief
27 administrator shall notify the [division] department in writing of the
28 progress in preparing the plan. The chief administrator shall complete
29 the plan within 90 days of the date the [division] department
30 requested the plan.

31 c. If the child abuse or neglect is the result of several incidents
32 occurring in an institution, within 30 days of receipt of the report of
33 child abuse or neglect, the [division] department may request that the
34 chief administrator of the institution make administrative, personnel or
35 structural changes at the institution. Within 30 days of the date the
36 [division] department made its request, the chief administrator shall
37 notify the [division] department of the progress in complying with the
38 terms of the [division's] department's request. The [division]
39 department and chief administrator shall determine a time frame for
40 completion of the terms of the request.

41 d. If a chief administrator of an institution does not formulate or
42 implement a remedial plan or make[any] the changes requested by the
43 [division] department, the [division] department may impose
44 appropriate sanctions or actions if the department licenses, oversees,
45 approves or authorizes the operation of the institution. If the

1 department does not license, oversee, approve or authorize the
2 operation of the institution, the department may recommend to the
3 authority which licenses, oversees, approves or authorizes the
4 operation of the institution that appropriate sanctions or actions be
5 [enforced or taken] imposed against the institution.

6 (cf: P.L.1987, c.341, s.7)

7

8 22. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read
9 as follows:

10 1. a. All records of child abuse reports made pursuant to section
11 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
12 [Division of Youth and Family] Department of Human Services in
13 investigating such reports including reports received pursuant to
14 section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings
15 forwarded to the [central] child abuse registry pursuant to section 4
16 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be
17 disclosed only under the circumstances expressly authorized under
18 subsections b., c., d., e., f. and g. herein. The [division] department
19 shall disclose information only as authorized under subsections b., c.,
20 d., e., f. and g. of this section that is relevant to the purpose for which
21 the information is required, provided, however, that nothing may be
22 disclosed which would likely endanger the life, safety, or physical or
23 emotional well-being of a child or the life or safety of any other person
24 or which may compromise the integrity of a [division] department
25 investigation or a civil or criminal investigation or judicial proceeding.
26 If the [division] department denies access to specific information on
27 this basis, the requesting entity may seek disclosure through the
28 Chancery Division of the Superior Court. This section shall not be
29 construed to prohibit disclosure pursuant to paragraphs (2) and (7) of
30 subsection b. of this section.

31 Nothing in this act shall be construed to permit the disclosure of
32 any information deemed confidential by federal or State law.

33 b. The [division] department may and upon written request, shall
34 release the records and reports referred to in subsection a., or parts
35 thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83
36 et al.) to:

37 (1) A public or private child protective agency authorized to
38 investigate a report of child abuse or neglect;

39 (2) A police or other law enforcement agency investigating a report
40 of child abuse or neglect;

41 (3) A physician who has before him a child whom he reasonably
42 suspects may be abused or neglected or an authorized member of the
43 staff of a duly designated regional child abuse diagnostic and treatment
44 center which is involved with a particular child who is the subject of
45 the request;

46 (4) A physician, a hospital director or his designate, a police officer

1 or other person authorized to place a child in protective custody when
2 such person has before him a child whom he reasonably suspects may
3 be abused or neglected and requires the information in order to
4 determine whether to place the child in protective custody;

5 (5) An agency, whether public or private, including any [other]
6 division or unit in the Department of Human Services, authorized to
7 care for, treat, assess, evaluate or supervise a child who is the subject
8 of a child abuse report, or a parent, guardian, resource family parent
9 or other person who is responsible for the child's welfare, or both,
10 when the information is needed in connection with the provision of
11 care, treatment, assessment, evaluation or supervision to such child or
12 such parent, guardian, resource family parent or other person and the
13 provision of information is in the best interests of the child as
14 determined by the Division of Youth and Family Services;

15 (6) A court or the Office of Administrative Law, upon its finding
16 that access to such records may be necessary for determination of an
17 issue before it, and such records may be disclosed by the court or the
18 Office of Administrative Law in whole or in part to the law guardian,
19 attorney or other appropriate person upon a finding that such further
20 disclosure is necessary for determination of an issue before the court
21 or the Office of Administrative Law;

22 (7) A grand jury upon its determination that access to such records
23 is necessary in the conduct of its official business;

24 (8) Any appropriate State legislative committee acting in the
25 course of its official functions, provided, however, that no names or
26 other information identifying persons named in the report shall be
27 made available to the legislative committee unless it is absolutely
28 essential to the legislative purpose;

29 (9) (Deleted by amendment, P.L.1997, c.175).

30 (10) A family day care sponsoring organization for the purpose of
31 providing information on child abuse or neglect allegations involving
32 prospective or current providers or household members pursuant to
33 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in
34 administrative appeals related to information obtained through a
35 [central] child abuse registry search;

36 (11) The Victims of Crime Compensation Board, for the purpose
37 of providing services available pursuant to the "Criminal Injuries
38 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
39 a child victim who is the subject of such report;

40 (12) Any person appealing a [division] department service or
41 status action or a substantiated finding of child abuse or neglect and
42 his attorney or authorized lay representative upon a determination by
43 the [division] department or the presiding Administrative Law Judge
44 that such disclosure is necessary for a determination of the issue on
45 appeal;

46 (13) Any person or entity mandated by statute to consider child

1 abuse or neglect information when conducting a background check or
2 employment-related screening of an individual employed by or seeking
3 employment with an agency or organization providing services to
4 children;

5 (14) Any person or entity conducting a disciplinary, administrative
6 or judicial proceeding to determine terms of employment or continued
7 employment of an officer, employee, or volunteer with an agency or
8 organization providing services for children. The information may be
9 disclosed in whole or in part to the appellant or other appropriate
10 person only upon a determination by the person or entity conducting
11 the proceeding that the disclosure is necessary to make a
12 determination;

13 (15) The members of a county multi-disciplinary team, established
14 in accordance with State guidelines, for the purpose of coordinating
15 the activities of agencies handling alleged cases of child abuse and
16 neglect;

17 (16) A person being evaluated by the [division] department or the
18 court as a potential care-giver to determine whether that person is
19 willing and able to provide the care and support required by the child;

20 (17) The legal counsel of a child, parent or guardian, whether
21 court-appointed or retained, when information is needed to discuss the
22 case with the [division] department in order to make decisions
23 relating to or concerning the child;

24 (18) A person who has filed a report of suspected child abuse or
25 neglect for the purpose of providing that person with only the
26 disposition of the investigation;

27 (19) A parent, resource family parent or legal guardian when the
28 information is needed in a [division] department matter in which that
29 parent, resource family parent or legal guardian is directly involved.
30 The information may be released only to the extent necessary for the
31 requesting parent, resource family parent or legal guardian to discuss
32 services or the basis for the [division's] department's involvement or
33 to develop, discuss, or implement a case plan for the child;

34 (20) A federal, State or local government entity, to the extent
35 necessary for such entity to carry out its responsibilities under law to
36 protect children from abuse and neglect;

37 (21) Citizen review panels designated by the State in compliance
38 with the federal "Child Abuse Prevention and Treatment Act
39 Amendments of 1996," Pub.L.104-235;

40 (22) The Child Fatality and Near Fatality Review Board established
41 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); or

42 (23) Members of a family team or other case planning group
43 formed by the Division of Youth and Family Services and established
44 in accordance with regulations adopted by the Commissioner of
45 Human Services for the purpose of addressing the child's safety,
46 permanency or well-being, when the provision of such information is

1 in the best interests of the child as determined by the Division of
2 Youth and Family Services.

3 Any individual, agency, board, court, grand jury, legislative
4 committee, or other entity which receives from the [division]
5 department the records and reports referred to in subsection a., shall
6 keep such records and reports, or parts thereof, confidential and shall
7 not disclose such records and reports or parts thereof except as
8 authorized by law.

9 c. The [division] department may share information with a child
10 who is the subject of a child abuse or neglect report, as appropriate to
11 the child's age or condition, to enable the child to understand the basis
12 for the [division's] department's involvement and to participate in the
13 development, discussion, or implementation of a case plan for the
14 child.

15 d. The [division] department may release the records and reports
16 referred to in subsection a. of this section to any person engaged in a
17 bona fide research purpose, provided, however, that no names or other
18 information identifying persons named in the report shall be made
19 available to the researcher unless it is absolutely essential to the
20 research purpose and provided further that the approval of the
21 [Director of the Division of Youth and Family Services]
22 Commissioner of Human Services or his designee shall first have been
23 obtained.

24 e. For incidents determined by the [division] department to be
25 substantiated, the [division] department shall forward to the police or
26 law enforcement agency in whose jurisdiction the child named in the
27 report resides, the identity of persons alleged to have committed child
28 abuse or neglect and of victims of child abuse or neglect, their
29 addresses, the nature of the allegations, and other relevant
30 information, including, but not limited to, prior reports of abuse or
31 neglect and names of siblings obtained by the [division] department
32 during its investigation of a report of child abuse or neglect. The
33 police or law enforcement agency shall keep such information
34 confidential.

35 f. The [division] department may disclose to the public the
36 findings or information about a case of child abuse or neglect which
37 has resulted in a child fatality or near fatality. Nothing may be
38 disclosed which would likely endanger the life, safety, or physical or
39 emotional well-being of a child or the life or safety of any other person
40 or which may compromise the integrity of a [division] department
41 investigation or a civil or criminal investigation or judicial proceeding.
42 If the [division] department denies access to specific information on
43 this basis, the requesting entity may seek disclosure of the information
44 through the Chancery Division of the Superior Court. No information
45 may be disclosed which is deemed confidential by federal or State law.

1 The name or any other information identifying the person or entity
2 who referred the child to the [division] department shall not be
3 released to the public.

4 g. The [division] department shall release the records and reports
5 referred to in subsection a. of this section to a unified child care
6 agency contracted with the [Department of Human Services]
7 department pursuant to N.J.A.C.10:15-2.1 for the purpose of
8 providing information on child abuse or neglect allegations involving
9 a prospective approved home provider or any adult household member
10 pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child's
11 parent when the information is necessary for the parent to make a
12 decision concerning the placement of the child in an appropriate child
13 care arrangement.

14 The [division] department shall not release any information that
15 would likely endanger the life, safety, or physical or emotional
16 well-being of a child or the life or safety of any other person.

17 (cf: P.L.2003, c.185, s.1)

18

19 23. Section 4 of P.L.1971, c. 437 (C.9:6-8.11) is amended to read
20 as follows:

21 4. Upon receipt of any such report, the [Bureau of Children's]
22 Division of Youth and Family Services, or such another entity in the
23 Department of Human Services as may be designated by the
24 Commissioner of Human Services to investigate child abuse or neglect,
25 shall immediately take such action as shall be necessary to insure the
26 safety of the child and to that end may request and shall receive
27 appropriate assistance from local and State law enforcement officials.
28 A representative of the division or other designated entity shall initiate
29 an investigation within 24 hours of receipt of the report, unless the
30 division or other entity authorizes a delay based upon the request of
31 a law enforcement official. The [bureau] division or other entity shall
32 also, within 72 hours, forward a report of such matter to the [Central
33 Registry of the Bureau of Children's Services] child abuse registry
34 operated by the division in Trenton.

35 The child abuse registry shall be the repository of all information
36 regarding child abuse or neglect that is accessible to the public
37 pursuant to State and federal law. No information received in the
38 [central] child abuse registry shall be considered as a public record
39 within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
40 c.404 (C.47:1A-5 et al.).

41 (cf: P.L.1971, c.437, s.4)

42

43 24. Section 5 of P.L.1971, c.437 (C.9:6-8.12) is amended to read
44 as follows:

45 5. The [Bureau of Children's] Division of Youth and Family

1 Services shall maintain [in each of its districts on a 24 hour daily basis
2 throughout each year], at all times, an emergency telephone service
3 for the receipt of [child abuse] calls involving a report, complaint or
4 allegation of child abuse or neglect.

5 (cf: P.L.1971, c.437, s.5)

6

7 25. Section 2 of P.L.1973, c.147 (C.9:6-8.17) is amended to read
8 as follows:

9 2. The physician or the director or his designate of a hospital or
10 similar institution taking a child into such protective custody shall
11 immediately report his action to the [Bureau of Children's Services or
12 its successor, the] Division of Youth and Family Services [,] by
13 calling its [local] emergency telephone service maintained pursuant to
14 section 5 of P.L.1971, c.437 (C.9:6-8.12).

15 (cf: P.L.1973, c.47, s.2)

16

17 26. Section 5 of P.L.1999, c.53 (C.9:6-8.19a) is amended to read
18 as follows:

19 5. In any case in which the Division of Youth and Family Services
20 accepts a child in its care or custody, the child's [foster parent,
21 preadoptive] resource family parent or relative providing care for the
22 child, as applicable, shall receive written notice of and an opportunity
23 to be heard at any review or hearing held with respect to the child, but
24 the foster [parent, preadoptive] resource family parent or relative
25 shall not be made a party to the review or hearing solely on the basis
26 of the notice and opportunity to be heard.

27 (cf: P.L.1999, c.53, s.5)

28

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

31 1. As used in this act, unless the specific context indicates
32 otherwise:

33 a. "Parent or guardian" means any natural parent, adoptive parent,
34 [foster] resource family parent, stepparent, or any person, who has
35 assumed responsibility for the care, custody or control of a child or
36 upon whom there is a legal duty for such care. Parent or guardian
37 includes a teacher, employee or volunteer, whether compensated or
38 uncompensated, of an institution who is responsible for the child's
39 welfare and any other staff person of an institution regardless of
40 whether or not the person is responsible for the care or supervision of
41 the child. Parent or guardian also includes a teaching staff member or
42 other employee, whether compensated or uncompensated, of a day
43 school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

44 b. "Child" means any child alleged to have been abused or
45 neglected.

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

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

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

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

46 e. "Attorney" means an attorney admitted to the practice of law in
47 this State who shall be privately retained; or, in the instance of an

1 indigent parent or guardian, an attorney from the Office of the Public
2 Defender or an attorney appointed by the court who shall be appointed
3 in order to avoid conflict between the interests of the child and the
4 parent or guardian in regard to representation.

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

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

12 h. "Day school" means a public or private school which provides
13 general or special educational services to day students in grades
14 kindergarten through 12. Day school does not include a residential
15 facility, whether public or private, which provides care on a 24-hour
16 basis.

17 (cf: P.L.1999, c.53, s.55)

18

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

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

33 b. The order shall specify the facility to which the child is to be
34 brought.

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

40 d. Any person who originates a proceeding pursuant to section 14
41 of this act may apply for through the [Division of Youth and Family
42 Services] division or the court on its own motion may issue, an order
43 of temporary removal. The division shall make every reasonable effort
44 to inform the parent or guardian of any such application, confer with
45 a person wishing to make such an application and make such inquiries
46 as will aid the court in disposing of such application. Within 24 hours

1 the [Division of Youth and Family Services] division shall report such
2 application to the [central] child abuse registry of the division.

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

6 (cf: P.L.1999, c.53, s.8)

7

8 29. Section 10 P.L.1977, c.210 (C.9:6-8.30) is amended to read as
9 follows:

10 10. Action by the division upon emergency removal. a. The
11 division when informed that there has been an emergency removal of
12 a child from his home without court order shall make every reasonable
13 effort to communicate immediately with the child's parent or guardian
14 that such emergency removal has been made and the location of the
15 facility to which the child has been taken, and advise the parent or
16 guardian to appear in the appropriate Superior Court, Chancery
17 Division, Family Part [on the next court day] within two court days.
18 The division shall make a reasonable effort, at least 24 hours prior to
19 the court hearing, to: notify the parent or guardian of the time to
20 appear in court; and inform the parent or guardian of his right to
21 obtain counsel, and how to obtain counsel through the Office of the
22 Public Defender if the parent or guardian is indigent. The division
23 shall also advise the party making the removal to appear. If the
24 removed child is returned to his home prior to the court hearing, there
25 shall be no court hearing to determine the sufficiency of cause for the
26 child's removal, unless the child's parent or guardian makes application
27 to the court for review. For the purposes of this section, "facility"
28 means a hospital, shelter or child care institution in which a child may
29 be placed for temporary care, but does not include a [foster] resource
30 family home.

31 b. The division shall cause a complaint to be filed under this act
32 [immediately or on the first court day] within two court days after
33 such removal takes place.

34 c. Whenever a child has been removed pursuant to section 7 or 9
35 of this act, the division shall arrange for immediate medical
36 examination of the child and shall have legal authority to consent to
37 such examination. If necessary to safeguard the child's health or life,
38 the division also is authorized to arrange for and consent to medical
39 care or treatment of the child. Consent by the division pursuant to this
40 subsection shall be deemed legal and valid for all purposes with
41 respect to any person, hospital, or other health care facility examining
42 or providing care or treatment to a child in accordance with and in
43 reliance upon such consent. Medical reports resulting from such
44 examination or care or treatment shall be released to the division for
45 the purpose of aiding in the determination of whether the child has
46 been abused or neglected. Any person or health care facility acting in

1 good faith in the examination of or provision of care and treatment to
2 a child or in the release of medical records shall have immunity from
3 any liability, civil or criminal, that might otherwise be incurred or
4 imposed as a result of such act.

5 (cf: P.L.1991, c.91, s.203)

6

7 30. Section 1 of P.L.1977, c.210 (C.9:6-8.36a) is amended to read
8 as follows:

9 1. The **[Division of Youth and Family]** Department of Human
10 Services shall immediately report all instances of suspected child abuse
11 and neglect, as defined by regulations, to the county prosecutor of the
12 county in which the child resides. **[Said]** The regulations shall be
13 developed jointly by the **[division]** department and the county
14 prosecutors, approved by the Attorney General, and promulgated by
15 the Commissioner of **[the Department of]**Human Services.

16 (cf: P.L.1977, c.210, s.1)

17

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

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

39 (cf: P.L.1999, c.53, s.13)

40

41 32. Section 1 of P.L.1997, c.62 (C.9:6-8.40a) is amended to read
42 as follows:

43 1. a. The Division of Youth and Family Services in the Department
44 of Human Services shall expunge from its records all information
45 relating to a report, complaint or allegation of an incident of child

1 abuse or neglect with respect to which the division or other entity
2 designated by the Commissioner of Human Services to investigate
3 allegations of child abuse or neglect has determined, based upon its
4 investigation thereof, that the report, complaint or allegation of the
5 incident was unfounded.

6 b. [For purposes of this act, "unfounded" means there is no
7 concern on the part of the division that the safety or welfare of the
8 child is at risk] (~~Deleted by amendment, P.L. _____, c. _____ (pending~~
9 ~~before the Legislature as this bill)).~~

10 The definition of, and process [of] for, making a determination of
11 an unfounded report, complaint or allegation of an incident of child
12 abuse or neglect shall be [further] defined in regulations promulgated
13 by the department pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.).

15 (cf: P.L.1997, c.62, s.1)

16
17 33. Section 23 of P.L.1974, c.119 (C.9:6-8.43) is amended to read
18 as follows:

19 23. Notice of rights. a. The court shall advise the parent or
20 guardian of his right to have an adjournment to retain counsel and
21 consult with him. The court shall advise the respondent that if he is
22 indigent, he may apply for an attorney through the Office of the Public
23 Defender. In cases where the parent or guardian applies for an
24 attorney through the Office of the Public Defender, the court may
25 adjourn the case for a reasonable period of time for the parent or
26 guardian to secure counsel; however, the adjournment shall not
27 preclude the court from granting temporary relief as appropriate under
28 the law. The court shall appoint a law guardian for the child as
29 provided by this act.

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

33 (cf: P.L.1994, c.58, s.40)

34
35 34. Section 8 of P.L.1987, c.341 (C.9:6-8.72a) is amended to read
36 as follows:

37 8. The Commissioner of [the Department of] Education shall, in
38 cooperation and consultation with the Commissioner of [the
39 Department of] Human Services, adopt rules and regulations, pursuant
40 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
41 et seq.), concerning the relationship, rights and responsibilities of the
42 [Division of Youth and Family Services in the] Department of Human
43 Services and local school districts regarding the reporting and
44 investigation of allegations of child abuse.

45 (cf: P.L.1987, c.341, s.8)

1 35. Section 4 of P.L.1998, c.19 (C.9:6-8.102) is amended to read
2 as follows:

3 4. Services provided by the center's staff shall include, but not be
4 limited to:

5 a. Providing psychological and medical evaluation and treatment
6 of the child, counseling for family members and substance abuse
7 assessment and mental health and substance abuse counseling for the
8 parents or guardians of the child;

9 b. Providing referral for appropriate social services and medical
10 care;

11 c. Providing testimony regarding alleged child abuse or neglect at
12 judicial proceedings;

13 d. Providing treatment recommendations for the child and mental
14 health and substance abuse treatment recommendations for his family,
15 and providing mental health and substance abuse treatment
16 recommendations for persons convicted of child abuse or neglect;

17 e. Receiving referrals from the [Division of Youth and Family]
18 Department of Human Services and the county prosecutor's office and
19 assisting them in any investigation of child abuse or neglect;

20 f. Providing educational material and seminars on child abuse and
21 neglect and the services the center provides to children, parents,
22 teachers, law enforcement officials, the judiciary, attorneys and other
23 citizens.

24 (cf: P.L.1998, c.19, s.4)

25

26 36. Section 6 of P.L.1998, c.19 (C.9:6-8.104) is amended to read
27 as follows:

28 6. Regional centers shall act as a resource in the establishment and
29 maintenance of county-based multidisciplinary teams which work in
30 conjunction with the county prosecutor and the [Division of Youth
31 and Family] Department of Human Services in the investigation of
32 child abuse and neglect in the county in which the child who is
33 undergoing evaluation and treatment resides. The Commissioner of
34 Human Services, in consultation with the New Jersey Task Force on
35 Child Abuse and Neglect, shall establish standards for a county team.
36 The county team shall consist of representatives of the following
37 disciplines: law enforcement; child protective services; mental health;
38 substance abuse identification and treatment; and medicine; and, in
39 those counties where a child advocacy center has been established,
40 shall include a staff representative of a child advocacy center, all of
41 whom have been trained to recognize child abuse and neglect. The
42 county team shall provide: facilitation of the investigation,
43 management and disposition of cases of criminal child abuse and
44 neglect; referral services to the regional diagnostic center; appropriate
45 referrals to medical and social service agencies; information regarding
46 the identification and treatment of child abuse and neglect; and

1 appropriate follow-up care for abused children and their families.

2 As used in this section, "child advocacy center" means a
3 county-based center which meets the standards for a county team
4 established by the commissioner pursuant to this section and
5 demonstrates a multidisciplinary approach in providing comprehensive,
6 culturally competent child abuse prevention, intervention and
7 treatment services to children who are victims of child abuse or
8 neglect.

9 (cf: P.L.2001, c.344, s.1)

10

11 37. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
12 follows:

13 5. As used in this act, unless a different meaning clearly appears
14 from the context:

15 a. "Person" includes one or more individuals, partnerships,
16 associations, organizations, labor organizations, corporations, legal
17 representatives, trustees, trustees in bankruptcy, receivers, and
18 fiduciaries.

19 b. "Employment agency" includes any person undertaking to
20 procure employees or opportunities for others to work.

21 c. "Labor organization" includes any organization which exists and
22 is constituted for the purpose, in whole or in part, of collective
23 bargaining, or of dealing with employers concerning grievances, terms
24 or conditions of employment, or of other mutual aid or protection in
25 connection with employment.

26 d. "Unlawful employment practice" and "unlawful discrimination"
27 include only those unlawful practices and acts specified in section 11
28 of this act.

29 e. "Employer" includes all persons as defined in subsection a. of
30 this section unless otherwise specifically exempt under another section
31 of this act, and includes the State, any political or civil subdivision
32 thereof, and all public officers, agencies, boards or bodies.

33 f. "Employee" does not include any individual employed in the
34 domestic service of any person.

35 g. "Liability for service in the Armed Forces of the United States"
36 means subject to being ordered as an individual or member of an
37 organized unit into active service in the Armed Forces of the United
38 States by reason of membership in the National Guard, naval militia or
39 a reserve component of the Armed Forces of the United States, or
40 subject to being inducted into such armed forces through a system of
41 national selective service.

42 h. "Division" means the "Division on Civil Rights" created by this
43 act.

44 i. "Attorney General" means the Attorney General of the State of
45 New Jersey or his representative or designee.

46 j. "Commission" means the Commission on Civil Rights created by

1 this act.

2 k. "Director" means the Director of the Division on Civil Rights.

3 l. "A place of public accommodation" shall include, but not be
4 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
5 camp, day camp, or resort camp, whether for entertainment of
6 transient guests or accommodation of those seeking health, recreation
7 or rest; any producer, manufacturer, wholesaler, distributor, retail
8 shop, store, establishment, or concession dealing with goods or
9 services of any kind; any restaurant, eating house, or place where food
10 is sold for consumption on the premises; any place maintained for the
11 sale of ice cream, ice and fruit preparations or their derivatives, soda
12 water or confections, or where any beverages of any kind are retailed
13 for consumption on the premises; any garage, any public conveyance
14 operated on land or water, or in the air, any stations and terminals
15 thereof; any bathhouse, boardwalk, or seashore accommodation; any
16 auditorium, meeting place, or hall; any theatre, motion-picture house,
17 music hall, roof garden, skating rink, swimming pool, amusement and
18 recreation park, fair, bowling alley, gymnasium, shooting gallery,
19 billiard and pool parlor, or other place of amusement; any comfort
20 station; any dispensary, clinic or hospital; any public library; any
21 kindergarten, primary and secondary school, trade or business school,
22 high school, academy, college and university, or any educational
23 institution under the supervision of the State Board of Education, or
24 the Commissioner of Education of the State of New Jersey. Nothing
25 herein contained shall be construed to include or to apply to any
26 institution, bona fide club, or place of accommodation, which is in its
27 nature distinctly private; nor shall anything herein contained apply to
28 any educational facility operated or maintained by a bona fide religious
29 or sectarian institution, and the right of a natural parent or one in loco
30 parentis to direct the education and upbringing of a child under his
31 control is hereby affirmed; nor shall anything herein contained be
32 construed to bar any private secondary or post secondary school from
33 using in good faith criteria other than race, creed, color, national
34 origin, ancestry or affectional or sexual orientation in the admission of
35 students.

36 m. "A publicly assisted housing accommodation" shall include all
37 housing built with public funds or public assistance pursuant to
38 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
39 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
40 and all housing financed in whole or in part by a loan, whether or not
41 secured by a mortgage, the repayment of which is guaranteed or
42 insured by the federal government or any agency thereof.

43 n. The term "real property" includes real estate, lands, tenements
44 and hereditaments, corporeal and incorporeal, and leaseholds,
45 provided, however, that, except as to publicly assisted housing
46 accommodations, the provisions of this act shall not apply to the

1 rental: (1) of a single apartment or flat in a two-family dwelling, the
2 other occupancy unit of which is occupied by the owner as a residence;
3 or (2) of a room or rooms to another person or persons by the owner
4 or occupant of a one-family dwelling occupied by the owner or
5 occupant as a residence at the time of such rental. Nothing herein
6 contained shall be construed to bar any religious or denominational
7 institution or organization, or any organization operated for charitable
8 or educational purposes, which is operated, supervised or controlled
9 by or in connection with a religious organization, in the sale, lease or
10 rental of real property, from limiting admission to or giving preference
11 to persons of the same religion or denomination or from making such
12 selection as is calculated by such organization to promote the religious
13 principles for which it is established or maintained. Nor does any
14 provision under this act regarding discrimination on the basis of
15 familial status apply with respect to housing for older persons.

16 o. "Real estate broker" includes a person, firm or corporation who,
17 for a fee, commission or other valuable consideration, or by reason of
18 promise or reasonable expectation thereof, lists for sale, sells,
19 exchanges, buys or rents, or offers or attempts to negotiate a sale,
20 exchange, purchase, or rental of real estate or an interest therein, or
21 collects or offers or attempts to collect rent for the use of real estate,
22 or solicits for prospective purchasers or assists or directs in the
23 procuring of prospects or the negotiation or closing of any transaction
24 which does or is contemplated to result in the sale, exchange, leasing,
25 renting or auctioning of any real estate, or negotiates, or offers or
26 attempts or agrees to negotiate a loan secured or to be secured by
27 mortgage or other encumbrance upon or transfer of any real estate for
28 others; or any person who, for pecuniary gain or expectation of
29 pecuniary gain conducts a public or private competitive sale of lands
30 or any interest in lands. In the sale of lots, the term "real estate
31 broker" shall also include any person, partnership, association or
32 corporation employed by or on behalf of the owner or owners of lots
33 or other parcels of real estate, at a stated salary, or upon a
34 commission, or upon a salary and commission or otherwise, to sell
35 such real estate, or any parts thereof, in lots or other parcels, and who
36 shall sell or exchange, or offer or attempt or agree to negotiate the
37 sale or exchange, of any such lot or parcel of real estate.

38 p. "Real estate salesperson" includes any person who, for
39 compensation, valuable consideration or commission, or other thing of
40 value, or by reason of a promise or reasonable expectation thereof, is
41 employed by and operates under the supervision of a licensed real
42 estate broker to sell or offer to sell, buy or offer to buy or negotiate
43 the purchase, sale or exchange of real estate, or offers or attempts to
44 negotiate a loan secured or to be secured by a mortgage or other
45 encumbrance upon or transfer of real estate, or to lease or rent, or
46 offer to lease or rent any real estate for others, or to collect rents for

1 the use of real estate, or to solicit for prospective purchasers or lessees
2 of real estate, or who is employed by a licensed real estate broker to
3 sell or offer to sell lots or other parcels of real estate, at a stated
4 salary, or upon a commission, or upon a salary and commission, or
5 otherwise to sell real estate, or any parts thereof, in lots or other
6 parcels.

7 q. "Disability" means physical disability, infirmity, malformation or
8 disfigurement which is caused by bodily injury, birth defect or illness
9 including epilepsy and other seizure disorders, and which shall include,
10 but not be limited to, any degree of paralysis, amputation, lack of
11 physical coordination, blindness or visual impediment, deafness or
12 hearing impediment, muteness or speech impediment or physical
13 reliance on a service or guide dog, wheelchair, or other remedial
14 appliance or device, or any mental, psychological or developmental
15 disability resulting from anatomical, psychological, physiological or
16 neurological conditions which prevents the normal exercise of any
17 bodily or mental functions or is demonstrable, medically or
18 psychologically, by accepted clinical or laboratory diagnostic
19 techniques. Disability shall also mean AIDS or HIV infection.

20 r. "Blind person" means any individual whose central visual acuity
21 does not exceed 20/200 in the better eye with correcting lens or whose
22 visual acuity is better than 20/200 if accompanied by a limit to the field
23 of vision in the better eye to such a degree that its widest diameter
24 subtends an angle of no greater than 20 degrees.

25 s. "Guide dog" means a dog used to assist deaf persons or which
26 is fitted with a special harness so as to be suitable as an aid to the
27 mobility of a blind person, and is used by a blind person who has
28 satisfactorily completed a specific course of training in the use of such
29 a dog, and has been trained by an organization generally recognized by
30 agencies involved in the rehabilitation of the blind or deaf as reputable
31 and competent to provide dogs with training of this type.

32 t. "Guide or service dog trainer" means any person who is
33 employed by an organization generally recognized by agencies
34 involved in the rehabilitation of persons with disabilities as reputable
35 and competent to provide dogs with training, and who is actually
36 involved in the training process.

37 u. "Housing accommodation" means any publicly assisted housing
38 accommodation or any real property, or portion thereof, which is used
39 or occupied, or is intended, arranged, or designed to be used or
40 occupied, as the home, residence or sleeping place of one or more
41 persons, but shall not include any single family residence the occupants
42 of which rent, lease, or furnish for compensation not more than one
43 room therein.

44 v. "Public facility" means any place of public accommodation and
45 any street, highway, sidewalk, walkway, public building, and any other
46 place or structure to which the general public is regularly, normally or

- 1 customarily permitted or invited.
- 2 w. "Deaf person" means any person whose hearing is so severely
3 impaired that the person is unable to hear and understand normal
4 conversational speech through the unaided ear alone, and who must
5 depend primarily on a supportive device or visual communication such
6 as writing, lip reading, sign language, and gestures.
- 7 x. "Atypical hereditary cellular or blood trait" means sickle cell
8 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
9 fibrosis trait.
- 10 y. "Sickle cell trait" means the condition wherein the major natural
11 hemoglobin components present in the blood of the individual are
12 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
13 defined by standard chemical and physical analytic techniques,
14 including electrophoresis; and the proportion of hemoglobin A is
15 greater than the proportion of hemoglobin S or one natural parent of
16 the individual is shown to have only normal hemoglobin components
17 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
18 proportions by standard chemical and physical analytic tests.
- 19 z. "Hemoglobin C trait" means the condition wherein the major
20 natural hemoglobin components present in the blood of the individual
21 are hemoglobin A (normal) and hemoglobin C as defined by standard
22 chemical and physical analytic techniques, including electrophoresis;
23 and the proportion of hemoglobin A is greater than the proportion of
24 hemoglobin C or one natural parent of the individual is shown to have
25 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
26 hemoglobin F) in normal proportions by standard chemical and
27 physical analytic tests.
- 28 aa. "Thalassemia trait" means the presence of the thalassemia gene
29 which in combination with another similar gene results in the chronic
30 hereditary disease Cooley's anemia.
- 31 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
32 which in combination with another similar gene results in the chronic
33 hereditary disease Tay-Sachs.
- 34 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
35 gene which in combination with another similar gene results in the
36 chronic hereditary disease cystic fibrosis.
- 37 dd. "Service dog" means any dog individually trained to the
38 requirements of a person with a disability including, but not limited to
39 minimal protection work, rescue work, pulling a wheelchair or
40 retrieving dropped items. This term shall include a "seizure dog"
41 trained to alert or otherwise assist persons subject to epilepsy or other
42 seizure disorders.
- 43 ee. "Qualified Medicaid applicant" means an individual who is a
44 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 45 ff. "AIDS" means acquired immune deficiency syndrome as defined
46 by the Centers for Disease Control and Prevention of the United States

- 1 Public Health Service.
- 2 gg. "HIV infection" means infection with the human
3 immunodeficiency virus or any other related virus identified as a
4 probable causative agent of AIDS.
- 5 hh. "Affectional or sexual orientation" means male or female
6 heterosexuality, homosexuality or bisexuality by inclination, practice,
7 identity or expression, having a history thereof or being perceived,
8 presumed or identified by others as having such an orientation.
- 9 ii. "Heterosexuality" means affectional, emotional or physical
10 attraction or behavior which is primarily directed towards persons of
11 the other gender.
- 12 jj. "Homosexuality" means affectional, emotional or physical
13 attraction or behavior which is primarily directed towards persons of
14 the same gender.
- 15 kk. "Bisexuality" means affectional, emotional or physical
16 attraction or behavior which is directed towards persons of either
17 gender.
- 18 ll. "Familial status" means being the natural parent of a child, the
19 adoptive parent of a child, the [foster] resource family parent of a
20 child, having a "parent and child relationship" with a child as defined
21 by State law, or having sole or joint legal or physical custody, care,
22 guardianship, or visitation with a child, or any person who is pregnant
23 or is in the process of securing legal custody of any individual who has
24 not attained the age of 18 years.
- 25 mm. "Housing for older persons" means housing:
- 26 (1) provided under any State program that the Attorney General
27 determines is specifically designed and operated to assist elderly
28 persons (as defined in the State program); or provided under any
29 federal program that the United States Department of Housing and
30 Urban Development determines is specifically designed and operated
31 to assist elderly persons (as defined in the federal [program]program);
32 or
- 33 (2) intended for, and solely occupied by persons 62 years of age or
34 older; or
- 35 (3) intended and operated for occupancy by at least one person 55
36 years of age or older per unit. In determining whether housing
37 qualifies as housing for older persons under this subsection, the
38 Attorney General shall adopt regulations which require at least the
39 following factors:
- 40 (a) the existence of significant facilities and services specifically
41 designed to meet the physical or social needs of older persons, or if the
42 provision of such facilities and services is not practicable, that such
43 housing is necessary to provide important housing opportunities for
44 older persons; and
- 45 (b) that at least 80 percent of the units are occupied by at least one
46 person 55 years of age or older per unit; and

1 (c) the publication of, and adherence to, policies and procedures
2 which demonstrate an intent by the owner or manager to provide
3 housing for persons 55 years of age or older.

4 Housing shall not fail to meet the requirements for housing for
5 older persons by reason of: persons residing in such housing as of
6 September 13, 1988 not meeting the age requirements of this
7 subsection, provided that new occupants of such housing meet the age
8 requirements of this subsection; or unoccupied units, provided that
9 such units are reserved for occupancy by persons who meet the age
10 requirements of this subsection.

11 nn. "Genetic characteristic" means any inherited gene or
12 chromosome, or alteration thereof, that is scientifically or medically
13 believed to predispose an individual to a disease, disorder or
14 syndrome, or to be associated with a statistically significant increased
15 risk of development of a disease, disorder or syndrome.

16 oo. "Genetic information" means the information about genes, gene
17 products or inherited characteristics that may derive from an individual
18 or family member.

19 pp. "Genetic test" means a test for determining the presence or
20 absence of an inherited genetic characteristic in an individual, including
21 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
22 chromosomes or proteins in order to identify a predisposing genetic
23 characteristic.

24 qq. "Domestic partnership" means a domestic partnership
25 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

26 (cf: P.L.2003, c.293, s.1)

27

28 38. Section 1 of P.L.1995, c.34 (C.18A:6-7a) is amended to read
29 as follows:

30 1. When a complaint made against a school employee alleging child
31 abuse or neglect is investigated by the [Division of Youth and Family]
32 Department of Human Services, the [division] department shall notify
33 the school district and the employee of its findings. Upon receipt of a
34 finding by the [division] department that such a complaint is
35 unfounded, the school district shall remove any references to the
36 complaint and investigation by the [division] department from the
37 employee's personnel records. A complaint made against a school
38 employee that has been classified as unfounded by the [Division of
39 Youth and Family Services] department shall not be used against the
40 employee for any purpose relating to employment, including but not
41 limited to, discipline, salary, promotion, transfer, demotion, retention
42 or continuance of employment, termination of employment or any right
43 or privilege relating to employment.

44 (cf: P.L.1995, c.34, s.1)

45

46 39. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to

1 read as follows:

2 19. For school funding purposes, the Commissioner of Education
3 shall determine district of residence as follows:

4 a. The district of residence for children in [foster] resource family
5 homes shall be the district in which the [foster] resource family
6 parents reside. If a child in a [foster] resource family home is
7 subsequently placed in a State facility or by a State agency, the district
8 of residence of the child shall then be determined as if no such [foster]
9 resource family placement had occurred.

10 b. The district of residence for children who are in residential State
11 facilities, or who have been placed by State agencies in group homes,
12 skill development homes, private schools or out-of-State facilities,
13 shall be the present district of residence of the parent or guardian with
14 whom the child lived prior to his most recent admission to a State
15 facility or most recent placement by a State agency.

16 If this cannot be determined, the district of residence shall be the
17 district in which the child resided prior to such admission or
18 placement.

19 c. The district of residence for children whose parent or guardian
20 temporarily moves from one school district to another as the result of
21 being homeless shall be the district in which the parent or guardian last
22 resided prior to becoming homeless. For the purpose of this
23 amendatory and supplementary act, "homeless" shall mean an
24 individual who temporarily lacks a fixed, regular and adequate
25 residence.

26 d. If the district of residence cannot be determined according to the
27 criteria contained herein, or if the criteria contained herein identify a
28 district of residence outside of the State, the State shall assume fiscal
29 responsibility for the tuition of the child. The tuition shall equal the
30 approved per pupil cost established pursuant to P.L.1996, c.138
31 (C.18A:7F-1 et seq.). This amount shall be appropriated in the same
32 manner as other State aid under this act. The Department of
33 Education shall pay the amount to the Department of Human Services,
34 the Department of Corrections or the Juvenile Justice Commission
35 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
36 or, in the case of a homeless child, the Department of Education shall
37 pay the appropriate T&E amount and any appropriate additional cost
38 factor for special education pursuant to Section 19 of P.L.1996, c.138
39 (C.18A:7F-19) to the school district in which the child is enrolled.

40 e. If the State has assumed fiscal responsibility for the tuition of a
41 child in a private educational facility approved by the Department of
42 Education to serve children who are classified as needing special
43 education services, the department shall pay to the Department of
44 Human Services or the Juvenile Justice Commission, as appropriate,
45 the aid specified in subsection d. of this Section and in addition, such
46 aid as required to make the total amount of aid equal to the actual cost

1 of the tuition.
2 (cf: P.L.1999, c.114, s.1)

3

4 40. Section 19 of P.L.1996, c.138 (C.18A:7F-19) is amended to
5 read as follows:

6 19. a. Special education categorical aid for each school district
7 and county vocational school district shall be calculated for the
8 1997-98 school year as follows:

9 Tier I is the number of pupils classified for other than speech
10 correction services resident in the district which receive related
11 services including, but not limited to, occupational therapy, physical
12 therapy, speech and counseling. Aid shall equal 0.0223 of the T&E
13 amount rounded to the nearest whole dollar for each of the four
14 service categories provided per classified pupil.

15 Tier II is the number of pupils resident in the district meeting the
16 classification definitions for perceptually impaired, neurologically
17 impaired, educable mentally retarded and preschool handicapped; all
18 classified pupils in shared time county vocational programs in a county
19 vocational school which does not have a child study team receiving
20 services pursuant to chapter 46 of Title 18A of the New Jersey
21 Statutes; and nonclassified pupils in State training schools or secure
22 care facilities. For the purpose of calculating State aid for 1997-98,
23 each district, other than a county vocational school district, shall have
24 its pupil count for perceptually impaired reduced by perceptually
25 impaired classifications in excess of one standard deviation above the
26 State average classification rate at December 1995 or 9.8 percent of
27 the district's resident enrollment. The perceptually impaired limitation
28 shall be phased down to the State average of the prebudget year over
29 a five-year period by adjusting the standard deviation as follows: 75
30 percent in 1998-99, 50 percent in 1999-2000, 25 percent in 2000-2001
31 and the State average in year five. No reduction in aid shall be
32 assessed against any district in which the perceptually impaired
33 classification rate is 6.5% or less of resident enrollment. Aid shall
34 equal 0.4382 of the T&E amount rounded to the nearest whole dollar
35 for each student meeting the Tier II criteria.

36 The commissioner shall develop a system to provide that each
37 school district submits data to the department on the number of the
38 district's pupils with a classification definition of perceptually impaired
39 who are enrolled in a county vocational school. Such pupils shall be
40 counted in the district of residence's resident enrollment for the
41 purpose of calculating the limit on perceptually impaired classifications
42 for Tier II State aid.

43 Tier III is the number of classified pupils resident in the district in
44 categories other than speech correction services, perceptually
45 impaired, neurologically impaired, educable mentally retarded, socially
46 maladjusted, preschool handicapped, and who do not meet the criteria

1 of Tier IV, intensive services; and nonclassified pupils in juvenile
2 community programs. Aid shall equal 0.8847 of the T&E amount for
3 each pupil meeting the Tier III criteria.

4 Tier IV is the number of classified pupils resident in the district
5 receiving intensive services. For 1997-98, intensive services are
6 defined as those provided in a county special services school district
7 and services provided for pupils who meet the classification definitions
8 for autistic, chronically ill, day training eligible, or visually
9 handicapped, or are provided for pupils who meet the classification
10 definition for multiply handicapped and are in a private school for the
11 handicapped, educational services commission, or jointure commission
12 placement in the 1996-97 school year. The commissioner shall collect
13 data and conduct a study to determine intensive service criteria and the
14 appropriate per pupil cost factor to be universally applied to all service
15 settings, beginning in the 1998-99 school year. Aid shall equal 1.2277
16 of the T&E amount for each pupil meeting the Tier IV criteria.

17 Classified pupils in Tiers II through IV shall be eligible for Tier I
18 aid. Classified pupils shall be eligible to receive aid for up to four
19 services under Tier I.

20 For the 1998-99 school year, these cost factors shall remain in
21 effect and special education aid growth shall be limited by the CPI
22 growth rate applied to the T&E amount and changes in classified pupil
23 counts. For subsequent years, the additional cost factors shall be
24 established biennially in the Report on the Cost of Providing a
25 Thorough and Efficient Education.

26 For the purposes of this section, classified pupil counts shall include
27 pupils attending State developmental centers, [DHS] Department of
28 Human Services Regional Day Schools, [State Division of Youth and
29 Family Services'] Department of Human Services residential centers,
30 State residential mental health centers, and institutions operated by or
31 under contract with the Department of Human Services. Classified
32 pupils of elementary equivalent age shall include classified preschool
33 handicapped and kindergarten pupils.

34 b. In those instances in which the cost of providing education for
35 an individual classified pupil exceeds \$40,000:

36 (1) For costs in excess of \$40,000 incurred in the 2002-2003
37 through 2004-2005 school years, the district of residence shall, in
38 addition to any special education State aid to which the district is
39 entitled on behalf of the pupil pursuant to subsection a. of this section,
40 receive additional special education State aid as follows: (a) with
41 respect to the amount of any costs in excess of \$40,000 but less than
42 or equal to \$60,000, the additional State aid for the classified pupil
43 shall equal 60% of that amount; (b) with respect to the amount of any
44 costs in excess of \$60,000 but less than or equal to \$80,000, the
45 additional State aid for the classified pupil shall equal 70% of that
46 amount; and (c) with respect to the amount of any costs in excess of

1 \$80,000, the additional State aid for the classified pupil shall equal
2 80% of that amount; provided that in the case of an individual
3 classified pupil for whom additional special education State aid was
4 awarded to a district for the 2001-2002 school year, the amount of
5 such aid awarded annually to the district for that pupil for the
6 2002-2003, 2003-2004 or 2004-2005 school year shall not be less than
7 the amount for the 2001-2002 school year, except that if the district's
8 actual special education costs incurred for the pupil in the 2002-2003,
9 2003-2004 or 2004-2005 school year are reduced below the amount
10 of such costs for the pupil in the 2001-2002 school year, the amount
11 of aid shall be decreased by the amount of that reduction; and

12 (2) For costs in excess of \$40,000 incurred in the 2005-2006
13 school year and thereafter, a district shall receive additional special
14 education State aid equal to 100% of the amount of that excess.

15 A district, in order to receive funding pursuant to this subsection,
16 shall file an application with the department that details the expenses
17 incurred on behalf of the particular classified pupil for which the
18 district is seeking reimbursement. Additional State aid awarded for
19 extraordinary special education costs shall be recorded by the district
20 as revenue in the current school year and paid to the district in the
21 subsequent school year.

22 c. A school district may apply to the commissioner to receive
23 emergency special education aid for any classified pupil who enrolls in
24 the district prior to March of the budget year and who is in a
25 placement with a cost in excess of \$40,000. The commissioner may
26 debit from the student's former district of residence any special
27 education aid which was paid to that district on behalf of the student.

28 d. The department shall review expenditures of federal and State
29 special education aid by a district in every instance in which special
30 education monitoring identifies a failure on the part of the district to
31 provide services consistent with a pupil's individualized education
32 program.

33 (cf: P.L.2001, c.356, s.1)

34

35 41. Section 1 of P.L.1979, c.391 (C.18A:16-12) is amended to
36 read as follows:

37 1. As used in this act:

38 a. "Dependents" means an employee's spouse and the employee's
39 unmarried children, including stepchildren, legally adopted children,
40 and, at the option of the local board of education and the carrier,
41 [foster] children placed by the Department of Human Services with
42 a resource family, under the age of 19 who live with the employee in
43 a regular parent-child relationship, and may also include, at the option
44 of the local board of education and the carrier, other unmarried
45 children of the employee under the age of 23 who are dependent upon
46 the employee for support and maintenance, but shall not include a

1 spouse or child while serving in the military service;

2 b. "Employees" may, at the option of the local board of education,
3 include elected officials, but shall not include persons employed on a
4 short-term, seasonal, intermittent or emergency basis, persons
5 compensated on a fee basis, or persons whose compensation from the
6 local board of education is limited to reimbursement of necessary
7 expenses actually incurred in the discharge of their duties;

8 c. "Federal Medicare Program" means the coverage provided under
9 Title XVIII of the Social Security Act as amended in 1965, or its
10 successor plan or plans.

11 (cf: P.L.1979, c.391, s.1)

12

13 42. Section 1 of P.L.1986, c.73 (C.18A:18A-3.2) is amended to
14 read as follows:

15 1. Any school district, hereinafter referred to as an employer, may
16 enter into contracts of group legal insurance with an insurer
17 authorized, pursuant to P.L. 1981, c. 160 (C. 17:46C-1 et seq.), to
18 engage in the business of legal insurance in this State or may contract
19 with a duly recognized prepaid legal services plan with respect to the
20 benefits which they are authorized to provide. The contract or
21 contracts shall provide coverage for the employees of the employer
22 and may include their dependents. "Dependents" shall include an
23 employee's spouse and the employee's unmarried children, including
24 stepchildren and legally adopted children, and, at the option of the
25 employer and the carrier, [foster] children placed by the Department
26 of Human Services with a resource family, under the age of 19 who
27 live with the employee in a regular parent-child relationship, and may
28 also include, at the option of the employer and the carrier, other
29 unmarried children of the employee under the age of 23 who are
30 dependent upon the employee for support and maintenance. A spouse
31 or child enlisting or inducted into military service shall not be
32 considered a dependent during the military service.

33 "Employees" shall not include persons employed on a short-term,
34 seasonal, intermittent or emergency basis, persons compensated on a
35 fee basis, or persons whose compensation from the public employer is
36 limited to reimbursement of necessary expenses actually incurred in the
37 discharge of their duties.

38 The contract shall include provisions to prevent duplication of
39 benefits and shall condition the eligibility of an employee for coverage
40 upon satisfying a waiting period stated in the contract.

41 The coverage of an employee, and of his dependents, if any, shall
42 cease upon the discontinuance of his employment or upon cessation of
43 active full-time employment in the classes eligible for coverage, subject
44 to the provision as may be made in a contract by his employer for
45 limited continuance of coverage during disability, part-time
46 employment, leave of absence other than leave for military service or

1 layoff, or for continuance of coverage after retirement.

2 A contract for group legal insurance entered into pursuant to this
3 act shall not include any legal services attendant to a claim brought by
4 a teaching staff member against a board of education or legal services
5 for the defense of a teaching staff member facing disciplinary action
6 pursuant to subarticle B of article 2 of chapter 6 of Title 18A of the
7 New Jersey Statutes (N.J.S.18A:6-9 et seq.).

8 (cf: P.L.1986, c.73, s.1)

9

10 43. R.S.26:3-31 is amended to read as follows:

11 26:3-31. The local board of health shall have power to pass, alter
12 or amend ordinances and make rules and regulations in regard to the
13 public health within its jurisdiction, for the following purposes:

14 a. To protect the public water supply and prevent the pollution of
15 any stream of water or well, the water of which is used for domestic
16 purposes, and to prevent the use of or to close any well, the water of
17 which is polluted or detrimental to the public health.

18 b. (1) To prohibit the cutting, sale or delivery of ice in any
19 municipality without obtaining a permit from the local board. No
20 person shall cut, sell or deliver ice in any municipality without
21 obtaining such permit.

22 (2) To refuse such permit or revoke any permit granted by it when
23 in its judgment the use of any ice cut, sold or delivered under the
24 permit would be detrimental to the public health. Upon the refusal or
25 revocation of a permit by the local board, an appeal may be taken to
26 the State department. Upon order of the State department a permit
27 shall be granted or the revocation set aside.

28 (3) To prohibit the importation, distribution or sale of any impure
29 ice which would be detrimental to the public health.

30 c. To license and regulate the sanitary conditions of hotels,
31 restaurants, cafes, and other public eating houses and to provide for
32 the posting of ratings or score cards setting forth the sanitary
33 condition of any public eating house after inspection of the same and
34 to post the rating or score card in some conspicuous or public place
35 in such eating house.

36 d. To compel any owner of property along the line of any sewer to
37 connect his house or other building therewith. This paragraph shall be
38 enforced by the local board within its jurisdiction and it shall by
39 ordinance provide a fine of ~~[\$25.00]~~ \$25 to be imposed upon any
40 person who shall not comply with any order issued under the authority
41 of this paragraph, within 30 days after notice by the proper officer of
42 the board to make the required connections. An additional fine of
43 ~~[\$10.00]~~ \$10 shall be provided for each day of delay, after the
44 expiration of the 30 days, in which the provisions of the order or
45 notice are not complied with. Such notice may be served upon the
46 owner personally or by leaving it at his usual place of abode with a

- 1 member of his family above the age of 18 years.
- 2 e. (Deleted by amendment, P.L.1987, c.442.)
- 3 f. To regulate, control, and prohibit the accumulation of offal and
4 any decaying or vegetable substance.
- 5 g. (1) To regulate the location, construction, maintenance, method
6 of emptying or cleaning, and the frequency of cleaning of any privy or
7 other place used for the reception or storage of human excrement, and
8 to prohibit the construction or maintenance of any privy or other such
9 place until a license therefor shall have been issued by the board,
10 which license shall continue in force for one year from the date of
11 issue.
- 12 (2) To fix the fee, not exceeding ~~[\$5.00]~~ \$5, for such license, and
13 to use the fees so collected in supervising and maintaining said privies
14 or other places and in removing and disposing of the excrement
15 therefrom.
- 16 (3) To revoke such license at any time if the owner or tenant of the
17 property on which any privy or other such place is located, maintains
18 the same in violation of law, or of the State sanitary code, or any
19 ordinance or rule of the board.
- 20 h. To regulate, control, or prohibit the cleaning of any sewer, the
21 dumping of garbage, the filling of any sunken lot or marsh land, and
22 to provide for the filling up of any such lot or land, which has become
23 filled with stagnant water and is located in any built-up area.
- 24 i. (1) To license and regulate the business of cleaning cesspools
25 and privies, which license shall continue for the term of one year from
26 the date of granting, and to fix the fee that shall be charged for such
27 license, not exceeding ~~[\$20.00]~~ \$20 for each vehicle or conveyance.
- 28 (2) To prohibit unlicensed persons from engaging in such business.
- 29 (3) To require any vehicle or conveyance used in such business
30 within its jurisdiction to be approved by it.
- 31 (4) To revoke such license if any licensee or his employee or agent
32 shall violate any ordinance or rule of the board in cleaning any
33 cesspool or privy, or in removing the contents thereof.
- 34 j. To aid in the enforcement of laws as to the adulteration of all
35 kinds of food and drink, and to prevent the sale or exposure for sale
36 of any meat or vegetable that is unwholesome or unfit for food.
- 37 k. To regulate, control, or prohibit the keeping or slaughtering of
38 animals.
- 39 l. To license and regulate the keeping of boarding houses for
40 infants and children and to fix a license fee for the same and to prevent
41 unlicensed persons from keeping such boarding houses. This
42 paragraph shall not apply to:
- 43 (1) The ~~[Division of Youth and Family Services]~~ Department of
44 Human Services.
- 45 (2) Any children's home, orphan asylum, or children's aid society
46 incorporated under the laws of this State.

1 (3) Any aid society of a properly organized and accredited church
2 or fraternal society organized for aid and relief to its members.

3 (4) Any charitable society incorporated under the laws of this State
4 having as one of its objects the prevention of cruelty to children or the
5 care and protection of children.

6 m. To require in buildings, designed to be occupied, or occupied,
7 as residences by more than two families and when the owners have
8 agreed to supply heat, that from October 1 of each year to the next
9 succeeding May 1, every unit of dwelling space and every habitable
10 room therein shall be maintained at least at 68` F. whenever the
11 outside temperature falls below 55` during daytime hours from 6 a.m.
12 to 11 p.m. At times other than those specified interiors of units of
13 dwelling space shall be maintained at least at 55` F. whenever the
14 outside temperature falls below 40`.

15 In meeting the aforesaid standards, the owner shall not be
16 responsible for heat loss and the consequent drop in the interior
17 temperature arising out of action by the occupants in leaving windows
18 or doors open to the exterior of the building. The owner shall be
19 obligated to supply required fuel or energy and maintain the heating
20 system in good operating condition so that it can supply heat as
21 required herein notwithstanding any contractual provision seeking to
22 delegate or shift responsibility to the occupant or third person, except
23 that the owner shall not be required to supply fuel or energy for
24 heating purposes to any unit where the occupant thereof agrees in
25 writing to supply heat to his own unit of dwelling space and the said
26 unit is served by its own exclusive heating equipment for which the
27 source of heat can be separately computed and billed.

28 n. To regulate the practice of midwifery, but the exercise of such
29 authority shall not conflict with the provisions of chapter 10 of Title
30 45 of the Revised Statutes ([s.] R.S.45:10-1 et seq.).

31 o. To enforce the making of returns or reports to the local board
32 on the part of any person charged with such duty under any law and
33 to take cognizance of any failure to make such returns and deal with
34 the same in an effective manner.

35 p. To act as the agent for a landlord in the engaging of repairmen
36 and the ordering of any parts necessary to restore to operating
37 condition the furnace, boiler or other equipment essential to the proper
38 heating of any residential unit rented by said landlord, provided,
39 however, that at least 24 hours have elapsed since the tenant has
40 lodged a complaint with the local board of health, prior to which a
41 bona fide attempt has been made by the tenant to notify the landlord
42 of the failure of the heating equipment, and the landlord has failed to
43 take appropriate action, and the outside air temperature is less than
44 55` F.

45 Any person who supplies material or services in accordance with
46 this section shall bill the landlord directly and by filing a notice

1 approved by the local board of health, with the county clerk, shall have
2 a lien on the premises where the materials were used or services
3 supplied.

4 (cf: P.L.1987, c.442, s.4)

5

6 44. Section 1 of P.L.1974, c.44 (C.30:1-8.1) is amended to read as
7 follows:

8 1. The commissioner shall be assisted in the performance of his
9 duties by ~~two~~ three deputy commissioners. Each deputy
10 commissioner shall be appointed by and shall serve at the pleasure of
11 the commissioner, and until his successor has been appointed and
12 qualified.

13 Each deputy commissioner shall exercise such powers and perform
14 such duties as the commissioner shall prescribe.

15 Unless otherwise provided by law, each deputy commissioner shall
16 receive such salary as may be established by the commissioner with the
17 approval of the ~~President of the Civil Service Commission~~
18 Commissioner of Personnel and the Director of the Division of Budget
19 and Accounting.

20 The commissioner may designate one of the deputy commissioners
21 to exercise the powers and perform the duties of the commissioner
22 during his disability or absence.

23 (cf: P.L.1974, c.44, s.1)

24

25 45. Section 75 of P.L.1965, c.59 (C.30:4-107.1) is amended to
26 read as follows:

27 75. Whenever a mentally retarded minor or mentally deficient adult
28 is receiving functional services without court order, and is resident at
29 a State school, or private residential institution, or a ~~foster~~ resource
30 family home, or similar accommodation by arrangement of the
31 commissioner, the commissioner shall cause such mentally retarded
32 person to be released to the immediate custody of his parent or
33 guardian of the person, as the case may be, on written application of
34 said parent or guardian. Release shall be effected as promptly as
35 possible, provided, however, that 48 hours' notice may be required.
36 The department shall thereafter continue to provide such functional
37 services as may be appropriate, unless functional services are
38 terminated as hereinafter provided in this act.

39 (cf: P.L.1965, c.59, s.75)

40

41 46. Section 3 of P.L.1995, c.314 (C.30:4-177.45) is amended to
42 read as follows:

43 3. For the purposes of this act:

44 "Commissioner" means the Commissioner of Human Services.

45 "Department" means the Department of Human Services.

46 "Division" means the Division of Mental Health ~~Service~~ Services

1 in the Department of Human Services.

2 "Family" means persons related to the family member with a serious
3 mental illness by blood, marriage, adoption, guardianship,
4 [foster] resource family care or other significant care giving
5 relationship.

6 "Family member with a serious mental illness" means a person who
7 has a history, or is at serious risk, of hospitalization in a State, county
8 or private psychiatric institution.

9 "Family support services" means a coordinated system of on-going
10 public and private support services which are designed to maintain and
11 enhance the quality of life of a family.

12 "Family unit" means the family member with a serious mental illness
13 and his family.

14 "Program" means the program of family support services
15 established pursuant to this act.

16 (cf: P.L.1995, c.314, s.3)

17

18 47. Section 2 of P.L.1951, c.138 (C.30:4C-2) is amended to read
19 as follows:

20 2. For the purposes of this act the following words and terms shall,
21 unless otherwise indicated, be deemed and taken to have the meanings
22 herein given to them:

23 (a) The [title] term "Division of Youth and Family
24 [Services] Services, or division," successor to the "Bureau of
25 Children's Services" means the State agency for the care, custody,
26 guardianship, maintenance and protection of children, as more
27 specifically described by the provisions of this act, and succeeding the
28 agency heretofore variously designated by the laws of this State as the
29 State Board of Child Welfare or the State Board of Children's
30 Guardians.

31 (b) The word "child" includes stepchild and illegitimate child, and
32 further means any person under the age of 18 years.

33 (c) The term "care" means cognizance of a child for the purpose of
34 providing necessary welfare services, or maintenance, or both.

35 (d) The term "custody" means continuing responsibility for the
36 person of a child, as established by a surrender and release of custody
37 or consent to adoption, for the purpose of providing necessary welfare
38 services, or maintenance, or both.

39 (e) The term "guardianship" means control over the person and
40 property of a child as established by the order of a court of competent
41 jurisdiction, and as more specifically defined by the provisions of this
42 act. Guardianship by the Division of Youth and Family Services shall
43 be treated as guardianship by the Commissioner of Human Services
44 exercised on his behalf wholly by and in the name of the Division of
45 Youth and Family Services, acting through the chief executive officer
46 of the division or his authorized representative. Such exercise of

1 guardianship by the division shall be at all times and in all respects
2 subject to the supervision of the commissioner.

3 (f) The term "maintenance" means moneys expended by the
4 Division of Youth and Family Services to procure board, lodging,
5 clothing, medical, dental, and hospital care, or any other similar or
6 specialized commodity or service furnished to, on behalf of, or for a
7 child pursuant to the provisions of this act; maintenance also includes
8 but is not limited to moneys expended for shelter, utilities, food,
9 repairs, essential household equipment, and other expenditures to
10 remedy situations of an emergent nature to permit, as far as
11 practicable, children to continue to live with their families.

12 (g) The term "welfare services" means consultation, counseling,
13 and referral to or utilization of available resources, for the purpose of
14 determining and correcting or adjusting matters and circumstances
15 which are endangering the welfare of a child, and for the purpose of
16 promoting his proper development and adjustment in the family and
17 the community.

18 (h) The term ["foster] "resource family parent" means any person
19 other than a natural or adoptive parent with whom a child in the care,
20 custody or guardianship of the [Division of Youth and Family]
21 Department of Human Services is placed by [said division] the
22 department, or with its approval, for temporary or long-term care,
23 [but shall not] and shall include any person with whom a child is
24 placed by the division for the purpose of adoption.

25 (i) The term ["foster] "resource family home" means and includes
26 private residences, group homes, residential facilities and institutions
27 wherein any child in the care, custody or guardianship of the [Division
28 of Youth and Family] Department of Human Services may be placed
29 by the [said division] department or with its approval for temporary
30 or long-term care, and shall include any private residence maintained
31 by persons with whom any such child is placed for adoption.

32 (j) The singular includes the plural form.

33 (k) The masculine noun and pronoun include the feminine.

34 (l) The word "may" shall be construed to be permissive.

35 (m) The term "group home" means and includes any single family
36 dwelling used in the placement of 12 children or less pursuant to law,
37 recognized as a group home by the Department of Human Services in
38 accordance with rules and regulations adopted by the Commissioner
39 of Human Services; provided, however, that no group home shall
40 contain more than 12 children.

41 (n) The term "youth facility" means a facility within this State used
42 to house or provide services to children under this act, including but
43 not limited to group homes, residential facilities, day care centers, and
44 day treatment centers.

45 (o) The term "youth facility aid" means aid provided by the
46 Division of Youth and Family Services to public, private or voluntary

1 agencies to purchase, construct, renovate, repair, upgrade or
2 otherwise improve a youth facility in consideration for an agreement
3 for the agency to provide residential care, day treatment or other
4 youth services for children in need of such services.

5 (p) The term "day treatment center" means a facility used to
6 provide counseling, supplemental educational services, therapy, and
7 other related services to children for whom it has been determined that
8 such services are necessary, but is not used to house these children in
9 a residential setting.

10 (q) The term "residential facility" means a facility used to house
11 and provide treatment and other related services on a 24-hour basis to
12 children determined to be in need of such housing and services.

13 (r) The term "legally responsible person" means the natural or
14 adoptive parent, or the spouse of a child receiving maintenance from
15 or through the Division of Youth and Family Services.

16 (s) "Commissioner" means the Commissioner of Human Services.

17 (t) "Department" means the Department of Human Services.

18 (cf: P.L.1985, c.8, s.1)

19

20 48. Section 2 of P.L.2001, c.252 (C.30:4C-3.2) is amended to read
21 as follows:

22 2. The Review Panel shall consist of nineteen (19) members as
23 follows:

24 a. The Commissioner of Human Services, or a designee, shall serve
25 ex-officio.

26 b. The Commissioner of Personnel, or a designee, shall serve
27 ex-officio.

28 c. The State Treasurer, or a designee, shall serve ex-officio.

29 d. The Attorney General, or a designee, shall serve ex-officio.

30 e. The Public Defender, or a designee, shall serve ex-officio.

31 f. The Director of the Administrative Office of the Courts, or a
32 designee, shall serve ex-officio.

33 g. A representative of the Office of the Governor.

34 h. Two members of the Senate to be appointed by the President of
35 the Senate who shall each be of different political parties and who shall
36 serve during the legislative session in which the appointment is made,
37 one of whom shall be the Chairman of the Senate [Women's Issues,
38 Children and Family Services] Health, Human Services and Senior
39 Citizens Committee, or its successor. A member may be appointed for
40 any number of successive terms.

41 i. Two members of the General Assembly to be appointed by the
42 Speaker of the General Assembly who shall each be of different
43 political parties and who shall serve during the legislative session in
44 which the appointment is made, one of whom shall be the Chairman of
45 the Assembly [Senior Issues and Community] Family, Woman and
46 Children's Services Committee, or its successor. A member may be

1 appointed for any number of successive terms.

2 j. Eight public members shall be directly appointed by the Governor
3 as follows:

4 (1) three public members who are representatives from employee
5 organizations, two of whom are representatives of the
6 Communications Workers of America;

7 (2) a public member who is a representative of the Association for
8 Children of New Jersey;

9 (3) a public member who is a representative of Legal Services of
10 New Jersey;

11 (4) a public member who is a representative of a contracted service
12 provider to the Division of Youth and Family Services; and

13 (5) two public members, one of whom is a **[foster] resource family**
14 parent and one of whom is an adoptive parent.

15 (cf: P.L.2001, c.252, s.2)

16

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

19 4. The **[Division of Youth and Family] Office of Children's**
20 **Services or other entity designated by the commissioner** shall have the
21 requisite powers to:

22 (a) Exercise general supervision over children for whom care,
23 custody or guardianship is provided in accordance with **[article**
24 **2] Article II** of this act;

25 (b) Administer for the Department of Human Services the powers
26 and duties provided in chapter 3 of Title 9 of the Revised Statutes
27 (Adoption), as amended and supplemented, as the same may be
28 delegated and assigned by the **[said]** department;

29 (c) Administer for the Commissioner of Human Services the
30 powers and duties as provided in chapter 7 of Title 9 of the Revised
31 Statutes (dependent children; bringing into State), as amended and
32 supplemented, as the same may be delegated and assigned by the
33 **[said]** commissioner;

34 (d) Administer for the State Board of Institutional Trustees the
35 powers and duties provided in **[sections] R.S.30:1-14** through
36 **30:1-17** of chapter 1 of Title 30 of the Revised Statutes (visitation
37 and inspection), as amended and supplemented, so far as the same may
38 be delegated and assigned by the **[said]** State Board of Institutional
39 Trustees with respect to institutions, organizations and
40 noninstitutional agencies for the care, custody and welfare of children;

41 (e) Provide care and exercise supervision over children paroled or
42 released from State correctional institutions for juveniles in
43 accordance with rules and regulations established by the State Board
44 of Control;

45 (f) Make investigations or provide supervision of any child in this
46 State at the request and on behalf of a public or private agency or

1 institution of any other State;

2 (g) Meet and confer, as the unmet needs of New Jersey's children
3 may require, with representatives of the public welfare boards and the
4 private agencies and institutions for the care of children in this State
5 in order that the programs of such boards, agencies and institutions
6 may be developed and fully utilized and that there may be a
7 coordination of all public and private facilities for the protection and
8 care of children;

9 (h) Issue such reasonable rules and regulations as may be necessary
10 for the purpose of carrying into effect the meaning of this act, which
11 rules and regulations shall be binding so far as they are consistent with
12 such purpose.

13 (i) Promulgate and file with the Secretary of State, subject to the
14 approval of the Board of Public Welfare, rules and regulations as may
15 be necessary as a basis for the provision for payment for services
16 rendered by privately sponsored agencies or institutions to children
17 under the care, custody or guardianship of the [Division of Youth and
18 Family Services] division. Such rules and regulations shall include,
19 but shall not be limited to, standards of professional training,
20 experience and practices, and requirements relating to the moral
21 responsibility of the trustees, officers or other persons supervising or
22 conducting the program, the adequacy of the facilities, the
23 maintenance of adequate casework records, and the furnishing of
24 comprehensive reports;

25 (j) Enter into written agreements with public, private or voluntary
26 agencies to provide youth facility aid to such agencies, subject to a
27 preaward qualification review of the agency's fiscal and programmatic
28 abilities and periodic reviews.

29 (cf: P.L.1979, c.309, s.3)

30

31 50. Section 24 of P.L.1999, c.53 (C.30:4C-11.2) is amended to
32 read as follows:

33 24. In any case in which the Division of Youth and Family Services
34 accepts a child in care or custody, including placement, the division
35 shall not be required to provide reasonable efforts to prevent
36 placement of the child if a court of competent jurisdiction has
37 determined that both of the following criteria are met:

38 a. One of the following actions has occurred:

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

41 (2) the parent has been convicted of murder, aggravated
42 manslaughter or manslaughter of [a] another child of the parent;
43 aiding or abetting, attempting, conspiring or soliciting to commit
44 murder, aggravated manslaughter or manslaughter of [a] the child or
45 another child of the parent; committing or attempting to commit an
46 assault that resulted, or could have resulted, in the significant bodily

1 injury to [a] the child or another child of the parent; or committing a
2 similarly serious criminal act which resulted, or could have resulted,
3 in the death or significant bodily injury to [a] the child or another
4 child of the parent,

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

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

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

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

14 (cf: P.L.1999, c.53, s.24)

15

16 51. Section 25 of P.L.1999, c.53 (C.30:4C-11.3) is amended to
17 read as follows:

18 25. In any case in which the Division of Youth and Family Services
19 accepts a child in care or custody, including placement, the division
20 shall not be required to provide reasonable efforts to reunify the child
21 with a parent if a court of competent 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] another child of the parent;
26 aiding or abetting, attempting, conspiring or soliciting to commit
27 murder, aggravated manslaughter or manslaughter of [a] the child or
28 another child of the parent; committing or attempting to commit an
29 assault that resulted, or could have resulted, in significant bodily injury
30 to [a] the child or another child of the parent; or committing a
31 similarly serious criminal act which resulted, or could have resulted,
32 in the death of or significant bodily injury to [a] the child or another
33 child of the parent; or

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

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

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

43 A permanency plan for the child may be established at the same
44 hearing at which the court determines that reasonable efforts are not
45 required to reunify the child with the parent, if the hearing meets all of
46 the requirements of a permanency hearing pursuant to section 50 of

1 P.L.1999, c.53 (C.30:4C-61.2).

2 (cf: P.L.1999, c.53, s.25)

3

4 52. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
5 read as follows:

6 12. Whenever it shall appear that the parent or parents, guardian,
7 or person having custody and control of any child within this State is
8 unfit to be entrusted with the care and education of such child, or shall
9 fail to provide such child with proper protection, maintenance and
10 education, or shall fail to ensure the health and safety of the child, or
11 is endangering the welfare of such child, a written or oral complaint
12 may be filed with the **[Division of Youth and Family
13 Services]** division, or other entity designated by the commissioner, by
14 any person or by any public or private agency or institution interested
15 in such child. When such a complaint is filed by a public or private
16 agency or institution, it shall be accompanied by a summary setting
17 forth the reason for such complaint and other social history of the
18 child and his family's situation which justifies such complaint; or, if this
19 is not feasible, such summary shall be made available to the **[Division
20 of Youth and Family Services]** division, or other entity within the
21 department that is investigating the complaint, as soon thereafter as
22 possible. Upon receipt of a complaint as provided in this section, the
23 **[Division of Youth and Family Services]** division, or other entity
24 designated by the commissioner, 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]** may 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]** refuses
31 to permit or **[shall]** in any way **[impede]** impedes an investigation,
32 and the **[division]** department determines that further investigation is
33 necessary in the best interests of the child, the division may thereupon
34 apply to the Family Part of the Chancery Division of the Superior
35 Court in the county where the child resides, for an order directing the
36 parent, parents, guardian, or person having custody and control of the
37 child to permit immediate investigation. The court, upon such
38 application, may proceed to hear the matter in a summary manner and
39 if satisfied that the best interests of the child so require may issue an
40 order as requested.

41 If, after such investigation has been completed, it appears that the
42 child requires care and supervision by the **[Division of Youth and
43 Family Services]** division or other action to ensure the health and
44 safety of the child, **[but the parent, parents, guardian, or person having
45 custody and control of the child continue to refuse to apply for care in**

1 the manner provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or
2 to take action to ensure the health and safety of the child,] the division
3 may apply to the Family Part of the Chancery Division of the Superior
4 Court in the county where the child resides for an order making the
5 child a ward of the court and placing [such] the child under the care
6 and supervision of the [Division of Youth and Family
7 Services] division.

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

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

27 (cf: P.L.1999, c.53, s.27)

28

29 53. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to
30 read as follows:

31 6. a. In any case in which the Division of Youth and Family
32 Services accepts a child in its care or custody, including placement, the
33 division shall initiate a search for relatives who may be willing and able
34 to provide the care and support required by the child. The search shall
35 be initiated within 30 days of the division's acceptance of the child in
36 its care or custody. The search will be completed when all sources
37 contacted have either responded to the inquiry or failed to respond
38 within 45 days. The division shall complete an assessment of each
39 interested relative's ability to provide the care and support, including
40 placement, required by the child.

41 b. If the division determines that the relative is unwilling or unable
42 to assume the care of the child, the division shall not be required to
43 re-evaluate the relative. The division shall inform the relative in
44 writing of:

45 (1) the reasons for the division's determination;

46 (2) the responsibility of the relative to inform the division if there

1 is a change in the circumstances upon which the determination was
2 made;

3 (3) the possibility that termination of parental rights may occur if
4 the child remains in [foster] resource family care for more than six
5 months; and

6 (4) the right to seek review by the division of such determination.

7 c. The division may decide to pursue the termination of parental
8 rights if the division determines that termination of parental rights is
9 in the child's best interests.

10 (cf: P.L.1995, c.416, s.1)

11

12 54. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to
13 read as follows:

14 28. In any case in which the Division of Youth and Family Services
15 accepts a child in its care or custody, the child's [foster] resource
16 family parent[, preadoptive parent] or relative providing care for the
17 child, as applicable, shall receive written notice of and an opportunity
18 to be heard at any review or hearing held with respect to the child, but
19 the [foster] resource family parent[, preadoptive parent] or relative
20 shall not be made a party to the review or hearing solely on the basis
21 of the notice and opportunity to be heard.

22 (cf: P.L.1999, c.53, s.28)

23

24 55. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
25 read as follows:

26 15. Whenever

27 (a) it appears that a court wherein a complaint has been proffered
28 as provided in chapter 6 of Title 9 of the Revised Statutes, has entered
29 a conviction against the parent or parents, guardian, or person having
30 custody and control of any child because of abuse, abandonment,
31 neglect of or cruelty to such child; or

32 (b) (Deleted by amendment, P.L.1991, c.275);

33 (c) it appears that the best interests of any child under the care or
34 custody of the [Division of Youth and Family Services] division
35 require that he be placed under guardianship; or

36 (d) it appears that a parent or guardian of a child, following the
37 acceptance of such child by the division pursuant to section 11 or 12
38 of P.L.1951, c.138 (C.30:4C-11 or 12), or following the placement or
39 commitment of such child in the care of an authorized agency, whether
40 in an institution or in a [foster] resource family home, and
41 notwithstanding the reasonable efforts of such agency to encourage
42 and strengthen the parental relationship, has failed for a period of one
43 year to remove the circumstances or conditions that led to the removal
44 or placement of the child, although physically and financially able to
45 do so, notwithstanding the division's reasonable efforts to assist the
46 parent or guardian in remedying the conditions; or

1 (e) the parent has abandoned the child; or
2 (f) the parent of a child has been found by a criminal court of
3 competent jurisdiction to have committed murder, aggravated
4 manslaughter or manslaughter of another child of the parent; to have
5 aided or abetted, attempted, conspired, or solicited to commit such
6 murder, aggravated manslaughter or manslaughter of the child or
7 another child of the parent; or to have committed, or attempted to
8 commit, an assault that resulted, or could have resulted, in the
9 significant bodily injury to the child or another child of the parent; or
10 the parent has committed a similarly serious act which resulted, or
11 could have resulted, in the death or significant bodily injury to the
12 child or another child of the parent; a petition to terminate the parental
13 rights of the child's parents, setting forth the facts in the case, shall be
14 filed by the division with the Family Part of the Chancery Division of
15 the Superior Court in the county where such child may be at the time
16 of the filing of such petition. A petition shall be filed as soon as any
17 one of the circumstances in subsections (a) through (f) of this section
18 is established, but no later than when the child has been in placement
19 for 15 of the most recent 22 months, unless the division establishes an
20 exception to the requirement to seek termination of parental rights in
21 accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3). Upon
22 filing the petition, the division shall initiate concurrent efforts to
23 identify, recruit, process and approve a qualified family to adopt the
24 child.

25 A petition as provided in this section may be filed by any person or
26 any association or agency, interested in such child in the circumstances
27 set forth in subsections (a) and (f) of this section. The division shall
28 seek to be joined as a party to a petition filed to terminate the parental
29 rights of a child in the care and custody of the division unless the
30 division has established an exception to the requirement to seek
31 termination of parental rights in accordance with section 31 of
32 P.L.1999, c.53 (C.30:4C-15.3).

33 (cf: P.L.1999, c.53, s.29)

34

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

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

41 (1) The child's safety, health or development has been or will
42 continue to be endangered by the parental relationship;

43 (2) The parent is unwilling or unable to eliminate the harm facing
44 the child or is unable or unwilling to provide a safe and stable home
45 for the child and the delay of permanent placement will add to the
46 harm. Such harm may include evidence that separating the child from

1 his [foster] resource family parents would cause serious and enduring
2 emotional or psychological harm to the child;

3 (3) The division has made reasonable efforts to provide services to
4 help the parent correct the circumstances which led to the child's
5 placement outside the home and the court has considered alternatives
6 to termination of parental rights; and

7 (4) Termination of parental rights will not do more harm than
8 good.

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

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

14 (a) the parent, although able to have contact, has had no contact
15 with the child, the child's [foster] resource family parent or the
16 division; and

17 (b) the parent's whereabouts are unknown, notwithstanding the
18 division's reasonable efforts to locate the parent; or

19 (2) where the identities of the parents are unknown and the
20 division has exhausted all reasonable methods of attempting
21 identification, the division may immediately file for termination of
22 parental rights upon the completion of the law enforcement
23 investigation; or

24 (3) where the parent voluntarily delivered the child to and left the
25 child at, or voluntarily arranged for another person to deliver the child
26 to and leave the child at a State, county or municipal police station or
27 at an emergency department of a licensed general hospital in this State
28 when the child is or appears to be no more than 30 days old, without
29 expressing an intent to return for the child, as provided in section 4 of
30 P.L.2000, c.58 (C.30:4C-15.7), the division shall file for termination
31 of parental rights no later than 21 days after the day the division
32 assumed care, custody and control of the child.

33 c. As used in this section and in section 15 of P.L.1951, c.138
34 (C.30:4C-15) "reasonable efforts" mean attempts by an agency
35 authorized by the division to assist the parents in remedying the
36 circumstances and conditions that led to the placement of the child and
37 in reinforcing the family structure, 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 "reasonable efforts"
46 as defined in subsection c. of this section prior to filing a petition for

1 the termination of parental rights if an exception to the requirement to
2 provide reasonable efforts to reunify the family has been established
3 pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).
4 (cf: P.L.2000, c.58, s.3)

5
6 57. Section 22 of P.L.1951, c.138 (C.30:4C-22) is amended to
7 read as follows:

8 22. The care, custody or guardianship of the [Division of Youth
9 and Family Services] division shall be full and complete for all
10 purposes and shall vest in the division the custody and control of both
11 the person and property of children in its custody or care, and of its
12 wards, whether committed prior or subsequent to the effective date of
13 this act, when the children are in [foster] resource family homes,
14 without the necessity of giving bond, and notwithstanding any
15 previous appointment of a guardian for the children under its custody
16 or care or such wards.

17 Such care, custody or guardianship of the division shall enable the
18 division, acting through the chief executive officer of the division or
19 his authorized representative, to prosecute suits, claims and any and
20 all manner of proceedings or actions in law or equity for and on behalf
21 of the children under its custody or care or its wards when the children
22 are in [foster] resource family homes; to demand and receive from all
23 persons, including guardians previously appointed, any and all
24 property of the children under its custody or care or its wards when
25 the children are in [foster] resource family homes; and to hold and
26 administer the real and personal property of the children under its
27 custody or care or its wards when the children are in [foster] resource
28 family homes, or any interest they may have therein; provided,
29 however, that it shall be proper for the division, in its discretion, to
30 hold funds of the children under its custody or care or its wards when
31 the children are in [foster] resource family homes on deposit in one
32 or more banks, building and loan associations, or trust companies in
33 this State, and to apply funds, other than earned income or the corpus
34 of any trust, devise or intestate share, or the proceeds of an insurance
35 contract or a personal injury award which a court specifically awards
36 to a child to make the child whole as a result of an injury, of any child
37 under its custody or care or any ward when the child is in a [foster]
38 resource family home against expenditures for the maintenance of such
39 child under its custody or care or ward when the child is in a [foster]
40 resource family home.

41 A court of competent jurisdiction shall hear and determine petitions
42 by the division, on behalf of the children under its custody or care or
43 its wards when the children are in [foster] resource family homes, for
44 the transfer of any or all assets being held by guardians previously
45 appointed. The court shall have jurisdiction, in its discretion, to waive

1 costs in any proceedings by the division on behalf of the children under
2 its custody or care or its wards when the children are in [foster]
3 resource family homes.

4 (cf: P.L.1985, c.8, s.2)

5

6 58. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to
7 read as follows:

8 26. a. Whenever the circumstances of a child are such that his
9 needs cannot be adequately met in his own home, the [Division of
10 Youth and Family Services] division may effect his placement in a
11 [foster] resource family home, with or without payment of board, in
12 a group home, or in an appropriate institution if such care is deemed
13 essential for him. The [Division of Youth and Family Services]
14 division shall make every reasonable effort to select a [foster]
15 resource family home, a group home or an institution of the same
16 religious faith as the parent or parents of such child.

17 b. Whenever the [Division of Youth and Family Services] division
18 shall place any child, as provided by this section, in any municipality
19 and county of this State, the child shall be deemed a resident of such
20 municipality and county for all purposes except school funding, and he
21 shall be entitled to the use and benefit of all health, recreational,
22 vocational and other facilities of such municipality and county in the
23 same manner and extent as any other child living in such municipality
24 and county.

25 c. Whenever the [Division of Youth and Family Services] division
26 shall place any child, as provided by this section, in any school district,
27 the child shall be entitled to the educational benefits of such district;
28 provided, however, that the district of residence, as determined by the
29 Commissioner of Education pursuant to law, shall be responsible for
30 paying tuition for such child to the district in which he is placed.

31 d. No municipality shall enact a planning or zoning ordinance
32 governing the use of land by, or for, single family dwellings which
33 shall, by any of its terms or provisions or by any rule or regulation
34 adopted in accordance therewith, discriminate between children who
35 are members of such single families by reason of their relationship by
36 blood, marriage or adoption, [foster] children placed with such
37 families in such dwellings by the [Division of Youth and Family]
38 division, Office of Children's Services or other entity designated by the
39 Commissioner of Human Services, and children placed pursuant to law
40 with families in single family dwellings known as group homes.

41 Any planning or zoning ordinance, heretofore or hereafter enacted
42 by a municipality, which violates the provisions of this section, shall
43 be invalid and inoperative.

44 (cf: P.L.1979, c.207, s.18)

1 59. Section 1 of P.L.1962, c.137 (C.30:4C-26.1) is amended to
2 read as follows:

3 1. As used in this act ["foster] "resource family home" means and
4 includes private residences, group homes and institutions wherein any
5 child in the care, custody or guardianship of the Division of Youth and
6 Family Services, may be placed for temporary or long-term care, and
7 shall include any private residence maintained by persons with whom
8 any such child is placed by the division for adoption.
9 (cf: P.L.1974, c.178, s.3)

10

11 60. Section 3 of P.L.1962, c.137 (C.30:4C-26.3) is amended to
12 read as follows:

13 3. Such shelters shall be equipped and used for the temporary care
14 and supervision of children who are placed in the care, custody or
15 guardianship of the [Bureau of Childrens] Division of Youth and
16 Family Services, during the interim between such placement and
17 placement in a suitable ["foster] resource family home. Such shelters
18 shall be properly staffed to provide for child care and supervision and
19 shall contain the necessary facilities for both physical and
20 psychological examinations of such children.
21 (cf: P.L.1964, c.102, s.13)

22

23 61. Section 1 of P.L.1962, c.136 (C.30:4C-26.4) is amended to
24 read as follows:

25 1. As used in this act ["foster] "resource family parent" shall
26 mean any person with whom a child in the care, custody or
27 guardianship of the [Bureau of Childrens] Division of Youth and
28 Family Services, is placed for temporary or long-term care[,but] and
29 shall [not] include any [persons] person with whom a child is placed
30 by the division for the purpose of adoption.
31 (cf: P.L.1964, c.102, s.8)

32

33 62. Section 2 of P.L.1962, c.136 (C.30:4C-26.5) is amended to
34 read as follows:

35 2. Notwithstanding the provisions of any other law or any rule or
36 regulation of the [Bureau of Childrens] Division of Youth and Family
37 Services, no agreement entered into between [said bureau] the
38 division and any ["foster] resource family parent for the care of any
39 child in the care, custody or guardianship of [said bureau] the division
40 shall contain any provision prohibiting the adoption of any [said] child
41 by the ["foster] resource family parent.
42 (cf: P.L.1964, c.102, s.9)

43

44 63. Section 1 of P.L.1962, c.139 (C.30:4C-26.6) is amended to
45 read as follows:

1 1. As used in this act ["foster] "resource family parent" shall
2 mean any person with whom a child in the care, custody or
3 guardianship of the [Bureau of Childrens] Division of Youth and
4 Family Services, is placed for temporary or long-term care[, but] and
5 shall [not] include any [persons] person with whom a child is placed
6 by the division for the purpose of adoption.

7 (cf: P.L.1964, c.102, s.15)

8

9 64. Section 2 of P.L.1962, c.139, (C.30:4C-26.7) is amended to
10 read as follows:

11 2. Any [husband and wife] person, who, as [foster parents] a
12 resource family parent, [have] has cared for a child continuously for
13 a period of [2 years] 15 months or more, may apply to the [Bureau
14 of Childrens] Division of Youth and Family Services, for the
15 placement of [said] the child with them for the purpose of adoption
16 and if [said] the child is eligible for adoption, the [bureau] division
17 shall give preference and first consideration to their application over
18 all other applications for adoption placements.

19 (cf: P.L.1964, c.102, s.16)

20

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

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

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

40 c. For the purposes of this section, a conviction for one of the
41 offenses enumerated in subsection d. or e. of this section has occurred
42 if the person has been convicted under the laws of this State or any
43 other state or jurisdiction for an offense that is substantially equivalent
44 to the offenses enumerated in these subsections.

45 d. A person shall be disqualified from being a [foster] resource

1 family parent or shall not be eligible to adopt a child if that person or
2 any adult residing in that person's household ever committed a crime
3 which resulted in a conviction for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 For the purposes of this subsection, the "date of release from
4 confinement" means the date of termination of court-ordered
5 supervision through probation, parole, or residence in a correctional
6 facility, whichever date occurs last.

7 For purposes of this section, "resource family parent" means any
8 person with whom a child in the care, custody or guardianship of the
9 Division of Youth and Services is placed for temporary or long-term
10 care and shall include any person with whom a child is placed by the
11 division for the purpose of adoption.

12 (cf: P.L.1999, c.53, s.34)

13

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

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

31 For purposes of this section, "resource family parent" means any
32 person with whom a child in the care, custody or guardianship of the
33 Division of Youth and Services is placed for temporary or long-term
34 care and shall not include any person with whom a child is placed by
35 the division for the purpose of adoption.

36 (cf: P.L.1999, c.53, s.35)

37

38 67. Section 27 of P.L.1951, c.138 (C.30:4C-27) is amended to
39 read as follows:

40 27. Pursuant to the providing of care, custody or guardianship for
41 any child, in accordance with the provisions of this act, the **[Division**
42 **of Youth and Family Services]** division may expend such sums as may
43 be necessary for the reasonable and proper cost of maintenance,
44 including board, lodging, clothing, medical, dental, and hospital care,
45 or any other similar or specialized commodity or service as the needs
46 of any such child may require, except that the division shall not

1 maintain a clothing warehouse for the distribution of clothing to
2 children under its jurisdiction. In lieu thereof, the division may pay
3 **[foster] resource family** parents caring for children under their
4 supervision a sufficient amount to enable them to purchase necessary
5 clothing items required by the children from the local merchants of the
6 locality in which they reside. Such maintenance costs and the total
7 cost of hospital care for children as provided for herein shall be borne
8 by the State. However, no costs shall be chargeable if incurred earlier
9 than the date of the child's acceptance in care as provided in section 12
10 hereof, or earlier than the date of an order of commitment to
11 guardianship as provided in section 20 hereof.

12 Whenever a medical or psychological examination shall be required
13 for any child as a condition to providing care or custody, or whenever
14 the division avails itself of the facilities and services of any privately
15 sponsored agency or institution, the cost of the examination or service
16 shall be a proper charge against State funds, within the limits of
17 available appropriations, in the same manner and extent as
18 expenditures for maintenance.

19 In providing care, custody or guardianship for any child or in the
20 course of determining the eligibility of any child for care, custody or
21 guardianship in accordance with the provisions of this act, the division
22 may avail itself of the facilities and services of any privately sponsored
23 agency or institution, with due regard to the religious background of
24 the child, which complies with those rules and regulations as
25 established pursuant to this act, paying such fees for service as may be
26 mutually agreed upon by the division and the privately sponsored
27 agency or institution providing service.

28 Whenever a child under care, custody or guardianship is in need of
29 operation, anaesthesia, diagnostic tests or treatment, the division may
30 give its consent thereto. A consent to operation, anaesthesia,
31 diagnostic tests or treatment when given by the division on behalf of
32 any child receiving care, custody or guardianship shall be deemed legal
33 and valid for all purposes with respect to any person or hospital
34 affording service to such child pursuant to and in reliance upon such
35 consent.

36 Nothing contained herein shall modify the provisions of section 6
37 of the act of which this act is amendatory.

38 (cf: P.L.1990, c.66, s.3)

39

40 68. Section 1 of P.L.1962, c.135 (C.30:4C-27.1) is amended to
41 read as follows:

42 1. As used in this act **["foster] resource family parent** shall
43 mean any person with whom a child in the care, custody or
44 guardianship of the **[Bureau of Childrens] Division of Youth and**
45 **Family Services**, is placed for temporary or long-term care**[, but] and**
46 shall **[not] include any [persons] person** with whom a child is placed

1 by the division for the purpose of adoption.

2 (cf: P.L.1964, c.102, s.5)

3

4 69. Section 2 of P.L.1962, c.135 (C.30:4C-27.2) is amended to
5 read as follows:

6 2. Notwithstanding the provision of any other law, the maintenance
7 of a clothing warehouse and distribution center for the distribution of
8 clothing to children in the care, custody or guardianship of the
9 **[Bureau of Childrens] Division of Youth and Family Services**, shall be
10 discontinued and in lieu thereof the **[bureau] division** shall increase
11 the monthly allowance payable to any **[foster] resource family** parent
12 caring for any of **[said] the** children in a sufficient amount to enable
13 **[said foster] the resource family** parent to purchase the necessary
14 clothing items required by **[said] the** children from the local merchants
15 of the locality wherein the **[foster] resource family** parent resides.

16 (cf: P.L.1964, c.102, s.6)

17

18 70. Section 1 of P.L.2001, c.419 (C.30:4C-27.3) is amended to
19 read as follows:

20 1. This act shall be known and may be cited as the **["Foster]
21 Resource Family Parent Licensing Act."**

22 (cf: P.L.2001, c.419, s.1)

23

24 71. Section 2 of P.L.2001, c.419 (C.30:4C-27.4) is amended to
25 read as follows:

26 2. The Legislature finds and declares that: each child requiring
27 **[foster] resource family** care should reside in a safe home with a
28 nurturing substitute family who can meet the child's individual needs;
29 the most effective way to ensure the health, safety, general well-being
30 and physical, emotional, social and educational needs of a child
31 residing in a **[foster] resource family** home is to require the annual
32 inspection and monitoring of a **[foster] resource family** home and to
33 obligate a person to secure and maintain a license in order to provide
34 **[foster] resource family** care to a child; therefore, it is in the public
35 interest to license **[foster] resource family** parents and regulate
36 **[foster] resource family** homes in order to ensure the safety, health
37 and proper development of children placed in **[foster] resource family**
38 care.

39 (cf: P.L.2001, c.419, s.2)

40

41 72. Section 3 of P.L.2001, c.419 (C.30:4C-27.5) is amended to
42 read as follows:

43 3. As used in this act:

44 "Child" means a person who: is either under the age of 18 or meets
45 the criteria set forth in subsection f. of section 2 of P.L.1972, c.81

1 (C.9:17B-2); and is under the care or custody of the division or
2 another public or private agency authorized to place children in New
3 Jersey.

4 "Commissioner" means the Commissioner of Human Services.

5 "Department" means the Department of Human Services.

6 "Division" means the Division of Youth and Family Services in the
7 Department of Human Services.

8 ["Foster"] "Resource family home" or "home" means a private
9 residence, other than a children's group home or shelter home, in
10 which board, lodging, care and temporary out-of-home placement
11 services are provided by a [foster] resource family parent on a
12 24-hour basis to a child under the auspices of the division or any
13 public or private agency authorized to place children in New Jersey.

14 ["Foster"] "Resource family parent" means a person who has been
15 licensed pursuant to this act to provide [foster] resource family care
16 to five or fewer children, except that the [division] department may
17 license a [foster] resource family parent to provide care for more than
18 five children, if necessary, to keep sibling groups intact or to serve the
19 best interests of the children in the home.

20 "License" means a document issued by the [division] department
21 to a person who meets the requirements of this act to provide
22 [foster] resource family care to children in the person's home.

23 (cf: P.L.2001, c.419, s.3)

24

25 73. Section 4 of P.L.2001, c.419 (C.30:4C-27.6) is amended to
26 read as follows:

27 4. a. A person shall not provide [foster] resource family care to
28 a child unless the person is licensed by the [division] department
29 pursuant to this act. The license shall be issued to a specific person
30 for a specific residence and shall not be transferable to another person
31 or residence. The [foster] resource family parent shall maintain the
32 license on file at the [foster] resource family home.

33 b. A person desiring to provide [foster] resource family care to a
34 child shall apply to the [division] department for a license in a manner
35 and form prescribed by the commissioner.

36 c. A [foster] resource family parent applicant or [foster] resource
37 family parent shall be of good moral character.

38 d. A [foster] resource family parent applicant or [foster] resource
39 family parent, as applicable, shall:

40 (1) Complete the license application form provided by the
41 [division] department;

42 (2) Provide written consent for the division to conduct a check of
43 its child abuse records pursuant to section 4 of P.L.1971, c.437
44 (C.9:6-8.11);

45 (3) Provide written consent from each adult member of the

1 [foster] resource family parent applicant's household for the division
2 to conduct a child abuse record information check on that person; and
3 (4) Immediately notify the [division] department when a new adult
4 becomes a resident of the [foster] resource family parent applicant's
5 or [foster] resource family parent's household in order to ensure that
6 the department can conduct a criminal history record background
7 check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the
8 division can conduct a child abuse record information check on the
9 new adult household member.

10 e. As a condition of securing a license, the applicant shall
11 participate in pre-service training in accordance with standards
12 adopted by the commissioner pursuant to this act.

13 f. A [foster] resource family parent licensed pursuant to this act
14 shall participate in [a minimum of 14 hours of] pre-service and
15 in-service training in [every 24-month period in] accordance with
16 standards adopted by the commissioner pursuant to this act.
17 (cf: P.L.2001, c.419, s.4)

18

19 74. Section 5 of P.L.2001, c.419 (C.30:4C-27.7) is amended to
20 read as follows:

21 5. a. The division shall conduct a child abuse record information
22 check of the division's child abuse records to determine if an incident
23 of child abuse or neglect has been substantiated, pursuant to section
24 4 of P.L.1971, c.437 (C.9:6-8.11), against a [foster] resource family
25 parent applicant or any adult member of the [foster] resource family
26 parent applicant's household, upon receipt of written consent from the
27 [foster] resource family parent applicant or any adult member of the
28 [foster] resource family parent applicant's household pursuant to
29 subsection d. of section 4 of [this act] P.L.2001, c.419 (C.30:4C-
30 27.6).

31 The [division] department shall consider, for the purposes of this
32 act, any incidents of child abuse or neglect that were substantiated on
33 or after June 29, 1995, to ensure that a [foster] resource family parent
34 applicant or adult member of the [foster] resource family parent
35 applicant's household has had an opportunity to appeal a substantiated
36 finding of child abuse or neglect pursuant to [N.J.A.C.10:120A-1.1 et
37 seq.] department regulations, except that the [division] department
38 may consider substantiated incidents prior to that date if the [division]
39 department, in its judgment, determines that the [foster] resource
40 family parent applicant or adult household member poses a risk of
41 harm in a [foster] resource family home. In cases involving incidents
42 substantiated prior to June 29, 1995, the [division] department shall
43 offer the [foster] resource family parent applicant or adult member of
44 the [foster] resource family parent applicant's household an

1 opportunity for a hearing to contest its action restricting the [foster]
2 resource family parent applicant from providing [foster] resource
3 family care to a child.

4 b. (1) The [division] department shall conduct an annual on-site
5 inspection of a [foster] resource family home and evaluate the
6 [foster] resource family home to determine whether it complies with
7 the provisions of this act.

8 (2) The [division] department may, without prior notice, inspect
9 and examine a [foster] resource family home and inspect all
10 documents, records, files or other data required to be maintained by
11 a [foster] resource family parent pursuant to this act.

12 c. If an applicant meets the requirements of this act, the [division]
13 department shall issue a license to that person.

14 d. (1) The license shall be valid for [three years] the time period
15 designated by the commissioner, subject to the [foster] resource
16 family parent's continued compliance with the provisions of this act.

17 (2) The [division] department shall determine if the license shall
18 be renewed based upon the results of the annual on-site inspection and
19 evaluation of the [foster] resource family home conducted pursuant
20 to this section. If the on-site inspection and evaluation indicate the
21 [foster] resource family home's full or substantial compliance with the
22 provisions of this act, the [division] department shall renew the
23 license.

24 (cf: P.L.2001, c.419, s.5)

25

26 75. Section 6 of P.L.2001, c.419 (C.30:4C-27.8) is amended to
27 read as follows:

28 6. a. The department shall ensure that a State and federal criminal
29 history record background check is conducted on a [foster] resource
30 family parent applicant and any adult member of the [foster] resource
31 family parent applicant's household pursuant to the provisions of
32 section 1 of P.L.1985, c.396 (C.30:4C-26.8).

33 b. The Division of State Police in the Department of Law and
34 Public Safety shall promptly notify the [division] department in the
35 event a [foster] resource family parent or any adult member of the
36 [foster] resource family parent's household, who was the subject of a
37 criminal history record background check conducted pursuant to this
38 section, is convicted of a crime or offense in this State after the date
39 the background check was performed. Upon receipt of such
40 notification, the [division] department shall make a determination
41 whether to suspend or revoke the [foster] resource family parent's
42 license.

43 (cf: P.L.2001, c.419, s.6)

44

45 76. Section 7 of P.L.2001, c.419 (C.30:4C-27.9) is amended to

1 read as follows:

2 7. The [division] department may deny, suspend or revoke a
3 license for good cause, including, but not limited to:

4 a. Failure of a [foster] resource family parent applicant or [foster]
5 resource family parent to comply with the provisions of this act;

6 b. Failure of a [foster] resource family parent applicant or any
7 adult member of the [foster] resource family parent applicant's
8 household to consent to, or cooperate in, the securing of a criminal
9 history record background check pursuant to section 1 of P.L.1985,
10 c.396 (C.30:4C-26.8) or a division child abuse record information
11 check pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

12 c. The conviction of a [foster] resource family parent applicant or
13 any adult member of the [foster] resource family parent applicant's
14 household of a crime enumerated under section 1 of P.L.1985, c.396
15 (C.30:4C-26.8);

16 d. A determination that an incident of child abuse or neglect by a
17 [foster] resource family parent applicant or any adult member of the
18 [foster] resource family parent applicant's household has been
19 substantiated, except that the [division] department may issue the
20 license if the [division] department determines that the [foster]
21 resource family parent applicant or adult household member poses no
22 continuing risk of harm to the child and the issuance of the license is
23 in the child's best interests;

24 e. Violation of the terms and conditions of a license;

25 f. Use of fraud or misrepresentation by a [foster] resource family
26 parent applicant or [foster] resource family parent in obtaining a
27 license;

28 g. Refusal by a [foster] resource family parent applicant or
29 [foster] resource family parent to furnish the [division] department
30 with information, files, reports or records required for compliance with
31 the provisions of this act;

32 h. Refusal by a [foster] resource family parent applicant or
33 [foster] resource family parent to permit an inspection of a [foster]
34 resource family home by an authorized representative of the [division]
35 department; and

36 i. Any conduct, engaged in or permitted, which adversely affects
37 or presents a serious hazard to the education, health, safety, general
38 well-being or physical, emotional and social development of the child
39 residing in the [foster] resource family home, or which otherwise fails
40 to comply with the standards required for the provision of [foster]
41 resource family care to a child and the maintenance of a [foster]
42 resource family home.

43 (cf: P.L.2001, c.419, s.7)

44

45 77. Section 8 of P.L.2001, c.419 (30:4C-27.10) is amended to read

1 as follows:

2 8. Before denying, suspending or revoking a license, the [division]
3 department shall give notice to a [foster] resource family parent
4 applicant or [foster] resource family parent personally or by mail to
5 the last known address of the [foster] resource family parent applicant
6 or [foster] resource family parent with return receipt requested. The
7 notice shall afford the [foster] resource family parent applicant or
8 [foster] resource family parent the opportunity to be heard and to
9 contest the [division's] department's action. The hearing shall be
10 conducted in accordance with the "Administrative Procedure Act,"
11 P.L.1968, c.410 (C.52:14B-1 et seq.).
12 (cf: P.L.2001, c.419, s.8)

13
14 78. Section 9 of P.L.2001, c.419 (C.30:4C-27.11) is amended to
15 read as follows:

16 9. A person aggrieved by a final decision of the [division]
17 department is entitled to seek judicial review in the Appellate Division
18 of the Superior Court. All petitions for review shall be filed in
19 accordance with the Rules of Court.
20 (cf: P.L.2001, c.419, s.9)

21
22 79. Section 13 of P.L.2001, c.419 (C.30:4C-27.15) is amended to
23 read as follows:

24 13. a. The commissioner shall adopt rules and regulations pursuant
25 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
26 et seq.) to carry out the purposes of this act.

27 The regulations shall include standards governing: the safety and
28 adequacy of the physical premises of a [foster] resource family home;
29 the health, safety, general well-being and physical, emotional, social
30 and educational needs of a child in [foster] resource family care; the
31 training of a [foster] resource family parent; the responsibility of a
32 [foster] resource family parent to participate in the case plan of a
33 child in [foster] resource family care and to allow access by the
34 [division] department to the child; the maintenance and confidentiality
35 of records and furnishing of required information to the [division]
36 department; the transportation of a child in [foster] resource family
37 care; and the provision of other needed services on behalf of a child in
38 [foster] resource family care. The commissioner shall also adopt rules
39 and regulations for license application, issuance, denial, suspension
40 and revocation.

41 b. Nothing in this act shall be construed to permit the department
42 to adopt any code or standard that exceeds the standards established
43 pursuant to the "State Uniform Construction Code Act," P.L.1975,
44 c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act,"
45 P.L.1983, c.383 (C.52:27D-192 et seq.).

1 (cf: P.L.2001, c.419, s.13)

2 80. Section 1 P.L.1962, c.142 (C.30:4C-29.1) is amended to read
3 as follows:

4 1. a. In any case in which the Department of Human Services,
5 through the Division of Youth and Family Services, is providing care
6 or custody for any child when the child is in a [foster] resource family
7 home, any legally responsible person of the child, if of sufficient
8 financial ability, is liable for the full costs of maintenance of the child
9 incurred by the division. If the legally responsible person is of
10 insufficient financial ability, the person is liable in an amount which a
11 court of competent jurisdiction directs according to a scheduled rate
12 approved by the division. Nothing contained herein shall prevent the
13 legally responsible person from voluntarily executing an agreement for
14 payment to the division for the costs of maintenance of the child
15 receiving care or custody when the child is in a [foster] resource
16 family home.

17 b. The division shall have a lien against the property of the legally
18 responsible person in an amount equal to the amount to be paid, which
19 lien shall have priority over all unrecorded encumbrances.

20 c. If the legally responsible person fails to reimburse the
21 department, through the [Division of Youth and Family Services]
22 division, for the costs of maintenance of a child incurred by the
23 division when the child is in a [foster] resource family home, a court
24 of competent jurisdiction, upon the complaint of the Commissioner of
25 Human Services, may summon the legally responsible person and other
26 witnesses, and may order the legally responsible person to pay an
27 amount to the department, according to a scheduled rate approved by
28 the division.

29 d. In any case in which the department, through the [Division of
30 Youth and Family Services] division, has agreed to provide youth
31 facilities aid to a public, private or voluntary agency pursuant to this
32 act, the division shall have a lien against the property of any person,
33 persons or agency so contracting, in an amount equal to the amount
34 or amounts so contracted to be paid, which lien shall have priority
35 over all unrecorded encumbrances. Such lien shall be reduced for each
36 year of service provided by the agency at a rate to be negotiated by the
37 division and the agency, but in no case more than 20% a year;
38 provided, however, that annual reductions shall not exceed
39 [\$10,000.00] \$10,000.

40 (cf: P.L.1985, c.8, s.4)

41

42 81. Section 1 of P.L.1973, c.81 (C.30:4C-45) is amended to read
43 as follows:

44 1. It is the intent of the Legislature in enacting this act to benefit
45 hard-to-place children in [foster] resource family care at State
46 expense by providing the stability and security of permanent homes.

1 (cf: P.L.1973, c.81, s.1)

2

3 82. Section 2 of P.L.1973, c.81 (C.30:4C-46) is amended to read
4 as follows:

5 2. The Division of Youth and Family Services shall make payments
6 to adoptive parents on behalf of a child placed for adoption by the
7 division whenever:

8 a. The child because of physical or mental condition, race, age, or
9 membership in a sibling group, or for any other reason falls into the
10 category of a child hard to place for adoption;

11 b. The adoptive family is capable of providing the permanent family
12 relationships needed by the child; and

13 c. Except in situations involving adoption by a child's [foster]
14 resource family parent, there has been a reasonable effort to place the
15 child in an adoptive setting without providing a subsidy.

16 Payments shall be made on behalf of a child placed for adoption by
17 the [Division of Youth and Family Services] division except that
18 whenever a child who would otherwise be eligible for subsidy payment
19 is in the care of an approved New Jersey adoption agency pursuant to
20 P.L.1977, C.367 (C.9:3-37 et seq.) a child shall, upon application by
21 the agency and satisfaction of the regular requirements of the adoption
22 subsidy program, be approved for participation in the adoption subsidy
23 program. In any case the division may approve payment in
24 subsidization of adoption for a child without legal transfer of care or
25 custody of the child to the division. The division shall adopt
26 regulations for administration of this program with respect to these
27 children, except that all children are evaluated for eligibility in the
28 same manner as children already under the care, custody or
29 guardianship of the division.

30 (cf: P.L.1983, c.484, s.1)

31

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

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

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

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

1 placed by the court in the home of a person related to the child who
2 does not receive any payment from the division for the care of the
3 child;

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

6 d. "Division" means the Division of Youth and Family Services in
7 the Department of Human Services;

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

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

14 (cf: P.L.1999, c.53, s.38)

15

16 84. Section 1 of P.L.1991, c.448 (C.30:4C-53.1) is amended to
17 read as follows:

18 1. The Legislature finds and declares that it is in the public interest,
19 whereby the safety of children shall be of paramount concern, to afford
20 every child placed outside his home by the [division]Division of
21 Youth and Family Services in the Department of Human Services with
22 permanency through return to his own home, if the child can be
23 returned home without endangering the child's health or safety;
24 through adoption, if family reunification is not possible; or through an
25 alternative permanent placement, if termination of parental rights is not
26 appropriate:

27 a. Due to the severity of health and social problems such as AIDS,
28 drug abuse and homelessness, the [Division of Youth and Family
29 Services in the Department of Human Services] division often works
30 with families over a period of many years, and the children of these
31 families often spend a majority of their young lives in [foster]
32 resource family care; and

33 b. Research has shown that the longer children remain in the
34 [foster] resource family care system, the greater number of
35 placements they experience. As a result of these multiple placements,
36 from birth family to [foster] resource family home and from one
37 [foster] resource family home to another [foster] resource family
38 home, children develop emotional and psychological problems, making
39 it more difficult for them to develop a positive self-image; and

40 c. [For the majority of these children, placement in residential
41 treatment facilities becomes the only viable option left to the division
42 because it is more difficult for the division to find adoptive homes for
43 them when, and if, adoption becomes a case goal; and] (Deleted by
44 amendment, P.L. _____, c. _____ (pending before the Legislature as this
45 bill).)

1 d. The obligation of the State to recognize and protect the rights
2 of children in the child welfare system should be fulfilled in the context
3 of a clear and consistent policy which limits the repeated placement of
4 children in **[foster] resource family** care and promotes the eventual
5 placement of these children in stable and safe permanent homes.

6 (cf: P.L.1999, c.53, s.40)

7

8 85. Section 2 of P.L.1991, c.448 (C.30:4C-53.2) is amended to
9 read as follows:

10 2. For purposes of this act, the terms "repeated placement into
11 **[foster] resource family** care" and "placed again into **[foster]**
12 **resource family** care" shall apply to a child who has been placed in the
13 custody of the Division of Youth and Family Services for placement
14 in **[foster] resource family** care by the **[family part] Family Part** of the
15 Chancery Division of the Superior Court or as a result of a voluntary
16 placement agreement pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.),
17 released into the custody of his parents or legally responsible guardian
18 at the conclusion of the placement and is once again temporarily
19 removed from his place of residence and placed under the division's
20 care and supervision.

21 (cf: P.L.1991, c.448, s.2)

22

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

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

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

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

45 (1) The specific reasons for the repeated placement of the child,
46 including a description of the problems or conditions in the home of

1 the parents or guardian which necessitated the child's removal, and a
2 summary of the efforts made by the division to prevent the child's
3 repeated placement or the exception to the requirement to make
4 reasonable efforts to prevent placement in accordance with section 24
5 of P.L.1999, c.53 (C.30:4C-11.2);

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

11 (3) The social services to be provided to the child and the [foster]
12 resource family parents during the period the child is in [foster]
13 resource family care and the social services to be provided to the
14 child's parent or guardian, or the exception to the requirement to make
15 reasonable efforts toward family reunification in accordance with
16 section 25 of P.L.1999, c.53 (C.30:4C-11.3), and the goal for the child
17 and anticipated date for achieving the goal. The purpose of the
18 supportive services shall be to promote the child's best interest and to
19 facilitate his safe return to his home, placement for adoption or an
20 alternative permanent placement. Services to facilitate adoption or an
21 alternative permanent placement may be provided concurrently with
22 services to reunify the child with 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 a plan for adoption or
26 an alternative permanent placement becomes necessary;

27 (5) A stipulation that the child be placed with his prior [foster]
28 resource family parent, if possible and if in the child's best interest, to
29 provide the child with continuity and stability in his living
30 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.1999, c.53
35 (C.30:4C-11.3); or the child has, in any period of 22 consecutive
36 months, been in any placement or placements for a total of 12 months.

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

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

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

43 (c) the division has determined that termination of parental rights
44 is not appropriate in accordance with section 31 of P.L.1999, c.53
45 (C.30:4C-15.3), and the child shall be placed in an alternative
46 permanent placement.

1 (cf: P.L.1999, c.53, s.41)

1 87. Section 10 of P.L.1977, c.424 (C.30:4C-59) is amended to
2 read as follows:

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

7 a. The division or agency;

8 b. The child;

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

10 d. The temporary caretaker;

11 e. Any other person or agency whom the board determines has an
12 interest in or information relating to the welfare of the child;

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

16 If the child's caretaker is a [foster parent, preadoptive] resource
17 family parent or relative, the caretaker shall receive written notice of
18 and an opportunity to be heard at the review, but the caretaker shall
19 not be made a party to the review solely on the basis of the notice and
20 opportunity to be heard.

21 The board may determine who may be in attendance at any
22 particular portion of its meeting. Nothing herein shall be interpreted
23 to exclude judges and court support staff from attending review board
24 meetings.

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

28 Notice to the child may be waived by the court on a case by case
29 basis either on its own motion or on the petition of any of the above
30 persons in cases where the court determines that notice would be
31 harmful to the child. A waiver of notice to the child shall not waive
32 the notice requirement to counsel for the child or other representatives
33 of the child.

34 The review board may seek information from any agency which has
35 been involved with the child, parents or legal guardian or temporary
36 caretaker. If the agency fails to provide the requested information, the
37 court may, upon the request of the board, issue a subpoena to the
38 agency for the information.

39 The board shall conduct a review and make recommendations based
40 upon the written materials; provided, however, that the board shall
41 afford any party or person entitled to notice pursuant to this section
42 a reasonable opportunity to appear and to present his views and
43 recommendations. Upon the request of the board, the Family Part of
44 the Chancery Division of the Superior Court may subpoena a person to
45 attend the review board meeting.

46 A designated agency shall provide relevant and necessary

1 information to the board regarding a child who is reviewed by the
2 board.

3 (cf: P.L.1999, c.53, s.46)

4

5 88. Section 11 of P.L.1977, c.424 (C.30:4C-60) is amended to
6 read as follow:

7 11. Within 10 days after the completion of such review, the board
8 shall submit a written report to the Family Part of the Chancery
9 Division of the Superior Court and the division. Such report shall
10 offer one of the following findings, stating the specific reasons
11 therefor:

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

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

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

21 (2) Adoption,

22 (3) Permanent placement with a relative,

23 (4) **[Long-term foster care custody]** Kinship legal guardianship,

24 (5) Independent living,

25 (6) Institutionalization, or

26 (7) An alternative permanent placement;

27 c. That continued placement outside of the home on a temporary
28 basis is in the child's best interest, but that there is not sufficient
29 information for the board to make a recommendation, therefore, the
30 board requests the court to order the division or designated agency, as
31 appropriate, to provide the needed information within two weeks of
32 the court order.

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

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

38 When making its finding pursuant to this section, the child's health,
39 safety and need for permanency shall be of paramount concern to the
40 board. The board shall give priority to the goal of return to the child's
41 parents or legal guardian unless that goal is not in the best interest of
42 the child. If the return has not been achieved within one year, and
43 after considering the family's efforts; the division's or designated
44 agency's provision of reasonable and available services, if reasonable
45 efforts are required; or other relevant factors; the board shall
46 recommend another permanent plan for the child.

1 In addition to the finding, the board shall state the reasons and
2 additional factors it deems appropriate to explain its conclusions.
3 When any change in the plan or situation of the child is recommended,
4 the board shall state its specific recommendations and the factual basis
5 therefor.

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

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

22 (cf: P.L.1999, c.53, s.47)

23

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

26 12. a. Upon review of the board's report, the Family Part of the
27 Chancery Division of the Superior Court shall issue an order
28 concerning the child's placement which it deems will best serve the
29 health, safety and interests of the child. The court shall issue the order
30 within 21 calendar days of the court's receipt of the board's report
31 unless the court schedules a summary hearing. The court shall either:

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

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

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

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

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

46 In addition, if the placement plan does not satisfy the criteria of

1 section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that
2 the placement plan be modified or that a new plan be developed within
3 30 days.

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

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

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

13 (3) The court concludes that the interests of justice require that a
14 hearing be held; or

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

18 (5) The division has documented an exception to the requirement
19 to provide reasonable efforts toward family reunification pursuant to
20 section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

21 (6) If the review is to serve as a permanency hearing.

22 c. Notice of such hearing, including a statement of the dispositional
23 alternatives of the court, shall be provided at least 30 days in advance,
24 unless the court finds that it is in the best interest of the child to
25 provide less notice in order to conduct the hearing sooner. Notice
26 shall be provided to the following persons unless the court determines
27 it is not in the best interests of the child:

28 (1) The division;

29 (2) The child;

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

32 (4) The review board;

33 (5) The temporary caretaker;

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

37 (7) If the child's caretaker is a [foster parent, preadoptive]
38 resource family parent or relative, the caretaker shall receive written
39 notice of and an opportunity to be heard at the hearing, but the
40 caretaker shall not be made a party to the hearing solely on the basis
41 of the notice and opportunity to be heard.

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

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

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

6 e. Any person who receives a copy of the court order shall comply
7 with the confidentiality requirements established by the Supreme Court
8 for the purposes of this act.

9 (cf: P.L.1999, c.53, s.48)

10

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

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

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

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

38 d. The division shall not return the child home unless the court
39 approves the division's proposed action and orders the return home of
40 the child.

41 e. Notwithstanding the provisions of this section to the contrary,
42 in an emergency situation, the court may waive the special review
43 provisions of this section and approve the return home, upon the
44 request of the division to do so. The request of the division for a
45 court waiver of the special review provisions shall be accompanied by
46 a written statement from the division declaring and finding that the

1 out-of-home placement has been disrupted, that no appropriate
2 alternative placement for the child can be found in the home of a
3 relative, a [foster] resource family home, group home, shelter,
4 residential care facility or other setting following the change in
5 placement, and that the return home will not endanger the health,
6 safety or welfare of the child. The written statement submitted with
7 a request shall also outline the specific reasons for the findings made.
8 The division shall conduct an on-site visit of the home of a child when
9 in an emergency situation the division plans to request of the court a
10 waiver of the special review provisions. A report of the on-site visit
11 shall be included with the request.

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

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

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

34 f. If, subsequent to the review and approval of a plan by the court,
35 the division proposes to change the long-term goal in the plan or
36 otherwise substantially modify the plan, it shall notify the court and the
37 board in writing, within five days. The board shall schedule review of
38 the modification. The division shall continue to implement the current
39 court ordered plan until the court orders a modified or new plan.

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

42 (cf: P.L.1999, c.53, s.49)

43

44 91. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to
45 read as follows:

46 50. a. A permanency hearing shall be held that provides review

- 1 and approval by the court of the placement plan:
- 2 (1) within 30 days after the determination of an exception to the
3 reasonable effort requirement to reunify the child with the parent in
4 accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or
5 (2) no later than 12 months after the child has been in placement.
- 6 b. Written notice of the date, time and place of the permanency
7 hearing shall be provided at least 15 days in advance to the following,
8 each of whom shall be entitled to attend the hearing and to submit
9 written information to the court:
- 10 (1) the division or agency;
11 (2) the child;
12 (3) the parents, including a non-custodial parent or legal guardian;
13 (4) the temporary caretaker;
14 (5) any other person or agency whom the court determines has an
15 interest in or information relating to the welfare of the child;
16 (6) the counsel for a parent, child or other interested party who has
17 provided or is providing representation in the case before the court;
18 and
19 (7) the child's [foster parent, preadoptive] resource family parent
20 or relative providing care for the child shall also receive written notice
21 of and an opportunity to be heard at the hearing, but the [foster
22 parent, preadoptive] resource family parent or relative shall not be
23 made a party to the hearing solely on the basis of the notice and
24 opportunity to be heard.
- 25 c. The hearing shall include, but not necessarily be limited to,
26 consideration and evaluation of information provided by the division
27 and other interested parties regarding such matters as:
- 28 (1) a statement of the goal for the permanent placement or return
29 home of the child and the anticipated date that the goal will be
30 achieved;
31 (2) the intermediate objectives relating to the attainment of the
32 goal;
33 (3) a statement of the duties and responsibilities of the division, the
34 parents or legal guardian and the temporary caretaker, including the
35 services to be provided by the division to the child and to the
36 temporary caretaker;
37 (4) a statement of the services to be provided to the parent or legal
38 guardian or an exception to the requirement to provide reasonable
39 efforts toward family reunification in accordance with section 25 of
40 P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an
41 alternative permanent placement may be provided concurrently with
42 services to reunify the child with the parent or guardian;
43 (5) a permanency plan which includes whether and, if applicable,
44 when:
45 (a) the child shall be returned to the parent or guardian, if the child
46 can be returned home without endangering the child's health or safety;

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

4 (c) the division has determined that termination of parental rights
5 is not appropriate in accordance with section 31 of P.L.1999, c.53
6 (C.30:4C-15.3) and the child shall be placed in an alternative
7 permanent placement.

8 d. If the court approves a permanency plan for the child, the court
9 shall make a specific finding of the reasonable efforts made thus far by
10 the division and the appropriateness of the reasonable efforts to
11 achieve the permanency plan.

12 (cf: P.L.1999, c.53, s.50)

13
14 92. Section 8 of P.L.1993, c.157 (C.30:4C-81) is amended to read
15 as follows:

16 8. The Commissioner of Human Services shall report to the
17 Governor and the Legislature by December 31 of each year, on the
18 family preservation services program. The annual report shall contain,
19 but not be limited to:

20 a. The number of families receiving services through the program;

21 b. The number of children placed in **[foster] resource family** care,
22 group homes and residential treatment facilities, both in-State and
23 out-of-State;

24 c. The average cost of providing services to a family through the
25 program;

26 d. The number of children who remain with their families for one
27 year after receiving services through the program; and

28 e. Any recommendations needed to improve the delivery of family
29 preservation services in the State.

30 (cf: P.L.1993, c.157, s.8)

31
32 93. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
33 as follows:

34 3. Definitions. As used in this act, and unless the context
35 otherwise requires:

36 a. "Applicant" means any person who has made application for
37 purposes of becoming a "qualified applicant."

38 b. "Commissioner" means the Commissioner of Human Services.

39 c. "Department" means the Department of Human Services, which
40 is herein designated as the single State agency to administer the
41 provisions of this act.

42 d. "Director" means the Director of the Division of Medical
43 Assistance and Health Services.

44 e. "Division" means the Division of Medical Assistance and Health
45 Services.

46 f. "Medicaid" means the New Jersey Medical Assistance and Health

1 Services Program.

2 g. "Medical assistance" means payments on behalf of recipients to
3 providers for medical care and services authorized under this act.

4 h. "Provider" means any person, public or private institution,
5 agency or business concern approved by the division lawfully
6 providing medical care, services, goods and supplies authorized under
7 this act, holding, where applicable, a current valid license to provide
8 such services or to dispense such goods or supplies.

9 i. "Qualified applicant" means a person who is a resident of this
10 State, and either a citizen of the United States or an eligible alien, and
11 is determined to need medical care and services as provided under this
12 act, with respect to whom the period for which eligibility to be a
13 recipient is determined shall be the maximum period permitted under
14 federal law, and who:

15 (1) Is a dependent child or parent or caretaker relative of a
16 dependent child who would be, except for resources, eligible for the
17 [aid to] temporary assistance for needy families [with dependent
18 children] program under the State Plan for Title IV-A of the federal
19 Social Security Act as of July 16, 1996;

20 (2) Is a recipient of Supplemental Security Income for the Aged,
21 Blind and Disabled under Title XVI of the Social Security Act;

22 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
23 Income for the Aged, Blind and Disabled under Title XVI of the Social
24 Security Act, as defined by the federal Social Security Administration;

25 (4) Would be eligible to receive Supplemental Security Income
26 under Title XVI of the federal Social Security Act or, without regard
27 to resources, would be eligible for the [aid to] temporary assistance
28 for needy families [with dependent children] program under the State
29 Plan for Title IV-A of the federal Social Security Act as of July 16,
30 1996, except for failure to meet an eligibility condition or requirement
31 imposed under such State program which is prohibited under Title
32 XIX of the federal Social Security Act such as a durational residency
33 requirement, relative responsibility, consent to imposition of a lien;

34 (5) (Deleted by amendment, P.L.2000, c.71).

35 (6) Is an individual under 21 years of age who, without regard to
36 resources, would be, except for dependent child requirements, eligible
37 for the [aid to] temporary assistance for needy families [with
38 dependent children] program under the State Plan for Title IV-A of
39 the federal Social Security Act as of July 16, 1996, or groups of such
40 individuals, including but not limited to, children in [foster] resource
41 family placement under supervision of the Division of Youth and
42 Family Services whose maintenance is being paid in whole or in part
43 from public funds, children placed in a [foster] resource family home
44 or institution by a private adoption agency in New Jersey or children
45 in intermediate care facilities, including developmental centers for the
46 developmentally disabled, or in psychiatric hospitals;

- 1 (7) Would be eligible for the Supplemental Security Income
2 program, but is not receiving such assistance and applies for medical
3 assistance only;
- 4 (8) Is determined to be medically needy and meets all the eligibility
5 requirements described below:
- 6 (a) The following individuals are eligible for services, if they are
7 determined to be medically needy:
- 8 (i) Pregnant women;
- 9 (ii) Dependent children under the age of 21;
- 10 (iii) Individuals who are 65 years of age and older; and
- 11 (iv) Individuals who are blind or disabled pursuant to either 42
12 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.
- 13 (b) The following income standard shall be used to determine
14 medically needy eligibility:
- 15 (i) For one person and two person households, the income standard
16 shall be the maximum allowable under federal law, but shall not exceed
17 133 1/3% of the State's payment level to two person households under
18 the [aid to] temporary assistance for needy families [with dependent
19 children] program under the State Plan for Title IV-A of the federal
20 Social Security Act in effect as of July 16, 1996; and
- 21 (ii) For households of three or more persons, the income standard
22 shall be set at 133 1/3% of the State's payment level to similar size
23 households under the [aid to] temporary assistance for needy families
24 [with dependent children] program under the State Plan for Title
25 IV-A of the federal Social Security Act in effect as of July 16, 1996.
- 26 (c) The following resource standard shall be used to determine
27 medically needy eligibility:
- 28 (i) For one person households, the resource standard shall be 200%
29 of the resource standard for recipients of Supplemental Security
30 Income pursuant to 42 U.S.C. s.1382(1)(B);
- 31 (ii) For two person households, the resource standard shall be
32 200% of the resource standard for recipients of Supplemental Security
33 Income pursuant to 42 U.S.C. s.1382(2)(B);
- 34 (iii) For households of three or more persons, the resource
35 standard in subparagraph (c)(ii) above shall be increased by \$100.00
36 for each additional person; and
- 37 (iv) The resource standards established in (i), (ii), and (iii) are
38 subject to federal approval and the resource standard may be lower if
39 required by the federal Department of Health and Human Services.
- 40 (d) Individuals whose income exceeds those established in
41 subparagraph (b) of paragraph (8) of this subsection may become
42 medically needy by incurring medical expenses as defined in 42
43 C.F.R.435.831(c) which will reduce their income to the applicable
44 medically needy income established in subparagraph (b) of paragraph
45 (8) of this subsection.
- 46 (e) A six-month period shall be used to determine whether an

1 individual is medically needy.

2 (f) Eligibility determinations for the medically needy program shall
3 be administered as follows:

4 (i) County welfare agencies and other entities designated by the
5 commissioner are responsible for determining and certifying the
6 eligibility of pregnant women and dependent children. The division
7 shall reimburse county welfare agencies for 100% of the reasonable
8 costs of administration which are not reimbursed by the federal
9 government for the first 12 months of this program's operation.
10 Thereafter, 75% of the administrative costs incurred by county welfare
11 agencies which are not reimbursed by the federal government shall be
12 reimbursed by the division;

13 (ii) The division is responsible for certifying the eligibility of
14 individuals who are 65 years of age and older and individuals who are
15 blind or disabled. The division may enter into contracts with county
16 welfare agencies to determine certain aspects of eligibility. In such
17 instances the division shall provide county welfare agencies with all
18 information the division may have available on the individual.

19 The division shall notify all eligible recipients of the Pharmaceutical
20 Assistance to the Aged and Disabled program, P.L.1975, c.194
21 (C.30:4D-20 et seq.) on an annual basis of the medically needy
22 program and the program's general requirements. The division shall
23 take all reasonable administrative actions to ensure that
24 Pharmaceutical Assistance to the Aged and Disabled recipients, who
25 notify the division that they may be eligible for the program, have their
26 applications processed expeditiously, at times and locations convenient
27 to the recipients; and

28 (iii) The division is responsible for certifying incurred medical
29 expenses for all eligible persons who attempt to qualify for the
30 program pursuant to subparagraph (d) of paragraph (8) of this
31 subsection;

32 (9) (a) Is a child who is at least one year of age and under 19 years
33 of age and, if older than six years of age but under 19 years of age, is
34 uninsured; and

35 (b) Is a member of a family whose income does not exceed 133%
36 of the poverty level and who meets the federal Medicaid eligibility
37 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
38 s.1396a);

39 (10) Is a pregnant woman who is determined by a provider to be
40 presumptively eligible for medical assistance based on criteria
41 established by the commissioner, pursuant to section 9407 of
42 Pub.L.99-509 (42 U.S.C. s.1396a(a));

43 (11) Is an individual 65 years of age and older, or an individual
44 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
45 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
46 level, adjusted for family size, and whose resources do not exceed

1 100% of the resource standard used to determine medically needy
2 eligibility pursuant to paragraph (8) of this subsection;

3 (12) Is a qualified disabled and working individual pursuant to
4 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
5 does not exceed 200% of the poverty level and whose resources do
6 not exceed 200% of the resource standard used to determine eligibility
7 under the Supplemental Security Income Program, P.L.1973, c.256
8 (C.44:7-85 et seq.);

9 (13) Is a pregnant woman or is a child who is under one year of
10 age and is a member of a family whose income does not exceed 185%
11 of the poverty level and who meets the federal Medicaid eligibility
12 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
13 s.1396a), except that a pregnant woman who is determined to be a
14 qualified applicant shall, notwithstanding any change in the income of
15 the family of which she is a member, continue to be deemed a qualified
16 applicant until the end of the 60-day period beginning on the last day
17 of her pregnancy;

18 (14) (Deleted by amendment, P.L.1997, c.272).

19 (15) (a) Is a specified low-income Medicare beneficiary pursuant
20 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
21 1993 do not exceed 200% of the resource standard used to determine
22 eligibility under the Supplemental Security Income program, P.L.1973,
23 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
24 1993 does not exceed 110% of the poverty level, and beginning
25 January 1, 1995 does not exceed 120% of the poverty level.

26 (b) An individual who has, within 36 months, or within 60 months
27 in the case of funds transferred into a trust, of applying to be a
28 qualified applicant for Medicaid services in a nursing facility or a
29 medical institution, or for home or community-based services under
30 section 1915(c) of the federal Social Security Act (42 U.S.C.
31 s.1396n(c)), disposed of resources or income for less than fair market
32 value shall be ineligible for assistance for nursing facility services, an
33 equivalent level of services in a medical institution, or home or
34 community-based services under section 1915(c) of the federal Social
35 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
36 shall be the number of months resulting from dividing the
37 uncompensated value of the transferred resources or income by the
38 average monthly private payment rate for nursing facility services in
39 the State as determined annually by the commissioner. In the case of
40 multiple resource or income transfers, the resulting penalty periods
41 shall be imposed sequentially. Application of this requirement shall be
42 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
43 this provision is effective for all transfers of resources or income made
44 on or after August 11, 1993. Notwithstanding the provisions of this
45 subsection to the contrary, the State eligibility requirements
46 concerning resource or income transfers shall not be more restrictive

1 than those enacted pursuant to 42 U.S.C. s.1396p(c).

2 (c) An individual seeking nursing facility services or home or
3 community-based services and who has a community spouse shall be
4 required to expend those resources which are not protected for the
5 needs of the community spouse in accordance with section 1924(c) of
6 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
7 of long-term care, burial arrangements, and any other expense deemed
8 appropriate and authorized by the commissioner. An individual shall
9 be ineligible for Medicaid services in a nursing facility or for home or
10 community-based services under section 1915(c) of the federal Social
11 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
12 violation of this subparagraph. The period of ineligibility shall be the
13 number of months resulting from dividing the uncompensated value of
14 transferred resources and income by the average monthly private
15 payment rate for nursing facility services in the State as determined by
16 the commissioner. The period of ineligibility shall begin with the
17 month that the individual would otherwise be eligible for Medicaid
18 coverage for nursing facility services or home or community-based
19 services.

20 This subparagraph shall be operative only if all necessary approvals
21 are received from the federal government including, but not limited to,
22 approval of necessary State plan amendments and approval of any
23 waivers;

24 (16) Subject to federal approval under Title XIX of the federal
25 Social Security Act, is a dependent child, parent or specified caretaker
26 relative of a child who is a qualified applicant, who would be eligible,
27 without regard to resources, for the [aid to] temporary assistance for
28 needy families [with dependent children] program under the State
29 Plan for Title IV-A of the federal Social Security Act as of July 16,
30 1996, except for the income eligibility requirements of that program,
31 and whose family earned income does not exceed 133% of the poverty
32 level plus such earned income disregards as shall be determined
33 according to a methodology to be established by regulation of the
34 commissioner;

35 (17) Is an individual from 18 through 20 years of age who is not
36 a dependent child and would be eligible for medical assistance
37 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
38 income or resources, who, on the individual's 18th birthday was in
39 [foster] resource family care under the care and custody of the
40 Division of Youth and Family Services and whose maintenance was
41 being paid in whole or in part from public funds;

42 (18) Is a person between the ages of 16 and 65 who is permanently
43 disabled and working, and:

44 (a) whose income is at or below 250% of the poverty level, plus
45 other established disregards;

46 (b) who pays the premium contribution and other cost sharing as

- 1 established by the commissioner, subject to the limits and conditions
2 of federal law; and
- 3 (c) whose assets, resources and unearned income do not exceed
4 limitations as established by the commissioner; or
- 5 (19) Is an uninsured individual under 65 years of age who:
- 6 (a) has been screened for breast or cervical cancer under the
7 federal Centers for Disease Control and Prevention breast and cervical
8 cancer early detection program;
- 9 (b) requires treatment for breast or cervical cancer based upon
10 criteria established by the commissioner;
- 11 (c) has an income that does not exceed the income standard
12 established by the commissioner pursuant to federal guidelines;
- 13 (d) meets all other Medicaid eligibility requirements; and
- 14 (e) in accordance with Pub.L.106-354, is determined by a qualified
15 entity to be presumptively eligible for medical assistance pursuant to
16 42 U.S.C. s.1396a(aa), based upon criteria established by the
17 commissioner pursuant to section 1920B of the federal Social Security
18 Act (42 U.S.C. s.1396r-1b).
- 19 j. "Recipient" means any qualified applicant receiving benefits
20 under this act.
- 21 k. "Resident" means a person who is living in the State voluntarily
22 with the intention of making his home here and not for a temporary
23 purpose. Temporary absences from the State, with subsequent returns
24 to the State or intent to return when the purposes of the absences have
25 been accomplished, do not interrupt continuity of residence.
- 26 l. "State Medicaid Commission" means the Governor, the
27 Commissioner of Human Services, the President of the Senate and the
28 Speaker of the General Assembly, hereby constituted a commission to
29 approve and direct the means and method for the payment of claims
30 pursuant to this act.
- 31 m. "Third party" means any person, institution, corporation,
32 insurance company, group health plan as defined in section 607(1) of
33 the federal "Employee Retirement and Income Security Act of 1974,"
34 29 U.S.C. s.1167(1), service benefit plan, health maintenance
35 organization, or other prepaid health plan, or public, private or
36 governmental entity who is or may be liable in contract, tort, or
37 otherwise by law or equity to pay all or part of the medical cost of
38 injury, disease or disability of an applicant for or recipient of medical
39 assistance payable under this act.
- 40 n. "Governmental peer grouping system" means a separate class of
41 skilled nursing and intermediate care facilities administered by the
42 State or county governments, established for the purpose of screening
43 their reported costs and setting reimbursement rates under the
44 Medicaid program that are reasonable and adequate to meet the costs
45 that must be incurred by efficiently and economically operated State
46 or county skilled nursing and intermediate care facilities.

1 o. "Comprehensive maternity or pediatric care provider" means any
2 person or public or private health care facility that is a provider and
3 that is approved by the commissioner to provide comprehensive
4 maternity care or comprehensive pediatric care as defined in
5 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
6 (C.30:4D-6).

7 p. "Poverty level" means the official poverty level based on family
8 size established and adjusted under Section 673(2) of Subtitle B, the
9 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
10 s.9902(2)).

11 q. "Eligible alien" means one of the following:

12 (1) an alien present in the United States prior to August 22, 1996,
13 who is:

14 (a) a lawful permanent resident;

15 (b) a refugee pursuant to section 207 of the federal "Immigration
16 and Nationality Act" (8 U.S.C. s.1157);

17 (c) an asylee pursuant to section 208 of the federal "Immigration
18 and Nationality Act" (8 U.S.C. s.1158);

19 (d) an alien who has had deportation withheld pursuant to section
20 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
21 s.1253 (h));

22 (e) an alien who has been granted parole for less than one year by
23 the [federal Immigration and Naturalization Service] U.S. Citizenship
24 and Immigration Services pursuant to section 212(d)(5) of the federal
25 "Immigration and Nationality Act" (8 U.S.C. s.1182(d)(5));

26 (f) an alien granted conditional entry pursuant to section 203(a)(7)
27 of the federal "Immigration and Nationality Act" (8 U.S.C.
28 s.1153(a)(7)) in effect prior to April 1, 1980; or

29 (g) an alien who is honorably discharged from or on active duty in
30 the United States armed forces and the alien's spouse and unmarried
31 dependent child.

32 (2) An alien who entered the United States on or after August 22,
33 1996, who is:

34 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
35 subsection; or

36 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
37 subsection who entered the United States at least five years ago.

38 (3) A legal alien who is a victim of domestic violence in
39 accordance with criteria specified for eligibility for public benefits as
40 provided in Title V of the federal "Illegal Immigration Reform and
41 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

42 (cf: P.L.2001, c.186, s.1)

43

44 94. Section 7 of P.L.1968, c.413 (C.30:4D-7) is amended to read
45 as follow:

46 7. Duties of commissioner. The commissioner is authorized and

1 empowered to issue, or to cause to be issued through the Division of
2 Medical Assistance and Health Services, all necessary rules and
3 regulations and administrative orders, and to do or cause to be done
4 all other acts and things necessary to secure for the State of New
5 Jersey the maximum federal participation that is available with respect
6 to a program of medical assistance, consistent with fiscal responsibility
7 and within the limits of funds available for any fiscal year, and to the
8 extent authorized by the medical assistance program plan; to adopt fee
9 schedules with regard to medical assistance benefits and otherwise to
10 accomplish the purposes of this act, including specifically the
11 following:

12 a. Subject to the limits imposed by this act, to submit a plan for
13 medical assistance, as required by Title XIX of the federal Social
14 Security Act, to the federal Department of Health and Human Services
15 for approval pursuant to the provisions of such law; to act for the
16 State in making negotiations relative to the submission and approval
17 of such plan, to make such arrangements, not inconsistent with the
18 law, as may be required by or pursuant to federal law to obtain and
19 retain such approval and to secure for the State the benefits of the
20 provisions of such law;

21 b. Subject to the limits imposed by this act, to determine the
22 amount and scope of services to be covered, that the amounts to be
23 paid are reasonable, and the duration of medical assistance to be
24 furnished; provided, however, that the department shall provide
25 medical assistance on behalf of all recipients of categorical assistance
26 and such other related groups as are mandatory under federal laws and
27 rules and regulations, as they now are or as they may be hereafter
28 amended, in order to obtain federal matching funds for such purposes
29 and, in addition, provide medical assistance for the [foster] resource
30 family children specified in [section 3i. (7) of this act] subsection i.(7)
31 of section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance
32 provided for these groups shall not be less in scope, duration, or
33 amount than is currently furnished such groups, and in addition, shall
34 include at least the minimum services required under federal laws and
35 rules and regulations to obtain federal matching funds for such
36 purposes.

37 The commissioner is authorized and empowered, at such times as
38 he may determine feasible, within the limits of appropriated funds for
39 any fiscal year, to extend the scope, duration, and amount of medical
40 assistance on behalf of these groups of categorical assistance
41 recipients, related groups as are mandatory, and [foster] resource
42 family children authorized pursuant to section 3i. (7) of this act, so as
43 to include, in whole or in part, the optional medical services
44 authorized under federal laws and rules and regulations, and the
45 commissioner shall have the authority to establish and maintain the
46 priorities given such optional medical services; provided, however,

1 that medical assistance shall be provided to at least such groups and
2 in such scope, duration, and amount as are required to obtain federal
3 matching funds.

4 The commissioner is further authorized and empowered, at such
5 times as he may determine feasible, within the limits of appropriated
6 funds for any fiscal year, to issue, or cause to be issued through the
7 Division of Medical Assistance and Health Services, all necessary
8 rules, regulations and administrative orders, and to do or cause to be
9 done all other acts and things necessary to implement and administer
10 demonstration projects pursuant to Title XI, section 1115 of the
11 federal Social Security Act, including, but not limited to waiving
12 compliance with specific provisions of this act, to the extent and for
13 the period of time the commissioner deems necessary, as well as
14 contracting with any legal entity, including but not limited to
15 corporations organized pursuant to Title 14A, New Jersey Statutes
16 (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes (R.S.15:1-1 et
17 seq.) and Title 15A, New Jersey Statutes (N.J.S.15A:1-1 et seq.) as
18 well as boards, groups, agencies, persons and other public or private
19 entities;

20 c. To administer the provisions of this act;

21 d. To make reports to the federal Department of Health and
22 Human Services as from time to time may be required by such federal
23 department and to the New Jersey Legislature as hereinafter provided;

24 e. To assure that any applicant, qualified applicant or recipient shall
25 be afforded the opportunity for a hearing should his claim for medical
26 assistance be denied, reduced, terminated or not acted upon within a
27 reasonable time;

28 f. To assure that providers shall be afforded the opportunity for an
29 administrative hearing within a reasonable time on any valid complaint
30 arising out of the claim payment process;

31 g. To provide safeguards to restrict the use or disclosure of
32 information concerning applicants and recipients to purposes directly
33 connected with administration of this act;

34 h. To take all necessary action to recover any and all payments
35 incorrectly made to or illegally received by a provider from such
36 provider or his estate or from any other person, firm, corporation,
37 partnership or entity responsible for or receiving the benefit or
38 possession of the incorrect or illegal payments or their estates,
39 successors or assigns, and to assess and collect such penalties as are
40 provided for herein;

41 i. To take all necessary action to recover the cost of benefits
42 incorrectly provided to or illegally obtained by a recipient, including
43 those made after a voluntary divestiture of real or personal property
44 or any interest or estate in property for less than adequate
45 consideration made for the purpose of qualifying for assistance. The
46 division shall take action to recover the cost of benefits from a

1 recipient, legally responsible relative, representative payee, or any
2 other party or parties whose action or inaction resulted in the incorrect
3 or illegal payments or who received the benefit of the divestiture, or
4 from their respective estates, as the case may be and to assess and
5 collect the penalties as are provided for herein, except that no lien
6 shall be imposed against property of the recipient prior to his death
7 except in accordance with section 17 of P.L.1968, c.413
8 (C.30:4D-17). No recovery action shall be initiated more than five
9 years after an incorrect payment has been made to a recipient when the
10 incorrect payment was due solely to an error on the part of the State
11 or any agency, agent or subdivision thereof;

12 j. To take all necessary action to recover the cost of benefits
13 correctly provided to a recipient from the estate of said recipient in
14 accordance with sections 6 through 12 of this amendatory and
15 supplementary act;

16 k. To take all reasonable measures to ascertain the legal or
17 equitable liability of third parties to pay for care and services (available
18 under the plan) arising out of injury, disease, or disability; where it is
19 known that a third party has a liability, to treat such liability as a
20 resource of the individual on whose behalf the care and services are
21 made available for purposes of determining eligibility; and in any case
22 where such a liability is found to exist after medical assistance has
23 been made available on behalf of the individual, to seek reimbursement
24 for such assistance to the extent of such liability;

25 l. To compromise, waive or settle and execute a release of any
26 claim arising under this act including interest or other penalties, or
27 designate another to compromise, waive or settle and execute a release
28 of any claim arising under this act. The commissioner or his designee
29 whose title shall be specified by regulation may compromise, settle or
30 waive any such claim in whole or in part, either in the interest of the
31 Medicaid program or for any other reason which the commissioner by
32 regulation shall establish;

33 m. To pay or credit to a provider any net amount found by final
34 audit as defined by regulation to be owing to the provider. Such
35 payment, if it is not made within 45 days of the final audit, shall
36 include interest on the amount due at the maximum legal rate in effect
37 on the date the payment became due, except that such interest shall
38 not be paid on any obligation for the period preceding September 15,
39 1976. This subsection shall not apply until federal financial
40 participation is available for such interest payments;

41 n. To issue, or designate another to issue, subpoenas to compel the
42 attendance of witnesses and the production of books, records,
43 accounts, papers and documents of any party, whether or not that
44 party is a provider, which directly or indirectly relate to goods or
45 services provided under this act, for the purpose of assisting in any
46 investigation, examination, or inspection, or in any suspension,

- 1 debarment, disqualification, recovery, or other proceeding arising
2 under this act;
- 3 o. To solicit, receive and review bids pursuant to the provisions of
4 P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments and
5 supplements thereto, by any corporation doing business in the State of
6 New Jersey, including nonprofit hospital service corporations, medical
7 service corporations, health service corporations or dental service
8 corporations incorporated in New Jersey and authorized to do business
9 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74
10 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), or
11 P.L.1968, c.305 (C.17:48C-1 et seq.), and to make recommendations
12 in connection therewith to the State Medicaid Commission;
- 13 p. To contract, or otherwise provide as in this act provided, for the
14 payment of claims in the manner approved by the State Medicaid
15 Commission;
- 16 q. Where necessary, to advance funds to the underwriter or fiscal
17 agent to enable such underwriter or fiscal agent, in accordance with
18 terms of its contract, to make payments to providers;
- 19 r. To enter into contracts with federal, State, or local governmental
20 agencies, or other appropriate parties, when necessary to carry out the
21 provisions of this act;
- 22 s. To assure that the nature and quality of the medical assistance
23 provided for under this act shall be uniform and equitable to all
24 recipients;
- 25 t. To provide for the reimbursement of State and
26 county-administered skilled nursing and intermediate care facilities
27 through the use of a governmental peer grouping system, subject to
28 federal approval and the availability of federal reimbursement.
- 29 (1) In establishing a governmental peer grouping system, the
30 State's financial participation is limited to an amount equal to the
31 nonfederal share of the reimbursement which would be due each
32 facility if the governmental peer grouping system was not established,
33 and each county's financial participation in this reimbursement system
34 is equal to the nonfederal share of the increase in reimbursement for
35 its facility or facilities which results from the establishment of the
36 governmental peer grouping system.
- 37 (2) On or before December 1 of each year, the commissioner shall
38 estimate and certify to the Director of the Division of Local
39 Government Services in the Department of Community Affairs the
40 amount of increased federal reimbursement a county may receive
41 under the governmental peer grouping system. On or before
42 December 15 of each year, the Director of the Division of Local
43 Government Services shall certify the increased federal reimbursement
44 to the chief financial officer of each county. If the amount of
45 increased federal reimbursement to a county exceeds or is less than the
46 amount certified, the certification for the next year shall account for

1 the actual amount of federal reimbursement that the county received
2 during the prior calendar year.

3 (3) The governing body of each county entitled to receive
4 increased federal reimbursement under the provisions of this
5 amendatory act shall, by March 31 of each year, submit a report to the
6 commissioner on the intended use of the savings in county
7 expenditures which result from the increased federal reimbursement.
8 The governing body of each county, with the advice of agencies
9 providing social and health related services, shall use not less than
10 10% and no more than 50% of the savings in county expenditures
11 which result from the increased federal reimbursement for
12 community-based social and health related programs for elderly and
13 disabled persons who may otherwise require nursing home care. This
14 percentage shall be negotiated annually between the governing body
15 and the commissioner and shall take into account a county's social,
16 demographic and fiscal conditions, a county's social and health related
17 expenditures and needs, and estimates of federal revenues to support
18 county operations in the upcoming year, particularly in the areas of
19 social and health related services.

20 (4) The commissioner, subject to approval by law, may terminate
21 the governmental peer grouping system if federal reimbursement is
22 significantly reduced or if the Medicaid program is significantly altered
23 or changed by the federal government subsequent to the enactment of
24 this amendatory act. The commissioner, prior to terminating the
25 governmental peer grouping system, shall submit to the Legislature
26 and to the governing body of each county a report as to the reasons
27 for terminating the governmental peer grouping system;

28 u. The commissioner, in consultation with the Commissioner of
29 Health and Senior Services, shall:

30 (1) Develop criteria and standards for comprehensive maternity or
31 pediatric care providers and determine whether a provider who
32 requests to become a comprehensive maternity or pediatric care
33 provider meets the department's criteria and standards;

34 (2) Develop a program of comprehensive maternity care services
35 which defines the type of services to be provided, the level of services
36 to be provided, and the frequency with which qualified applicants are
37 to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

38 (3) Develop a program of comprehensive pediatric care services
39 which defines the type of services to be provided, the level of services
40 to be provided, and the frequency with which qualified applicants are
41 to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

42 (4) Develop and implement a system for monitoring the quality and
43 delivery of comprehensive maternity and pediatric care services and a
44 system for evaluating the effectiveness of the services programs in
45 meeting their objectives;

46 (5) Establish provider reimbursement rates for the comprehensive

1 maternity and pediatric care services;

2 v. The commissioner, jointly with the Commissioner of Health and
3 Senior Services, shall report to the Governor and the Legislature no
4 later than two years following the date of enactment of P.L.1987,
5 c.115 (C.30:4D-2.1 et al.) and annually thereafter on the status of the
6 comprehensive maternity and pediatric care services and their
7 effectiveness in meeting the objectives set forth in section 1 of
8 P.L.1987, c.115 (C.30:4D-2.1) accompanying the report with any
9 recommendations for changes in the law governing the services that
10 the commissioners deem necessary.

11 (cf: P.L.1988, c.6, s.1)

12

13 95. Section 2 of P.L.1997, c.254 (C.30:5B-6.2) is amended to read
14 as follows:

15 2. a. As a condition of securing a new or renewal license or
16 approval, the division shall conduct a check of the division's child
17 abuse records to determine if an incident of child abuse or neglect has
18 been substantiated pursuant to section 4 of P.L.1971, c.437
19 (C.9:6-8.11), against any staff member of a child care center.

20 b. The **[division]** department shall not issue a regular license or
21 approval to a center until the **[division]** department determines that no
22 staff member employed by or working at the center has a record of
23 substantiated child abuse or neglect.

24 c. The **[division]** department shall deny, revoke or refuse to renew
25 the center's license or approval, as appropriate, if the **[division]**
26 department determines that an incident of child abuse or neglect by an
27 owner or sponsor of a center has been substantiated.

28 (cf: P.L.1997, c.254, s.2)

29

30 96. Section 3 of P.L.1997, c.254 (C.30:5B-6.3) is amended to read
31 as follows:

32 3. a. The staff member shall provide prior written consent for the
33 division to conduct a check of its child abuse records.

34 b. If the owner or sponsor of the center refuses to consent to, or
35 cooperate in, the securing of a division child abuse record information
36 check, the **[division]** department shall suspend, deny, revoke or refuse
37 to renew the center's license or approval, as appropriate.

38 c. If a staff member of a center, other than the owner or sponsor,
39 refuses to consent to, or cooperate in, the securing of a division child
40 abuse record information check, the person shall be immediately
41 terminated from employment at the center.

42 (cf: P.L.1997, c.254, s.3)

43

44 97. Section 6 of P.L.1997, c.254 (C.30:5B-6.6) is amended to read
45 as follows:

46 6. The **[division]** department shall consider, for the purposes of

1 this act, any incidents of child abuse or neglect that were substantiated
2 on or after June 29, 1995, to ensure that perpetrators have had an
3 opportunity to appeal a substantiated finding of abuse or neglect;
4 except that the [division] department may consider substantiated
5 incidents prior to that date if the [division] department, in its
6 judgment, determines that the individual poses a risk of harm to
7 children in a child care center. In cases involving incidents
8 substantiated prior to June 29, 1995, the [division] department shall
9 offer the individual an opportunity for a hearing to contest its action
10 restricting the individual from employment in a child care center.
11 (cf: P.L.1997, c.254, s.6)

12

13 98. Section 3 of P.L.2000, c.77 (C.30:5B-6.12) is amended to read
14 as follows:

15 3. a. If the owner or sponsor of the child care center refuses to
16 consent to, or cooperate in, the securing of a criminal history record
17 background check, the [division] department shall suspend, deny,
18 revoke or refuse to renew the center's license or life-safety approval,
19 as appropriate.

20 b. If a staff member of a child care center, other than the owner or
21 sponsor, refuses to consent to, or cooperate in, the securing of a
22 criminal history record background check, the person shall be
23 immediately terminated from employment at the center.

24 (cf: P.L.2000, c.77, s.3)

25

26 99. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to read
27 as follows:

28 4. a. In the case of a child care center established after the
29 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or
30 sponsor of the center, prior to the center's opening, shall ensure that
31 a request for a criminal history record background check on each staff
32 member is sent to the Department of Human Services for processing
33 by the Division of State Police in the Department of Law and Public
34 Safety and the Federal Bureau of Investigation.

35 A staff member shall not be left alone as the only adult caring for
36 a child at the center until the criminal history record background has
37 been reviewed by the [division] department pursuant to P.L.2000,
38 c.77 (C.30:5B-6.10 et al.).

39 b. In the case of a child care center licensed or granted life-safety
40 approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10
41 et al.), the owner or sponsor of the center, at the time of the center's
42 first renewal of license or life-safety approval next following that
43 effective date, shall ensure that a request for a criminal history record
44 background check for each staff member is sent to the department for
45 processing by the Division of State Police and the Federal Bureau of
46 Investigation.

1 c. Within two weeks after a new staff member begins employment
2 at a child care center, the owner or sponsor of the center shall ensure
3 that a request for a criminal history record background check is sent
4 to the department for processing by the Division of State Police and
5 the Federal Bureau of Investigation.

6 A new staff member shall not be left alone as the only adult caring
7 for a child at the center until the criminal history record background
8 has been reviewed by the [division] department pursuant to P.L.2000,
9 c.77 (C.30:5B-6.10 et al.).

10 d. In the case of child care centers under contract to implement
11 early childhood education programs in the Abbott districts as defined
12 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
13 [division] department shall ensure that a criminal history record
14 background check is conducted on all current staff members as soon
15 as practicable, but no later than six months after the effective date of
16 P.L.2000, c.77 (C.30:5B-6.10 et al.).

17 (cf: P.L.2000, c.77, s.4)

18

19 100. Section 6 of P.L.2000, c.77 (C.30:5B-6.15) is amended to
20 read as follows:

21 6. a. If a staff member of a child care center is convicted of a
22 crime specified in section 5 of P.L.2000, c.77 (C.30:5B-6.14) after the
23 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the staff
24 member shall be terminated from employment at, or ownership or
25 sponsorship of, a child care center.

26 b. For crimes and offenses other than those cited in section 5 of
27 P.L.2000, c.77 (C.30:5B-6.14), an applicant or staff member may be
28 eligible for employment at, or ownership or sponsorship of, a child
29 care center if the [division] department determines that the person has
30 affirmatively demonstrated to the [division] department clear and
31 convincing evidence of the person's rehabilitation pursuant to
32 subsection c. of this section.

33 c. In determining whether a person has affirmatively demonstrated
34 rehabilitation, the following factors shall be considered:

35 (1) the nature and responsibility of the position at the child care
36 center which the convicted person would hold, has held or currently
37 holds, as the case may be;

38 (2) the nature and seriousness of the offense;

39 (3) the circumstances under which the offense occurred;

40 (4) the date of the offense;

41 (5) the age of the person when the offense was committed;

42 (6) whether the offense was an isolated or repeated incident;

43 (7) any social conditions which may have contributed to the
44 offense; and

45 (8) any evidence of rehabilitation, including good conduct in prison
46 or in the community, counseling or psychiatric treatment received,

1 acquisition of additional academic or vocational schooling, successful
2 participation in correctional work-release programs, or the
3 recommendation of those who have had the person under their
4 supervision.

5 d. The [division] department shall make the final determination
6 regarding the employment of an applicant or staff member with a
7 criminal conviction.

8 (cf: P.L.2000, c.77, s.6)

9

10 101. Section 7 of P.L.2000, c.77 (C.30:5B-6.16) is amended to
11 read as follows:

12 7. If a child care center owner or sponsor has knowledge that a
13 staff member has criminal charges pending against the staff member,
14 the owner or sponsor shall promptly notify the [division] department
15 to determine whether any action concerning the staff member is
16 necessary in order to ensure the safety of the children who attend the
17 center.

18 (cf: P.L.2000, c.77, s.7)

19

20 102. Section 9 of P.L.2000, c.77 (C.30:5B-6.17) is amended to
21 read as follows:

22 9. a. A child care center that has received an employment
23 application from an individual or currently employs a staff member
24 shall be immune from liability for acting upon or disclosing information
25 about the disqualification or termination to another center seeking to
26 employ that person if the center has:

27 (1) received notice from the [division] department that the
28 applicant or staff member, as applicable, has been determined by the
29 [division] department to be disqualified from employment in a child
30 care center pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14
31 or C.30:5B-6.15); or

32 (2) terminated the employment of a staff member because the
33 person was disqualified from employment at the center on the basis of
34 a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c.77
35 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the
36 center.

37 b. A child care center which acts upon or discloses information
38 pursuant to subsection a. of this section shall be presumed to be acting
39 in good faith unless it is shown by clear and convincing evidence that
40 the center acted with actual malice toward the person who is the
41 subject of the information.

42 (cf: P.L.2000, c.77, s.9)

43

44 103. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read
45 as follows:

46 3. As used in this act:

- 1 a. "Certificate of registration" means a certificate issued by the
2 **[division] department** to a family day care provider, acknowledging
3 that the provider is registered pursuant to the provisions of this act.
- 4 b. **["Division"** means the Division of Youth and Family Services in
5 the State] **"Department"** means the Department of Human Services.
- 6 c. "Family day care home" means a private residence in which child
7 care services are provided for a fee to no less than three and no more
8 than five children at any one time for no less than 15 hours per week;
9 except that the **[division] department** shall not exclude a family day
10 care home with less than three children from voluntary registration.
11 A child being cared for under the following circumstances is not
12 included in the total number of children receiving child care services:
13 (1) The child being cared for is legally related to the provider; or
14 (2) Care is being provided as part of an employment agreement
15 between the family day care provider and an assistant or substitute
16 provider where no payment for the care is being provided.
- 17 d. "Family day care provider" means a person at least 18 years of
18 age who is responsible for the operation and management of a family
19 day care home.
- 20 e. "Family day care sponsoring organization" means an agency or
21 organization which contracts with the **[division] department** to assist
22 in the registration of family day care providers in a specific
23 geographical area.
- 24 f. "Monitor" means to visit a family day care provider to review the
25 provider's compliance with the standards established pursuant to this
26 act.
- 27 (cf: P.L.1992, c.13, s.2)

28

29 104. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read
30 as follows:

- 31 4. a. The **[division] department** has the responsibility and
32 authority to contract with family day care sponsoring organizations for
33 the voluntary registration of family day care providers and shall adopt
34 regulations for the operation and maintenance of family day care
35 sponsoring organizations.
- 36 b. The **[division] department** shall contract in writing with an
37 agency or organization authorizing the agency or organization to
38 operate as a family day care sponsoring organization to assist in the
39 voluntary registration of family day care providers in a specific
40 geographical area and to perform other functions with regard to family
41 day care providers in accordance with the provisions of this act and
42 the regulations adopted thereunder for which purposes the
43 organization shall receive funds from the **[division] department** based
44 upon a fee for the service. The **[division] department** shall contract
45 with a family day care sponsoring organization for a period of one

1 year.

2 c. The [division] department shall contract with one family day
3 care sponsoring organization to serve each county; however, the
4 [division] department may, as it deems appropriate, contract with
5 additional family day care sponsoring organizations in a county, except
6 that the [division] department shall make all necessary arrangements
7 to avoid duplication of effort and to promote a cooperative working
8 relationship among the sponsoring organizations. Within one year
9 following the effective date of this act there shall be a family day care
10 sponsoring organization serving each county in this State.

11 (cf: P.L.1987, c.27, s.4)

12

13 105. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read
14 as follows:

15 5. a. A family day care sponsoring organization with which the
16 [division] department contracts is authorized to register family day
17 care providers within its designated geographical area and is
18 responsible for providing administrative services, including, but not
19 limited to, training, technical assistance, and consultation to family day
20 care providers and inspection, supervision, monitoring and evaluation
21 of family day care providers.

22 b. The family day care sponsoring organization shall maintain
23 permanent records for each family day care provider it registers. The
24 sponsoring organization shall also maintain its own staff and
25 administrative and financial records. All records are open to
26 inspection by an authorized representative of the [division]
27 department for the purpose of determining compliance with this act.

28 c. The family day care sponsoring organization shall provide a
29 program of outreach and public relations to inform providers of the
30 provisions of this act.

31 (cf: P.L.1987, c.27, s.5)

32

33 106. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read
34 as follows:

35 8. a. The [division] department shall also establish standards for
36 the issuance, renewal, denial, suspension and revocation of a
37 certificate of registration which the family day care sponsoring
38 organization shall apply. In developing the standards, the [division]
39 department shall consult with the Advisory Council on Child Care
40 established pursuant to the "Child Care Center Licensing Act,"
41 P.L.1983, c.492 (C.30:5B-1 et seq.).

42 b. A person operating as a registered family day care provider who
43 violates the provisions of this act by failing to adhere to the standards
44 established by the [division] department pursuant to this act shall be
45 notified in writing of the violation of the provisions of this act and
46 provided with an opportunity to comply with those provisions. For a

1 subsequent violation, the person's certificate of registration may be
2 revoked, or the person may be fined in an amount determined by the
3 Commissioner of Human Services, or both. The receipt of excessive
4 complaints by the municipal police or other local or State authorities
5 concerning neglect of children, excessive noise, or property damage
6 resulting from the operation of a family day care home may be
7 considered by the [division] department when renewing, suspending
8 or revoking a certificate of registration.

9 c. The [division] department, before denying, suspending,
10 revoking or refusing to renew a certificate of registration, shall give
11 notice thereof to the provider personally, or by certified or registered
12 mail to the last known address of the family day care home with return
13 receipt requested. The notice shall afford the provider the opportunity
14 to be heard. The hearing shall take place within 60 days from the
15 receipt of the notice and shall be conducted in accordance with the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.).

18 d. If the certificate of registration is suspended or revoked or not
19 renewed, the provider shall so notify the parent of each child attending
20 the family day care home in writing within 10 days of the action.

21 e. (Deleted by amendment, P.L.1993, c.350).

22 (cf: P.L.1993, c.350, s.6)

23

24 107. Section 2 of P.L.1993, c.350 (C.30:5B-25.2) is amended to
25 read as follows:

26 2. As used in sections 1 through 4 of P.L.1993, c.350
27 (C.30:5B-25.1 through C.30:5B-25.4):

28 ["Central] "Child abuse registry" means the [central] child abuse
29 registry of the Division of Youth and Family Services in the
30 Department of Human Services established pursuant to section 4 of
31 P.L.1971, c.437 (C.9:6-8.11).

32 "Provider" means a family day care provider as defined by section
33 3 of P.L.1987, c.27 (C.30:5B-18) and includes, but is not limited to,
34 a family day care provider's assistant and a substitute family day care
35 provider.

36 "Family day care sponsoring organization" means an agency or
37 organization which contracts with the [Division of Youth and Family]
38 Department of Human Services to assist in the registration of family
39 day care providers in a specific geographic area pursuant to P.L.1987,
40 c.27 (C.30:5B-16 et seq.).

41 "Household member" means an individual over 14 years of age who
42 resides in a family day care provider's home.

43 (cf: P.L.1993, c.350, s.2)

44

45 108. Section 3 of P.L.1993, c.350 (C.30:5B-25.3) is amended to
46 read as follows

1 3. a. The Division of Youth and Family Services in the Department
2 of Human Services shall conduct a search of its [central] child abuse
3 registry to determine if a report of child abuse or neglect has been
4 filed, pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), involving
5 a person registering as a prospective provider or a household member
6 of the prospective provider or as a current provider or household
7 member of the current provider.

8 b. The division shall conduct the search only upon receipt of the
9 prospective or current provider or household member's written consent
10 to the search. If the person refuses to provide his consent, the family
11 day care sponsoring organization shall deny the prospective or current
12 provider's application for a certificate or renewal of registration.

13 c. The division shall advise the sponsoring organization of the
14 results of the [central] child abuse registry search within a time period
15 to be determined by the Department of Human Services.

16 d. The [division] department shall not issue a certificate or
17 renewal of registration to a prospective or current provider unless the
18 [division] department has first determined that no substantiated
19 charge of child abuse or neglect against the prospective or current
20 provider or household member is found during the [central] child
21 abuse registry search.

22 (cf: P.L.1993, c.350, s.3)

23
24 109. Section 4 of P.L.1993, c.350 (C.30:5B-25.4) is amended to
25 read as follows:

26 4. In accordance with the "Administrative Procedure Act,"
27 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of Human
28 Services shall adopt rules and regulations necessary to implement the
29 provisions of sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1
30 through C.30:5B-25.4) including, but not limited to:

31 a. Implementation of an appeals process to be used in the case of
32 the denial of an application for a certificate or for renewal of
33 registration based upon information obtained during a [central] child
34 abuse registry search; and

35 b. Establishment of time limits for conducting a [central] child
36 abuse registry search and providing a family day care sponsoring
37 organization with the results of the search.

38 (cf: P.L.1993, c.350, s.4)

39
40 110. Section 3 of P.L.1993, c.98 (C.30:6D-35) is amended to read
41 as follows:

42 3. For the purposes of this act:

43 "Department" means the Department of Human Services.

44 "Family member with a developmental disability" means a person
45 who has a developmental disability as defined pursuant to section 3 of
46 the "Division of Developmental Disabilities Act," P.L.1985, c.145

1 (C.30:6D-25).

2 "Family" means the family member with a developmental disability
3 and his parents and siblings, or spouse and children.

4 "Family support services" means a coordinated system of ongoing
5 public and private support services which are designed to maintain and
6 enhance the quality of life of a family member with a developmental
7 disability and his family as set forth in section 4 of this act.

8 "Parent" means the biological or adoptive parent or uncompensated
9 [foster] resource family parent or legal guardian who cares for the
10 family member with a developmental disability and with whom the
11 family member with a developmental disability resides.

12 "System" means the Family Support System established pursuant to
13 section 4 of this act.

14 (cf: P.L.1993, c.98, s.3)

15

16 111. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
17 read as follows:

18 3. As used in this act:

19 a. "Child" means a biological, adopted, or [foster] resource family
20 child, stepchild, legal ward, or child of a parent who is

21 (1) under 18 years of age; or

22 (2) 18 years of age or older but incapable of self-care because of
23 a mental or physical impairment.

24 b. "Director" means the Director of the Division on Civil Rights.

25 c. "Division" means the Division on Civil Rights in the Department
26 of Law and Public Safety.

27 d. "Employ" means to suffer or permit to work for compensation,
28 and includes ongoing, contractual relationships in which the employer
29 retains substantial direct or indirect control over the employee's
30 employment opportunities or terms and conditions of employment.

31 e. "Employee" means a person who is employed for at least 12
32 months by an employer, with respect to whom benefits are sought
33 under this act, for not less than 1,000 base hours during the
34 immediately preceding 12-month period.

35 f. "Employer" means a person or corporation, partnership,
36 individual proprietorship, joint venture, firm or company or other
37 similar legal entity which engages the services of an employee and
38 which:

39 (1) With respect to the period of time from the effective date of
40 this act until the 365th day following the effective date of this act,
41 employs 100 or more employees for each working day during each of
42 20 or more calendar workweeks in the then current or immediately
43 preceding calendar year;

44 (2) With respect to the period of time from the 366th day following
45 the effective date of this act until the 1,095th day following the
46 effective date of this act, employs 75 or more employees for each

1 working day during each of 20 or more calendar workweeks in the
2 then current or immediately preceding calendar year; and

3 (3) With respect to any time after the 1,095th day following the
4 effective date of this act, employs 50 or more employees for each
5 working day during each of 20 or more calendar workweeks in the
6 then current or immediately preceding calendar year. "Employer"
7 includes the State, any political subdivision thereof, and all public
8 offices, agencies, boards or bodies.

9 g. "Employment benefits" means all benefits and policies provided
10 or made available to employees by an employer, and includes group
11 life insurance, health insurance, disability insurance, sick leave, annual
12 leave, pensions, or other similar benefits.

13 h. "Parent" means a person who is the biological parent, adoptive
14 parent, [foster] resource family parent, step-parent, parent-in-law or
15 legal guardian, having a "parent-child relationship" with a child as
16 defined by law, or having sole or joint legal or physical custody, care,
17 guardianship, or visitation with a child.

18 i. "Family leave" means leave from employment so that the
19 employee may provide care made necessary by reason of:

20 (1) the birth of a child of the employee;

21 (2) the placement of a child with the employee in connection with
22 adoption of such child by the employee; or

23 (3) the serious health condition of a family member of the
24 employee.

25 j. "Family member" means a child, parent, or spouse.

26 k. "Reduced leave schedule" means leave scheduled for fewer than
27 an employee's usual number of hours worked per workweek but not
28 for fewer than an employee's usual number of hours worked per
29 workday, unless agreed to by the employee and the employer.

30 l. "Serious health condition" means an illness, injury, impairment,
31 or physical or mental condition which requires:

32 (1) inpatient care in a hospital, hospice, or residential medical care
33 facility; or

34 (2) continuing medical treatment or continuing supervision by a
35 health care provider.

36 (cf: P.L.1989, c.261, s.3)

37

38 112. Section 1 of P.L.1999, c.410 (C.39:4-50.15) is amended to
39 read as follows:

40 1. a. As used in this act:

41 "Minor" means a person who is 17 years of age or younger.

42 "Parent or guardian" means any natural parent, adoptive parent,
43 [foster] resource family parent, stepparent, or any person temporarily
44 responsible for the care, custody or control of a minor or upon whom
45 there is a legal duty for such care, custody or control.

46 b. A parent or guardian who is convicted of a violation of

1 R.S.39:4-50 and who, at the time of the violation, has a minor as a
2 passenger in the motor vehicle is guilty of a disorderly persons offense.

3 c. In addition to the penalties otherwise prescribed by law, a
4 person who is convicted under subsection b. of this section shall forfeit
5 the right to operate a motor vehicle over the highways of this State for
6 a period of not more than six months and shall be ordered to perform
7 community service for a period of not more than five days.

8 (cf: P.L.1999, c.410, s.1)

9

10 113. Section 53 of P.L.1975, c.291 (C.40:55D-66) is amended to
11 read as follows:

12 53. a. For purposes of this act, model homes or sales offices
13 within a subdivision and only during the period necessary for the sale
14 of new homes within such subdivision shall not be considered a
15 business use.

16 b. No zoning ordinance governing the use of land by or for schools
17 shall, by any of its provisions or by any regulation adopted in
18 accordance therewith, discriminate between public and private
19 nonprofit day schools of elementary or high school grade accredited
20 by the State Department of Education.

21 c. No zoning ordinance shall, by any of its provisions or by any
22 regulation adopted in accordance therewith, discriminate between
23 children who are members of families by reason of their relationship
24 by blood, marriage or adoption, and ~~[foster]~~ resource family children
25 placed with such families in a dwelling by the Division of Youth and
26 Family Services in the Department of ~~[Institutions and Agencies]~~
27 Human Services or a duly incorporated child care agency and children
28 placed pursuant to law in single family dwellings known as group
29 homes. As used in this section, the term "group home" means and
30 includes any single family dwelling used in the placement of children
31 pursuant to law recognized as a group home by the Department of
32 ~~[Institutions and Agencies]~~ Human Services in accordance with rules
33 and regulations adopted by the Commissioner of ~~[Institutions and~~
34 ~~Agencies]~~ Human Services provided, however, that no group home
35 shall contain more than 12 children.

36 (cf: P.L.1975, c.291, s.53)

37

38 114. N.J.S.40A:10-16 is amended to read as follows:

39 40A:10-16. As used in this subarticle:

40 a. "Dependents" means an employee's spouse and the employee's
41 unmarried children, including stepchildren, legally adopted children,
42 and, at the option of the employer and the carrier, ~~[foster]~~ children
43 placed by the Division of Youth and Family Services, under the age of
44 19 who live with the employee in a regular parent-child relationship,
45 and may also include, at the option of the employer and the carrier,
46 other unmarried children of the employee under the age of 23 who are

1 dependent upon the employee for support and maintenance, but shall
2 not include a spouse or child while serving in the military service;

3 b. "Employees" may, at the option of the employer, include elected
4 officials, but shall not include persons employed on a short-term,
5 seasonal, intermittent or emergency basis, persons compensated on a
6 fee basis, or persons whose compensation from the employer is limited
7 to reimbursement of necessary expenses actually incurred in the
8 discharge of their duties;

9 c. "Federal Medicare Program" means the coverage provided
10 under Title XVIII of the Social Security Act as amended in 1965, or
11 its successor plan or plans.

12 (cf: N.J.S.40A:10-16)

13

14 115. Section 1 of P.L.1983, c.191 (C.40A:10-34.1) is amended to
15 read as follows:

16 1. Any municipality or county, or agency thereof, hereinafter
17 referred to as employers, may enter into contracts of group legal
18 insurance with any insurer authorized, pursuant to P.L.1981, c.160
19 (C.17:46C-1 et seq.), to engage in the business of legal insurance in
20 this State or may contract with a duly recognized prepaid legal
21 services plan with respect to the benefits which they are authorized to
22 provide. Such contract or contracts shall provide such coverage for
23 the employees of such employer and may include their dependents.
24 "Dependents" shall include an employee's spouse and the employee's
25 unmarried children, including stepchildren and legally adopted
26 children, and, at the option of the employer and the carrier, [foster]
27 children placed by the Division of Youth and Family Services in the
28 Department of Human Services, under the age of 19 who live with the
29 employee in a regular parent-child relationship, and may also include,
30 at the option of the employer and the carrier, other unmarried children
31 of the employee under the age of 23 who are dependent upon the
32 employee for support and maintenance. A spouse or child enlisting or
33 inducted into military service shall not be considered a dependent
34 during such military service.

35 Elected officials may be considered, at the option of the employer,
36 to be "employees" for the purposes hereof, but "employees" shall not
37 otherwise include persons employed on a short-term, seasonal,
38 intermittent or emergency basis, persons compensated on a fee basis,
39 or persons whose compensation from the public employer is limited to
40 reimbursement of necessary expenses actually incurred in the discharge
41 of their duties.

42 The contract shall include provisions to prevent duplication of
43 benefits and shall condition the eligibility of any employee for
44 coverage upon satisfying a waiting period stated in the contract.

45 The coverage of any employee, and of his dependents, if any, shall
46 cease upon the discontinuance of his employment or upon cessation of

1 active full-time employment in the classes eligible for coverage, subject
2 to such provision as may be made in any contract by his employer for
3 limited continuance of coverage during disability, part-time
4 employment, leave of absence other than leave for military service or
5 layoff, or for continuance of coverage after retirement.

6 (cf: P.L.1983, c.191, s.1)

7

8 116. R.S.43:21-4 is amended to read as follows:

9 43:21-4. Benefit eligibility conditions. An unemployed individual
10 shall be eligible to receive benefits with respect to any week only if:

11 (a) The individual has filed a claim at an unemployment insurance
12 claims office and thereafter continues to report at an employment
13 service office or unemployment insurance claims office, as directed by
14 the division in accordance with such regulations as the division may
15 prescribe, except that the division may, by regulation, waive or alter
16 either or both of the requirements of this subsection as to individuals
17 attached to regular jobs, and as to such other types of cases or
18 situations with respect to which the division finds that compliance with
19 such requirements would be oppressive, or would be inconsistent with
20 the purpose of this act; provided that no such regulation shall conflict
21 with subsection (a) of R.S.43:21-3.

22 (b) The individual has made a claim for benefits in accordance with
23 the provisions of subsection (a) of R.S.43:21-6.

24 (c) (1) The individual is able to work, and is available for work,
25 and has demonstrated to be actively seeking work, except as
26 hereinafter provided in this subsection or in subsection (f) of this
27 section.

28 (2) The director may modify the requirement of actively seeking
29 work if such modification of this requirement is warranted by
30 economic conditions.

31 (3) No individual, who is otherwise eligible, shall be deemed
32 ineligible, or unavailable for work, because the individual is on
33 vacation, without pay, during said week, if said vacation is not the
34 result of the individual's own action as distinguished from any
35 collective action of a collective bargaining agent or other action
36 beyond the individual's control.

37 (4) (A) Subject to such limitations and conditions as the division
38 may prescribe, an individual, who is otherwise eligible, shall not be
39 deemed unavailable for work or ineligible because the individual is
40 attending a training program approved for the individual by the
41 division to enhance the individual's employment opportunities or
42 because the individual failed or refused to accept work while attending
43 such program.

44 (B) For the purpose of this paragraph (4), any training program
45 shall be regarded as approved by the division for the individual if the
46 program and the individual meet the following requirements:

- 1 (i) The training is for a labor demand occupation and is likely to
2 enhance the individual's marketable skills and earning power;
- 3 (ii) The training is provided by a competent and reliable private or
4 public entity approved by the Commissioner of Labor pursuant to the
5 provisions of section 8 of the "1992 New Jersey Employment and
6 Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);
- 7 (iii) The individual can reasonably be expected to complete the
8 program, either during or after the period of benefits;
- 9 (iv) The training does not include on the job training or other
10 training under which the individual is paid by an employer for work
11 performed by the individual during the time that the individual receives
12 benefits; and
- 13 (v) The individual enrolls in vocational training, remedial education
14 or a combination of both on a full-time basis.
- 15 (C) If the requirements of subparagraph (B) of this paragraph (4)
16 are met, the division shall not withhold approval of the training
17 program for the individual for any of the following reasons:
- 18 (i) The training includes remedial basic skills education necessary
19 for the individual to successfully complete the vocational component
20 of the training;
- 21 (ii) The training is provided in connection with a program under
22 which the individual may obtain a college degree, including a
23 post-graduate degree;
- 24 (iii) The length of the training period under the program; or
- 25 (iv) The lack of a prior guarantee of employment upon completion
26 of the training.
- 27 (D) For the purpose of this paragraph (4), "labor demand
28 occupation" means an occupation for which there is or is likely to be
29 an excess of demand over supply for adequately trained workers,
30 including, but not limited to, an occupation designated as a labor
31 demand occupation by the New Jersey Occupational Information
32 Coordinating Committee pursuant to the provisions of subsection h.
33 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
34 P.L.1992, c.43 (C.34:1A-78).
- 35 (5) An unemployed individual, who is otherwise eligible, shall not
36 be deemed unavailable for work or ineligible solely by reason of the
37 individual's attendance before a court in response to a summons for
38 service on a jury.
- 39 (6) An unemployed individual, who is otherwise eligible, shall not
40 be deemed unavailable for work or ineligible solely by reason of the
41 individual's attendance at the funeral of an immediate family member,
42 provided that the duration of the attendance does not extend beyond
43 a two-day period.
- 44 For purposes of this paragraph, "immediate family member"
45 includes any of the following individuals: father, mother,
46 mother-in-law, father-in-law, grandmother, grandfather, grandchild,

1 spouse, child, [foster] child placed by the Division of Youth and
2 Family Services in the Department of Human Services, sister or
3 brother of the unemployed individual and any relatives of the
4 unemployed individual residing in the unemployed individual's
5 household.

6 (7) No individual, who is otherwise eligible, shall be deemed
7 ineligible or unavailable for work with respect to any week because,
8 during that week, the individual fails or refuses to accept work while
9 the individual is participating on a full-time basis in self-employment
10 assistance activities authorized by the division, whether or not the
11 individual is receiving a self-employment allowance during that week.

12 (8) Any individual who is determined to be likely to exhaust
13 regular benefits and need reemployment services based on information
14 obtained by the worker profiling system shall not be eligible to receive
15 benefits if the individual fails to participate in available reemployment
16 services to which the individual is referred by the division or in similar
17 services, unless the division determines that:

18 (A) The individual has completed the reemployment services; or

19 (B) There is justifiable cause for the failure to participate, which
20 shall include participation in employment and training,
21 self-employment assistance activities or other activities authorized by
22 the division to assist reemployment or enhance the marketable skills
23 and earning power of the individual and which shall include any other
24 circumstance indicated pursuant to this section in which an individual
25 is not required to be available for and actively seeking work to receive
26 benefits.

27 (9) An unemployed individual, who is otherwise eligible, shall not
28 be deemed unavailable for work or ineligible solely by reason of the
29 individual's work as a board worker for a county board of elections on
30 an election day.

31 (d) With respect to any benefit year commencing before January 1,
32 2002, the individual has been totally or partially unemployed for a
33 waiting period of one week in the benefit year which includes that
34 week. When benefits become payable with respect to the third
35 consecutive week next following the waiting period, the individual
36 shall be eligible to receive benefits as appropriate with respect to the
37 waiting period. No week shall be counted as a week of unemployment
38 for the purposes of this subsection:

39 (1) If benefits have been paid, or are payable with respect thereto;
40 provided that the requirements of this paragraph shall be waived with
41 respect to any benefits paid or payable for a waiting period as provided
42 in this subsection;

43 (2) If it has constituted a waiting period week under the
44 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
45 seq.);

46 (3) Unless the individual fulfills the requirements of subsections (a)

1 and of this section;

2 (4) If with respect thereto, claimant was disqualified for benefits
3 in accordance with the provisions of subsection (d) of R.S.43:21-5.

4 The waiting period provided by this subsection shall not apply to
5 benefit years commencing on or after January 1, 2002. An individual
6 whose total benefit amount was reduced by the application of the
7 waiting period to a claim which occurred on or after January 1, 2002
8 and before the effective date of P.L.2002, c.13, shall be permitted to
9 file a claim for the additional benefits attributable to the waiting period
10 in the form and manner prescribed by the division, but not later than
11 the 180th day following the effective date of P.L.2002, c.13 unless the
12 division determines that there is good cause for a later filing.

13 (e) (1) (Deleted by amendment, P.L.2001, c.17).

14 (2) With respect to benefit years commencing on or after January
15 1, 1996 and before January 7, 2001, except as otherwise provided in
16 paragraph (3) of this subsection, the individual has, during his base
17 year as defined in subsection of R.S.43:21-19:

18 (A) Established at least 20 base weeks as defined in paragraph (2)
19 of subsection (t) of R.S.43:21-19; or

20 (B) ~~[f]~~ If the individual has not met the requirements of
21 subparagraph (A) of this paragraph (2), earned remuneration not less
22 than an amount 12 times the Statewide average weekly remuneration
23 paid to workers, as determined under R.S.43:21-3(c), which amount
24 shall be adjusted to the next higher multiple of ~~[\$100.00]~~\$100 if not
25 already a multiple thereof; or

26 If the individual has not met the requirements of subparagraph (A)
27 or (B) of this paragraph (2), earned remuneration not less than an
28 amount 1,000 times the minimum wage in effect pursuant to section
29 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
30 year preceding the calendar year in which the benefit year commences,
31 which amount shall be adjusted to the next higher multiple of
32 ~~[\$100.00]~~\$100 if not already a multiple thereof.

33 (3) With respect to benefit years commencing before January 7,
34 2001, notwithstanding the provisions of paragraph (2) of this
35 subsection, an unemployed individual claiming benefits on the basis of
36 service performed in the production and harvesting of agricultural
37 crops shall, subject to the limitations of subsection (i) of
38 R.S.43:21-19, be eligible to receive benefits if during his base year, as
39 defined in subsection of R.S.43:21-19, the individual:

40 (A) Has established at least 20 base weeks as defined in paragraph
41 (2) of subsection (t) of R.S.43:21-19; or

42 (B) Has earned 12 times the Statewide average weekly
43 remuneration paid to workers, as determined under R.S.43:21-3(c),
44 raised to the next higher multiple of \$100.00 if not already a multiple
45 thereof, or more; or

46 (C) Has performed at least 770 hours of service in the production

1 and harvesting of agricultural crops.

2 (4) With respect to benefit years commencing on or after January
3 7, 2001, except as otherwise provided in paragraph (5) of this
4 subsection, the individual has, during his base year as defined in
5 subsection of R.S.43:21-19:

6 (A) Established at least 20 base weeks as defined in paragraphs (2)
7 and (3) of subsection (t) of R.S.43:21-19; or

8 (B) If the individual has not met the requirements of subparagraph
9 (A) of this paragraph (4), earned remuneration not less than an amount
10 1,000 times the minimum wage in effect pursuant to section 5 of
11 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
12 preceding the calendar year in which the benefit year commences,
13 which amount shall be adjusted to the next higher multiple of \$100 if
14 not already a multiple thereof.

15 (5) With respect to benefit years commencing on or after January
16 7, 2001, notwithstanding the provisions of paragraph (4) of this
17 subsection, an unemployed individual claiming benefits on the basis of
18 service performed in the production and harvesting of agricultural
19 crops shall, subject to the limitations of subsection (i) of R.S.43:21-19,
20 be eligible to receive benefits if during his base year, as defined in
21 subsection of R.S.43:21-19, the individual:

22 (A) Has established at least 20 base weeks as defined in paragraphs
23 (2) and (3) of subsection (t) of R.S.43:21-19; or

24 (B) Has earned remuneration not less than an amount 1,000 times
25 the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
26 (C.34:11-56a4) on October 1 of the calendar year preceding the
27 calendar year in which the benefit year commences, which amount
28 shall be adjusted to the next higher multiple of \$100 if not already a
29 multiple thereof; or

30 (C) Has performed at least 770 hours of service in the production
31 and harvesting of agricultural crops.

32 (6) The individual applying for benefits in any successive benefit
33 year has earned at least six times his previous weekly benefit amount
34 and has had four weeks of employment since the beginning of the
35 immediately preceding benefit year. This provision shall be in addition
36 to the earnings requirements specified in paragraph (2), (3), (4) or (5)
37 of this subsection, as applicable.

38 (f) (1) The individual has suffered any accident or sickness not
39 compensable under the workers' compensation law, R.S.34:15-1 et
40 seq. and resulting in the individual's total disability to perform any
41 work for remuneration, and would be eligible to receive benefits under
42 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
43 amount of benefits payable during any benefit year) except for the
44 inability to work and has furnished notice and proof of claim to the
45 division, in accordance with its rules and regulations, and payment is
46 not precluded by the provisions of R.S.43:21-3(d); provided, however,

1 that benefits paid under this subsection (f) shall be computed on the
2 basis of only those base year wages earned by the claimant as a
3 "covered individual," as defined in R.S.43:21-27(b); provided further
4 that no benefits shall be payable under this subsection to any
5 individual:

6 (A) For any period during which such individual is not under the
7 care of a legally licensed physician, dentist, optometrist, podiatrist,
8 practicing psychologist or chiropractor;

9 (B) (Deleted by amendment, P.L.1980, c.90.)

10 (C) For any period of disability due to willfully or intentionally
11 self-inflicted injury, or to injuries sustained in the perpetration by the
12 individual of a crime of the first, second or third degree;

13 (D) For any week with respect to which or a part of which the
14 individual has received or is seeking benefits under any unemployment
15 compensation or disability benefits law of any other state or of the
16 United States; provided that if the appropriate agency of such other
17 state or the United States finally determines that the individual is not
18 entitled to such benefits, this disqualification shall not apply;

19 (E) For any week with respect to which or part of which the
20 individual has received or is seeking disability benefits under the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
22 seq.);

23 (F) For any period of disability commencing while such individual
24 is a "covered individual," as defined in subsection (b) of section 3 of
25 the "Temporary Disability Benefits Law," P.L.1948, c.110
26 (C.43:21-27).

27 (2) Benefit payments under this subsection (f) shall be charged to
28 and paid from the State disability benefits fund established by the
29 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
30 seq.), and shall not be charged to any employer account in computing
31 any employer's experience rate for contributions payable under this
32 chapter.

33 (g) Benefits based on service in employment defined in
34 subparagraphs (B) and of R.S.43:21-19 (i)(1) shall be payable in the
35 same amount and on the terms and subject to the same conditions as
36 benefits payable on the basis of other service subject to the
37 "unemployment compensation law"; except that, notwithstanding any
38 other provisions of the "unemployment compensation law":

39 (1) With respect to service performed after December 31, 1977, in
40 an instructional research, or principal administrative capacity for an
41 educational institution, benefits shall not be paid based on such
42 services for any week of unemployment commencing during the period
43 between two successive academic years, or during a similar period
44 between two regular terms, whether or not successive, or during a
45 period of paid sabbatical leave provided for in the individual's contract,
46 to any individual if such individual performs such services in the first

1 of such academic years (or terms) and if there is a contract or a
2 reasonable assurance that such individual will perform services in any
3 such capacity for any educational institution in the second of such
4 academic years or terms;

5 (2) With respect to weeks of unemployment beginning after
6 September 3, 1982, on the basis of service performed in any other
7 capacity for an educational institution, benefits shall not be paid on the
8 basis of such services to any individual for any week which commences
9 during a period between two successive academic years or terms if
10 such individual performs such services in the first of such academic
11 years or terms and there is a reasonable assurance that such individual
12 will perform such services in the second of such academic years or
13 terms, except that if benefits are denied to any individual under this
14 paragraph (2) and the individual was not offered an opportunity to
15 perform these services for the educational institution for the second of
16 any academic years or terms, the individual shall be entitled to a
17 retroactive payment of benefits for each week for which the individual
18 filed a timely claim for benefits and for which benefits were denied
19 solely by reason of this clause;

20 (3) With respect to those services described in paragraphs (1) and
21 (2) above, benefits shall not be paid on the basis of such services to
22 any individual for any week which commences during an established
23 and customary vacation period or holiday recess if such individual
24 performs such services in the period immediately before such vacation
25 period or holiday recess, and there is a reasonable assurance that such
26 individual will perform such services in the period immediately
27 following such period or holiday recess;

28 (4) With respect to any services described in paragraphs (1) and
29 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
30 and (3) above to any individual who performed those services in an
31 educational institution while in the employ of an educational service
32 agency, and for this purpose the term "educational service agency"
33 means a governmental agency or governmental entity which is
34 established and operated exclusively for the purpose of providing
35 those services to one or more educational institutions.

36 (h) Benefits shall not be paid to any individual on the basis of any
37 services, substantially all of which consist of participating in sports or
38 athletic events or training or preparing to so participate, for any week
39 which commences during the period between two successive sports
40 seasons (or similar periods) if such individual performed such services
41 in the first of such seasons (or similar periods) and there is a
42 reasonable assurance that such individual will perform such services in
43 the later of such seasons (or similar periods).

44 (i) (1) Benefits shall not be paid on the basis of services performed
45 by an alien unless such alien is an individual who was lawfully admitted
46 for permanent residence at the time the services were performed and

1 was lawfully present for the purpose of performing the services or
2 otherwise was permanently residing in the United States under color
3 of law at the time the services were performed (including an alien who
4 is lawfully present in the United States as a result of the application of
5 the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the
6 Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided
7 that any modifications of the provisions of section 3304(a)(14) of the
8 Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as
9 provided by Pub.L.94-566, which specify other conditions or other
10 effective dates than stated herein for the denial of benefits based on
11 services performed by aliens and which modifications are required to
12 be implemented under State law as a condition for full tax credit
13 against the tax imposed by the Federal Unemployment Tax Act, shall
14 be deemed applicable under the provisions of this section.

15 (2) Any data or information required of individuals applying for
16 benefits to determine whether benefits are not payable to them because
17 of their alien status shall be uniformly required from all applicants for
18 benefits.

19 (3) In the case of an individual whose application for benefits
20 would otherwise be approved, no determination that benefits to such
21 individual are not payable because of alien status shall be made except
22 upon a preponderance of the evidence.

23 (j) Notwithstanding any other provision of this chapter, the
24 director may, to the extent that it may be deemed efficient and
25 economical, provide for consolidated administration by one or more
26 representatives or deputies of claims made pursuant to subsection (f)
27 of this section with those made pursuant to Article III (State plan) of
28 the "Temporary Disability Benefits Law," P.L.1948, c.110
29 (C.43:21-25 et seq.).

30 (cf: P.L.2002, c.94, s.1.)

31

32 117. Section 2 of P.L.1997, c.38 (C.44:10-56) is amended to read
33 as follows:

34 2. The Legislature finds and declares that:

35 a. The federal "Personal Responsibility and Work Opportunity
36 Reconciliation Act of 1996," Pub.L.104-193, establishes the federal
37 block grant for temporary assistance for needy families and provides
38 the opportunity for a state to establish and design its own welfare
39 program;

40 b. Work and the earning of income promote the best interests of
41 families and children;

42 c. Working individuals and families needing temporary assistance
43 should have the transitional support necessary to obtain and keep a
44 job in order to be able to avoid cycling back onto public assistance;

45 d. Teenage pregnancy is counter to the best interests of children;

46 e. Successful welfare reform requires the active involvement of the

1 private sector as well as all departments of State government;

2 f. Personal and family security and stability, including the
3 protection of children and vulnerable adults, are important to the
4 establishment and maintenance of successful family life and childhood
5 development and a family's inability or failure to qualify for benefits
6 under the Work First New Jersey program established pursuant to this
7 act shall not in and of itself be the basis for the separation of a
8 dependent child from his family or the justification for the [foster]
9 resource family care placement of a dependent child;

10 g. Children and teenagers need the benefits of the support and
11 guidance which a family structure provides; the welfare system has
12 provided a vehicle for breaking up families by giving teenage mothers
13 the means to shift their financial dependence from their parents to the
14 State; in the process, these youths deprive themselves of the education
15 and family structure necessary to support themselves and their babies;
16 and the support and structure provided by families are important to the
17 development of a child's maximum potential; and

18 h. The Work First New Jersey program established pursuant to this
19 act incorporates and builds upon the fundamental concepts of the
20 Family Development Initiative established pursuant to P.L.1991, c.523
21 (C.44:10-19 et seq.) in a manner that is consistent with the federal
22 program of temporary assistance for needy families, by establishing
23 requirements for: time limits on cash assistance; the participation of
24 recipients in work activities; enhanced efforts to establish paternity and
25 establish and enforce child support obligations; sanctions for failure to
26 comply with program requirements; a cap on the use of funds for
27 administrative costs; the maintenance of State and county financial
28 support of the program; teenage parent recipients to live at home and
29 finish high school; and restrictions on eligibility for benefits for aliens.
30 (cf: P.L.1997, c.38, s.2)

31

32 118. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
33 read as follows:

34 2. As used in this act:

35 (a) The term "State" means the State of New Jersey.

36 (b) The term "commission" means the State Health Benefits
37 Commission, created by section 3 of this act.

38 (c) The term "employee" means an appointive or elective officer or
39 full-time employee of the State of New Jersey. For the purposes of
40 this act an employee of Rutgers, The State University of New Jersey,
41 shall be deemed to be an employee of the State, and an employee of
42 the New Jersey Institute of Technology shall be considered to be an
43 employee of the State during such time as the Trustees of the Institute
44 are party to a contractual agreement with the State Treasurer for the
45 provision of educational services. The term "employee" shall further
46 mean, for purposes of this act, a former employee of the South Jersey

1 Port Corporation, who is employed by a subsidiary corporation or
2 other corporation, which has been established by the Delaware River
3 Port Authority pursuant to subdivision (m) of Article I of the compact
4 creating the Delaware River Port Authority (R.S.32:3-2), as defined
5 in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for
6 continued membership in the Public Employees' Retirement System
7 pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

8 For the purposes of this act the term "employee" shall not include
9 persons employed on a short-term, seasonal, intermittent or emergency
10 basis, persons compensated on a fee basis, persons having less than
11 two months of continuous service or persons whose compensation
12 from the State is limited to reimbursement of necessary expenses
13 actually incurred in the discharge of their official duties. An employee
14 paid on a 10-month basis, pursuant to an annual contract, will be
15 deemed to have satisfied the two-month waiting period if the employee
16 begins employment at the beginning of the contract year. The term
17 "employee" shall also not include retired persons who are otherwise
18 eligible for benefits under this act but who, although they meet the age
19 eligibility requirement of Medicare, are not covered by the complete
20 federal program. A determination by the commission that a person is
21 an eligible employee within the meaning of this act shall be final and
22 shall be binding on all parties.

23 (d) (1) The term "dependents" means an employee's spouse, or an
24 employee's domestic partner as defined in section 3 of P.L.2003, c.246
25 (C.26:8A-3), and the employee's unmarried children under the age of
26 23 years who live with the employee in a regular parent-child
27 relationship. "Children" shall include stepchildren, legally adopted
28 children and [foster] children placed by the Division of Youth and
29 Family Services, provided they are reported for coverage and are
30 wholly dependent upon the employee for support and maintenance. A
31 spouse, domestic partner or child enlisting or inducted into military
32 service shall not be considered a dependent during the military service.
33 The term "dependents" shall not include spouses or domestic partners
34 of retired persons who are otherwise eligible for the benefits under this
35 act but who, although they meet the age eligibility requirement of
36 Medicare, are not covered by the complete federal program.

37 (2) Notwithstanding the provisions of paragraph (1) of this
38 subsection to the contrary and subject to the provisions of paragraph
39 (3) of this subsection, for the purposes of an employer other than the
40 State that is participating in the State Health Benefits Program
41 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
42 "dependents" means an employee's spouse and the employee's
43 unmarried children under the age of 23 years who live with the
44 employee in a regular parent-child relationship. "Children" shall
45 include stepchildren, legally adopted children and [foster] children
46 placed by the Division of Youth and Family Services in the

1 Department of Human Services provided they are reported for
2 coverage and are wholly dependent upon the employee for support and
3 maintenance. A spouse or child enlisting or inducted into military
4 service shall not be considered a dependent during the military service.
5 The term "dependents" shall not include spouses of retired persons
6 who are otherwise eligible for benefits under P.L.1961, c.49
7 (C.52:14-17.25 et seq.) but who, although they meet the age eligibility
8 requirement of Medicare, are not covered by the complete federal
9 program.

10 (3) An employer other than the State that is participating in the
11 State Health Benefits Program pursuant to section 3 of P.L.1964,
12 c.125 (C.52:14-17.34) may adopt a resolution providing that the term
13 "dependents" as defined in paragraph (2) of this subsection shall
14 include domestic partners as provided in paragraph (1) of this
15 subsection.

16 (e) The term "carrier" means a voluntary association, corporation
17 or other organization, including a health maintenance organization as
18 defined in section 2 of the "Health Maintenance Organizations Act,"
19 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
20 or paying for or reimbursing the cost of, personal health services,
21 including hospitalization, medical and surgical services, under
22 insurance policies or contracts, membership or subscription contracts,
23 or the like, in consideration of premiums or other periodic charges
24 payable to the carrier.

25 (f) The term "hospital" means (1) an institution operated pursuant
26 to law which is primarily engaged in providing on its own premises,
27 for compensation from its patients, medical diagnostic and major
28 surgical facilities for the care and treatment of sick and injured persons
29 on an inpatient basis, and which provides such facilities under the
30 supervision of a staff of physicians and with 24 hour a day nursing
31 service by registered graduate nurses, or (2) an institution not meeting
32 all of the requirements of (1) but which is accredited as a hospital by
33 the Joint Commission on Accreditation of Hospitals. In no event shall
34 the term "hospital" include a convalescent nursing home or any
35 institution or part thereof which is used principally as a convalescent
36 facility, residential center for the treatment and education of children
37 with mental disorders, rest facility, nursing facility or facility for the
38 aged or for the care of drug addicts or alcoholics.

39 (g) The term "State managed care plan" means a health care plan
40 under which comprehensive health care services and supplies are
41 provided to eligible employees, retirees, and dependents: (1) through
42 a group of doctors and other providers employed by the plan; or (2)
43 through an individual practice association, preferred provider
44 organization, or point of service plan under which services and
45 supplies are furnished to plan participants through a network of
46 doctors and other providers under contracts or agreements with the

1 plan on a prepayment or reimbursement basis and which may provide
2 for payment or reimbursement for services and supplies obtained
3 outside the network. The plan may be provided on an insured basis
4 through contracts with carriers or on a self-insured basis, and may be
5 operated and administered by the State or by carriers under contracts
6 with the State.

7 (h) The term "Medicare" means the program established by the
8 "Health Insurance for the Aged Act," Title XVIII of the "Social
9 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
10 or its successor plan or plans.

11 (i) The term "traditional plan" means a health care plan which
12 provides basic benefits, extended basic benefits and major medical
13 expense benefits as set forth in section 5 of P.L.1961, c.49
14 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
15 dependents for expenses for covered health care services and supplies
16 through payments to providers or reimbursements to participants.

17 (cf: P.L.2003, c.246, s.41)

18

19 119. Section 5 of P.L.2003, c.187 (C.52:17D-5) is amended to
20 read as follows:

21 5. The child advocate may:

22 a. Investigate, review, monitor or evaluate any State agency
23 response to, or disposition of, an allegation of child abuse or neglect
24 in this State;

25 b. Inspect and review the operations, policies and procedures of:

26 (1) juvenile detention centers operated by the counties or the
27 Juvenile Justice Commission;

28 (2) [foster] resource family homes, group homes, residential
29 treatment facilities, shelters for the care of abused or neglected
30 children, shelters for the care of juveniles considered as juvenile-family
31 crisis cases, shelters for the care of homeless youth, or independent
32 living arrangements operated by or approved for payment by the
33 Department of Human Services; and

34 (3) any other public or private residential setting in which a child
35 has been placed by a State or county agency or department.

36 c. Review, evaluate, report on and make recommendations
37 concerning the procedures established by any State agency providing
38 services to children who are at risk of abuse or neglect, children in
39 State or institutional custody, or children who receive child protective
40 or permanency services;

41 d. Review, monitor and report on the performance of State-funded
42 private entities charged with the care and supervision of children due
43 to abuse or neglect by conducting research audits or other studies of
44 case records, policies, procedures and protocols, as deemed necessary
45 by the child advocate to assess the performance of the entities;

46 e. Receive, investigate and make referrals to other agencies or take

1 other appropriate actions with respect to a complaint received by the
2 office regarding the actions of a State, county or municipal agency or
3 a State-funded private entity providing services to children who are at
4 risk of abuse or neglect;

5 f. Hold a public hearing on the subject of an investigation or study
6 underway by the office, and receive testimony from agency and
7 program representatives, the public and other interested parties, as the
8 child advocate deems appropriate; and

9 g. Establish and maintain a 24-hour toll-free telephone hotline to
10 receive and respond to calls from citizens referring problems to the
11 child advocate, both individual and systemic, in how the State, through
12 its agencies or contract services, protects children.

13 (cf: P.L.2003, c.187, s.5)

14

15 120. Section 9 of P.L.2003, c.187 (C.52:17D-9) is amended to
16 read as follows:

17 9. The child advocate shall seek to ensure the protection of
18 children who are in an institution or **[foster] resource family** care by
19 reviewing, evaluating and monitoring the operation and activities of
20 the Institutional Abuse Investigation Unit in the Department of Human
21 Services.

22 a. In order to enable the child advocate to carry out its
23 responsibilities under this section, the Institutional Abuse Investigation
24 Unit shall:

25 (1) promptly notify the child advocate of any allegations of abuse
26 or neglect made against an institution or **[foster] resource family**
27 home serving children in this State;

28 (2) promptly provide the child advocate with a copy of the unit's
29 response to the complaint and the actions taken by the unit to address
30 the complaint;

31 (3) provide the child advocate with monthly updates of the status
32 of actions proposed by the unit regarding an existing complaint that
33 has not been resolved; and

34 (4) provide the child advocate with such other information as the
35 child advocate may deem necessary to carry out his responsibilities to
36 review, evaluate and monitor the operation and activities of the unit.

37 b. As used in this section, "institution" means a public or private
38 facility, in this State or out-of-State, that provides children with
39 out-of-home care, supervision or maintenance. Institution includes,
40 but is not limited to: a correctional facility, detention facility,
41 treatment facility, child care center, group home, residential school,
42 shelter, psychiatric hospital and developmental center.

43 (cf: P.L.2003, c.187, s.9)

44

45 121. Section 2 of P.L.1985, c.69 (C.53:1-20.6) is amended to read
46 as follows:

1 2. a. The Superintendent of State Police, with the approval of the
2 Attorney General, shall, pursuant to the "Administrative Procedure
3 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
4 regulations authorizing the dissemination, by the State Bureau of
5 Identification, of criminal history record background information
6 requested by State, county and local government agencies, including
7 the Division of State Police, in noncriminal matters, or requested by
8 individuals, nongovernmental entities or other governmental entities
9 whose access to such criminal history record background information
10 is not prohibited by law. A fee not to exceed \$30 shall be imposed for
11 processing fingerprint identification checks; a fee not to exceed \$18
12 shall be imposed for processing criminal history name search
13 identification checks. These fees shall be in addition to any other fees
14 required by law. In addition to any fee specified herein, a
15 nonrefundable fee, the amount of which shall be determined by the
16 Superintendent of State Police, with the approval of the Attorney
17 General, shall be collected to cover the cost of securing and processing
18 a federal criminal records check for each applicant.

19 b. State, county and local government agencies, including the
20 Division of State Police, and nongovernmental entities are authorized
21 to impose and collect the processing fee established pursuant to
22 subsection a. of this section from the person for whom the criminal
23 history record background check is being processed or from the party
24 requesting the criminal history record background check. The
25 Superintendent of State Police shall provide this processing service
26 without the collection of fees from the applicants in processing
27 background checks of prospective [foster] resource family parents or
28 members of their immediate families. In such cases, the Department of
29 Human Services shall be responsible for paying the fees imposed
30 pursuant to subsection a. of this section. Nothing in this section shall
31 prohibit the Superintendent of State Police, with the approval of the
32 Attorney General, from providing this processing service without the
33 collection of fees from the applicant in other circumstances which in
34 his sole discretion he deems appropriate, if the applicants would not
35 receive a wage or salary for the time and services they provide to an
36 organization or who are considered volunteers. In those circumstances
37 where the Superintendent of State Police, with the approval of the
38 Attorney General, determines to provide this processing service
39 without the collection of fees to the individual applicants, the
40 superintendent may assess the fees for providing this service on behalf
41 of the applicants to any department of State, county or municipal
42 government which is responsible for operating or overseeing that
43 volunteer program. The agencies shall transfer all moneys collected
44 for the processing fee to the Division of State Police.
45 (cf: P.L.2003, c.117, s.17)

1 122. Section 8 of P.L.2000, c.77 (C.53:1-20.9b) is amended to
2 read as follows:

3 8. a. The Commissioner of Human Services is authorized to
4 exchange fingerprint data with, and to receive information from, the
5 Division of State Police in the Department of Law and Public Safety
6 and the Federal Bureau of Investigation.

7 Upon receipt of the criminal history record information for an
8 applicant or staff member of a child care center from the Federal
9 Bureau of Investigation and the Division of State Police, the [Division
10 of Youth and Family] Department of Human Services shall notify the
11 applicant or staff member, as applicable, and the child care center, in
12 writing, of the applicant's or staff member's qualification or
13 disqualification for employment or service under P.L.2000, c.77
14 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified,
15 the convictions that constitute the basis for the disqualification shall
16 be identified in the written notice to the applicant or staff member.
17 The applicant or staff member shall have 14 days from the date of the
18 written notice of disqualification to challenge the accuracy of the
19 criminal history record information. If no challenge is filed or if the
20 determination of the accuracy of the criminal history record
21 information upholds the disqualification, the [Division of Youth and
22 Family] Department of Human Services shall notify the center that the
23 applicant or staff member has been disqualified from employment.

24 b. The Division of State Police shall promptly notify the [Division
25 of Youth and Family] Department of Human Services in the event an
26 applicant or staff member who was the subject of a criminal history
27 record background check conducted pursuant to subsection a. of this
28 section, is convicted of a crime or offense in this State after the date
29 the background check was performed. Upon receipt of such
30 notification, the [Division of Youth and Family] Department of
31 Human Services shall make a determination regarding the employment
32 of the applicant or staff member.

33 (cf: P.L.2000, c.77, s.8)

34

35 123. Section 3 of P.L.1979, c.496 (C.55:13B-3) is amended to
36 read as follows:

37 3. As used in this act:

38 a. "Boarding house" means any building, together with any related
39 structure, accessory building, any land appurtenant thereto, and any
40 part thereof, which contains two or more units of dwelling space
41 arranged or intended for single room occupancy, exclusive of any such
42 unit occupied by an owner or operator, and wherein personal or
43 financial services are provided to the residents, including any
44 residential hotel or congregate living arrangement, but excluding any
45 hotel, motel or established guest house wherein a minimum of 85% of
46 the units of dwelling space are offered for limited tenure only, any

1 [foster] resource family home as defined in section 1 of P.L.1962,
2 c.137 (C.30:4C-26.1), any community residence for the
3 developmentally disabled and any community residence for the
4 mentally ill as defined in section 2 of P.L.1977, c.448 (C.30:11B-2),
5 any adult family care home as defined in section 3 of P.L.2001, c.304
6 (C.26:2Y-3), any dormitory owned or operated on behalf of any
7 nonprofit institution of primary, secondary or higher education for the
8 use of its students, any building arranged for single room occupancy
9 wherein the units of dwelling space are occupied exclusively by
10 students enrolled in a full-time course of study at an institution of
11 higher education approved by the New Jersey Commission on Higher
12 Education, any facility or living arrangement operated by, or under
13 contract with, any State department or agency, upon the written
14 authorization of the commissioner, and any owner-occupied,
15 one-family residential dwelling made available for occupancy by not
16 more than six guests, where the primary purpose of the occupancy is
17 to provide charitable assistance to the guests and where the owner
18 derives no income from the occupancy. A dwelling shall be deemed
19 "owner-occupied" within the meaning of this section if it is owned or
20 operated by a nonprofit religious or charitable association or
21 corporation and is used as the principal residence of a minister or
22 employee of that corporation or association. For any such dwelling,
23 however, fire detectors shall be required as determined by the
24 Department of Community Affairs.

25 b. "Commissioner" means the Commissioner of the Department of
26 Community Affairs.

27 c. "Financial services" means any assistance permitted or required
28 by the commissioner to be furnished by an owner or operator to a
29 resident in the management of personal financial matters, including,
30 but not limited to, the cashing of checks, holding of personal funds for
31 safekeeping in any manner or assistance in the purchase of goods or
32 services with a resident's personal funds.

33 d. "Limited tenure" means residence at a rooming or boarding
34 house on a temporary basis, for a period lasting no more than 90 days,
35 when a resident either maintains a primary residence at a location other
36 than the rooming or boarding house or intends to establish a primary
37 residence at such a location and does so within 90 days after taking up
38 original residence at the rooming or boarding house.

39 e. "Operator" means any individual who is responsible for the daily
40 operation of a rooming or boarding house.

41 f. "Owner" means any person who owns, purports to own, or
42 exercises control of any rooming or boarding house.

43 g. "Personal services" means any services permitted or required to
44 be furnished by an owner or operator to a resident, other than shelter,
45 including, but not limited to, meals or other food services, and
46 assistance in dressing, bathing or attending to other personal needs.

1 h. "Rooming house" means a boarding house wherein no personal
2 or financial services are provided to the residents.

3 i. "Single room occupancy" means an arrangement of dwelling
4 space which does not provide a private, secure dwelling space
5 arranged for independent living, which contains both the sanitary and
6 cooking facilities required in dwelling spaces pursuant to the "Hotel
7 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and
8 which is not used for limited tenure occupancy in a hotel, motel or
9 established guest house, regardless of the number of individuals
10 occupying any room or rooms.

11 j. "Unit of dwelling space" means any room, rooms, suite, or
12 portion thereof, whether furnished or unfurnished, which is occupied
13 or intended, arranged or designed to be occupied for sleeping or
14 dwelling purposes by one or more persons.

15 k. "Alzheimer's disease and related disorders" means a form of
16 dementia characterized by a general loss of intellectual abilities of
17 sufficient severity to interfere with social or occupational functioning.

18 l. "Dementia" means a chronic or persistent disorder of the mental
19 processes due to organic brain disease, for which no curative treatment
20 is available, and marked by memory disorders, changes in personality,
21 deterioration in personal care, impaired reasoning ability and
22 disorientation.

23 (cf: P.L.2001, c.304, s.12)

24

25 124. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to
26 read as follows:

27 3. As used in this act:

28 a. "Agency" means the New Jersey Housing and Mortgage Finance
29 Agency as consolidated by section 4 of P.L.1983, c.530 (C.55:14K-4),
30 or, if that agency shall be abolished by law, the person, board, body or
31 commission succeeding to the powers and duties thereof or to whom
32 its powers and duties shall be given by law.

33 b. "Boarding house" means any building, together with any related
34 structure, accessory building, any land appurtenant thereto, and any
35 part thereof, which contains two or more units of dwelling space
36 arranged or intended for single room occupancy, exclusive of any such
37 unit occupied by an owner or operator, including:

38 (1) any residential hotel or congregate living arrangement, but
39 excluding any hotel, motel or established guesthouse wherein a
40 minimum of 85% of the units of dwelling space are offered for limited
41 tenure only; (2) a residential health care facility as defined in section
42 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971,
43 c.136 (C.26:2H-1 et seq.); (3) any **[foster] resource family** home as
44 defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any
45 community residence for the developmentally disabled as defined in
46 section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory owned

1 or operated on behalf of any nonprofit institution of primary,
2 secondary or higher education for the use of its students; (6) any
3 building arranged for single room occupancy wherein the units of
4 dwelling space are occupied exclusively by students enrolled in a
5 full-time course of study at an institution of higher education approved
6 by the Department of Higher Education; and (7) any facility or living
7 arrangement operated by, or under contract with, any State
8 department or agency.

9 c. "Bonds" mean any bonds, notes, bond anticipation notes,
10 debentures or other evidences of financial indebtedness issued by the
11 agency pursuant to this act.

12 d. "Continuing-care retirement community" means any work or
13 undertaking, whether new construction, improvement or rehabilitation,
14 which may be financed in part or in whole by the agency and which is
15 designed to complement fully independent residential units with social
16 and health care services (usually including nursing and medical
17 services) for retirement families and which is intended to provide
18 continuing care for the term of a contract in return for an entrance fee
19 or periodic payments, or both, and which may include such
20 appurtenances and facilities as the agency deems to be necessary,
21 convenient or desirable.

22 e. "Eligible loan" means a loan, secured or unsecured, made for the
23 purpose of financing the operation, maintenance, construction,
24 acquisition, rehabilitation or improvement of property, or the
25 acquisition of a direct or indirect interest in property, located in the
26 State, which is or shall be: (1) primarily residential in character or (2)
27 used or to be used to provide services to the residents of an area or
28 project which is primarily residential in character. The agency shall
29 adopt regulations defining the term "primarily residential in character,"
30 which may include single-family, multi-family and congregate or other
31 single room occupancy housing, continuing-care retirement
32 communities, mobile homes and nonhousing properties and facilities
33 which enhance the livability of the residential property or area; and
34 specifying the types of residential services and facilities for which
35 eligible loans may be made, which may include, but shall not be limited
36 to, parking facilities, streets, sewers, utilities, and administrative,
37 community, educational, welfare and recreational facilities, food,
38 laundry, health and other services and commercial establishments and
39 professional offices providing supplies and services enhancing the area.
40 The term "loan" includes an obligation the return on which may vary
41 with any appreciation in value of the property or interest in property
42 financed with the proceeds of the loan, or a co-ventured instrument by
43 which an institutional lender or the agency assumes an equity position
44 in the property. Any undivided interest in an eligible loan shall qualify
45 as an eligible loan.

46 f. "Family" means two or more persons who live or expect to live

1 together as a single household in the same dwelling unit; but any
2 individual who (1) has attained retirement age as defined in section
3 216a of the federal Social Security Act, or (2) is under a disability as
4 defined in section 223 of that act, or (3) such other individuals as the
5 agency by rule or regulation shall include, shall be considered as a
6 family for the purpose of this act; and the surviving member of a family
7 whose other members died during occupancy of a housing project shall
8 be considered as a family for the purposes of permitting continued
9 occupancy of the dwelling unit occupied by such family.

10 g. "Gross aggregate family income" means the total annual income
11 of all members of a family, from whatever source derived, including
12 but not limited to, pension, annuity, retirement and social security
13 benefits; except that there may be excluded from income (1) such
14 reasonable allowances for dependents, (2) such reasonable allowances
15 for medical expenses, (3) all or any proportionate part of the earnings
16 of gainfully employed minors, or (4) such income as is not received
17 regularly, as the agency by rule or regulation may determine.

18 h. "Housing project" or "project" means any work or undertaking,
19 other than a continuing-care community, whether new construction,
20 improvement, rehabilitation, or acquisition of existing buildings or
21 units which is designed for the primary purpose of providing
22 multi-family rental housing or acquisition of sites for future
23 multi-family rental housing.

24 i. "Housing sponsor" means any person, partnership, corporation
25 or association, whether organized as for profit or not for profit, to
26 which the agency has made or proposes to make a loan, either directly
27 or through an institutional lender, for a housing project.

28 j. "Institutional lender" means any bank or trust company, savings
29 bank, national banking association, savings and loan association, or
30 building and loan association maintaining an office in the State, or any
31 insurance company or any mortgage banking firm or mortgage banking
32 corporation authorized to transact business in the State.

33 k. "Life safety improvement" means any addition, modification or
34 repair to a boarding house which is necessary to improve the life safety
35 of the residents of the boarding house, as certified by the Department
36 of Community Affairs, including, but not limited to, the correction of
37 a violation of the "State Uniform Construction Code Act," P.L.1975,
38 c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act
39 of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire
40 Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the
41 administrative regulations promulgated in accordance with these acts.

42 l. "Life safety improvement loan" means an eligible loan the
43 proceeds of which are to be used to finance, in whole or in part, the
44 construction, acquisition or rendering of life safety improvements at
45 or to boarding houses.

46 m. "Loan originator" means any bank or trust company, savings

1 bank, national banking association, savings and loan association, or
2 building and loan association maintaining an office in the State, or any
3 insurance company or any mortgage banking firm or mortgage banking
4 corporation authorized to transact business in the State, or any agency
5 or instrumentality of the United States or the State or a political
6 subdivision of the State, which is authorized to make eligible loans.

7 n. "Municipality" means any city of any class or any town,
8 township, village or borough.

9 o. "Mutual housing" means a housing project operated or to be
10 operated upon completion of construction, improvement or
11 rehabilitation exclusively for the benefit of the families who are
12 entitled to occupancy by reason of ownership of stock in the housing
13 sponsor, or by reason of co-ownership of premises in a horizontal
14 property regime pursuant to P.L.1963, c.168; but the agency may
15 adopt rules and regulations permitting a reasonable percentage of
16 space in such project to be rented for residential or for commercial
17 use.

18 p. "Persons and families of low and moderate income" mean
19 persons and families, irrespective of race, creed, national origin or sex,
20 determined by the agency to require assistance on account of personal
21 or family income being not sufficient to afford adequate housing. In
22 making such determination the agency shall take into account the
23 following:

24 (1) the amount of the total income of such persons and families
25 available for housing needs, (2) the size of the family, (3) the cost and
26 condition of housing facilities available and (4) the eligibility of such
27 persons and families to compete successfully in the normal housing
28 market and to pay the amounts at which private enterprise is providing
29 sanitary, decent and safe housing. In the case of projects with respect
30 to which income limits have been established by any agency of the
31 federal government having jurisdiction thereover for the purpose of
32 defining eligibility of low and moderate income families, the agency
33 may determine that the limits so established shall govern. In all other
34 cases income limits for the purpose of defining low or moderate
35 income persons shall be established by the agency in its rules and
36 regulations.

37 q. "Project cost" means the sum total of all costs incurred in the
38 acquisition, development, construction, improvement or rehabilitation
39 of a housing project, which are approved by the agency as reasonable
40 or necessary, which costs shall include, but are not necessarily limited
41 to, (1) cost of land acquisition and any buildings thereon, (2) cost of
42 site preparation, demolition and development, (3) architect, engineer,
43 legal, agency and other fees paid or payable in connection with the
44 planning, execution and financing of the project, (4) cost of necessary
45 studies, surveys, plans and permits, (5) insurance, interest, financing,
46 tax and assessment costs and other operating and carrying costs during

1 construction, (6) cost of construction, reconstruction, fixtures, and
2 equipment related to the real property, (7) cost of land improvements,
3 (8) necessary expenses in connection with initial occupancy of the
4 project, (9) a reasonable profit or fee to the builder and developer,
5 (10) an allowance established by the agency for working capital and
6 contingency reserves, and reserves for any operating deficits, (11)
7 costs of guarantees, insurance or other additional financial security for
8 the project and (12) the cost of such other items, including tenant
9 relocation, as the agency shall determine to be reasonable and
10 necessary for the development of the project, less any and all net rents
11 and other net revenues received from the operation of the real and
12 personal property on the project site during construction, improvement
13 or rehabilitation.

14 All costs shall be subject to approval and audit by the agency. The
15 agency may adopt rules and regulations specifying in detail the types
16 and categories of cost which shall be allowable if actually incurred in
17 the development, acquisition, construction, improvement or
18 rehabilitation of a housing project.

19 r. "Retirement family" means one or more persons related by
20 blood, marriage or adoption who live or expect to live together as a
21 single household in the same dwelling unit, provided that at least one
22 of the persons is an individual who (1) has attained retirement age as
23 defined in section 216a of the Federal Social Security Act, or (2) is
24 under a disability as defined in section 223 of that act, or (3) such
25 individuals as the agency by rule or regulation shall include; and
26 provided further, that the surviving member of a retirement family
27 whose other members died during occupancy of a continuing-care
28 retirement community shall be considered as a retirement family for
29 purposes of permitting continued occupancy of the dwelling unit
30 occupied by such retirement family.

31 (cf: P.L.1997, c.31, s.1)

32

33 ¹125. Section 1 of P.L.2003, c.186 (C.30:4C-27.16) is amended to
34 read as follows:

35 1. As used in sections 1 through 6 and 8 through 11 of this act:

36 "Department" means the Department of Human Services.

37 "Division" means the Division of Youth and Family Services in the
38 Department of Human Services.

39 "Residential child care facility" or "facility" means any public or
40 private establishment subject to the regulatory authority of the
41 department that provides room, board, care, shelter or treatment
42 services for children on a 24-hour-a-day basis. The term shall include:
43 residential facilities operated by or under contract or agreement with
44 the division to serve 13 or more children with emotional or behavioral
45 problems as defined pursuant to section 2 of P.L.1951, c.138
46 (C.30:4C-2); State-operated children's psychiatric facilities providing

1 inpatient treatment; group homes, treatment homes, teaching family
2 homes, alternative care homes and supervised transitional living homes
3 operated by or under contract or agreement with the division to serve
4 12 or fewer children with emotional or behavioral problems as defined
5 pursuant to N.J.A.C.10:128-1.2; and shelter care facilities and homes,
6 including shelters serving children in juvenile-family crisis and in need
7 of temporary shelter care, as defined pursuant to section 3 of
8 P.L.1982, c.77 (C.2A:4A-22).

9 "Staff member" means an individual 18 years of age or older who
10 is an administrator of, employed by, or works in a facility on a
11 regularly scheduled basis during the facility's operating hours,
12 including full-time, part-time, voluntary, contract, consulting and
13 substitute staff, whether compensated or not.¹

14 (cf: P.L.2003, c.186, s.1)

15

16 ¹[125.] 126.¹ The Commissioner of Human Services, pursuant to
17 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.), shall adopt rules and regulations necessary to carry out the
19 provisions of this act.

20

21 ¹[126.] 127.¹ The following are repealed:
22 Section 5 of P.L.1951, c.138 (C.30:4C-5); and
23 Section 11 of P.L.2001, c.419 (C.30:4C-27.13).

24

25 ¹[127.] 128.¹ P.L.1992, c.139 (C.30:4C-26.10 et seq.) is repealed.

26

27 ¹[128.] 129.¹ This act shall take effect immediately, except that
28 sections 88 and ¹[127] 128¹ shall take effect on September 1, 2005.

29

30

31

32

33 Restructures child protective services in DHS.

ASSEMBLY, No. 2985

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 3, 2004

Sponsored by:

Assemblywoman MARY T. PREVITE

District 6 (Camden)

SYNOPSIS

Restructures child protective services in DHS.

CURRENT VERSION OF TEXT

As introduced.



A2985 PREVITE

2

1 AN ACT concerning child protective services and revising various
2 parts of the statutory law.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. New Jersey must improve the ability of its child welfare system
9 to protect children from abuse and neglect, and to provide services to
10 at-risk children and families in order to prevent harm to their children;

11 b. Recent data and assessments of the child welfare system in this
12 State demonstrate the need for a new approach to delivering services
13 to this vulnerable population, and the system must therefore be
14 reformed;

15 c. Because the safety of children must always be paramount,
16 allegations of child abuse and neglect must be investigated quickly and
17 thoroughly and protective actions must be taken immediately if
18 necessary;

19 d. Concerns about the safety, permanency and well-being of
20 children require significant changes in: the organization of the child
21 welfare system, the ability to implement best practices within the
22 system; the development of effective services to meet the needs of
23 children and families; and the elimination of impediments to the quick
24 and efficient management of abuse and neglect cases;

25 e. Children need safe, stable and positive relationships with caring
26 adults in order to thrive; and, if their parents are incapable of
27 providing such a caring relationship, the State must look to other
28 families to provide this kind of relationship;

29 f. To ensure the best outcomes for children and their families, these
30 substitute families must be viewed and treated as "resource families"
31 and provided with appropriate support, training and responsibilities,
32 which will include: expedited licensure for this purpose, equalized
33 payment rates for care among the various types of resource families,
34 and enhanced access to necessary support services tailored to their
35 respective needs;

36 g. Youths must be provided with supports and services in their
37 communities that will enable them to grow into healthy and productive
38 adults; and those youths who previously received child welfare
39 services must continue to receive those services beyond the age of 18,
40 up to age 21, as appropriate;

41 h. This act is necessary in order to make the initial statutory
42 changes required under a comprehensive child welfare reform plan
43 issued by the Department of Human Services as part of a federal class

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 action settlement, which is designed to address the deficiencies
2 identified in the child welfare system in this State over a five-year
3 period;

4 i. The comprehensive child welfare reform plan calls for changes
5 in the approach taken by the State to case practice, recruitment and
6 support of resource families, partnering with the community, creating
7 and delivering services to children and families, providing support and
8 training to the child welfare system workforce, and ensuring
9 accountability and continuous quality improvement within the system;

10 j. This act is designed to allow the Division of Youth and Family
11 Services to focus its mission on abused and neglected children by
12 creating the Division of Child Behavioral Health Services and the
13 Division of Prevention and Community Development in order to build
14 the capacity to meet the needs of children and families in those
15 respective areas of the child welfare system, with all three divisions
16 operating under a deputy commissioner who is responsible for the
17 Office of Children's Services established under this act;

18 k. This act is also designed to enable the Division of Youth and
19 Family Services to better focus on issues relating to abused and
20 neglected children by transferring its responsibilities for licensure and
21 investigating institutional abuse to the Department of Human Services,
22 as well as transferring other responsibilities to the department that will
23 be assigned to the new Division of Child Behavioral Health Services
24 and the new Division of Prevention and Community Development; and

25 l. This act will otherwise enhance the quality of the child welfare
26 system in New Jersey by facilitating the transition to other needed
27 long-term systemic changes with regard to out-of-home placements
28 and permanency options for children who cannot live with their birth
29 families.

30

31 2. (New section) There is established the Office of Children's
32 Services in the Department of Human Services, which shall be under
33 the direction of the Deputy Commissioner for Children's Services. The
34 office shall oversee such entities within the department as are
35 designated by the Commissioner of Human Services, including, but not
36 limited to, the Division of Youth and Family Services, the Division of
37 Child Behavioral Health Services and the Division of Prevention and
38 Community Development.

39

40 3. (New section) Notwithstanding any provision of law to the
41 contrary, the Department of Human Services, through the Office of
42 Children's Services or as otherwise designated by the Commissioner
43 of Human Services, shall provide services to individuals who are
44 between 18 and 21 years of age and meet the following conditions:

45 a. The individual was receiving services from the Office of
46 Children's Services, or otherwise from the department as designated

1 by the commissioner, on or after the individual's 16th birthday;

2 b. The individual, on or after the individual's 18th birthday, has not
3 refused or requested that these services be terminated, as applicable;

4 and

5 c. The Office of Children's Services or another entity designated by
6 the commissioner determines that a continuation of services would be
7 in the individual's best interest and would assist the individual to
8 become an independent and productive adult.

9

10 4. (New section) a. There is established the New Jersey Child
11 Welfare Training Academy in the Department of Human Services for
12 the purpose of providing a training program to meet the needs of the
13 child welfare system Statewide. The training program shall provide:

14 (1) pre-service and in-service training for public employees of the
15 child welfare system;

16 (2) training opportunities for community-based entities and other
17 child welfare system stakeholders as designated by the commissioner;
18 and

19 (3) pre-service and in-service training for resource families.

20 b. The academy shall be responsible for developing and managing
21 the training activities provided under this program, for which purpose
22 it shall:

23 (1) administer, coordinate and evaluate all training activities under
24 the program;

25 (2) seek to partner with social work and other professionals to
26 ensure that the training provided under the program reflects best
27 practices;

28 (3) develop training curricula, resources and products;

29 (4) schedule and provide notice of training events and provide
30 training materials for those events;

31 (5) employ and compensate training event instructors as necessary;

32 (6) create mechanisms and processes to assess, identify and
33 monitor training needs for public employees of the child welfare
34 system, including competency-based training;

35 (7) create mechanisms and processes to evaluate the effectiveness
36 of the training provided under the program;

37 (8) provide for the development of multimedia training tools to
38 inform, educate and train public agency staff, resource families and
39 others in the child welfare system;

40 (9) determine the minimum number of pre-service and in-service
41 training hours required of, and ensure the availability of sufficient
42 training opportunities for, public agency staff Statewide; and

43 (10) conduct any other activities necessary to develop, implement
44 and manage the training program.

45 c. The training provided to resource families pursuant to this
46 section shall include courses in the role of caregivers as part of the

1 care and treatment of children requiring out-of-home placement. A
2 resource family parent shall be required to complete the number of
3 hours of pre-service and in-service training prescribed under the
4 training program as a condition of licensure under P.L.2001, c.419
5 (C.30:4C-27.3 et seq.).

6

7 5. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read
8 as follows:

9 23. Predispositional evaluation. a. Before making a disposition,
10 the court may refer the juvenile to an appropriate individual, agency
11 or institution for examination and evaluation.

12 b. In arriving at a disposition, the court may also consult with such
13 individuals and agencies as may be appropriate to the juvenile's
14 situation, including the county probation division, the [Division of
15 Youth and Family] Department of Human Services, the Juvenile
16 Justice Commission established pursuant to section 2 of P.L.1995,
17 c.284 (C.52:17B-170), the county youth services commission, school
18 personnel, clergy, law enforcement authorities, family members and
19 other interested and knowledgeable parties. In so doing, the court
20 may convene a predispositional conference to discuss and recommend
21 disposition.

22 c. The predisposition report ordered pursuant to the Rules of Court
23 may include a statement by the victim of the offense for which the
24 juvenile has been adjudicated delinquent or by the nearest relative of
25 a homicide victim. The statement may include the nature and extent of
26 any physical harm or psychological or emotional harm or trauma
27 suffered by the victim, the extent of any loss to include loss of earnings
28 or ability to work suffered by the victim and the effect of the crime
29 upon the victim's family. The probation division shall notify the victim
30 or nearest relative of a homicide victim of his right to make a
31 statement for inclusion in the predisposition report if the victim or
32 relative so desires. Any statement shall be made within 20 days of
33 notification by the probation division. The report shall further include
34 information on the financial resources of the juvenile. This
35 information shall be made available on request to the Victims of Crime
36 Compensation Board established pursuant to section 3 of P.L.1971,
37 c.317 (C.52:4B-3) or to any officer authorized under section 3 of
38 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,
39 restitution or fine. Any predisposition report prepared pursuant to this
40 section shall include an analysis of the circumstances attending the
41 commission of the act, the impact of the offense on the community, the
42 offender's history of delinquency or criminality, family situation,
43 financial resources, the financial resources of the juvenile's parent or
44 guardian, and information concerning the parent or guardian's exercise
45 of supervision and control relevant to commission of the act.

46 Information concerning financial resources included in the report

1 shall be made available to any officer authorized to collect payment on
2 any assessment, restitution or fine.
3 (cf: P.L.2001, c.408, s.2)

4
5 6. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read
6 as follows:

7 24. Disposition of delinquency cases. a. In determining the
8 appropriate disposition for a juvenile adjudicated delinquent the court
9 shall weigh the following factors:

10 (1) The nature and circumstances of the offense;

11 (2) The degree of injury to persons or damage to property caused
12 by the juvenile's offense;

13 (3) The juvenile's age, previous record, prior social service
14 received and out-of-home placement history;

15 (4) Whether the disposition supports family strength, responsibility
16 and unity and the well-being and physical safety of the juvenile;

17 (5) Whether the disposition provides for reasonable participation
18 by the child's parent, guardian, or custodian, provided, however, that
19 the failure of a parent or parents to cooperate in the disposition shall
20 not be weighed against the juvenile in arriving at an appropriate
21 disposition;

22 (6) Whether the disposition recognizes and treats the unique
23 physical, psychological and social characteristics and needs of the
24 child;

25 (7) Whether the disposition contributes to the developmental needs
26 of the child, including the academic and social needs of the child where
27 the child has mental retardation or learning disabilities;

28 (8) Any other circumstances related to the offense and the
29 juvenile's social history as deemed appropriate by the court;

30 (9) The impact of the offense on the victim or victims;

31 (10) The impact of the offense on the community; and

32 (11) The threat to the safety of the public or any individual posed
33 by the child.

34 b. If a juvenile is adjudged delinquent, and except to the extent that
35 an additional specific disposition is required pursuant to subsection e.
36 or f. of this section, the court may order incarceration pursuant to
37 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the
38 following dispositions:

39 (1) Adjourn formal entry of disposition of the case for a period not
40 to exceed 12 months for the purpose of determining whether the
41 juvenile makes a satisfactory adjustment, and if during the period of
42 continuance the juvenile makes such an adjustment, dismiss the
43 complaint; provided that if the court adjourns formal entry of
44 disposition of delinquency for a violation of an offense defined in
45 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall
46 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may

- 1 waive imposition of the penalty set forth in N.J.S.2C:35-16 for
2 juveniles adjudicated delinquent;
- 3 (2) Release the juvenile to the supervision of the juvenile's parent
4 or guardian;
- 5 (3) Place the juvenile on probation to the chief probation officer of
6 the county or to any other suitable person who agrees to accept the
7 duty of probation supervision for a period not to exceed three years
8 upon such written conditions as the court deems will aid rehabilitation
9 of the juvenile;
- 10 (4) Transfer custody of the juvenile to any relative or other person
11 determined by the court to be qualified to care for the juvenile;
- 12 (5) Place the juvenile under the care and responsibility of the
13 Department of Human Services [under the responsibility of the
14 Division of Youth and Family Services] so that the commissioner may
15 designate a division or organizational unit in the department pursuant
16 to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing
17 services in or out of the home. Within 14 days, unless for good cause
18 shown, but not later than 30 days, the Department of Human Services
19 shall submit to the court a service plan, which shall be presumed valid,
20 detailing the specifics of any disposition order. The plan shall be
21 developed within the limits of fiscal and other resources available to
22 the department. If the court determines that the service plan is
23 inappropriate, given existing resources, the department may request a
24 hearing on that determination;
- 25 (6) Place the juvenile under the care and custody of the
26 Commissioner of [the Department of] Human Services for the
27 purpose of receiving the services of the Division of Developmental
28 Disabilities of that department, provided that the juvenile has been
29 determined to be eligible for those services under P.L.1965, c.59, s.16
30 (C.30:4-25.4);
- 31 (7) Commit the juvenile, pursuant to applicable laws and the Rules
32 of Court governing civil commitment, to the Department of Human
33 Services under the responsibility of the Division of [Mental] Child
34 Behavioral Health Services for the purpose of placement in a suitable
35 public or private hospital or other residential facility for the treatment
36 of persons who are mentally ill, on the ground that the juvenile is in
37 need of involuntary commitment;
- 38 (8) Fine the juvenile an amount not to exceed the maximum
39 provided by law for such a crime or offense if committed by an adult
40 and which is consistent with the juvenile's income or ability to pay and
41 financial responsibility to the juvenile's family, provided that the fine
42 is specially adapted to the rehabilitation of the juvenile or to the
43 deterrence of the type of crime or offense. If the fine is not paid due
44 to financial limitations, the fine may be satisfied by requiring the
45 juvenile to submit to any other appropriate disposition provided for in
46 this section;

1 (9) Order the juvenile to make restitution to a person or entity who
2 has suffered loss resulting from personal injuries or damage to
3 property as a result of the offense for which the juvenile has been
4 adjudicated delinquent. The court may determine the reasonable
5 amount, terms and conditions of restitution. If the juvenile
6 participated in the offense with other persons, the participants shall be
7 jointly and severally responsible for the payment of restitution. The
8 court shall not require a juvenile to make full or partial restitution if
9 the juvenile reasonably satisfies the court that the juvenile does not
10 have the means to make restitution and could not reasonably acquire
11 the means to pay restitution;

12 (10) Order that the juvenile perform community services under the
13 supervision of a probation division or other agency or individual
14 deemed appropriate by the court. Such services shall be compulsory
15 and reasonable in terms of nature and duration. Such services may be
16 performed without compensation, provided that any money earned by
17 the juvenile from the performance of community services may be
18 applied towards any payment of restitution or fine which the court has
19 ordered the juvenile to pay;

20 (11) Order that the juvenile participate in work programs which are
21 designed to provide job skills and specific employment training to
22 enhance the employability of job participants. Such programs may be
23 without compensation, provided that any money earned by the juvenile
24 from participation in a work program may be applied towards any
25 payment of restitution or fine which the court has ordered the juvenile
26 to pay;

27 (12) Order that the juvenile participate in programs emphasizing
28 self-reliance, such as intensive outdoor programs teaching survival
29 skills, including but not limited to camping, hiking and other
30 appropriate activities;

31 (13) Order that the juvenile participate in a program of academic
32 or vocational education or counseling, such as a youth service bureau,
33 requiring attendance at sessions designed to afford access to
34 opportunities for normal growth and development. This may require
35 attendance after school, evenings and weekends;

36 (14) Place the juvenile in a suitable residential or nonresidential
37 program for the treatment of alcohol or narcotic abuse, provided that
38 the juvenile has been determined to be in need of such services;

39 (15) Order the parent or guardian of the juvenile to participate in
40 appropriate programs or services when the court has found either that
41 such person's omission or conduct was a significant contributing factor
42 towards the commission of the delinquent act, or, under its authority
43 to enforce litigant's rights, that such person's omission or conduct has
44 been a significant contributing factor towards the ineffective
45 implementation of a court order previously entered in relation to the
46 juvenile;

1 (16) (a) Place the juvenile in a nonresidential program operated by
2 a public or private agency, providing intensive services to juveniles for
3 specified hours, which may include education, counseling to the
4 juvenile and the juvenile's family if appropriate, vocational training,
5 employment counseling, work or other services;

6 (b) Place the juvenile under the custody of the Juvenile Justice
7 Commission established pursuant to section 2 of P.L.1995, c.284
8 (C.52:17B-170) for placement with any private group home or private
9 residential facility with which the commission has entered into a
10 purchase of service contract;

11 (17) Instead of or in addition to any disposition made according to
12 this section, the court may postpone, suspend, or revoke for a period
13 not to exceed two years the driver's license, registration certificate, or
14 both of any juvenile who used a motor vehicle in the course of
15 committing an act for which the juvenile was adjudicated delinquent.
16 In imposing this disposition and in deciding the duration of the
17 postponement, suspension, or revocation, the court shall consider the
18 severity of the delinquent act and the potential effect of the loss of
19 driving privileges on the juvenile's ability to be rehabilitated. Any
20 postponement, suspension, or revocation shall be imposed
21 consecutively with any custodial commitment;

22 (18) Order that the juvenile satisfy any other conditions reasonably
23 related to the rehabilitation of the juvenile;

24 (19) Order a parent or guardian who has failed or neglected to
25 exercise reasonable supervision or control of a juvenile who has been
26 adjudicated delinquent to make restitution to any person or entity who
27 has suffered a loss as a result of that offense. The court may
28 determine the reasonable amount, terms and conditions of restitution;
29 or

30 (20) Place the juvenile, if eligible, in an appropriate juvenile
31 offender program established pursuant to P.L.1997, c.81 (C.30:8-61
32 et al.).

33 c. (1) Except as otherwise provided in subsections e. and f. of this
34 section, if the county in which the juvenile has been adjudicated
35 delinquent has a juvenile detention facility meeting the physical and
36 program standards established pursuant to this subsection by the
37 Juvenile Justice Commission, the court may, in addition to any of the
38 dispositions not involving placement out of the home enumerated in
39 this section, incarcerate the juvenile in the youth detention facility in
40 that county for a term not to exceed 60 consecutive days. Counties
41 which do not operate their own juvenile detention facilities may
42 contract for the use of approved commitment programs with counties
43 with which they have established agreements for the use of
44 pre-disposition juvenile detention facilities. The Juvenile Justice
45 Commission shall promulgate such rules and regulations from time to
46 time as deemed necessary to establish minimum physical facility and

1 program standards for the use of juvenile detention facilities pursuant
2 to this subsection.

3 (2) No juvenile may be incarcerated in any county detention facility
4 unless the county has entered into an agreement with the Juvenile
5 Justice Commission concerning the use of the facility for sentenced
6 juveniles. Upon agreement with the county, the Juvenile Justice
7 Commission shall certify detention facilities which may receive
8 juveniles sentenced pursuant to this subsection and shall specify the
9 capacity of the facility that may be made available to receive such
10 juveniles; provided, however, that in no event shall the number of
11 juveniles incarcerated pursuant to this subsection exceed 50% of the
12 maximum capacity of the facility.

13 (3) The court may fix a term of incarceration under this subsection
14 where:

15 (a) The act for which the juvenile was adjudicated delinquent, if
16 committed by an adult, would have constituted a crime or repetitive
17 disorderly persons offense;

18 (b) Incarceration of the juvenile is consistent with the goals of
19 public safety, accountability and rehabilitation and the court is clearly
20 convinced that the aggravating factors substantially outweigh the
21 mitigating factors as set forth in section 25 of P.L.1982, c.77
22 (C.2A:4A-44); and

23 (c) The detention facility has been certified for admission of
24 adjudicated juveniles pursuant to paragraph (2).

25 (4) If as a result of incarceration of adjudicated juveniles pursuant
26 to this subsection, a county is required to transport a predisposition
27 juvenile to a juvenile detention facility in another county, the costs of
28 such transportation shall be borne by the Juvenile Justice Commission.

29 d. Whenever the court imposes a disposition upon an adjudicated
30 delinquent which requires the juvenile to perform a community service,
31 restitution, or to participate in any other program provided for in this
32 section other than subsection c., the duration of the juvenile's
33 mandatory participation in such alternative programs shall extend for
34 a period consistent with the program goal for the juvenile and shall in
35 no event exceed one year beyond the maximum duration permissible
36 for the delinquent if the juvenile had been committed to a term of
37 incarceration.

38 e. In addition to any disposition the court may impose pursuant to
39 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
40 following orders shall be included in dispositions of the adjudications
41 set forth below:

42 (1) An order of incarceration for a term of the duration authorized
43 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
44 or an order to perform community service pursuant to paragraph (10)
45 of subsection b. of this section for a period of at least 60 days, if the
46 juvenile has been adjudicated delinquent for an act which, if committed

1 by an adult, would constitute the crime of theft of a motor vehicle, or
2 the crime of unlawful taking of a motor vehicle in violation of
3 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding
4 in violation of subsection b. of N.J.S.2C:29-2;

5 (2) An order of incarceration for a term of the duration authorized
6 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
7 which shall include a minimum term of 60 days during which the
8 juvenile shall be ineligible for parole, if the juvenile has been
9 adjudicated delinquent for an act which, if committed by an adult,
10 would constitute the crime of aggravated assault in violation of
11 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree
12 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or
13 theft of a motor vehicle, in a case in which the juvenile has previously
14 been adjudicated delinquent for an act, which if committed by an adult,
15 would constitute unlawful taking of a motor vehicle or theft of a motor
16 vehicle;

17 (3) An order to perform community service pursuant to paragraph
18 (10) of subsection b. of this section for a period of at least 30 days, if
19 the juvenile has been adjudicated delinquent for an act which, if
20 committed by an adult, would constitute the fourth degree crime of
21 unlawful taking of a motor vehicle in violation of subsection b. of
22 N.J.S.2C:20-10;

23 (4) An order of incarceration for a term of the duration authorized
24 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
25 which shall include a minimum term of 30 days during which the
26 juvenile shall be ineligible for parole, if the juvenile has been
27 adjudicated delinquent for an act which, if committed by an adult,
28 would constitute the crime of unlawful taking of a motor vehicle in
29 violation of N.J.S.2C:20-10 or the third degree crime of eluding in
30 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has
31 previously been adjudicated delinquent for an act which, if committed
32 by an adult, would constitute either theft of a motor vehicle, the
33 unlawful taking of a motor vehicle or eluding.

34 f. (1) The minimum terms of incarceration required pursuant to
35 subsection e. of this section shall be imposed regardless of the weight
36 or balance of factors set forth in this section or in section 25 of
37 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those
38 factors shall determine the length of the term of incarceration
39 appropriate, if any, beyond any mandatory minimum term required
40 pursuant to subsection e. of this section.

41 (2) When a court in a county that does not have a juvenile
42 detention facility or a contractual relationship permitting incarceration
43 pursuant to subsection c. of this section is required to impose a term
44 of incarceration pursuant to subsection e. of this section, the court
45 may, subject to limitations on commitment to State correctional
46 facilities of juveniles who are under the age of 11 or developmentally

1 disabled, set a term of incarceration consistent with subsection c.
2 which shall be served in a State correctional facility. When a juvenile
3 who because of age or developmental disability cannot be committed
4 to a State correctional facility or cannot be incarcerated in a county
5 facility, the court shall order a disposition appropriate as an alternative
6 to any incarceration required pursuant to subsection e.

7 (3) For purposes of subsection e. of this section, in the event that
8 a "boot camp" program for juvenile offenders should be developed and
9 is available, a term of commitment to such a program shall be
10 considered a term of incarceration.

11 g. Whenever the court imposes a disposition upon an adjudicated
12 delinquent which requires the juvenile to perform a community service,
13 restitution, or to participate in any other program provided for in this
14 section, the order shall include provisions which provide balanced
15 attention to the protection of the community, accountability for
16 offenses committed, fostering interaction and dialogue between the
17 offender, victim and community and the development of competencies
18 to enable the child to become a responsible and productive member of
19 the community.

20 (cf: P.L.2001, c.408, s.3)

21

22 7. Section 13 of P.L.1982, c.80 (C.2A:4A-88) is amended to read
23 as follows:

24 13. Temporary placement. Placement of the juvenile prior to the
25 placement hearing or pending determination by the court concerning
26 placement under a family service plan, pursuant to section 14 of
27 P.L.1982, c.80 (C.2A:4A-89), shall be made in a host shelter, [foster]
28 resource family or group home, a county shelter care facility as defined
29 by law, or other suitable family setting. In no event shall such
30 placement be arranged in a secure detention or other facility or in a
31 secure correctional institution for the detention or treatment of
32 juveniles accused of crimes or adjudged delinquent.

33 (cf: P.L.1995, c.280, s.17)

34

35 8. Section 17 of P.L.1985, c.278 (C.2A:17-56.20) is amended to
36 read as follows:

37 17. a. In enforcing all existing and future orders for support, and
38 notwithstanding other provisions to the contrary, the State IV-D
39 agency, without a new order, shall have the authority to assess interest
40 or late payment fees on any support order not paid within 30 days of
41 the due date.

42 b. The late payment fee or interest shall be determined by the State
43 IV-D agency within amounts specified by the federal Department of
44 Health and Human Services.

45 c. The fee or interest shall accrue as arrearages accumulate and
46 shall not be reduced upon partial payment of arrears. The fee or

1 interest may be collected only after the full amount of overdue support
2 is paid and all State requirements for notice to the obligor have been
3 met.

4 d. The collection of the fee or interest shall not directly or
5 indirectly reduce the amount of current or overdue support paid to the
6 obligee to whom it is owed.

7 e. The late payment fee or interest shall be uniformly applied in all
8 cases administered under the State IV-D program, including public
9 assistance, nonpublic assistance, and [foster care] resource family
10 cases.

11 (cf: P.L.1985, c.278, s.17)

12

13 9. N.J.S.2A:22-3 is amended to read as follows:

14 2A:22-3. The adoption, when granted by the court, shall have the
15 following effect:

16 a. The right of the person adopted, and of such persons as legally
17 represent him on his death, to take and inherit intestate personal and
18 real property from his natural parents and their kindred shall not be
19 altered by the adoption.

20 b. In all other respects, all rights, privileges and obligations due
21 from the natural parents to the person adopted and from the person
22 adopted to them and all relations existing between such person and
23 them shall be at an end, including the right of the natural parents and
24 their kindred to take and inherit intestate personal and real property
25 from and through the person adopted.

26 c. All rights, privileges and obligations due from the parents by
27 adoption to the person adopted and from the person adopted to them
28 and all relations between such person and them shall be the same as
29 if the person adopted had been born to them in lawful wedlock,
30 including the right to take and inherit intestate personal and real
31 property from and through each other.

32 Except, however, that:

33 a. The person adopted shall not be capable of taking property
34 expressly limited by a will or any other instrument to the heirs of the
35 body of the adopting parent or parents, nor property coming on
36 intestacy from the collateral kindred of the adopting parent or parents
37 by right of representation; and

38 b. On the death of the parent or parents by adoption and the
39 subsequent death of the person adopted, without issue or a spouse, the
40 property of the deceased parent or parents by adoption shall descend
41 to and be distributed among the heirs and next of kin of the parent or
42 parents by adoption and not to the heirs and next of kin of the person
43 adopted; and

44 c. If the parent or parents by adoption shall have another child or
45 other children entitled to take and inherit from them on intestacy, such
46 children and the person adopted shall, respectively, take and inherit

1 intestate personal and real property from and through each other as
2 if all had been children of the same parents born in lawful wedlock;
3 and

4 d. Where a parent who has procured a divorce, or a surviving
5 parent, having lawful custody of a child, lawfully marries again, or
6 where an adult unmarried person who has become a [foster] resource
7 family parent and has lawful custody of a child, marries, and such
8 parent or [foster] resource family parent consents that the person who
9 thus becomes the stepfather or the stepmother of the person so
10 adopted may adopt the person so adopted, the rights, privileges and
11 obligations due from the parent or [foster] resource family parent, so
12 consenting, to the person adopted and from the person adopted to
13 such parent and the relations existing between them shall not be
14 altered by the adoption.

15 (cf: N.J.S.2A:22-3)

16

17 10. Section 1 of P.L.1992, c.109 (C.2A:61B-1) is amended to read
18 as follows:

19 1. a. As used in this act:

20 (1) "Sexual abuse" means an act of sexual contact or sexual
21 penetration between a child under the age of 18 years and an adult. A
22 parent, [foster] resource family parent, guardian or other person
23 standing in loco parentis within the household who knowingly permits
24 or acquiesces in sexual abuse by any other person also commits sexual
25 abuse, except that it is an affirmative defense if the parent, [foster]
26 resource family parent, guardian or other person standing in loco
27 parentis was subjected to, or placed in, reasonable fear of physical or
28 sexual abuse by the other person so as to undermine the person's
29 ability to protect the child.

30 (2) "Sexual contact" means an intentional touching by the victim
31 or actor, either directly or through clothing, of the victim's or actor's
32 intimate parts for the purpose of sexually arousing or sexually
33 gratifying the actor. Sexual contact of the adult with himself must be
34 in view of the victim whom the adult knows to be present.

35 (3) "Sexual penetration" means vaginal intercourse, cunnilingus,
36 fellatio or anal intercourse between persons or insertion of the hand,
37 finger or object into the anus or vagina either by the adult or upon the
38 adult's instruction.

39 (4) "Intimate parts" means the following body parts: sexual organs,
40 genital area, anal area, inner thigh, groin, buttock or breast of a
41 person.

42 (5) "Injury or illness" includes psychological injury or illness,
43 whether or not accompanied by physical injury or illness.

44 b. In any civil action for injury or illness based on sexual abuse, the
45 cause of action shall accrue at the time of reasonable discovery of the
46 injury and its causal relationship to the act of sexual abuse. Any such

1 action shall be brought within two years after reasonable discovery.

2 c. Nothing in this act is intended to preclude the court from finding
3 that the statute of limitations was tolled in a case because of the
4 plaintiff's mental state, duress by the defendant, or any other equitable
5 grounds. Such a finding shall be made after a plenary hearing. At the
6 plenary hearing the court shall hear all credible evidence and the Rules
7 of Evidence shall not apply, except for Rule 403 or a valid claim of
8 privilege. The court may order an independent psychiatric evaluation
9 of the plaintiff in order to assist in the determination as to whether the
10 statute of limitations was tolled.

11 d. (1) Evidence of the victim's previous sexual conduct shall not
12 be admitted nor reference made to it in the presence of a jury except
13 as provided in this subsection. When the defendant seeks to admit
14 such evidence for any purpose, the defendant must apply for an order
15 of the court before the trial or preliminary hearing, except that the
16 court may allow the motion to be made during trial if the court
17 determines that the evidence is newly discovered and could not have
18 been obtained earlier through the exercise of due diligence. After the
19 application is made, the court shall conduct a hearing in camera to
20 determine the admissibility of the evidence. If the court finds that
21 evidence offered by the defendant regarding the sexual conduct of the
22 victim is relevant and that the probative value of the evidence offered
23 is not outweighed by its collateral nature or by the probability that its
24 admission will create undue prejudice, confusion of the issues, or
25 unwarranted invasion of the privacy of the victim, the court shall enter
26 an order setting forth with specificity what evidence may be introduced
27 and the nature of the questions which shall be permitted, and the
28 reasons why the court finds that such evidence satisfies the standards
29 contained in this section. The defendant may then offer evidence
30 under the order of the court.

31 (2) In the absence of clear and convincing proof to the contrary,
32 evidence of the victim's sexual conduct occurring more than one year
33 before the date of the offense charged is presumed to be inadmissible
34 under this section.

35 (3) Evidence of the victim's previous sexual conduct shall not be
36 considered relevant unless it is material to proving that the source of
37 semen, pregnancy or disease is a person other than the defendant. For
38 the purposes of this subsection, "sexual conduct" shall mean any
39 conduct or behavior relating to sexual activities of the victim,
40 including but not limited to previous or subsequent experience of
41 sexual penetration or sexual contact, use of contraceptives, living
42 arrangement and life style.

43 e. (1) The court may, on motion and after conducting a hearing in
44 camera, order the taking of the testimony of a victim on closed circuit
45 television at the trial, out of the view of the jury, defendant, or
46 spectators upon making findings as provided in paragraph (2) of this

1 subsection.

2 (2) An order under this section may be made only if the court finds
3 that the victim is 16 years of age or younger and that there is a
4 substantial likelihood that the victim would suffer severe emotional or
5 mental distress if required to testify in open court. The order shall be
6 specific as to whether the victim will testify outside the presence of
7 spectators, the defendant, the jury, or all of them and shall be based on
8 specific findings relating to the impact of the presence of each.

9 (3) A motion seeking closed circuit testimony under paragraph (1)
10 of this subsection may be filed by:

- 11 (a) The victim or the victim's attorney, parent or legal guardian;
- 12 (b) The defendant or the defendant's counsel; or
- 13 (c) The trial judge on the judge's own motion.

14 (4) The defendant's counsel shall be present at the taking of
15 testimony in camera. If the defendant is not present, he and his
16 attorney shall be able to confer privately with each other during the
17 testimony by a separate audio system.

18 (5) If testimony is taken on closed circuit television pursuant to the
19 provisions of this act, a stenographic recording of that testimony shall
20 also be required. A typewritten transcript of that testimony shall be
21 included in the record on appeal. The closed circuit testimony itself
22 shall not constitute part of the record on appeal except on motion for
23 good cause shown.

24 f. (1) The name, address, and identity of a victim or a defendant
25 shall not appear on the complaint or any other public record as defined
26 in P.L.1963, c.73 (C.47:1A-1 et seq.). In their place initials or a
27 fictitious name shall appear.

28 (2) Any report, statement, photograph, court document, complaint
29 or any other public record which states the name, address and identity
30 of a victim shall be confidential and unavailable to the public.

31 (3) The information described in this subsection shall remain
32 confidential and unavailable to the public unless the victim consents to
33 the disclosure or if the court, after a hearing, determines that good
34 cause exists for the disclosure. The hearing shall be held after notice
35 has been made to the victim and to the defendant and the defendant's
36 counsel.

37 (4) Nothing contained herein shall prohibit the court from imposing
38 further restrictions with regard to the disclosure of the name, address,
39 and identity of the victim when it deems it necessary to prevent trauma
40 or stigma to the victim.

41 g. In accordance with R.5:3-2 of the Rules Governing the Courts
42 of the State of New Jersey, the court may, on its own or a party's
43 motion, direct that any proceeding or portion of a proceeding
44 involving a victim sixteen years of age or younger be conducted in
45 camera.

46 h. A plaintiff who prevails in a civil action pursuant to this act shall

1 be awarded damages in the amount of \$10,000, plus reasonable
2 attorney's fees, or actual damages, whichever is greater. Actual
3 damages shall consist of compensatory and punitive damages and costs
4 of suit, including reasonable attorney's fees. Compensatory damages
5 may include, but are not limited to, damages for pain and suffering,
6 medical expenses, emotional trauma, diminished childhood, diminished
7 enjoyment of life, costs of counseling, and lost wages.

8 (cf: P.L.1999, c.393, s.1)

9

10 11. Section 1 of P.L.1993, c.214 (C.2A:61C-1) is amended to read
11 as follows:

12 1. a. A person who commits the offense of shoplifting as defined
13 in N.J.S.2C:20-11 or a person who commits the offense of theft as
14 defined in Chapter 20 of Title 2C of the New Jersey Statutes by
15 stealing food or drink from an eating establishment shall be liable for
16 any criminal penalties imposed by law and shall be liable to the
17 merchant in a civil action in an amount equal to the following:

18 (1) The value of the merchandise as damages, not to exceed
19 ~~[\$500.00]~~ \$500, if the merchandise cannot be restored to the
20 merchant in its original condition;

21 (2) Additional damages, if any, arising from the incident, not to
22 include any loss of time or wages incurred by the merchant in
23 connection with the apprehension of the defendant; and

24 (3) A civil penalty payable to the merchant in an amount of up to
25 \$150.

26 b. A parent, guardian or other person having legal custody of a
27 minor who commits the offense of shoplifting or the offense of theft
28 of food or drink from an eating establishment shall be liable to the
29 merchant for the damages specified in subsection a. of this section.
30 This subsection shall not apply to a parent whose parental custody and
31 control of such minor has been removed by court order, decree,
32 judgment, military service, or marriage of such infant, or to a ~~[foster]~~
33 resource family parent of such minor.

34 c. If a merchant institutes a civil action pursuant to the provisions
35 of this section, the prevailing party in that action shall be entitled to an
36 award of reasonable attorney's fees and reasonable court costs.

37 d. Limitations on civil action:

38 (1) Before a civil action may be commenced, the merchant shall
39 send a notice to the defendant's last known address giving the
40 defendant 20 days to respond. It is not a condition precedent to
41 maintaining an action under this act that the defendant has been
42 convicted of shoplifting or theft.

43 (2) No civil action under this act may be maintained if the
44 defendant has paid the merchant a penalty equal to the retail value of
45 the merchandise where the merchandise was not recovered in its
46 original condition, plus a sum of up to ~~[\$150.00]~~ \$150.

1 (3) The provisions of this act do not apply in any case where the
2 value of the merchandise exceeds ~~[\$500.00]~~ \$500.

3 e. If the person to whom a written demand is made complies with
4 such demand within 20 days following the receipt of the demand, that
5 person shall be given a written release from further civil liability with
6 respect to the specific act of shoplifting or theft.

7 (cf: P.L.1993, c.214, s.1)

8
9 12. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read
10 as follows:

11 2. a. Pursuant to the provisions of this section, the Superintendent
12 of State Police shall develop and maintain a system for making certain
13 information in the central registry established pursuant to subsection
14 d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by
15 means of electronic Internet technology.

16 b. The public may, without limitation, obtain access to the Internet
17 registry to view an individual registration record, any part of, or the
18 entire Internet registry concerning all offenders whose risk of
19 re-offense is high or for whom the court has ordered notification in
20 accordance with paragraph (3) of subsection c. of section 3 of
21 P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

22 c. Except as provided in subsection d. of this section, the public
23 may, without limitation, obtain access to the Internet registry to view
24 an individual registration record, any part of, or the entire Internet
25 registry concerning offenders whose risk of re-offense is moderate and
26 for whom the court has ordered notification in accordance with
27 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
28 (C.2C:7-8).

29 d. The individual registration record of an offender whose risk of
30 re-offense has been determined to be moderate and for whom the court
31 has ordered notification in accordance with paragraph (2) of
32 subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be
33 made available to the public on the Internet registry if the sole sex
34 offense committed by the offender which renders him subject to the
35 requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the
36 following:

37 (1) An adjudication of delinquency for any sex offense as defined
38 in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

39 (2) A conviction or acquittal by reason of insanity for a violation
40 of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the
41 offender was related to the victim by blood or affinity to the third
42 degree or was a ~~[foster]~~ resource family parent, a guardian, or stood
43 in loco parentis within the household; or

44 (3) A conviction or acquittal by reason of insanity for a violation
45 of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which the victim
46 assented to the commission of the offense but by reason of age was

1 not capable of giving lawful consent.

2 e. Notwithstanding the provisions of paragraph d. of this
3 subsection, the individual registration record of an offender to whom
4 an exception enumerated in paragraph (1), (2) or (3) of subsection d.
5 of this section applies shall be made available to the public on the
6 Internet registry if the State establishes by clear and convincing
7 evidence that, given the particular facts and circumstances of the
8 offense and the characteristics and propensities of the offender, the
9 risk to the general public posed by the offender is substantially similar
10 to that posed by offenders whose risk of re-offense is moderate and
11 who do not qualify under the enumerated exceptions.

12 f. The individual registration records of offenders whose risk of
13 re-offense is low or of offenders whose risk of re-offense is moderate
14 but for whom the court has not ordered notification in accordance with
15 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
16 (C.2C:7-8) shall not be available to the public on the Internet registry.

17 g. The information concerning a registered offender to be made
18 publicly available on the Internet shall include: the offender's name and
19 any aliases the offender has used or under which the offender may be
20 or may have been known; any sex offense as defined in subsection b.
21 of section 2 of P.L.1994, c.133 (C.2C:7-2) for which the offender was
22 convicted, adjudicated delinquent or acquitted by reason of insanity,
23 as the case may be; the date and location of disposition; a brief
24 description of any such offense, including the victim's gender and
25 indication of whether the victim was less than 18 years old or less than
26 13 years old; a general description of the offender's modus operandi,
27 if any; the determination of whether the risk of re-offense by the
28 offender is moderate or high; the offender's age, race, sex, date of
29 birth, height, weight, hair, eye color and any distinguishing scars or
30 tattoos; a photograph of the offender and the date on which the
31 photograph was entered into the registry; the make, model, color, year
32 and license plate number of any vehicle operated by the offender; and
33 the street address, zip code, municipality and county in which the
34 offender resides.

35 (cf: P.L.2001, c.167, s.2)

36

37 13. N.J.S.2C:14-2 is amended to read as follows:

38 2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual
39 assault if he commits an act of sexual penetration with another person
40 under any one of the following circumstances:

41 (1) The victim is less than 13 years old;

42 (2) The victim is at least 13 but less than 16 years old; and

43 (a) The actor is related to the victim by blood or affinity to the
44 third degree, or

45 (b) The actor has supervisory or disciplinary power over the victim
46 by virtue of the actor's legal, professional, or occupational status, or

1 (c) The actor is a [foster] resource family parent, a guardian, or
2 stands in loco parentis within the household;

3 (3) The act is committed during the commission, or attempted
4 commission, whether alone or with one or more other persons, of
5 robbery, kidnapping, homicide, aggravated assault on another,
6 burglary, arson or criminal escape;

7 (4) The actor is armed with a weapon or any object fashioned in
8 such a manner as to lead the victim to reasonably believe it to be a
9 weapon and threatens by word or gesture to use the weapon or object;

10 (5) The actor is aided or abetted by one or more other persons and
11 the actor uses physical force or coercion;

12 (6) The actor uses physical force or coercion and severe personal
13 injury is sustained by the victim;

14 (7) The victim is one whom the actor knew or should have known
15 was physically helpless, mentally defective or mentally incapacitated.

16 Aggravated sexual assault is a crime of the first degree.

17 b. An actor is guilty of sexual assault if he commits an act of sexual
18 contact with a victim who is less than 13 years old and the actor is at
19 least four years older than the victim.

20 c. An actor is guilty of sexual assault if he commits an act of sexual
21 penetration with another person under any one of the following
22 circumstances:

23 (1) The actor uses physical force or coercion, but the victim does
24 not sustain severe personal injury;

25 (2) The victim is on probation or parole, or is detained in a
26 hospital, prison or other institution and the actor has supervisory or
27 disciplinary power over the victim by virtue of the actor's legal,
28 professional or occupational status;

29 (3) The victim is at least 16 but less than 18 years old and:

30 (a) The actor is related to the victim by blood or affinity to the
31 third degree; or

32 (b) The actor has supervisory or disciplinary power of any nature
33 or in any capacity over the victim; or

34 (c) The actor is a [foster] resource family parent, a guardian, or
35 stands in loco parentis within the household;

36 (4) The victim is at least 13 but less than 16 years old and the actor
37 is at least four years older than the victim.

38 Sexual assault is a crime of the second degree.

39 (cf: P.L.2001, c.60, s.1)

40

41 14. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read
42 as follows:

43 4. a. When a person is charged with a criminal offense on a
44 warrant and the person is released from custody before trial on bail or
45 personal recognizance, the court, upon application of a law
46 enforcement officer or prosecuting attorney pursuant to section 3 of

1 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
2 e. of this section, shall as a condition of release issue an order
3 prohibiting the person from entering any place defined by subsection
4 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
5 zone surrounding the place or modifications as provided by subsection
6 f. of this section.

7 b. When a person is charged with a criminal offense on a summons,
8 the court, upon application of a law enforcement officer or prosecuting
9 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
10 except as provided in subsection e. of this section, shall, at the time of
11 the defendant's first appearance, issue an order prohibiting the person
12 from entering any place defined by subsection b. of section 3 of
13 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding
14 the place or modifications as provided by subsection f. of this section.

15 c. When a person is charged with a criminal offense on a juvenile
16 delinquency complaint and is released from custody at a detention
17 hearing pursuant to section 19 of P.L.1982, c.77 (C.2A:4A-38), the
18 court, upon application of a law enforcement officer or prosecuting
19 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
20 except as provided in subsection e. of this section, shall issue an order
21 prohibiting the person from entering any place defined by subsection
22 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
23 zone surrounding the place or modifications as provided by subsection
24 f. of this section.

25 d. When a person is charged with a criminal offense on a juvenile
26 delinquency complaint and is released without being detained pursuant
27 to section 15 or 16 of P.L.1982, c.77 (C.2A:4A:34 or C.2A:4A-35),
28 the law enforcement officer or prosecuting attorney shall prepare an
29 application pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) for
30 filing on the next court day.

31 The law enforcement officer releasing the juvenile shall serve the
32 juvenile and his parent or guardian with written notice that an order
33 shall be issued by the Family Part of the Superior Court on the next
34 court day prohibiting the juvenile from entering any place defined by
35 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including
36 a buffer zone surrounding the place or modifications as provided by
37 subsection f. of this section.

38 The court shall issue such order on the first court day following the
39 release of the juvenile. If the restraints contained in the court order
40 differ from the restraints contained in the notice, the order shall not be
41 effective until the third court day following the issuance of the order.
42 The juvenile may apply to the court to stay or modify the order on the
43 grounds set forth in subsection e. of this section.

44 e. The court may forego issuing a restraining order for which
45 application has been made pursuant to section 3 of P.L.2001, c.365
46 (C.2C:35-5.9) only if the defendant establishes by clear and convincing

1 evidence that:

2 (1) the defendant lawfully resides at or has legitimate business on
3 or near the place, or otherwise legitimately needs to enter the place.
4 In such an event, the court shall not issue an order pursuant to this
5 section unless the court is clearly convinced that the need to bar the
6 person from the place in order to protect the public safety and the
7 rights, safety and health of the residents and persons working in the
8 place outweighs the person's interest in returning to the place. If the
9 balance of the interests of the person and the public so warrants, the
10 court may issue an order imposing conditions upon the person's entry
11 at, upon or near the place; or

12 (2) the issuance of an order would cause undue hardship to
13 innocent persons and would constitute a serious injustice which
14 overrides the need to protect the rights, safety and health of persons
15 residing in or having business in the place.

16 f. A restraining order issued pursuant to subsection a., b., c., d. or
17 h. of this section shall describe the place from which the person has
18 been barred and any conditions upon the person's entry into the place,
19 with sufficient specificity to enable the person to guide his conduct
20 accordingly and to enable a law enforcement officer to enforce the
21 order. The order shall also prohibit the person from entering an area
22 of up to 500 feet surrounding the place, unless the court rules that a
23 different buffer zone would better effectuate the purposes of this act.
24 In the discretion of the court, the order may contain modifications to
25 permit the person to enter the area during specified times for specified
26 purposes, such as attending school during regular school hours. When
27 appropriate, the court may append to the order a map depicting the
28 place. The person shall be given a copy of the restraining order and
29 any appended map and shall acknowledge in writing the receipt
30 thereof.

31 g. (1) The court shall provide notice of the restraining order to the
32 local law enforcement agency where the arrest occurred and to the
33 county prosecutor.

34 (2) Notwithstanding the provisions of section 1 of P.L.1982, c.79
35 (C.2A:4A-60), prior to the person's conviction or adjudication of
36 delinquency for a criminal offense, the local law enforcement agency
37 may post a copy of any orders issued pursuant to this section, or an
38 equivalent notice containing the terms of the order, upon one or more
39 of the principal entrances of the place or in any other conspicuous
40 location. Such posting shall be for the purpose of informing the
41 public, and the failure to post a copy of the order shall in no way
42 excuse any violation of the order.

43 (3) Notwithstanding the provisions of section 1 of P.L.1982, c.79
44 (C.2A:4A-60), prior to the person's conviction or adjudication of
45 delinquency for a criminal offense, any law enforcement agency may
46 publish a copy of any orders issued pursuant to this section, or an

1 equivalent notice containing the terms of the order, in a newspaper
2 circulating in the area of the restraining order. Such publication shall
3 be for the purpose of informing the public, and the failure to publish
4 a copy of the order shall in no way excuse any violation of the order.

5 (4) Notwithstanding the provisions of section 1 of P.L.1982, c.79
6 (C.2A:4A-60), prior to the person's conviction or adjudication of
7 delinquency for a criminal offense, any law enforcement agency may
8 distribute copies of any orders issued pursuant to this section, or an
9 equivalent notice containing the terms of the order, to residents or
10 businesses located within the area delineated in the order or, in the
11 case of a school or any government-owned property, to the
12 appropriate administrator, or to any tenant association representing the
13 residents of the affected area. Such distribution shall be for the
14 purpose of informing the public, and the failure to publish a copy of
15 the order shall in no way excuse any violation of the order.

16 h. When a person is convicted of or adjudicated delinquent for any
17 criminal offense, the court, upon application of a law enforcement
18 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
19 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
20 section, shall, by separate order or within the judgment of conviction,
21 issue an order prohibiting the person from entering any place defined
22 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
23 including a buffer zone surrounding the place or modifications as
24 provided by subsection f. of this section. Upon the person's conviction
25 or adjudication of delinquency for a criminal offense, a law
26 enforcement agency, in addition to posting, publishing, and
27 distributing the order or an equivalent notice pursuant to paragraphs
28 (2), (3) and (4) of subsection g. of this section, may also post, publish
29 and distribute a photograph of the person.

30 i. When a juvenile has been adjudicated delinquent for an act
31 which, if committed by an adult, would be a criminal offense, in
32 addition to an order required by subsection h. of this section or any
33 other disposition authorized by law, the court may order the juvenile
34 and any parent, guardian or any family member over whom the court
35 has jurisdiction to take such actions or obey such restraints as may be
36 necessary to facilitate the rehabilitation of the juvenile or to protect
37 public safety or to safeguard or enforce the rights of residents of the
38 place. The court may commit the juvenile to the care and
39 responsibility of the Department of Human Services [under the
40 responsibility of the Division of Youth and Family Services] until such
41 time as the juvenile reaches the age of 18 or until the order of removal
42 and restraint expires, whichever first occurs, or to such alternative
43 residential placement as is practicable.

44 j. An order issued pursuant to subsection a., b., c. or d. of this
45 section shall remain in effect until the case has been adjudicated or
46 dismissed, or for not less than two years, whichever is less. An order

1 issued pursuant to subsection h. of this section shall remain in effect
2 for such period of time as shall be fixed by the court but not longer
3 than the maximum term of imprisonment or incarceration allowed by
4 law for the underlying offense or offenses. When the court issues a
5 restraining order pursuant to subsection h. of this section and the
6 person is also sentenced to any form of probationary supervision or
7 participation in the Intensive Supervision Program, the court shall
8 make continuing compliance with the order an express condition of
9 probation or the Intensive Supervision Program. When the person has
10 been sentenced to a term of incarceration, continuing compliance with
11 the terms and conditions of the order shall be made an express
12 condition of the person's release from confinement or incarceration on
13 parole. At the time of sentencing or, in the case of a juvenile, at the
14 time of disposition of the juvenile case, the court shall advise the
15 defendant that the restraining order shall include a fixed time period in
16 accordance with this subsection and shall include that provision in the
17 judgment of conviction, dispositional order, separate order or order
18 vacating an existing restraining order, to the law enforcement agency
19 that made the arrest and to the county prosecutor.

20 k. All applications to stay or modify an order issued pursuant to
21 this act, including an order originally issued in municipal court, shall
22 be made in the Superior Court. The court shall immediately notify the
23 county prosecutor in writing whenever an application is made to stay
24 or modify an order issued pursuant to this act. If the court does not
25 issue a restraining order, the sentence imposed by the court for a
26 criminal offense as defined in subsection b. of this section shall not
27 become final for ten days in order to permit the appeal of the court's
28 findings by the prosecution.

29 l. Nothing in this section shall be construed in any way to limit the
30 authority of the court to take such other actions or to issue such
31 orders as may be necessary to protect the public safety or to safeguard
32 or enforce the rights of others with respect to the place.

33 m. Notwithstanding any other provision of this section, the court
34 may permit the person to return to the place to obtain personal
35 belongings and effects and, by court order, may restrict the time and
36 duration and provide for police supervision of such a visit.

37 (cf: P.L.2001, c.365, s.2)

38

39 15. N.J.S.3B:1-1 is amended to read as follows:

40 3B:1-1. As used in this title, unless otherwise defined:

41 "Administrator" includes general administrators of an intestate and
42 unless restricted by the subject or context, administrators with the will
43 annexed, substituted administrators, substituted administrators with
44 the will annexed, temporary administrators and administrators
45 pendente lite.

46 "Beneficiary," as it relates to trust beneficiaries, includes a person

1 who has any present or future interest, vested or contingent, and also
2 includes the owner of an interest by assignment or other transfer and
3 as it relates to a charitable trust, includes any person entitled to
4 enforce the trust.

5 "Child" means any individual, including a natural or adopted child,
6 entitled to take by intestate succession from the parent whose
7 relationship is involved and excludes any person who is only a
8 stepchild, a [foster] resource family child, a grandchild or any more
9 remote descendant.

10 "Claims" include liabilities whether arising in contract, or in tort or
11 otherwise, and liabilities of the estate which arise at or after the death
12 of the decedent, including funeral expenses and expenses of
13 administration, but does not include estate or inheritance taxes,
14 demands or disputes regarding title to specific assets alleged to be
15 included in the estate.

16 "Cofiduciary" means each of two or more fiduciaries jointly serving
17 in a fiduciary capacity.

18 "Devise," when used as a noun, means a testamentary disposition
19 of real or personal property and when used as a verb, means to dispose
20 of real or personal property by will.

21 "Devisee" means any person designated in a will to receive a devise.
22 In the case of a devise to an existing trust or trustee, or to a trustee on
23 trust described by will, trust or trustee is the devisee and the
24 beneficiaries are not devisees.

25 "Distributee" means any person who has received property of a
26 decedent from his personal representative other than as a creditor or
27 purchaser. A trustee is a distributee only to the extent of a distributed
28 asset or increment thereto remaining in his hands. A beneficiary of a
29 trust to whom the trustee has distributed property received from a
30 personal representative is a distributee of the personal representative.

31 "Domiciliary foreign fiduciary" means any fiduciary who has
32 received letters, or has been appointed, or is authorized to act as a
33 fiduciary, in the jurisdiction in which the decedent was domiciled at the
34 time of his death, in which the ward is domiciled or in which is located
35 the principal place of the administration of a trust.

36 "Estate" means all of the property of a decedent, minor or
37 incapacitated person, trust or other person whose affairs are subject
38 to this title as the property is originally constituted and as it exists
39 from time to time during administration.

40 "Fiduciary" includes executors, general administrators of an
41 intestate, administrators with the will annexed, substituted
42 administrators, substituted administrators with the will annexed,
43 guardians, substituted guardians, trustees, substituted trustees and,
44 unless restricted by the subject or context, temporary administrators,
45 administrators pendente lite, administrators ad prosequendum,
46 administrators ad litem and other limited fiduciaries.

1 "Guardian" means a person who has qualified as a guardian of the
2 person or estate of a minor or incapacitated person pursuant to
3 testamentary or court appointment, but excludes one who is merely a
4 guardian ad litem.

5 "Heirs" means those persons, including the surviving spouse, who
6 are entitled under the statutes of intestate succession to the property
7 of a decedent.

8 (cf: P.L.1997, c.379, s.2)

9

10 16. N.J.S.3B:1-2 is amended to read as follows:

11 3B:1-2. "Issue" of a person includes all of his lineal descendants,
12 natural or adopted, of all generations, with the relationship of parent
13 and child at each generation being determined by the definition of child
14 and parent.

15 "Local administration" means administration by a personal
16 representative appointed in this State.

17 "Local fiduciary" means any fiduciary who has received letters in
18 this State and excludes foreign fiduciaries who acquire the power of
19 local fiduciary pursuant to this title.

20 "Incapacitated person" means a person who is impaired by reason
21 of mental illness or mental deficiency to the extent that he lacks
22 sufficient capacity to govern himself and manage his affairs.

23 The term incapacitated person is also used to designate a person
24 who is impaired by reason of physical illness or disability, chronic use
25 of drugs, chronic alcoholism or other cause (except minority) to the
26 extent that he lacks sufficient capacity to govern himself and manage
27 his affairs.

28 The terms incapacity and incapacitated person refer to the state or
29 condition of an incapacitated person as hereinbefore defined.

30 "Minor" means a person who is under 18 years of age.

31 "Nonresident decedent" means a decedent who was domiciled in
32 another jurisdiction at the time of his death.

33 "Parent" means any person entitled to take or would be entitled to
34 take if the child, natural or adopted, died without a will, by intestate
35 succession from the child whose relationship is in question and
36 excludes any person who is a stepparent, ~~[foster]~~ resource family
37 parent or grandparent.

38 "Personal representative" includes executor, administrator,
39 successor personal representative, special administrator, and persons
40 who perform substantially the same function under the law governing
41 their status. "General personal representative" excludes special
42 administrator.

43 "Resident creditor" means a person domiciled in, or doing business
44 in this State, who is, or could be, a claimant against an estate.

45 "Security" includes any note, stock, treasury stock, bond, mortgage,
46 financing statement, debenture, evidence of indebtedness, certificate

1 of interest or participation in an oil, gas or mining title or lease or in
2 payments out of production under the title or lease, collateral, trust
3 certificate, transferable share, voting trust certificate or, in general,
4 any interest or instrument commonly known as a security or as a
5 security interest or any certificate of interest or participation, any
6 temporary or interim certificate, receipt or certificate of deposit for,
7 or any warrant or right to subscribe to or purchase, any of the
8 foregoing.

9 "Successor personal representative" means a personal
10 representative, other than a special administrator, who is appointed to
11 succeed a previously appointed personal representative.

12 "Successors" means those persons, other than creditors, who are
13 entitled to real and personal property of a decedent under his will or
14 the laws governing intestate succession.

15 "Testamentary trustee" means a trustee designated by will or
16 appointed to exercise a trust created by will.

17 "Trust" includes any express trust, private or charitable, with
18 additions thereto, wherever and however created. It also includes a
19 trust created by judgment under which the trust is to be administered
20 in the manner of an express trust. "Trust" excludes other constructive
21 trusts, and it excludes resulting trusts, guardianships, personal
22 representatives, trust accounts created under the "Multiple-party
23 Deposit Account Act," P.L.1979, c.491 [(C.17:161-1 et
24 seq.)](C.17:161-1 et seq.), gifts to minors under the "New Jersey
25 Uniform Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.),
26 business trusts providing for certificates to be issued to beneficiaries,
27 common trusts, security arrangements, liquidation trusts, and trusts for
28 the primary purpose of paying debts, dividends, interest, salaries,
29 wages, profits, pensions or employee benefits of any kind, and any
30 arrangement under which a person is nominee or escrowee for another.

31 "Ward" means a person for whom a guardian is appointed or a
32 person under the protection of the court.

33 "Will" means the last will and testament of a testator or testatrix
34 and includes any codicil.

35 (cf: P.L.1997, c.379, s.3)

36

37 17. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as
38 follows:

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

47 (cf: P.L.1999, c.53, s.3)

1 18. Section 12 of P.L.1977, c.367 (C.9:3-48) is amended to read
2 as follows:

3 12. a. When the child to be adopted has not been received from an
4 approved agency, the prospective parent shall file with the court a
5 complaint for adoption. Upon receipt of the complaint, the court shall
6 by its order:

7 (1) Declare the child to be a ward of the court and declare that the
8 plaintiff shall have custody of the child subject to further order of the
9 court;

10 (2) Appoint an approved agency to make an investigation and
11 submit a written report to the court which shall include:

12 (a) the facts and circumstances surrounding the surrender of
13 custody by the child's parents and the placement of the child in the
14 home of the plaintiff, including the identity of any intermediary who
15 participated in the placement of the child;

16 (b) an evaluation of the child and of the plaintiff and the spouse of
17 the plaintiff if not the child's parent and any other person residing in
18 the prospective home; and

19 (c) any fees, expenses or costs paid by or on behalf of the adopting
20 parent in connection with the adoption.

21 The agency conducting the investigation shall, if it is able to,
22 contact the birth parent and confirm that counseling, if required by
23 section 18 of P.L.1993, c.345 (C.9:3-39.1), has either been provided
24 or waived by the birth parent. If not previously provided, the agency
25 shall advise the parent of the availability of such counseling through
26 the agency and shall provide such counseling if requested by the birth
27 parent or if the birth parent resides out of State or out of the country,
28 such counseling should be made available by or through an agency
29 approved to provide such counseling in the birth parent's state or
30 country of domicile. The agency shall further confirm that the birth
31 parent has been advised that the decision of the birth parent not to
32 place the child for adoption or the return of the child to the birth
33 parent can not be conditioned upon the repayment of expenses by the
34 birth parent to the adoptive parent.

35 All expenses and fees for the investigation and any counseling
36 provided shall be the responsibility of the plaintiff;

37 (3) Direct the plaintiff to cooperate with the approved agency
38 making the investigation and report;

39 (4) Fix a day for a preliminary hearing not less than two or more
40 than three months from the date of the filing of the complaint; except
41 that the hearing may be accelerated upon the application of the
42 approved agency and upon notice to the plaintiff if the agency
43 determines that removal of the child from the plaintiff's home is
44 required, in which case the court shall appoint a guardian ad litem to
45 represent the child at all future proceedings regarding the adoption.

46 Whenever the plaintiff is a stepparent of the child, the court, in its

1 discretion, may dispense with the agency investigation and report and
2 take direct evidence at the preliminary hearing of the facts and
3 circumstances surrounding the filing of the complaint for adoption.

4 Whenever a plaintiff is a brother, sister, grandparent, aunt, uncle,
5 or birth father of the child, the order may limit the investigation to an
6 inquiry concerning the status of the parents of the child and an
7 evaluation of the plaintiff. At least 10 days prior to the day fixed for
8 the preliminary hearing the approved agency shall file its report with
9 the court and serve a copy on the plaintiff; and

10 (5) Conduct a search of the records of the central registry
11 established pursuant to section 1 of P.L.1999, c.421 (C.2C:25-34),
12 upon the request of a surrogate and not more than 30 days prior to the
13 preliminary hearing, to determine whether a prospective adoptive
14 parent or any member of the parent's household has:

15 (a) had a domestic violence restraining order entered against them;
16 or

17 (b) been charged with a violation of a court order involving
18 domestic violence.

19 The court shall provide the results of the search to the surrogate for
20 inclusion in the court's adoption file. If the results of the search
21 contain any material findings or recommendations adverse to the
22 plaintiff, the surrogate shall provide the material findings or
23 recommendations to the approved agency.

24 In a case in which the plaintiff is a stepparent of the child and the
25 court dispenses with the agency investigation and report pursuant to
26 paragraph (4) of this subsection and the results of the court's search
27 contain any material findings or recommendations adverse to the
28 plaintiff, the surrogate shall serve a copy of that part of the results of
29 the search upon the plaintiff at least five days prior to the preliminary
30 hearing.

31 b. The preliminary hearing shall be in camera and shall have for its
32 purpose the determination of the circumstances under which the child
33 was relinquished by his parents and received into the home of the
34 plaintiff, the status of the parental rights of the parents, the fitness of
35 the child for adoption and the fitness of the plaintiff to adopt the child
36 and to provide a suitable home. If the report of the approved agency
37 pursuant to subsection a. of this section contains or the results of the
38 search of the central registry contain material findings or
39 recommendations adverse to the plaintiff, the presence of a
40 representative of the approved agency who has personal knowledge of
41 the investigation shall be required at the preliminary hearing. If in the
42 course of the preliminary hearing the court determines that there is
43 lack of jurisdiction, lack of qualification on the part of the plaintiff or
44 that the best interests of the child would not be promoted by the
45 adoption, the court shall deny the adoption and make such further
46 order concerning the custody and guardianship of the child as may be

1 deemed proper in the circumstances.

2 c. If upon completion of the preliminary hearing the court finds
3 that:

4 (1) The parents of the child do not have rights as to custody of the
5 child by reason of their rights previously having been terminated by
6 court order; or, the parents' objection has been contravened pursuant
7 to subsection a. of section 10 of P.L.1977, c.367 (C.9:3-46);

8 (2) The guardian, if any, should have no further control or
9 authority over the child;

10 (3) The child is fit for adoption; and

11 (4) The plaintiff is fit to adopt the child, the court shall: (a) issue
12 an order stating its findings, declaring that no parent or guardian of the
13 child has a right to custody or guardianship of the child; (b) terminate
14 the parental rights of that person, which order shall be a final order;
15 (c) fix a date for final hearing not less than six nor more than nine
16 months from the date of the preliminary hearing; and (d) appoint an
17 approved agency to supervise and evaluate the continuing placement
18 in accordance with subsection d. of this section. If the plaintiff is a
19 brother, sister, grandparent, aunt, uncle, birth father, stepparent or
20 [foster] resource family parent of the child, or if the child has been
21 in the home of the plaintiff for at least two years immediately
22 preceding the commencement of the adoption action, and if the court
23 is satisfied that the best interests of the child would be promoted by
24 the adoption, the court may dispense with this evaluation and final
25 hearing and enter a judgment of adoption immediately upon
26 completion of the preliminary hearing.

27 d. The approved agency appointed pursuant to subsection c. of this
28 section shall from time to time visit the home of the plaintiff and make
29 such further inquiry as may be necessary to observe and evaluate the
30 care being received by the child and the adjustment of the child and the
31 plaintiff as members of a family. At least 15 days prior to the final
32 hearing the approved agency shall file with the court a written report
33 of its findings, including a recommendation concerning the adoption,
34 and shall mail a copy of the report to the plaintiff.

35 If at any time following the preliminary hearing the approved
36 agency concludes that the best interests of the child would not be
37 promoted by the adoption, the court shall appoint a guardian ad litem
38 for the child and after a hearing held upon the application of the
39 approved agency and upon notice to the plaintiff, may modify or
40 revoke any order entered in the action and make such further order
41 concerning the custody and guardianship of the child as may be
42 deemed proper in the circumstances.

43 e. At the final hearing the court shall proceed in camera; except
44 that if the approved agency in its report pursuant to subsection d. of
45 this section has recommended that the adoption be granted, the final
46 hearing may be dispensed with and, if the court is satisfied that the

1 best interests of the child would be promoted by the adoption, a
2 judgment of adoption may be entered immediately.

3 The appearance of the approved agency at the final hearing shall not
4 be required unless its recommendations are adverse to the plaintiff or
5 unless ordered by the court. If its appearance is required, the
6 approved agency shall be entitled to present testimony and to
7 cross-examine witnesses and shall be subject to cross-examination with
8 respect to its report and recommendations in the matter.

9 f. If, based upon the report and the evidence presented, the court
10 is satisfied that the best interests of the child would be promoted by
11 the adoption, the court shall enter a judgment of adoption. If, based
12 upon the evidence, the court is not satisfied that the best interests of
13 the child would be promoted by the adoption, the court shall deny the
14 adoption and make such further order concerning the custody and
15 guardianship of the child as may be deemed proper in the
16 circumstances.

17 (cf: P.L.2003, c.286, s.3)

18

19 19. Section 19 of P.L.1997, c.367 (C.9:3-55) is amended to read
20 as follows:

21 19. a. A prospective parent who is not a brother, sister, aunt,
22 uncle, grandparent, [foster] resource family parent, birth father or
23 stepparent of the child to be adopted shall file before the complaint is
24 heard, in accordance with court rules, a detailed report which shall be
25 signed and verified by each prospective parent and shall disclose all
26 sums of money or other valuable consideration paid, given or agreed
27 to be given to any person, firm, partnership, corporation, association
28 or agency by or on behalf of the prospective parent in connection with
29 the adoption, and the names and addresses of each person, firm,
30 partnership, corporation, association or agency to whom the
31 consideration was given or promised. The report, a copy of which
32 shall be provided to the approved agency pursuant to section 11 or 12
33 of P.L.1977, c.367 (C.9:3-47 or C.9:3-48), shall include but not be
34 limited to expenses incurred or to be incurred by or on behalf of a
35 prospective parent in connection with:

36 (1) The birth of the child;

37 (2) The placement for adoption of the child with the prospective
38 parent;

39 (3) Medical or hospital care received by the mother or the child
40 during the mother's pre- and postnatal period; and

41 (4) Services relating to the adoption or to the placement for
42 adoption, including legal services, which were rendered or are to be
43 rendered to or for the benefit of the prospective parent, either parent
44 of the child or any other person or agency.

45 b. Whenever based upon a report filed pursuant to this section it
46 appears to the court that any person may have violated section 18 of

1 P.L.1993, c.345 (C.9:3-39.1) the court or the division may refer the
2 matter to the appropriate county prosecutor.
3 (cf: P.L.1993, c.345, s.17)

4
5 20. R.S.9:6-2 is amended to read as follows:

6 9:6-2. "Parent", as used in this chapter, shall include the stepfather
7 and stepmother and the adoptive or [foster] resource family parent.
8 "The person having the care, custody and control of any child", as
9 used in this chapter, shall mean any person who has assumed the care
10 of a child, or any person with whom a child is living at the time the
11 offense is committed, and shall include a teacher, employee or
12 volunteer, whether compensated or uncompensated, of an institution
13 as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is
14 responsible for the child's welfare, and a person who legally or
15 voluntarily assumes the care, custody, maintenance or support of the
16 child. Custodian also includes any other staff person of an institution
17 regardless of whether or not the person is responsible for the care or
18 supervision of the child. Custodian also includes a teaching staff
19 member or other employee, whether compensated or uncompensated,
20 of a day school as defined in section 1 of P.L.1974, c.119
21 (C.9:6-8.21).

22 (cf: P.L.1987, c.341, s.2)

23

24 21. Section 7 of P.L.1987, c.341 (C.9:6-3.1) is amended to read as
25 follow:

26 7. a. A teacher, employee, volunteer or staff person of an
27 institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who
28 is alleged to have committed an act of child abuse or neglect as defined
29 in R.S. 9:6-1, section 2 of P.L.1971, c.437 (C.9:6-8.9) and section 1
30 of P.L.1974, c.119 (C.9:6-8.21) shall be temporarily suspended by the
31 appointing authority from his position at the institution with pay, or
32 reassigned to other duties which would remove the risk of harm to the
33 child under the person's custody or control, if there is reasonable cause
34 for the appointing authority to believe that the life or health of the
35 alleged victim or other children at the institution is in imminent danger
36 due to continued contact between the alleged perpetrator and a child
37 at the institution.

38 A public employee suspended pursuant to this subsection shall be
39 accorded and may exercise due process rights, including notice of the
40 proposed suspension and a presuspension opportunity to respond and
41 any other due process rights provided under the laws of this State
42 governing public employment and under any applicable individual or
43 group contractual agreement. A private employee suspended pursuant
44 to this subsection shall be accorded and may exercise due process
45 rights provided for under the laws of this State governing private
46 employment and under any applicable individual or group employee

1 contractual agreement.

2 b. If the child abuse or neglect is the result of a single act occurring
3 in an institution, within 30 days of receipt of the report of child abuse
4 or neglect, the [division] Department of Human Services may request
5 that the chief administrator of the institution formulate a plan of
6 remedial action. The plan may include, but shall not be limited to,
7 action to be taken with respect to a teacher, employee, volunteer or
8 staff person of the institution to assure the health and safety of the
9 alleged victim and other children at the institution and to prevent
10 future acts of abuse or neglect. Within 30 days of the date the
11 [division] department requested the remedial plan, the chief
12 administrator shall notify the [division] department in writing of the
13 progress in preparing the plan. The chief administrator shall complete
14 the plan within 90 days of the date the [division] department
15 requested the plan.

16 c. If the child abuse or neglect is the result of several incidents
17 occurring in an institution, within 30 days of receipt of the report of
18 child abuse or neglect, the [division] department may request that the
19 chief administrator of the institution make administrative, personnel or
20 structural changes at the institution. Within 30 days of the date the
21 [division] department made its request, the chief administrator shall
22 notify the [division] department of the progress in complying with the
23 terms of the [division's] department's request. The [division]
24 department and chief administrator shall determine a time frame for
25 completion of the terms of the request.

26 d. If a chief administrator of an institution does not formulate or
27 implement a remedial plan or make[any] the changes requested by the
28 [division] department, the [division] department may impose
29 appropriate sanctions or actions if the department licenses, oversees,
30 approves or authorizes the operation of the institution. If the
31 department does not license, oversee, approve or authorize the
32 operation of the institution, the department may recommend to the
33 authority which licenses, oversees, approves or authorizes the
34 operation of the institution that appropriate sanctions or actions be
35 [enforced or taken] imposed against the institution.

36 (cf: P.L.1987, c.341, s.7)

37

38 22. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read
39 as follows:

40 1. a. All records of child abuse reports made pursuant to section
41 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
42 [Division of Youth and Family] Department of Human Services in
43 investigating such reports including reports received pursuant to
44 section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings
45 forwarded to the [central] child abuse registry pursuant to section 4

1 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be
2 disclosed only under the circumstances expressly authorized under
3 subsections b., c., d., e., f. and g. herein. The [division] department
4 shall disclose information only as authorized under subsections b., c.,
5 d., e., f. and g. of this section that is relevant to the purpose for which
6 the information is required, provided, however, that nothing may be
7 disclosed which would likely endanger the life, safety, or physical or
8 emotional well-being of a child or the life or safety of any other person
9 or which may compromise the integrity of a [division] department
10 investigation or a civil or criminal investigation or judicial proceeding.
11 If the [division] department denies access to specific information on
12 this basis, the requesting entity may seek disclosure through the
13 Chancery Division of the Superior Court. This section shall not be
14 construed to prohibit disclosure pursuant to paragraphs (2) and (7) of
15 subsection b. of this section.

16 Nothing in this act shall be construed to permit the disclosure of
17 any information deemed confidential by federal or State law.

18 b. The [division] department may and upon written request, shall
19 release the records and reports referred to in subsection a., or parts
20 thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83
21 et al.) to:

22 (1) A public or private child protective agency authorized to
23 investigate a report of child abuse or neglect;

24 (2) A police or other law enforcement agency investigating a report
25 of child abuse or neglect;

26 (3) A physician who has before him a child whom he reasonably
27 suspects may be abused or neglected or an authorized member of the
28 staff of a duly designated regional child abuse diagnostic and treatment
29 center which is involved with a particular child who is the subject of
30 the request;

31 (4) A physician, a hospital director or his designate, a police officer
32 or other person authorized to place a child in protective custody when
33 such person has before him a child whom he reasonably suspects may
34 be abused or neglected and requires the information in order to
35 determine whether to place the child in protective custody;

36 (5) An agency, whether public or private, including any [other]
37 division or unit in the Department of Human Services, authorized to
38 care for, treat, assess, evaluate or supervise a child who is the subject
39 of a child abuse report, or a parent, guardian, resource family parent
40 or other person who is responsible for the child's welfare, or both,
41 when the information is needed in connection with the provision of
42 care, treatment, assessment, evaluation or supervision to such child or
43 such parent, guardian, resource family parent or other person and the
44 provision of information is in the best interests of the child as
45 determined by the Division of Youth and Family Services;

46 (6) A court or the Office of Administrative Law, upon its finding

1 that access to such records may be necessary for determination of an
2 issue before it, and such records may be disclosed by the court or the
3 Office of Administrative Law in whole or in part to the law guardian,
4 attorney or other appropriate person upon a finding that such further
5 disclosure is necessary for determination of an issue before the court
6 or the Office of Administrative Law;

7 (7) A grand jury upon its determination that access to such records
8 is necessary in the conduct of its official business;

9 (8) Any appropriate State legislative committee acting in the
10 course of its official functions, provided, however, that no names or
11 other information identifying persons named in the report shall be
12 made available to the legislative committee unless it is absolutely
13 essential to the legislative purpose;

14 (9) (Deleted by amendment, P.L.1997, c.175).

15 (10) A family day care sponsoring organization for the purpose of
16 providing information on child abuse or neglect allegations involving
17 prospective or current providers or household members pursuant to
18 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in
19 administrative appeals related to information obtained through a
20 **[central]** child abuse registry search;

21 (11) The Victims of Crime Compensation Board, for the purpose
22 of providing services available pursuant to the "Criminal Injuries
23 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
24 a child victim who is the subject of such report;

25 (12) Any person appealing a **[division]** department service or
26 status action or a substantiated finding of child abuse or neglect and
27 his attorney or authorized lay representative upon a determination by
28 the **[division]** department or the presiding Administrative Law Judge
29 that such disclosure is necessary for a determination of the issue on
30 appeal;

31 (13) Any person or entity mandated by statute to consider child
32 abuse or neglect information when conducting a background check or
33 employment-related screening of an individual employed by or seeking
34 employment with an agency or organization providing services to
35 children;

36 (14) Any person or entity conducting a disciplinary, administrative
37 or judicial proceeding to determine terms of employment or continued
38 employment of an officer, employee, or volunteer with an agency or
39 organization providing services for children. The information may be
40 disclosed in whole or in part to the appellant or other appropriate
41 person only upon a determination by the person or entity conducting
42 the proceeding that the disclosure is necessary to make a
43 determination;

44 (15) The members of a county multi-disciplinary team, established
45 in accordance with State guidelines, for the purpose of coordinating
46 the activities of agencies handling alleged cases of child abuse and

1 neglect;

2 (16) A person being evaluated by the [division] department or the
3 court as a potential care-giver to determine whether that person is
4 willing and able to provide the care and support required by the child;

5 (17) The legal counsel of a child, parent or guardian, whether
6 court-appointed or retained, when information is needed to discuss the
7 case with the [division] department in order to make decisions
8 relating to or concerning the child;

9 (18) A person who has filed a report of suspected child abuse or
10 neglect for the purpose of providing that person with only the
11 disposition of the investigation;

12 (19) A parent, resource family parent or legal guardian when the
13 information is needed in a [division] department matter in which that
14 parent, resource family parent or legal guardian is directly involved.
15 The information may be released only to the extent necessary for the
16 requesting parent, resource family parent or legal guardian to discuss
17 services or the basis for the [division's] department's involvement or
18 to develop, discuss, or implement a case plan for the child;

19 (20) A federal, State or local government entity, to the extent
20 necessary for such entity to carry out its responsibilities under law to
21 protect children from abuse and neglect;

22 (21) Citizen review panels designated by the State in compliance
23 with the federal "Child Abuse Prevention and Treatment Act
24 Amendments of 1996," Pub.L.104-235;

25 (22) The Child Fatality and Near Fatality Review Board established
26 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); or

27 (23) Members of a family team or other case planning group
28 formed by the Division of Youth and Family Services and established
29 in accordance with regulations adopted by the Commissioner of
30 Human Services for the purpose of addressing the child's safety,
31 permanency or well-being, when the provision of such information is
32 in the best interests of the child as determined by the Division of
33 Youth and Family Services.

34 Any individual, agency, board, court, grand jury, legislative
35 committee, or other entity which receives from the [division]
36 department the records and reports referred to in subsection a., shall
37 keep such records and reports, or parts thereof, confidential and shall
38 not disclose such records and reports or parts thereof except as
39 authorized by law.

40 c. The [division] department may share information with a child
41 who is the subject of a child abuse or neglect report, as appropriate to
42 the child's age or condition, to enable the child to understand the basis
43 for the [division's] department's involvement and to participate in the
44 development, discussion, or implementation of a case plan for the
45 child.

46 d. The [division] department may release the records and reports

1 referred to in subsection a. of this section to any person engaged in a
2 bona fide research purpose, provided, however, that no names or other
3 information identifying persons named in the report shall be made
4 available to the researcher unless it is absolutely essential to the
5 research purpose and provided further that the approval of the
6 **[Director of the Division of Youth and Family Services]**
7 **Commissioner of Human Services or his designee** shall first have been
8 obtained.

9 e. For incidents determined by the **[division] department** to be
10 substantiated, the **[division] department** shall forward to the police or
11 law enforcement agency in whose jurisdiction the child named in the
12 report resides, the identity of persons alleged to have committed child
13 abuse or neglect and of victims of child abuse or neglect, their
14 addresses, the nature of the allegations, and other relevant
15 information, including, but not limited to, prior reports of abuse or
16 neglect and names of siblings obtained by the **[division] department**
17 during its investigation of a report of child abuse or neglect. The
18 police or law enforcement agency shall keep such information
19 confidential.

20 f. The **[division] department** may disclose to the public the
21 findings or information about a case of child abuse or neglect which
22 has resulted in a child fatality or near fatality. Nothing may be
23 disclosed which would likely endanger the life, safety, or physical or
24 emotional well-being of a child or the life or safety of any other person
25 or which may compromise the integrity of a **[division] department**
26 investigation or a civil or criminal investigation or judicial proceeding.
27 If the **[division] department** denies access to specific information on
28 this basis, the requesting entity may seek disclosure of the information
29 through the Chancery Division of the Superior Court. No information
30 may be disclosed which is deemed confidential by federal or State law.
31 The name or any other information identifying the person or entity
32 who referred the child to the **[division] department** shall not be
33 released to the public.

34 g. The **[division] department** shall release the records and reports
35 referred to in subsection a. of this section to a unified child care
36 agency contracted with the **[Department of Human Services]**
37 **department** pursuant to N.J.A.C.10:15-2.1 for the purpose of
38 providing information on child abuse or neglect allegations involving
39 a prospective approved home provider or any adult household member
40 pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child's
41 parent when the information is necessary for the parent to make a
42 decision concerning the placement of the child in an appropriate child
43 care arrangement.

44 The **[division] department** shall not release any information that
45 would likely endanger the life, safety, or physical or emotional

1 well-being of a child or the life or safety of any other person.
2 (cf: P.L.2003, c.185, s.1)

3
4 23. Section 4 of P.L.1971, c. 437 (C.9:6-8.11) is amended to read
5 as follows:

6 4. Upon receipt of any such report, the **[Bureau of Children's]**
7 Division of Youth and Family Services, or such another entity in the
8 Department of Human Services as may be designated by the
9 Commissioner of Human Services to investigate child abuse or neglect,
10 shall immediately take such action as shall be necessary to insure the
11 safety of the child and to that end may request and shall receive
12 appropriate assistance from local and State law enforcement officials.
13 A representative of the division or other designated entity shall initiate
14 an investigation within 24 hours of receipt of the report, unless the
15 division or other entity authorizes a delay based upon the request of
16 a law enforcement official. The **[bureau] division or other entity** shall
17 also, within 72 hours, forward a report of such matter to the **[Central**
18 **Registry of the Bureau of Children's Services]** child abuse registry
19 operated by the division in Trenton.

20 The child abuse registry shall be the repository of all information
21 regarding child abuse or neglect that is accessible to the public
22 pursuant to State and federal law. No information received in the
23 **[central] child abuse** registry shall be considered as a public record
24 within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
25 c.404 (C.47:1A-5 et al.).

26 (cf: P.L.1971, c.437, s.4)

27

28 24. Section 5 of P.L.1971, c.437 (C.9:6-8.12) is amended to read
29 as follows:

30 5. The **[Bureau of Children's] Division of Youth and Family**
31 **Services** shall maintain **[in each of its districts on a 24 hour daily basis**
32 **throughout each year], at all times,** an emergency telephone service
33 for the receipt of **[child abuse] calls involving a report, complaint or**
34 allegation of child abuse or neglect.

35 (cf: P.L.1971, c.437, s.5)

36

37 25. Section 2 of P.L.1973, c.147 (C.9:6-8.17) is amended to read
38 as follows:

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

45 (cf: P.L.1973, c.47, s.2)

1 26. Section 5 of P.L.1999, c.53 (C.9:6-8.19a) is amended to read
2 as follows:

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

11 (cf: P.L.1999, c.53, s.5)

12

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

15 1. As used in this act, unless the specific context indicates
16 otherwise:

17 a. "Parent or guardian" means any natural parent, adoptive parent,
18 [foster] resource family parent, stepparent, or any person, who has
19 assumed responsibility for the care, custody or control of a child or
20 upon whom there is a legal duty for such care. Parent or guardian
21 includes a teacher, employee or volunteer, whether compensated or
22 uncompensated, of an institution who is responsible for the child's
23 welfare and any other staff person of an institution regardless of
24 whether or not the person is responsible for the care or supervision of
25 the child. Parent or guardian also includes a teaching staff member or
26 other employee, whether compensated or uncompensated, of a day
27 school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

28 b. "Child" means any child alleged to have been abused or
29 neglected.

30 c. "Abused or neglected child" means a child less than 18 years of
31 age whose parent or guardian, as herein defined, (1) inflicts or allows
32 to be inflicted upon such child physical injury by other than accidental
33 means which causes or creates a substantial risk of death, or serious
34 or protracted disfigurement, or protracted impairment of physical or
35 emotional health or protracted loss or impairment of the function of
36 any bodily organ; (2) creates or allows to be created a substantial or
37 ongoing risk of physical injury to such child by other than accidental
38 means which would be likely to cause death or serious or protracted
39 disfigurement, or protracted loss or impairment of the function of any
40 bodily organ; (3) commits or allows to be committed an act of sexual
41 abuse against the child; (4) or a child whose physical, mental, or
42 emotional condition has been impaired or is in imminent danger of
43 becoming impaired as the result of the failure of his parent or
44 guardian, as herein defined, to exercise a minimum degree of care (a)
45 in supplying the child with adequate food, clothing, shelter, education,
46 medical or surgical care though financially able to do so or though

1 offered financial or other reasonable means to do so, or (b) in
2 providing the child with proper supervision or guardianship, by
3 unreasonably inflicting or allowing to be inflicted harm, or substantial
4 risk thereof, including the infliction of excessive corporal punishment;
5 or by any other acts of a similarly serious nature requiring the aid of
6 the court; (5) or a child who has been willfully abandoned by his
7 parent or guardian, as herein defined; (6) or a child upon whom
8 excessive physical restraint has been used under circumstances which
9 do not indicate that the child's behavior is harmful to himself, others
10 or property; (7) or a child who is in an institution and (a) has been
11 placed there inappropriately for a continued period of time with the
12 knowledge that the placement has resulted or may continue to result
13 in harm to the child's mental or physical well-being or (b) who has
14 been willfully isolated from ordinary social contact under
15 circumstances which indicate emotional or social deprivation.

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

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

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

29 e. "Attorney" means an attorney admitted to the practice of law in
30 this State who shall be privately retained; or, in the instance of an
31 indigent parent or guardian, an attorney from the Office of the Public
32 Defender or an attorney appointed by the court who shall be appointed
33 in order to avoid conflict between the interests of the child and the
34 parent or guardian in regard to representation.

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

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

42 h. "Day school" means a public or private school which provides
43 general or special educational services to day students in grades
44 kindergarten through 12. Day school does not include a residential
45 facility, whether public or private, which provides care on a 24-hour
46 basis.

47 (cf: P.L.1999, c.53, s.55)

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

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

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

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

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

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

34 (cf: P.L.1999, c.53, s.8)

35

36 29. Section 10 P.L.1977, c.210 (C.9:6-8.30) is amended to read as
37 follows:

38 10. Action by the division upon emergency removal. a. The
39 division when informed that there has been an emergency removal of
40 a child from his home without court order shall make every reasonable
41 effort to communicate immediately with the child's parent or guardian
42 that such emergency removal has been made and the location of the
43 facility to which the child has been taken, and advise the parent or
44 guardian to appear in the appropriate Superior Court, Chancery
45 Division, Family Part [on the next court day] within two court days.
46 The division shall make a reasonable effort, at least 24 hours prior to

1 the court hearing, to: notify the parent or guardian of the time to
2 appear in court; and inform the parent or guardian of his right to
3 obtain counsel, and how to obtain counsel through the Office of the
4 Public Defender if the parent or guardian is indigent. The division
5 shall also advise the party making the removal to appear. If the
6 removed child is returned to his home prior to the court hearing, there
7 shall be no court hearing to determine the sufficiency of cause for the
8 child's removal, unless the child's parent or guardian makes application
9 to the court for review. For the purposes of this section, "facility"
10 means a hospital, shelter or child care institution in which a child may
11 be placed for temporary care, but does not include a [foster] resource
12 family home.

13 b. The division shall cause a complaint to be filed under this act
14 [immediately or on the first court day] within two court days after
15 such removal takes place.

16 c. Whenever a child has been removed pursuant to section 7 or 9
17 of this act, the division shall arrange for immediate medical
18 examination of the child and shall have legal authority to consent to
19 such examination. If necessary to safeguard the child's health or life,
20 the division also is authorized to arrange for and consent to medical
21 care or treatment of the child. Consent by the division pursuant to this
22 subsection shall be deemed legal and valid for all purposes with
23 respect to any person, hospital, or other health care facility examining
24 or providing care or treatment to a child in accordance with and in
25 reliance upon such consent. Medical reports resulting from such
26 examination or care or treatment shall be released to the division for
27 the purpose of aiding in the determination of whether the child has
28 been abused or neglected. Any person or health care facility acting in
29 good faith in the examination of or provision of care and treatment to
30 a child or in the release of medical records shall have immunity from
31 any liability, civil or criminal, that might otherwise be incurred or
32 imposed as a result of such act.

33 (cf: P.L.1991, c.91, s.203)

34

35 30. Section 1 of P.L.1977, c.210 (C.9:6-8.36a) is amended to read
36 as follows:

37 1. The [Division of Youth and Family] Department of Human
38 Services shall immediately report all instances of suspected child abuse
39 and neglect, as defined by regulations, to the county prosecutor of the
40 county in which the child resides. [Said] The regulations shall be
41 developed jointly by the [division] department and the county
42 prosecutors, approved by the Attorney General, and promulgated by
43 the Commissioner of [the Department of]Human Services.

44 (cf: P.L.1977, c.210, s.1)

45

46 31. Section 20 of P.L.1974, c.119 (C.9:6-8.40) is amended to read

1 as follows:

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

21 (cf: P.L.1999, c.53, s.13)

22

23 32. Section 1 of P.L.1997, c.62 (C.9:6-8.40a) is amended to read
24 as follows:

25 1. a. The Division of Youth and Family Services in the Department
26 of Human Services shall expunge from its records all information
27 relating to a report, complaint or allegation of an incident of child
28 abuse or neglect with respect to which the division or other entity
29 designated by the Commissioner of Human Services to investigate
30 allegations of child abuse or neglect has determined, based upon its
31 investigation thereof, that the report, complaint or allegation of the
32 incident was unfounded.

33 b. [For purposes of this act, "unfounded" means there is no
34 concern on the part of the division that the safety or welfare of the
35 child is at risk] (~~Deleted by amendment, P.L. _____, c. _____ (pending~~
36 ~~before the Legislature as this bill)).~~

37 The definition of, and process [of] for, making a determination of
38 an unfounded report, complaint or allegation of an incident of child
39 abuse or neglect shall be [further] defined in regulations promulgated
40 by the department pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.).

42 (cf: P.L.1997, c.62, s.1)

43

44 33. Section 23 of P.L.1974, c.119 (C.9:6-8.43) is amended to read
45 as follows:

1 23. Notice of rights. a. The court shall advise the parent or
2 guardian of his right to have an adjournment to retain counsel and
3 consult with him. The court shall advise the respondent that if he is
4 indigent, he may apply for an attorney through the Office of the Public
5 Defender. In cases where the parent or guardian applies for an
6 attorney through the Office of the Public Defender, the court may
7 adjourn the case for a reasonable period of time for the parent or
8 guardian to secure counsel; however, the adjournment shall not
9 preclude the court from granting temporary relief as appropriate under
10 the law. The court shall appoint a law guardian for the child as
11 provided by this act.

12 b. The general public may be excluded from any hearing under this
13 act, and only such persons and the representatives of authorized
14 agencies may be admitted thereto as have an interest in the case.
15 (cf: P.L.1994, c.58, s.40)

16

17 34. Section 8 of P.L.1987, c.341 (C.9:6-8.72a) is amended to read
18 as follows:

19 8. The Commissioner of [the Department of] Education shall, in
20 cooperation and consultation with the Commissioner of [the
21 Department of] Human Services, adopt rules and regulations, pursuant
22 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
23 et seq.), concerning the relationship, rights and responsibilities of the
24 [Division of Youth and Family Services in the] Department of Human
25 Services and local school districts regarding the reporting and
26 investigation of allegations of child abuse.
27 (cf: P.L.1987, c.341, s.8)

28

29 35. Section 4 of P.L.1998, c.19 (C.9:6-8.102) is amended to read
30 as follows:

31 4. Services provided by the center's staff shall include, but not be
32 limited to:

33 a. Providing psychological and medical evaluation and treatment
34 of the child, counseling for family members and substance abuse
35 assessment and mental health and substance abuse counseling for the
36 parents or guardians of the child;

37 b. Providing referral for appropriate social services and medical
38 care;

39 c. Providing testimony regarding alleged child abuse or neglect at
40 judicial proceedings;

41 d. Providing treatment recommendations for the child and mental
42 health and substance abuse treatment recommendations for his family,
43 and providing mental health and substance abuse treatment
44 recommendations for persons convicted of child abuse or neglect;

45 e. Receiving referrals from the [Division of Youth and Family]
46 Department of Human Services and the county prosecutor's office and

1 assisting them in any investigation of child abuse or neglect;

2 f. Providing educational material and seminars on child abuse and
3 neglect and the services the center provides to children, parents,
4 teachers, law enforcement officials, the judiciary, attorneys and other
5 citizens.

6 (cf: P.L.1998, c.19, s.4)

7

8 36. Section 6 of P.L.1998, c.19 (C.9:6-8.104) is amended to read
9 as follows:

10 6. Regional centers shall act as a resource in the establishment and
11 maintenance of county-based multidisciplinary teams which work in
12 conjunction with the county prosecutor and the [Division of Youth
13 and Family] Department of Human Services in the investigation of
14 child abuse and neglect in the county in which the child who is
15 undergoing evaluation and treatment resides. The Commissioner of
16 Human Services, in consultation with the New Jersey Task Force on
17 Child Abuse and Neglect, shall establish standards for a county team.
18 The county team shall consist of representatives of the following
19 disciplines: law enforcement; child protective services; mental health;
20 substance abuse identification and treatment; and medicine; and, in
21 those counties where a child advocacy center has been established,
22 shall include a staff representative of a child advocacy center, all of
23 whom have been trained to recognize child abuse and neglect. The
24 county team shall provide: facilitation of the investigation,
25 management and disposition of cases of criminal child abuse and
26 neglect; referral services to the regional diagnostic center; appropriate
27 referrals to medical and social service agencies; information regarding
28 the identification and treatment of child abuse and neglect; and
29 appropriate follow-up care for abused children and their families.

30 As used in this section, "child advocacy center" means a
31 county-based center which meets the standards for a county team
32 established by the commissioner pursuant to this section and
33 demonstrates a multidisciplinary approach in providing comprehensive,
34 culturally competent child abuse prevention, intervention and
35 treatment services to children who are victims of child abuse or
36 neglect.

37 (cf: P.L.2001, c.344, s.1)

38

39 37. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
40 follows:

41 5. As used in this act, unless a different meaning clearly appears
42 from the context:

43 a. "Person" includes one or more individuals, partnerships,
44 associations, organizations, labor organizations, corporations, legal
45 representatives, trustees, trustees in bankruptcy, receivers, and
46 fiduciaries.

- 1 b. "Employment agency" includes any person undertaking to
2 procure employees or opportunities for others to work.
- 3 c. "Labor organization" includes any organization which exists and
4 is constituted for the purpose, in whole or in part, of collective
5 bargaining, or of dealing with employers concerning grievances, terms
6 or conditions of employment, or of other mutual aid or protection in
7 connection with employment.
- 8 d. "Unlawful employment practice" and "unlawful discrimination"
9 include only those unlawful practices and acts specified in section 11
10 of this act.
- 11 e. "Employer" includes all persons as defined in subsection a. of
12 this section unless otherwise specifically exempt under another section
13 of this act, and includes the State, any political or civil subdivision
14 thereof, and all public officers, agencies, boards or bodies.
- 15 f. "Employee" does not include any individual employed in the
16 domestic service of any person.
- 17 g. "Liability for service in the Armed Forces of the United States"
18 means subject to being ordered as an individual or member of an
19 organized unit into active service in the Armed Forces of the United
20 States by reason of membership in the National Guard, naval militia or
21 a reserve component of the Armed Forces of the United States, or
22 subject to being inducted into such armed forces through a system of
23 national selective service.
- 24 h. "Division" means the "Division on Civil Rights" created by this
25 act.
- 26 i. "Attorney General" means the Attorney General of the State of
27 New Jersey or his representative or designee.
- 28 j. "Commission" means the Commission on Civil Rights created by
29 this act.
- 30 k. "Director" means the Director of the Division on Civil Rights.
- 31 l. "A place of public accommodation" shall include, but not be
32 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
33 camp, day camp, or resort camp, whether for entertainment of
34 transient guests or accommodation of those seeking health, recreation
35 or rest; any producer, manufacturer, wholesaler, distributor, retail
36 shop, store, establishment, or concession dealing with goods or
37 services of any kind; any restaurant, eating house, or place where food
38 is sold for consumption on the premises; any place maintained for the
39 sale of ice cream, ice and fruit preparations or their derivatives, soda
40 water or confections, or where any beverages of any kind are retailed
41 for consumption on the premises; any garage, any public conveyance
42 operated on land or water, or in the air, any stations and terminals
43 thereof; any bathhouse, boardwalk, or seashore accommodation; any
44 auditorium, meeting place, or hall; any theatre, motion-picture house,
45 music hall, roof garden, skating rink, swimming pool, amusement and
46 recreation park, fair, bowling alley, gymnasium, shooting gallery,

1 billiard and pool parlor, or other place of amusement; any comfort
2 station; any dispensary, clinic or hospital; any public library; any
3 kindergarten, primary and secondary school, trade or business school,
4 high school, academy, college and university, or any educational
5 institution under the supervision of the State Board of Education, or
6 the Commissioner of Education of the State of New Jersey. Nothing
7 herein contained shall be construed to include or to apply to any
8 institution, bona fide club, or place of accommodation, which is in its
9 nature distinctly private; nor shall anything herein contained apply to
10 any educational facility operated or maintained by a bona fide religious
11 or sectarian institution, and the right of a natural parent or one in loco
12 parentis to direct the education and upbringing of a child under his
13 control is hereby affirmed; nor shall anything herein contained be
14 construed to bar any private secondary or post secondary school from
15 using in good faith criteria other than race, creed, color, national
16 origin, ancestry or affectional or sexual orientation in the admission of
17 students.

18 m. "A publicly assisted housing accommodation" shall include all
19 housing built with public funds or public assistance pursuant to
20 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
21 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
22 and all housing financed in whole or in part by a loan, whether or not
23 secured by a mortgage, the repayment of which is guaranteed or
24 insured by the federal government or any agency thereof.

25 n. The term "real property" includes real estate, lands, tenements
26 and hereditaments, corporeal and incorporeal, and leaseholds,
27 provided, however, that, except as to publicly assisted housing
28 accommodations, the provisions of this act shall not apply to the
29 rental: (1) of a single apartment or flat in a two-family dwelling, the
30 other occupancy unit of which is occupied by the owner as a residence;
31 or (2) of a room or rooms to another person or persons by the owner
32 or occupant of a one-family dwelling occupied by the owner or
33 occupant as a residence at the time of such rental. Nothing herein
34 contained shall be construed to bar any religious or denominational
35 institution or organization, or any organization operated for charitable
36 or educational purposes, which is operated, supervised or controlled
37 by or in connection with a religious organization, in the sale, lease or
38 rental of real property, from limiting admission to or giving preference
39 to persons of the same religion or denomination or from making such
40 selection as is calculated by such organization to promote the religious
41 principles for which it is established or maintained. Nor does any
42 provision under this act regarding discrimination on the basis of
43 familial status apply with respect to housing for older persons.

44 o. "Real estate broker" includes a person, firm or corporation who,
45 for a fee, commission or other valuable consideration, or by reason of
46 promise or reasonable expectation thereof, lists for sale, sells,

1 exchanges, buys or rents, or offers or attempts to negotiate a sale,
2 exchange, purchase, or rental of real estate or an interest therein, or
3 collects or offers or attempts to collect rent for the use of real estate,
4 or solicits for prospective purchasers or assists or directs in the
5 procuring of prospects or the negotiation or closing of any transaction
6 which does or is contemplated to result in the sale, exchange, leasing,
7 renting or auctioning of any real estate, or negotiates, or offers or
8 attempts or agrees to negotiate a loan secured or to be secured by
9 mortgage or other encumbrance upon or transfer of any real estate for
10 others; or any person who, for pecuniary gain or expectation of
11 pecuniary gain conducts a public or private competitive sale of lands
12 or any interest in lands. In the sale of lots, the term "real estate
13 broker" shall also include any person, partnership, association or
14 corporation employed by or on behalf of the owner or owners of lots
15 or other parcels of real estate, at a stated salary, or upon a
16 commission, or upon a salary and commission or otherwise, to sell
17 such real estate, or any parts thereof, in lots or other parcels, and who
18 shall sell or exchange, or offer or attempt or agree to negotiate the
19 sale or exchange, of any such lot or parcel of real estate.

20 p. "Real estate salesperson" includes any person who, for
21 compensation, valuable consideration or commission, or other thing of
22 value, or by reason of a promise or reasonable expectation thereof, is
23 employed by and operates under the supervision of a licensed real
24 estate broker to sell or offer to sell, buy or offer to buy or negotiate
25 the purchase, sale or exchange of real estate, or offers or attempts to
26 negotiate a loan secured or to be secured by a mortgage or other
27 encumbrance upon or transfer of real estate, or to lease or rent, or
28 offer to lease or rent any real estate for others, or to collect rents for
29 the use of real estate, or to solicit for prospective purchasers or lessees
30 of real estate, or who is employed by a licensed real estate broker to
31 sell or offer to sell lots or other parcels of real estate, at a stated
32 salary, or upon a commission, or upon a salary and commission, or
33 otherwise to sell real estate, or any parts thereof, in lots or other
34 parcels.

35 q. "Disability" means physical disability, infirmity, malformation or
36 disfigurement which is caused by bodily injury, birth defect or illness
37 including epilepsy and other seizure disorders, and which shall include,
38 but not be limited to, any degree of paralysis, amputation, lack of
39 physical coordination, blindness or visual impediment, deafness or
40 hearing impediment, muteness or speech impediment or physical
41 reliance on a service or guide dog, wheelchair, or other remedial
42 appliance or device, or any mental, psychological or developmental
43 disability resulting from anatomical, psychological, physiological or
44 neurological conditions which prevents the normal exercise of any
45 bodily or mental functions or is demonstrable, medically or
46 psychologically, by accepted clinical or laboratory diagnostic

- 1 techniques. Disability shall also mean AIDS or HIV infection.
- 2 r. "Blind person" means any individual whose central visual acuity
3 does not exceed 20/200 in the better eye with correcting lens or whose
4 visual acuity is better than 20/200 if accompanied by a limit to the field
5 of vision in the better eye to such a degree that its widest diameter
6 subtends an angle of no greater than 20 degrees.
- 7 s. "Guide dog" means a dog used to assist deaf persons or which
8 is fitted with a special harness so as to be suitable as an aid to the
9 mobility of a blind person, and is used by a blind person who has
10 satisfactorily completed a specific course of training in the use of such
11 a dog, and has been trained by an organization generally recognized by
12 agencies involved in the rehabilitation of the blind or deaf as reputable
13 and competent to provide dogs with training of this type.
- 14 t. "Guide or service dog trainer" means any person who is
15 employed by an organization generally recognized by agencies
16 involved in the rehabilitation of persons with disabilities as reputable
17 and competent to provide dogs with training, and who is actually
18 involved in the training process.
- 19 u. "Housing accommodation" means any publicly assisted housing
20 accommodation or any real property, or portion thereof, which is used
21 or occupied, or is intended, arranged, or designed to be used or
22 occupied, as the home, residence or sleeping place of one or more
23 persons, but shall not include any single family residence the occupants
24 of which rent, lease, or furnish for compensation not more than one
25 room therein.
- 26 v. "Public facility" means any place of public accommodation and
27 any street, highway, sidewalk, walkway, public building, and any other
28 place or structure to which the general public is regularly, normally or
29 customarily permitted or invited.
- 30 w. "Deaf person" means any person whose hearing is so severely
31 impaired that the person is unable to hear and understand normal
32 conversational speech through the unaided ear alone, and who must
33 depend primarily on a supportive device or visual communication such
34 as writing, lip reading, sign language, and gestures.
- 35 x. "Atypical hereditary cellular or blood trait" means sickle cell
36 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
37 fibrosis trait.
- 38 y. "Sickle cell trait" means the condition wherein the major natural
39 hemoglobin components present in the blood of the individual are
40 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
41 defined by standard chemical and physical analytic techniques,
42 including electrophoresis; and the proportion of hemoglobin A is
43 greater than the proportion of hemoglobin S or one natural parent of
44 the individual is shown to have only normal hemoglobin components
45 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
46 proportions by standard chemical and physical analytic tests.

- 1 z. "Hemoglobin C trait" means the condition wherein the major
2 natural hemoglobin components present in the blood of the individual
3 are hemoglobin A (normal) and hemoglobin C as defined by standard
4 chemical and physical analytic techniques, including electrophoresis;
5 and the proportion of hemoglobin A is greater than the proportion of
6 hemoglobin C or one natural parent of the individual is shown to have
7 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
8 hemoglobin F) in normal proportions by standard chemical and
9 physical analytic tests.
- 10 aa. "Thalassemia trait" means the presence of the thalassemia gene
11 which in combination with another similar gene results in the chronic
12 hereditary disease Cooley's anemia.
- 13 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
14 which in combination with another similar gene results in the chronic
15 hereditary disease Tay-Sachs.
- 16 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
17 gene which in combination with another similar gene results in the
18 chronic hereditary disease cystic fibrosis.
- 19 dd. "Service dog" means any dog individually trained to the
20 requirements of a person with a disability including, but not limited to
21 minimal protection work, rescue work, pulling a wheelchair or
22 retrieving dropped items. This term shall include a "seizure dog"
23 trained to alert or otherwise assist persons subject to epilepsy or other
24 seizure disorders.
- 25 ee. "Qualified Medicaid applicant" means an individual who is a
26 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 27 ff. "AIDS" means acquired immune deficiency syndrome as defined
28 by the Centers for Disease Control and Prevention of the United States
29 Public Health Service.
- 30 gg. "HIV infection" means infection with the human
31 immunodeficiency virus or any other related virus identified as a
32 probable causative agent of AIDS.
- 33 hh. "Affectional or sexual orientation" means male or female
34 heterosexuality, homosexuality or bisexuality by inclination, practice,
35 identity or expression, having a history thereof or being perceived,
36 presumed or identified by others as having such an orientation.
- 37 ii. "Heterosexuality" means affectional, emotional or physical
38 attraction or behavior which is primarily directed towards persons of
39 the other gender.
- 40 jj. "Homosexuality" means affectional, emotional or physical
41 attraction or behavior which is primarily directed towards persons of
42 the same gender.
- 43 kk. "Bisexuality" means affectional, emotional or physical
44 attraction or behavior which is directed towards persons of either
45 gender.
- 46 ll. "Familial status" means being the natural parent of a child, the

1 adoptive parent of a child, the [foster] resource family parent of a
2 child, having a "parent and child relationship" with a child as defined
3 by State law, or having sole or joint legal or physical custody, care,
4 guardianship, or visitation with a child, or any person who is pregnant
5 or is in the process of securing legal custody of any individual who has
6 not attained the age of 18 years.

7 mm. "Housing for older persons" means housing:

8 (1) provided under any State program that the Attorney General
9 determines is specifically designed and operated to assist elderly
10 persons (as defined in the State program); or provided under any
11 federal program that the United States Department of Housing and
12 Urban Development determines is specifically designed and operated
13 to assist elderly persons (as defined in the federal [program]program);

14 or

15 (2) intended for, and solely occupied by persons 62 years of age or
16 older; or

17 (3) intended and operated for occupancy by at least one person 55
18 years of age or older per unit. In determining whether housing
19 qualifies as housing for older persons under this subsection, the
20 Attorney General shall adopt regulations which require at least the
21 following factors:

22 (a) the existence of significant facilities and services specifically
23 designed to meet the physical or social needs of older persons, or if the
24 provision of such facilities and services is not practicable, that such
25 housing is necessary to provide important housing opportunities for
26 older persons; and

27 (b) that at least 80 percent of the units are occupied by at least one
28 person 55 years of age or older per unit; and

29 (c) the publication of, and adherence to, policies and procedures
30 which demonstrate an intent by the owner or manager to provide
31 housing for persons 55 years of age or older.

32 Housing shall not fail to meet the requirements for housing for
33 older persons by reason of: persons residing in such housing as of
34 September 13, 1988 not meeting the age requirements of this
35 subsection, provided that new occupants of such housing meet the age
36 requirements of this subsection; or unoccupied units, provided that
37 such units are reserved for occupancy by persons who meet the age
38 requirements of this subsection.

39 nn. "Genetic characteristic" means any inherited gene or
40 chromosome, or alteration thereof, that is scientifically or medically
41 believed to predispose an individual to a disease, disorder or
42 syndrome, or to be associated with a statistically significant increased
43 risk of development of a disease, disorder or syndrome.

44 oo. "Genetic information" means the information about genes, gene
45 products or inherited characteristics that may derive from an individual
46 or family member.

1 pp. "Genetic test" means a test for determining the presence or
2 absence of an inherited genetic characteristic in an individual, including
3 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
4 chromosomes or proteins in order to identify a predisposing genetic
5 characteristic.

6 qq. "Domestic partnership" means a domestic partnership
7 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).
8 (cf: P.L.2003, c.293, s.1)

9

10 38. Section 1 of P.L.1995, c.34 (C.18A:6-7a) is amended to read
11 as follows:

12 1. When a complaint made against a school employee alleging child
13 abuse or neglect is investigated by the [Division of Youth and Family]
14 Department of Human Services, the [division] department shall notify
15 the school district and the employee of its findings. Upon receipt of a
16 finding by the [division] department that such a complaint is
17 unfounded, the school district shall remove any references to the
18 complaint and investigation by the [division] department from the
19 employee's personnel records. A complaint made against a school
20 employee that has been classified as unfounded by the [Division of
21 Youth and Family Services] department shall not be used against the
22 employee for any purpose relating to employment, including but not
23 limited to, discipline, salary, promotion, transfer, demotion, retention
24 or continuance of employment, termination of employment or any right
25 or privilege relating to employment.

26 (cf: P.L.1995, c.34, s.1)

27

28 39. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to
29 read as follows:

30 19. For school funding purposes, the Commissioner of Education
31 shall determine district of residence as follows:

32 a. The district of residence for children in [foster] resource family
33 homes shall be the district in which the [foster] resource family
34 parents reside. If a child in a [foster] resource family home is
35 subsequently placed in a State facility or by a State agency, the district
36 of residence of the child shall then be determined as if no such [foster]
37 resource family placement had occurred.

38 b. The district of residence for children who are in residential State
39 facilities, or who have been placed by State agencies in group homes,
40 skill development homes, private schools or out-of-State facilities,
41 shall be the present district of residence of the parent or guardian with
42 whom the child lived prior to his most recent admission to a State
43 facility or most recent placement by a State agency.

44 If this cannot be determined, the district of residence shall be the
45 district in which the child resided prior to such admission or

1 placement.

2 c. The district of residence for children whose parent or guardian
3 temporarily moves from one school district to another as the result of
4 being homeless shall be the district in which the parent or guardian last
5 resided prior to becoming homeless. For the purpose of this
6 amendatory and supplementary act, "homeless" shall mean an
7 individual who temporarily lacks a fixed, regular and adequate
8 residence.

9 d. If the district of residence cannot be determined according to the
10 criteria contained herein, or if the criteria contained herein identify a
11 district of residence outside of the State, the State shall assume fiscal
12 responsibility for the tuition of the child. The tuition shall equal the
13 approved per pupil cost established pursuant to P.L.1996, c.138
14 (C.18A:7F-1 et seq.). This amount shall be appropriated in the same
15 manner as other State aid under this act. The Department of
16 Education shall pay the amount to the Department of Human Services,
17 the Department of Corrections or the Juvenile Justice Commission
18 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
19 or, in the case of a homeless child, the Department of Education shall
20 pay the appropriate T&E amount and any appropriate additional cost
21 factor for special education pursuant to Section 19 of P.L.1996, c.138
22 (C.18A:7F-19) to the school district in which the child is enrolled.

23 e. If the State has assumed fiscal responsibility for the tuition of a
24 child in a private educational facility approved by the Department of
25 Education to serve children who are classified as needing special
26 education services, the department shall pay to the Department of
27 Human Services or the Juvenile Justice Commission, as appropriate,
28 the aid specified in subsection d. of this Section and in addition, such
29 aid as required to make the total amount of aid equal to the actual cost
30 of the tuition.

31 (cf: P.L.1999, c.114, s.1)

32

33 40. Section 19 of P.L.1996, c.138 (C.18A:7F-19) is amended to
34 read as follows:

35 19. a. Special education categorical aid for each school district
36 and county vocational school district shall be calculated for the
37 1997-98 school year as follows:

38 Tier I is the number of pupils classified for other than speech
39 correction services resident in the district which receive related
40 services including, but not limited to, occupational therapy, physical
41 therapy, speech and counseling. Aid shall equal 0.0223 of the T&E
42 amount rounded to the nearest whole dollar for each of the four
43 service categories provided per classified pupil.

44 Tier II is the number of pupils resident in the district meeting the
45 classification definitions for perceptually impaired, neurologically
46 impaired, educable mentally retarded and preschool handicapped; all

1 classified pupils in shared time county vocational programs in a county
2 vocational school which does not have a child study team receiving
3 services pursuant to chapter 46 of Title 18A of the New Jersey
4 Statutes; and nonclassified pupils in State training schools or secure
5 care facilities. For the purpose of calculating State aid for 1997-98,
6 each district, other than a county vocational school district, shall have
7 its pupil count for perceptually impaired reduced by perceptually
8 impaired classifications in excess of one standard deviation above the
9 State average classification rate at December 1995 or 9.8 percent of
10 the district's resident enrollment. The perceptually impaired limitation
11 shall be phased down to the State average of the prebudget year over
12 a five-year period by adjusting the standard deviation as follows: 75
13 percent in 1998-99, 50 percent in 1999-2000, 25 percent in 2000-2001
14 and the State average in year five. No reduction in aid shall be
15 assessed against any district in which the perceptually impaired
16 classification rate is 6.5% or less of resident enrollment. Aid shall
17 equal 0.4382 of the T&E amount rounded to the nearest whole dollar
18 for each student meeting the Tier II criteria.

19 The commissioner shall develop a system to provide that each
20 school district submits data to the department on the number of the
21 district's pupils with a classification definition of perceptually impaired
22 who are enrolled in a county vocational school. Such pupils shall be
23 counted in the district of residence's resident enrollment for the
24 purpose of calculating the limit on perceptually impaired classifications
25 for Tier II State aid.

26 Tier III is the number of classified pupils resident in the district in
27 categories other than speech correction services, perceptually
28 impaired, neurologically impaired, educable mentally retarded, socially
29 maladjusted, preschool handicapped, and who do not meet the criteria
30 of Tier IV, intensive services; and nonclassified pupils in juvenile
31 community programs. Aid shall equal 0.8847 of the T&E amount for
32 each pupil meeting the Tier III criteria.

33 Tier IV is the number of classified pupils resident in the district
34 receiving intensive services. For 1997-98, intensive services are
35 defined as those provided in a county special services school district
36 and services provided for pupils who meet the classification definitions
37 for autistic, chronically ill, day training eligible, or visually
38 handicapped, or are provided for pupils who meet the classification
39 definition for multiply handicapped and are in a private school for the
40 handicapped, educational services commission, or jointure commission
41 placement in the 1996-97 school year. The commissioner shall collect
42 data and conduct a study to determine intensive service criteria and the
43 appropriate per pupil cost factor to be universally applied to all service
44 settings, beginning in the 1998-99 school year. Aid shall equal 1.2277
45 of the T&E amount for each pupil meeting the Tier IV criteria.

46 Classified pupils in Tiers II through IV shall be eligible for Tier I

1 aid. Classified pupils shall be eligible to receive aid for up to four
2 services under Tier I.

3 For the 1998-99 school year, these cost factors shall remain in
4 effect and special education aid growth shall be limited by the CPI
5 growth rate applied to the T&E amount and changes in classified pupil
6 counts. For subsequent years, the additional cost factors shall be
7 established biennially in the Report on the Cost of Providing a
8 Thorough and Efficient Education.

9 For the purposes of this section, classified pupil counts shall include
10 pupils attending State developmental centers, [DHS] Department of
11 Human Services Regional Day Schools, [State Division of Youth and
12 Family Services'] Department of Human Services residential centers,
13 State residential mental health centers, and institutions operated by or
14 under contract with the Department of Human Services. Classified
15 pupils of elementary equivalent age shall include classified preschool
16 handicapped and kindergarten pupils.

17 b. In those instances in which the cost of providing education for
18 an individual classified pupil exceeds \$40,000:

19 (1) For costs in excess of \$40,000 incurred in the 2002-2003
20 through 2004-2005 school years, the district of residence shall, in
21 addition to any special education State aid to which the district is
22 entitled on behalf of the pupil pursuant to subsection a. of this section,
23 receive additional special education State aid as follows: (a) with
24 respect to the amount of any costs in excess of \$40,000 but less than
25 or equal to \$60,000, the additional State aid for the classified pupil
26 shall equal 60% of that amount; (b) with respect to the amount of any
27 costs in excess of \$60,000 but less than or equal to \$80,000, the
28 additional State aid for the classified pupil shall equal 70% of that
29 amount; and (c) with respect to the amount of any costs in excess of
30 \$80,000, the additional State aid for the classified pupil shall equal
31 80% of that amount; provided that in the case of an individual
32 classified pupil for whom additional special education State aid was
33 awarded to a district for the 2001-2002 school year, the amount of
34 such aid awarded annually to the district for that pupil for the
35 2002-2003, 2003-2004 or 2004-2005 school year shall not be less than
36 the amount for the 2001-2002 school year, except that if the district's
37 actual special education costs incurred for the pupil in the 2002-2003,
38 2003-2004 or 2004-2005 school year are reduced below the amount
39 of such costs for the pupil in the 2001-2002 school year, the amount
40 of aid shall be decreased by the amount of that reduction; and

41 (2) For costs in excess of \$40,000 incurred in the 2005-2006
42 school year and thereafter, a district shall receive additional special
43 education State aid equal to 100% of the amount of that excess.

44 A district, in order to receive funding pursuant to this subsection,
45 shall file an application with the department that details the expenses
46 incurred on behalf of the particular classified pupil for which the

1 district is seeking reimbursement. Additional State aid awarded for
2 extraordinary special education costs shall be recorded by the district
3 as revenue in the current school year and paid to the district in the
4 subsequent school year.

5 c. A school district may apply to the commissioner to receive
6 emergency special education aid for any classified pupil who enrolls in
7 the district prior to March of the budget year and who is in a
8 placement with a cost in excess of \$40,000. The commissioner may
9 debit from the student's former district of residence any special
10 education aid which was paid to that district on behalf of the student.

11 d. The department shall review expenditures of federal and State
12 special education aid by a district in every instance in which special
13 education monitoring identifies a failure on the part of the district to
14 provide services consistent with a pupil's individualized education
15 program.

16 (cf: P.L.2001, c.356, s.1)

17

18 41. Section 1 of P.L.1979, c.391 (C.18A:16-12) is amended to
19 read as follows:

20 1. As used in this act:

21 a. "Dependents" means an employee's spouse and the employee's
22 unmarried children, including stepchildren, legally adopted children,
23 and, at the option of the local board of education and the carrier,
24 [foster] children placed by the Department of Human Services with
25 a resource family, under the age of 19 who live with the employee in
26 a regular parent-child relationship, and may also include, at the option
27 of the local board of education and the carrier, other unmarried
28 children of the employee under the age of 23 who are dependent upon
29 the employee for support and maintenance, but shall not include a
30 spouse or child while serving in the military service;

31 b. "Employees" may, at the option of the local board of education,
32 include elected officials, but shall not include persons employed on a
33 short-term, seasonal, intermittent or emergency basis, persons
34 compensated on a fee basis, or persons whose compensation from the
35 local board of education is limited to reimbursement of necessary
36 expenses actually incurred in the discharge of their duties;

37 c. "Federal Medicare Program" means the coverage provided under
38 Title XVIII of the Social Security Act as amended in 1965, or its
39 successor plan or plans.

40 (cf: P.L.1979, c.391, s.1)

41

42 42. Section 1 of P.L.1986, c.73 (C.18A:18A-3.2) is amended to
43 read as follows:

44 1. Any school district, hereinafter referred to as an employer, may
45 enter into contracts of group legal insurance with an insurer
46 authorized, pursuant to P.L. 1981, c. 160 (C. 17:46C-1 et seq.), to

1 engage in the business of legal insurance in this State or may contract
2 with a duly recognized prepaid legal services plan with respect to the
3 benefits which they are authorized to provide. The contract or
4 contracts shall provide coverage for the employees of the employer
5 and may include their dependents. "Dependents" shall include an
6 employee's spouse and the employee's unmarried children, including
7 stepchildren and legally adopted children, and, at the option of the
8 employer and the carrier, [foster] children placed by the Department
9 of Human Services with a resource family, under the age of 19 who
10 live with the employee in a regular parent-child relationship, and may
11 also include, at the option of the employer and the carrier, other
12 unmarried children of the employee under the age of 23 who are
13 dependent upon the employee for support and maintenance. A spouse
14 or child enlisting or inducted into military service shall not be
15 considered a dependent during the military service.

16 "Employees" shall not include persons employed on a short-term,
17 seasonal, intermittent or emergency basis, persons compensated on a
18 fee basis, or persons whose compensation from the public employer is
19 limited to reimbursement of necessary expenses actually incurred in the
20 discharge of their duties.

21 The contract shall include provisions to prevent duplication of
22 benefits and shall condition the eligibility of an employee for coverage
23 upon satisfying a waiting period stated in the contract.

24 The coverage of an employee, and of his dependents, if any, shall
25 cease upon the discontinuance of his employment or upon cessation of
26 active full-time employment in the classes eligible for coverage, subject
27 to the provision as may be made in a contract by his employer for
28 limited continuance of coverage during disability, part-time
29 employment, leave of absence other than leave for military service or
30 layoff, or for continuance of coverage after retirement.

31 A contract for group legal insurance entered into pursuant to this
32 act shall not include any legal services attendant to a claim brought by
33 a teaching staff member against a board of education or legal services
34 for the defense of a teaching staff member facing disciplinary action
35 pursuant to subarticle B of article 2 of chapter 6 of Title 18A of the
36 New Jersey Statutes (N.J.S.18A:6-9 et seq.).
37 (cf: P.L.1986, c.73, s.1)

38

39 43. R.S.26:3-31 is amended to read as follows:

40 26:3-31. The local board of health shall have power to pass, alter
41 or amend ordinances and make rules and regulations in regard to the
42 public health within its jurisdiction, for the following purposes:

43 a. To protect the public water supply and prevent the pollution of
44 any stream of water or well, the water of which is used for domestic
45 purposes, and to prevent the use of or to close any well, the water of
46 which is polluted or detrimental to the public health.

1 b. (1) To prohibit the cutting, sale or delivery of ice in any
2 municipality without obtaining a permit from the local board. No
3 person shall cut, sell or deliver ice in any municipality without
4 obtaining such permit.

5 (2) To refuse such permit or revoke any permit granted by it when
6 in its judgment the use of any ice cut, sold or delivered under the
7 permit would be detrimental to the public health. Upon the refusal or
8 revocation of a permit by the local board, an appeal may be taken to
9 the State department. Upon order of the State department a permit
10 shall be granted or the revocation set aside.

11 (3) To prohibit the importation, distribution or sale of any impure
12 ice which would be detrimental to the public health.

13 c. To license and regulate the sanitary conditions of hotels,
14 restaurants, cafes, and other public eating houses and to provide for
15 the posting of ratings or score cards setting forth the sanitary
16 condition of any public eating house after inspection of the same and
17 to post the rating or score card in some conspicuous or public place
18 in such eating house.

19 d. To compel any owner of property along the line of any sewer to
20 connect his house or other building therewith. This paragraph shall be
21 enforced by the local board within its jurisdiction and it shall by
22 ordinance provide a fine of [~~\$25.00~~] \$25 to be imposed upon any
23 person who shall not comply with any order issued under the authority
24 of this paragraph, within 30 days after notice by the proper officer of
25 the board to make the required connections. An additional fine of
26 [~~\$10.00~~] \$10 shall be provided for each day of delay, after the
27 expiration of the 30 days, in which the provisions of the order or
28 notice are not complied with. Such notice may be served upon the
29 owner personally or by leaving it at his usual place of abode with a
30 member of his family above the age of 18 years.

31 e. (Deleted by amendment, P.L.1987, c.442.)

32 f. To regulate, control, and prohibit the accumulation of offal and
33 any decaying or vegetable substance.

34 g. (1) To regulate the location, construction, maintenance, method
35 of emptying or cleaning, and the frequency of cleaning of any privy or
36 other place used for the reception or storage of human excrement, and
37 to prohibit the construction or maintenance of any privy or other such
38 place until a license therefor shall have been issued by the board,
39 which license shall continue in force for one year from the date of
40 issue.

41 (2) To fix the fee, not exceeding [~~\$5.00~~] \$5, for such license, and
42 to use the fees so collected in supervising and maintaining said privies
43 or other places and in removing and disposing of the excrement
44 therefrom.

45 (3) To revoke such license at any time if the owner or tenant of the
46 property on which any privy or other such place is located, maintains

1 the same in violation of law, or of the State sanitary code, or any
2 ordinance or rule of the board.

3 h. To regulate, control, or prohibit the cleaning of any sewer, the
4 dumping of garbage, the filling of any sunken lot or marsh land, and
5 to provide for the filling up of any such lot or land, which has become
6 filled with stagnant water and is located in any built-up area.

7 i. (1) To license and regulate the business of cleaning cesspools
8 and privies, which license shall continue for the term of one year from
9 the date of granting, and to fix the fee that shall be charged for such
10 license, not exceeding ~~[\$20.00]~~ \$20 for each vehicle or conveyance.

11 (2) To prohibit unlicensed persons from engaging in such business.

12 (3) To require any vehicle or conveyance used in such business
13 within its jurisdiction to be approved by it.

14 (4) To revoke such license if any licensee or his employee or agent
15 shall violate any ordinance or rule of the board in cleaning any
16 cesspool or privy, or in removing the contents thereof.

17 j. To aid in the enforcement of laws as to the adulteration of all
18 kinds of food and drink, and to prevent the sale or exposure for sale
19 of any meat or vegetable that is unwholesome or unfit for food.

20 k. To regulate, control, or prohibit the keeping or slaughtering of
21 animals.

22 l. To license and regulate the keeping of boarding houses for
23 infants and children and to fix a license fee for the same and to prevent
24 unlicensed persons from keeping such boarding houses. This
25 paragraph shall not apply to:

26 (1) The ~~[Division of Youth and Family Services]~~ Department of
27 Human Services.

28 (2) Any children's home, orphan asylum, or children's aid society
29 incorporated under the laws of this State.

30 (3) Any aid society of a properly organized and accredited church
31 or fraternal society organized for aid and relief to its members.

32 (4) Any charitable society incorporated under the laws of this State
33 having as one of its objects the prevention of cruelty to children or the
34 care and protection of children.

35 m. To require in buildings, designed to be occupied, or occupied,
36 as residences by more than two families and when the owners have
37 agreed to supply heat, that from October 1 of each year to the next
38 succeeding May 1, every unit of dwelling space and every habitable
39 room therein shall be maintained at least at 68` F. whenever the
40 outside temperature falls below 55` during daytime hours from 6 a.m.
41 to 11 p.m. At times other than those specified interiors of units of
42 dwelling space shall be maintained at least at 55` F. whenever the
43 outside temperature falls below 40`.

44 In meeting the aforesaid standards, the owner shall not be
45 responsible for heat loss and the consequent drop in the interior
46 temperature arising out of action by the occupants in leaving windows

1 or doors open to the exterior of the building. The owner shall be
2 obligated to supply required fuel or energy and maintain the heating
3 system in good operating condition so that it can supply heat as
4 required herein notwithstanding any contractual provision seeking to
5 delegate or shift responsibility to the occupant or third person, except
6 that the owner shall not be required to supply fuel or energy for
7 heating purposes to any unit where the occupant thereof agrees in
8 writing to supply heat to his own unit of dwelling space and the said
9 unit is served by its own exclusive heating equipment for which the
10 source of heat can be separately computed and billed.

11 n. To regulate the practice of midwifery, but the exercise of such
12 authority shall not conflict with the provisions of chapter 10 of Title
13 45 of the Revised Statutes ([s.] R.S.45:10-1 et seq.).

14 o. To enforce the making of returns or reports to the local board
15 on the part of any person charged with such duty under any law and
16 to take cognizance of any failure to make such returns and deal with
17 the same in an effective manner.

18 p. To act as the agent for a landlord in the engaging of repairmen
19 and the ordering of any parts necessary to restore to operating
20 condition the furnace, boiler or other equipment essential to the proper
21 heating of any residential unit rented by said landlord, provided,
22 however, that at least 24 hours have elapsed since the tenant has
23 lodged a complaint with the local board of health, prior to which a
24 bona fide attempt has been made by the tenant to notify the landlord
25 of the failure of the heating equipment, and the landlord has failed to
26 take appropriate action, and the outside air temperature is less than
27 55` F.

28 Any person who supplies material or services in accordance with
29 this section shall bill the landlord directly and by filing a notice
30 approved by the local board of health, with the county clerk, shall have
31 a lien on the premises where the materials were used or services
32 supplied.

33 (cf: P.L.1987, c.442, s.4)

34

35 44. Section 1 of P.L.1974, c.44 (C.30:1-8.1) is amended to read as
36 follows:

37 1. The commissioner shall be assisted in the performance of his
38 duties by [~~two~~] three deputy commissioners. Each deputy
39 commissioner shall be appointed by and shall serve at the pleasure of
40 the commissioner, and until his successor has been appointed and
41 qualified.

42 Each deputy commissioner shall exercise such powers and perform
43 such duties as the commissioner shall prescribe.

44 Unless otherwise provided by law, each deputy commissioner shall
45 receive such salary as may be established by the commissioner with the
46 approval of the [President of the Civil Service

1 Commission] Commissioner of Personnel and the Director of the
2 Division of Budget and Accounting.

3 The commissioner may designate one of the deputy commissioners
4 to exercise the powers and perform the duties of the commissioner
5 during his disability or absence.
6 (cf: P.L.1974, c.44, s.1)

7
8 45. Section 75 of P.L.1965, c.59 (C.30:4-107.1) is amended to
9 read as follows:

10 75. Whenever a mentally retarded minor or mentally deficient adult
11 is receiving functional services without court order, and is resident at
12 a State school, or private residential institution, or a [foster] resource
13 family home, or similar accommodation by arrangement of the
14 commissioner, the commissioner shall cause such mentally retarded
15 person to be released to the immediate custody of his parent or
16 guardian of the person, as the case may be, on written application of
17 said parent or guardian. Release shall be effected as promptly as
18 possible, provided, however, that 48 hours' notice may be required.
19 The department shall thereafter continue to provide such functional
20 services as may be appropriate, unless functional services are
21 terminated as hereinafter provided in this act.
22 (cf: P.L.1965, c.59, s.75)

23
24 46. Section 3 of P.L.1995, c.314 (C.30:4-177.45) is amended to
25 read as follows:

26 3. For the purposes of this act:
27 "Commissioner" means the Commissioner of Human Services.
28 "Department" means the Department of Human Services.
29 "Division" means the Division of Mental Health [Service] Services
30 in the Department of Human Services.
31 "Family" means persons related to the family member with a serious
32 mental illness by blood, marriage, adoption, guardianship,
33 [foster] resource family care or other significant care giving
34 relationship.
35 "Family member with a serious mental illness" means a person who
36 has a history, or is at serious risk, of hospitalization in a State, county
37 or private psychiatric institution.
38 "Family support services" means a coordinated system of on-going
39 public and private support services which are designed to maintain and
40 enhance the quality of life of a family.
41 "Family unit" means the family member with a serious mental illness
42 and his family.
43 "Program" means the program of family support services
44 established pursuant to this act.
45 (cf: P.L.1995, c.314, s.3)

1 47. Section 2 of P.L.1951, c.138 (C.30:4C-2) is amended to read
2 as follows:

3 2. For the purposes of this act the following words and terms shall,
4 unless otherwise indicated, be deemed and taken to have the meanings
5 herein given to them:

6 (a) The [title] term "Division of Youth and Family
7 [Services] Services, or division," successor to the "Bureau of
8 Children's Services" means the State agency for the care, custody,
9 guardianship, maintenance and protection of children, as more
10 specifically described by the provisions of this act, and succeeding the
11 agency heretofore variously designated by the laws of this State as the
12 State Board of Child Welfare or the State Board of Children's
13 Guardians.

14 (b) The word "child" includes stepchild and illegitimate child, and
15 further means any person under the age of 18 years.

16 (c) The term "care" means cognizance of a child for the purpose of
17 providing necessary welfare services, or maintenance, or both.

18 (d) The term "custody" means continuing responsibility for the
19 person of a child, as established by a surrender and release of custody
20 or consent to adoption, for the purpose of providing necessary welfare
21 services, or maintenance, or both.

22 (e) The term "guardianship" means control over the person and
23 property of a child as established by the order of a court of competent
24 jurisdiction, and as more specifically defined by the provisions of this
25 act. Guardianship by the Division of Youth and Family Services shall
26 be treated as guardianship by the Commissioner of Human Services
27 exercised on his behalf wholly by and in the name of the Division of
28 Youth and Family Services, acting through the chief executive officer
29 of the division or his authorized representative. Such exercise of
30 guardianship by the division shall be at all times and in all respects
31 subject to the supervision of the commissioner.

32 (f) The term "maintenance" means moneys expended by the
33 Division of Youth and Family Services to procure board, lodging,
34 clothing, medical, dental, and hospital care, or any other similar or
35 specialized commodity or service furnished to, on behalf of, or for a
36 child pursuant to the provisions of this act; maintenance also includes
37 but is not limited to moneys expended for shelter, utilities, food,
38 repairs, essential household equipment, and other expenditures to
39 remedy situations of an emergent nature to permit, as far as
40 practicable, children to continue to live with their families.

41 (g) The term "welfare services" means consultation, counseling,
42 and referral to or utilization of available resources, for the purpose of
43 determining and correcting or adjusting matters and circumstances
44 which are endangering the welfare of a child, and for the purpose of
45 promoting his proper development and adjustment in the family and
46 the community.

- 1 (h) The term ["foster] "resource family parent" means any person
2 other than a natural or adoptive parent with whom a child in the care,
3 custody or guardianship of the [Division of Youth and Family]
4 Department of Human Services is placed by [said division] the
5 department, or with its approval, for temporary or long-term care,
6 [but shall not] and shall include any person with whom a child is
7 placed by the division for the purpose of adoption.
- 8 (i) The term ["foster] "resource family home" means and includes
9 private residences, group homes, residential facilities and institutions
10 wherein any child in the care, custody or guardianship of the [Division
11 of Youth and Family]Department of Human Services may be placed
12 by the [said division] department or with its approval for temporary
13 or long-term care, and shall include any private residence maintained
14 by persons with whom any such child is placed for adoption.
- 15 (j) The singular includes the plural form.
- 16 (k) The masculine noun and pronoun include the feminine.
- 17 (l) The word "may" shall be construed to be permissive.
- 18 (m) The term "group home" means and includes any single family
19 dwelling used in the placement of 12 children or less pursuant to law,
20 recognized as a group home by the Department of Human Services in
21 accordance with rules and regulations adopted by the Commissioner
22 of Human Services; provided, however, that no group home shall
23 contain more than 12 children.
- 24 (n) The term "youth facility" means a facility within this State used
25 to house or provide services to children under this act, including but
26 not limited to group homes, residential facilities, day care centers, and
27 day treatment centers.
- 28 (o) The term "youth facility aid" means aid provided by the
29 Division of Youth and Family Services to public, private or voluntary
30 agencies to purchase, construct, renovate, repair, upgrade or
31 otherwise improve a youth facility in consideration for an agreement
32 for the agency to provide residential care, day treatment or other
33 youth services for children in need of such services.
- 34 (p) The term "day treatment center" means a facility used to
35 provide counseling, supplemental educational services, therapy, and
36 other related services to children for whom it has been determined that
37 such services are necessary, but is not used to house these children in
38 a residential setting.
- 39 (q) The term "residential facility" means a facility used to house
40 and provide treatment and other related services on a 24-hour basis to
41 children determined to be in need of such housing and services.
- 42 (r) The term "legally responsible person" means the natural or
43 adoptive parent, or the spouse of a child receiving maintenance from
44 or through the Division of Youth and Family Services.
- 45 (s) "Commissioner" means the Commissioner of Human Services.

1 (t) "Department" means the Department of Human Services.

2 (cf: P.L.1985, c.8, s.1)

3

4 48. Section 2 of P.L.2001, c.252 (C.30:4C-3.2) is amended to read
5 as follows:

6 2. The Review Panel shall consist of nineteen (19) members as
7 follows:

8 a. The Commissioner of Human Services, or a designee, shall serve
9 ex-officio.

10 b. The Commissioner of Personnel, or a designee, shall serve
11 ex-officio.

12 c. The State Treasurer, or a designee, shall serve ex-officio.

13 d. The Attorney General, or a designee, shall serve ex-officio.

14 e. The Public Defender, or a designee, shall serve ex-officio.

15 f. The Director of the Administrative Office of the Courts, or a
16 designee, shall serve ex-officio.

17 g. A representative of the Office of the Governor.

18 h. Two members of the Senate to be appointed by the President of
19 the Senate who shall each be of different political parties and who shall
20 serve during the legislative session in which the appointment is made,
21 one of whom shall be the Chairman of the Senate[Women's Issues,
22 Children and Family Services] Health, Human Services and Senior
23 Citizens Committee, or its successor. A member may be appointed for
24 any number of successive terms.

25 i. Two members of the General Assembly to be appointed by the
26 Speaker of the General Assembly who shall each be of different
27 political parties and who shall serve during the legislative session in
28 which the appointment is made, one of whom shall be the Chairman of
29 the Assembly [Senior Issues and Community] Family, Woman and
30 Children's Services Committee, or its successor. A member may be
31 appointed for any number of successive terms.

32 j. Eight public members shall be directly appointed by the Governor
33 as follows:

34 (1) three public members who are representatives from employee
35 organizations, two of whom are representatives of the
36 Communications Workers of America;

37 (2) a public member who is a representative of the Association for
38 Children of New Jersey;

39 (3) a public member who is a representative of Legal Services of
40 New Jersey;

41 (4) a public member who is a representative of a contracted service
42 provider to the Division of Youth and Family Services; and

43 (5) two public members, one of whom is a [foster] resource family
44 parent and one of whom is an adoptive parent.

45 (cf: P.L.2001, c.252, s.2)

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

3 4. The ~~【Division of Youth and Family】~~ Office of Children's
4 Services or other entity designated by the commissioner shall have the
5 requisite powers to:

6 (a) Exercise general supervision over children for whom care,
7 custody or guardianship is provided in accordance with ~~【article~~
8 ~~2】~~ Article II of this act;

9 (b) Administer for the Department of Human Services the powers
10 and duties provided in chapter 3 of Title 9 of the Revised Statutes
11 (Adoption), as amended and supplemented, as the same may be
12 delegated and assigned by the ~~【said】~~ department;

13 (c) Administer for the Commissioner of Human Services the
14 powers and duties as provided in chapter 7 of Title 9 of the Revised
15 Statutes (dependent children; bringing into State), as amended and
16 supplemented, as the same may be delegated and assigned by the
17 ~~【said】~~ commissioner;

18 (d) Administer for the State Board of Institutional Trustees the
19 powers and duties provided in ~~【sections】~~ R.S.30:1-14 through
20 30:1-17 of chapter 1 of Title 30 of the Revised Statutes (visitation
21 and inspection), as amended and supplemented, so far as the same may
22 be delegated and assigned by the ~~【said】~~ State Board of Institutional
23 Trustees with respect to institutions, organizations and
24 noninstitutional agencies for the care, custody and welfare of children;

25 (e) Provide care and exercise supervision over children paroled or
26 released from State correctional institutions for juveniles in
27 accordance with rules and regulations established by the State Board
28 of Control;

29 (f) Make investigations or provide supervision of any child in this
30 State at the request and on behalf of a public or private agency or
31 institution of any other State;

32 (g) Meet and confer, as the unmet needs of New Jersey's children
33 may require, with representatives of the public welfare boards and the
34 private agencies and institutions for the care of children in this State
35 in order that the programs of such boards, agencies and institutions
36 may be developed and fully utilized and that there may be a
37 coordination of all public and private facilities for the protection and
38 care of children;

39 (h) Issue such reasonable rules and regulations as may be necessary
40 for the purpose of carrying into effect the meaning of this act, which
41 rules and regulations shall be binding so far as they are consistent with
42 such purpose.

43 (i) Promulgate and file with the Secretary of State, subject to the
44 approval of the Board of Public Welfare, rules and regulations as may
45 be necessary as a basis for the provision for payment for services
46 rendered by privately sponsored agencies or institutions to children

1 under the care, custody or guardianship of the [Division of Youth and
2 Family Services] division. Such rules and regulations shall include,
3 but shall not be limited to, standards of professional training,
4 experience and practices, and requirements relating to the moral
5 responsibility of the trustees, officers or other persons supervising or
6 conducting the program, the adequacy of the facilities, the
7 maintenance of adequate casework records, and the furnishing of
8 comprehensive reports;

9 (j) Enter into written agreements with public, private or voluntary
10 agencies to provide youth facility aid to such agencies, subject to a
11 preaward qualification review of the agency's fiscal and programmatic
12 abilities and periodic reviews.

13 (cf: P.L.1979, c.309, s.3)

14

15 50. Section 24 of P.L.1999, c.53 (C.30:4C-11.2) is amended to
16 read as follows:

17 24. In any case in which the Division of Youth and Family Services
18 accepts a child in care or custody, including placement, the division
19 shall not be required to provide reasonable efforts to prevent
20 placement of the child if a court of competent jurisdiction has
21 determined that both of the following criteria are met:

22 a. One of the following actions has occurred:

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

25 (2) the parent has been convicted of murder, aggravated
26 manslaughter or manslaughter of [a] another child of the parent;
27 aiding or abetting, attempting, conspiring or soliciting to commit
28 murder, aggravated manslaughter or manslaughter of [a] the child or
29 another child of the parent; committing or attempting to commit an
30 assault that resulted, or could have resulted, in the significant bodily
31 injury to [a] the child or another child of the parent; or committing a
32 similarly serious criminal act which resulted, or could have resulted,
33 in the death or significant bodily injury to [a] the child or another
34 child of the parent,

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

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

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

41 When determining whether reasonable efforts are required to
42 prevent placement, the health and safety of the child shall be of
43 paramount concern to the court.

44 (cf: P.L.1999, c.53, s.24)

45

46 51. Section 25 of P.L.1999, c.53 (C.30:4C-11.3) is amended to

1 read as follows:

2 25. In any case in which the Division of Youth and Family Services
3 accepts a child in care or custody, including placement, the division
4 shall not be required to provide reasonable efforts to reunify the child
5 with a parent if a court of competent jurisdiction has determined that:

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

8 b. The parent has been convicted of murder, aggravated
9 manslaughter or manslaughter of [a] another child of the parent;
10 aiding or abetting, attempting, conspiring or soliciting to commit
11 murder, aggravated manslaughter or manslaughter of [a] the child or
12 another child of the parent; committing or attempting to commit an
13 assault that resulted, or could have resulted, in significant bodily injury
14 to [a] the child or another child of the parent; or committing a
15 similarly serious criminal act which resulted, or could have resulted,
16 in the death of or significant bodily injury to [a] the child or another
17 child of the parent; or

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

20 When determining whether reasonable efforts are required to
21 reunify the child with the parent, the health and safety of the child and
22 the child's need for permanency shall be of paramount concern to the
23 court.

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

27 A permanency plan for the child may be established at the same
28 hearing at which the court determines that reasonable efforts are not
29 required to reunify the child with the parent, if the hearing meets all of
30 the requirements of a permanency hearing pursuant to section 50 of
31 P.L.1999, c.53 (C.30:4C-61.2).

32 (cf: P.L.1999, c.53, s.25)

33

34 52. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
35 read as follows:

36 12. Whenever it shall appear that the parent or parents, guardian,
37 or person having custody and control of any child within this State is
38 unfit to be entrusted with the care and education of such child, or shall
39 fail to provide such child with proper protection, maintenance and
40 education, or shall fail to ensure the health and safety of the child, or
41 is endangering the welfare of such child, a written or oral complaint
42 may be filed with the [Division of Youth and Family
43 Services] division, or other entity designated by the commissioner, by
44 any person or by any public or private agency or institution interested
45 in such child. When such a complaint is filed by a public or private
46 agency or institution, it shall be accompanied by a summary setting

1 forth the reason for such complaint and other social history of the
2 child and his family's situation which justifies such complaint; or, if this
3 is not feasible, such summary shall be made available to the [Division
4 of Youth and Family Services] division, or other entity within the
5 department that is investigating the complaint, as soon thereafter as
6 possible. Upon receipt of a complaint as provided in this section, the
7 [Division of Youth and Family Services] division, or other entity
8 designated by the commissioner, shall investigate, or shall cause to be
9 investigated, the statements set forth in such complaint. If the
10 circumstances so warrant, the parent, parents, guardian, or person
11 having custody and control of the child [shall] may be afforded an
12 opportunity to file an application for care, as provided in section 11 of
13 P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or
14 person having custody and control of the child [shall refuse] refuses
15 to permit or [shall] in any way [impede] impedes an investigation,
16 and the [division] department determines that further investigation is
17 necessary in the best interests of the child, the division may thereupon
18 apply to the Family Part of the Chancery Division of the Superior
19 Court in the county where the child resides, for an order directing the
20 parent, parents, guardian, or person having custody and control of the
21 child to permit immediate investigation. The court, upon such
22 application, may proceed to hear the matter in a summary manner and
23 if satisfied that the best interests of the child so require may issue an
24 order as requested.

25 If, after such investigation has been completed, it appears that the
26 child requires care and supervision by the [Division of Youth and
27 Family Services] division or other action to ensure the health and
28 safety of the child, [but the parent, parents, guardian, or person having
29 custody and control of the child continue to refuse to apply for care in
30 the manner provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or
31 to take action to ensure the health and safety of the child,] the division
32 may apply to the Family Part of the Chancery Division of the Superior
33 Court in the county where the child resides for an order making the
34 child a ward of the court and placing [such] the child under the care
35 and supervision of the [Division of Youth and Family
36 Services] division.

37 The court, at a summary hearing held upon notice to the [Division
38 of Youth and Family Services] division, and to the parent, parents,
39 guardian, or person having custody and control of the child, if satisfied
40 that the best interests of the child so require, may issue an order as
41 requested, which order shall have the same force and effect as the
42 acceptance of a child for care by the division as provided in section 11
43 of P.L.1951, c.138 (C.30:4C-11); provided, however, that such order
44 shall not be effective beyond a period of six months from the date of
45 entry unless the court, upon application by the [Division of Youth and

1 Family Services] division, at a summary hearing held upon notice to
2 the parent, parents, guardian, or person having custody of the child,
3 extends the time of the order.

4 Immediately after the court's order and while the child is in the
5 division's care, the division shall initiate a search for the child's mother
6 or father, if they are not known to the division. The search shall be
7 initiated within 30 days of the court order. The search will be
8 completed when all sources contacted have either responded to the
9 inquiry or failed to respond within 45 days. The results shall be valid
10 for six months after the date it was completed.

11 (cf: P.L.1999, c.53, s.27)

12

13 53. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to
14 read as follows:

15 6. a. In any case in which the Division of Youth and Family
16 Services accepts a child in its care or custody, including placement, the
17 division shall initiate a search for relatives who may be willing and able
18 to provide the care and support required by the child. The search shall
19 be initiated within 30 days of the division's acceptance of the child in
20 its care or custody. The search will be completed when all sources
21 contacted have either responded to the inquiry or failed to respond
22 within 45 days. The division shall complete an assessment of each
23 interested relative's ability to provide the care and support, including
24 placement, required by the child.

25 b. If the division determines that the relative is unwilling or unable
26 to assume the care of the child, the division shall not be required to
27 re-evaluate the relative. The division shall inform the relative in
28 writing of:

29 (1) the reasons for the division's determination;

30 (2) the responsibility of the relative to inform the division if there
31 is a change in the circumstances upon which the determination was
32 made;

33 (3) the possibility that termination of parental rights may occur if
34 the child remains in [foster] resource family care for more than six
35 months; and

36 (4) the right to seek review by the division of such determination.

37 c. The division may decide to pursue the termination of parental
38 rights if the division determines that termination of parental rights is
39 in the child's best interests.

40 (cf: P.L.1995, c.416, s.1)

41

42 54. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to
43 read as follows:

44 28. In any case in which the Division of Youth and Family Services
45 accepts a child in its care or custody, the child's [foster] resource
46 family parent[, preadoptive parent] or relative providing care for the

1 child, as applicable, shall receive written notice of and an opportunity
2 to be heard at any review or hearing held with respect to the child, but
3 the [foster] resource family parent[, preadoptive parent] or relative
4 shall not be made a party to the review or hearing solely on the basis
5 of the notice and opportunity to be heard.
6 (cf: P.L.1999, c.53, s.28)

7

8 55. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
9 read as follows:

10 15. Whenever

11 (a) it appears that a court wherein a complaint has been proffered
12 as provided in chapter 6 of Title 9 of the Revised Statutes, has entered
13 a conviction against the parent or parents, guardian, or person having
14 custody and control of any child because of abuse, abandonment,
15 neglect of or cruelty to such child; or

16 (b) (Deleted by amendment, P.L.1991, c.275);

17 (c) it appears that the best interests of any child under the care or
18 custody of the [Division of Youth and Family Services] division
19 require that he be placed under guardianship; or

20 (d) it appears that a parent or guardian of a child, following the
21 acceptance of such child by the division pursuant to section 11 or 12
22 of P.L.1951, c.138 (C.30:4C-11 or 12), or following the placement or
23 commitment of such child in the care of an authorized agency, whether
24 in an institution or in a [foster] resource family home, and
25 notwithstanding the reasonable efforts of such agency to encourage
26 and strengthen the parental relationship, has failed for a period of one
27 year to remove the circumstances or conditions that led to the removal
28 or placement of the child, although physically and financially able to
29 do so, notwithstanding the division's reasonable efforts to assist the
30 parent or guardian in remedying the conditions; or

31 (e) the parent has abandoned the child; or

32 (f) the parent of a child has been found by a criminal court of
33 competent jurisdiction to have committed murder, aggravated
34 manslaughter or manslaughter of another child of the parent; to have
35 aided or abetted, attempted, conspired, or solicited to commit such
36 murder, aggravated manslaughter or manslaughter of the child or
37 another child of the parent; or to have committed, or attempted to
38 commit, an assault that resulted, or could have resulted, in the
39 significant bodily injury to the child or another child of the parent; or
40 the parent has committed a similarly serious act which resulted, or
41 could have resulted, in the death or significant bodily injury to the
42 child or another child of the parent; a petition to terminate the parental
43 rights of the child's parents, setting forth the facts in the case, shall be
44 filed by the division with the Family Part of the Chancery Division of
45 the Superior Court in the county where such child may be at the time
46 of the filing of such petition. A petition shall be filed as soon as any

1 one of the circumstances in subsections (a) through (f) of this section
2 is established, but no later than when the child has been in placement
3 for 15 of the most recent 22 months, unless the division establishes an
4 exception to the requirement to seek termination of parental rights in
5 accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3). Upon
6 filing the petition, the division shall initiate concurrent efforts to
7 identify, recruit, process and approve a qualified family to adopt the
8 child.

9 A petition as provided in this section may be filed by any person or
10 any association or agency, interested in such child in the circumstances
11 set forth in subsections (a) and (f) of this section. The division shall
12 seek to be joined as a party to a petition filed to terminate the parental
13 rights of a child in the care and custody of the division unless the
14 division has established an exception to the requirement to seek
15 termination of parental rights in accordance with section 31 of
16 P.L.1999, c.53 (C.30:4C-15.3).

17 (cf: P.L.1999, c.53, s.29)

18

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

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

25 (1) The child's safety, health or development has been or will
26 continue to be endangered by the parental relationship;

27 (2) The parent is unwilling or unable to eliminate the harm facing
28 the child or is unable or unwilling to provide a safe and stable home
29 for the child and the delay of permanent placement will add to the
30 harm. Such harm may include evidence that separating the child from
31 his **[foster] resource family** parents would cause serious and enduring
32 emotional or psychological harm to the child;

33 (3) The division has made reasonable efforts to provide services to
34 help the parent correct the circumstances which led to the child's
35 placement outside the home and the court has considered alternatives
36 to termination of parental rights; and

37 (4) Termination of parental rights will not do more harm than
38 good.

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

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

44 (a) the parent, although able to have contact, has had no contact
45 with the child, the child's **[foster] resource family** parent or the
46 division; and

1 (b) the parent's whereabouts are unknown, notwithstanding the
2 division's reasonable efforts to locate the parent; or

3 (2) where the identities of the parents are unknown and the
4 division has exhausted all reasonable methods of attempting
5 identification, the division may immediately file for termination of
6 parental rights upon the completion of the law enforcement
7 investigation; or

8 (3) where the parent voluntarily delivered the child to and left the
9 child at, or voluntarily arranged for another person to deliver the child
10 to and leave the child at a State, county or municipal police station or
11 at an emergency department of a licensed general hospital in this State
12 when the child is or appears to be no more than 30 days old, without
13 expressing an intent to return for the child, as provided in section 4 of
14 P.L.2000, c.58 (C.30:4C-15.7), the division shall file for termination
15 of parental rights no later than 21 days after the day the division
16 assumed care, custody and control of the child.

17 c. As used in this section and in section 15 of P.L.1951, c.138
18 (C.30:4C-15) "reasonable efforts" mean attempts by an agency
19 authorized by the division to assist the parents in remedying the
20 circumstances and conditions that led to the placement of the child and
21 in reinforcing the family structure, including, but not limited to:

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

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

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

28 (4) facilitating appropriate visitation.

29 d. The division shall not be required to provide "reasonable efforts"
30 as defined in subsection c. of this section prior to filing a petition for
31 the termination of parental rights if an exception to the requirement to
32 provide reasonable efforts to reunify the family has been established
33 pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

34 (cf: P.L.2000, c.58, s.3)

35

36 57. Section 22 of P.L.1951, c.138 (C.30:4C-22) is amended to
37 read as follows:

38 22. The care, custody or guardianship of the [Division of Youth
39 and Family Services] division shall be full and complete for all
40 purposes and shall vest in the division the custody and control of both
41 the person and property of children in its custody or care, and of its
42 wards, whether committed prior or subsequent to the effective date of
43 this act, when the children are in [foster] resource family homes,
44 without the necessity of giving bond, and notwithstanding any
45 previous appointment of a guardian for the children under its custody
46 or care or such wards.

1 Such care, custody or guardianship of the division shall enable the
2 division, acting through the chief executive officer of the division or
3 his authorized representative, to prosecute suits, claims and any and
4 all manner of proceedings or actions in law or equity for and on behalf
5 of the children under its custody or care or its wards when the children
6 are in [foster] resource family homes; to demand and receive from all
7 persons, including guardians previously appointed, any and all
8 property of the children under its custody or care or its wards when
9 the children are in [foster] resource family homes; and to hold and
10 administer the real and personal property of the children under its
11 custody or care or its wards when the children are in [foster] resource
12 family homes, or any interest they may have therein; provided,
13 however, that it shall be proper for the division, in its discretion, to
14 hold funds of the children under its custody or care or its wards when
15 the children are in [foster] resource family homes on deposit in one
16 or more banks, building and loan associations, or trust companies in
17 this State, and to apply funds, other than earned income or the corpus
18 of any trust, devise or intestate share, or the proceeds of an insurance
19 contract or a personal injury award which a court specifically awards
20 to a child to make the child whole as a result of an injury, of any child
21 under its custody or care or any ward when the child is in a [foster]
22 resource family home against expenditures for the maintenance of such
23 child under its custody or care or ward when the child is in a [foster]
24 resource family home.

25 A court of competent jurisdiction shall hear and determine petitions
26 by the division, on behalf of the children under its custody or care or
27 its wards when the children are in [foster] resource family homes, for
28 the transfer of any or all assets being held by guardians previously
29 appointed. The court shall have jurisdiction, in its discretion, to waive
30 costs in any proceedings by the division on behalf of the children under
31 its custody or care or its wards when the children are in [foster]
32 resource family homes.

33 (cf: P.L.1985, c.8, s.2)

34

35 58. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to
36 read as follows:

37 26. a. Whenever the circumstances of a child are such that his
38 needs cannot be adequately met in his own home, the [Division of
39 Youth and Family Services] division may effect his placement in a
40 [foster] resource family home, with or without payment of board, in
41 a group home, or in an appropriate institution if such care is deemed
42 essential for him. The [Division of Youth and Family Services]
43 division shall make every reasonable effort to select a [foster]
44 resource family home, a group home or an institution of the same
45 religious faith as the parent or parents of such child.

1 b. Whenever the [Division of Youth and Family Services] division
2 shall place any child, as provided by this section, in any municipality
3 and county of this State, the child shall be deemed a resident of such
4 municipality and county for all purposes except school funding, and he
5 shall be entitled to the use and benefit of all health, recreational,
6 vocational and other facilities of such municipality and county in the
7 same manner and extent as any other child living in such municipality
8 and county.

9 c. Whenever the [Division of Youth and Family Services] division
10 shall place any child, as provided by this section, in any school district,
11 the child shall be entitled to the educational benefits of such district;
12 provided, however, that the district of residence, as determined by the
13 Commissioner of Education pursuant to law, shall be responsible for
14 paying tuition for such child to the district in which he is placed.

15 d. No municipality shall enact a planning or zoning ordinance
16 governing the use of land by, or for, single family dwellings which
17 shall, by any of its terms or provisions or by any rule or regulation
18 adopted in accordance therewith, discriminate between children who
19 are members of such single families by reason of their relationship by
20 blood, marriage or adoption, [foster] children placed with such
21 families in such dwellings by the [Division of Youth and Family]
22 division, Office of Children's Services or other entity designated by the
23 Commissioner of Human Services, and children placed pursuant to law
24 with families in single family dwellings known as group homes.

25 Any planning or zoning ordinance, heretofore or hereafter enacted
26 by a municipality, which violates the provisions of this section, shall
27 be invalid and inoperative.

28 (cf: P.L.1979, c.207, s.18)

29

30 59. Section 1 of P.L.1962, c.137 (C.30:4C-26.1) is amended to
31 read as follows:

32 1. As used in this act ["foster] "resource family home" means and
33 includes private residences, group homes and institutions wherein any
34 child in the care, custody or guardianship of the Division of Youth and
35 Family Services, may be placed for temporary or long-term care, and
36 shall include any private residence maintained by persons with whom
37 any such child is placed by the division for adoption.

38 (cf: P.L.1974, c.178, s.3)

39

40 60. Section 3 of P.L.1962, c.137 (C.30:4C-26.3) is amended to
41 read as follows:

42 3. Such shelters shall be equipped and used for the temporary care
43 and supervision of children who are placed in the care, custody or
44 guardianship of the [Bureau of Childrens] Division of Youth and
45 Family Services, during the interim between such placement and
46 placement in a suitable [foster] resource family home. Such shelters

1 shall be properly staffed to provide for child care and supervision and
2 shall contain the necessary facilities for both physical and
3 psychological examinations of such children.

4 (cf: P.L.1964, c.102, s.13)

5

6 61. Section 1 of P.L.1962, c.136 (C.30:4C-26.4) is amended to
7 read as follows:

8 1. As used in this act ["foster] "resource family parent" shall
9 mean any person with whom a child in the care, custody or
10 guardianship of the [Bureau of Childrens] Division of Youth and
11 Family Services, is placed for temporary or long-term care[,but] and
12 shall [not] include any [persons] person with whom a child is placed
13 by the division for the purpose of adoption.

14 (cf: P.L.1964, c.102, s.8)

15

16 62. Section 2 of P.L.1962, c.136 (C.30:4C-26.5) is amended to
17 read as follows:

18 2. Notwithstanding the provisions of any other law or any rule or
19 regulation of the [Bureau of Childrens] Division of Youth and Family
20 Services, no agreement entered into between [said bureau] the
21 division and any [foster] resource family parent for the care of any
22 child in the care, custody or guardianship of [said bureau] the division
23 shall contain any provision prohibiting the adoption of any [said] child
24 by the [foster] resource family parent.

25 (cf: P.L.1964, c.102, s.9)

26

27 63. Section 1 of P.L.1962, c.139 (C.30:4C-26.6) is amended to
28 read as follows:

29 1. As used in this act ["foster] "resource family parent" shall
30 mean any person with whom a child in the care, custody or
31 guardianship of the [Bureau of Childrens] Division of Youth and
32 Family Services, is placed for temporary or long-term care[, but] and
33 shall [not] include any [persons] person with whom a child is placed
34 by the division for the purpose of adoption.

35 (cf: P.L.1964, c.102, s.15)

36

37 64. Section 2 of P.L.1962, c.139, (C.30:4C-26.7) is amended to
38 read as follows:

39 2. Any [husband and wife] person, who, as [foster parents] a
40 resource family parent, [have] has cared for a child continuously for
41 a period of [2 years] 15 months or more, may apply to the [Bureau
42 of Childrens] Division of Youth and Family Services, for the
43 placement of [said] the child with them for the purpose of adoption
44 and if [said] the child is eligible for adoption, the [bureau] division
45 shall give preference and first consideration to their application over

1 all other applications for adoption placements.

2 (cf: P.L.1964, c.102, s.16)

3

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

6 1. a. A person, in addition to meeting other requirements as may
7 be established by the Department of Human Services, shall become a
8 **[foster] resource family** parent or eligible to adopt a child only upon
9 the completion of an investigation to ascertain if there is a State or
10 federal record of criminal history for the prospective **[foster or]**
11 **adoptive or resource family** parent or any other adult residing in the
12 prospective parent's home. The investigation shall be conducted by
13 the Division of State Police in the Department of Law and Public
14 Safety and shall include an examination of its own files and the
15 obtaining of a similar examination by federal authorities.

16 b. If the prospective **[foster or adoptive] resource family** parent or
17 any adult residing in the prospective parent's home has a record of
18 criminal history, the Department of Human Services shall review the
19 record with respect to the type and date of the criminal offense and
20 make a determination as to the suitability of the person to become a
21 **[foster parent or adoptive] resource family** parent or the suitability of
22 placing a child in that person's home, as the case may be.

23 c. For the purposes of this section, a conviction for one of the
24 offenses enumerated in subsection d. or e. of this section has occurred
25 if the person has been convicted under the laws of this State or any
26 other state or jurisdiction for an offense that is substantially equivalent
27 to the offenses enumerated in these subsections.

28 d. A person shall be disqualified from being a **[foster] resource**
29 **family** parent or shall not be eligible to adopt a child if that person or
30 any adult residing in that person's household ever committed a crime
31 which resulted in a conviction for:

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

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

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

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

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

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

46 (7) robbery which would constitute a crime of the first degree

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

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

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

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

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

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

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

15 e. A person shall be disqualified from being a [foster] resource
16 family parent [or shall not be eligible to adopt a child] if that person
17 or any adult residing in that person's household was convicted of one
18 of the following crimes and the date of release from confinement
19 occurred during the preceding five years:

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

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

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

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

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

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

31 For the purposes of this subsection, the "date of release from
32 confinement" means the date of termination of court-ordered
33 supervision through probation, parole, or residence in a correctional
34 facility, whichever date occurs last.

35 For purposes of this section, "resource family parent" means any
36 person with whom a child in the care, custody or guardianship of the
37 Division of Youth and Services is placed for temporary or long-term
38 care and shall include any person with whom a child is placed by the
39 division for the purpose of adoption.

40 (cf: P.L.1999, c.53, s.34)

41

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

44 1. The Department of Human Services may grant approval to a
45 prospective [foster] resource family parent for a period not to exceed
46 six months, upon completion of the State portion of the criminal

1 history record investigation required pursuant to P.L.1985, c.396
2 (C.30:4C-26.8), pending completion and review of the federal portion
3 of the criminal history record investigation required pursuant to that
4 act, if (1) the State portion of the criminal history record investigation
5 indicates no information which would disqualify the person, (2) the
6 prospective [foster] resource family parent and any adult residing in
7 the prospective [foster] resource family parent's home submit a sworn
8 statement to the Department of Human Services attesting that the
9 person does not have a record of criminal history which would
10 disqualify the person and (3) there is substantial compliance with
11 department standards for [foster] resource family homes indicating
12 there is no risk to a child's health or safety.

13 For purposes of this section, "resource family parent" means any
14 person with whom a child in the care, custody or guardianship of the
15 Division of Youth and Services is placed for temporary or long-term
16 care and shall not include any person with whom a child is placed by
17 the division for the purpose of adoption.

18 (cf: P.L.1999, c.53, s.35)

19

20 67. Section 27 of P.L.1951, c.138 (C.30:4C-27) is amended to
21 read as follows:

22 27. Pursuant to the providing of care, custody or guardianship for
23 any child, in accordance with the provisions of this act, the [Division
24 of Youth and Family Services] division may expend such sums as may
25 be necessary for the reasonable and proper cost of maintenance,
26 including board, lodging, clothing, medical, dental, and hospital care,
27 or any other similar or specialized commodity or service as the needs
28 of any such child may require, except that the division shall not
29 maintain a clothing warehouse for the distribution of clothing to
30 children under its jurisdiction. In lieu thereof, the division may pay
31 [foster] resource family parents caring for children under their
32 supervision a sufficient amount to enable them to purchase necessary
33 clothing items required by the children from the local merchants of the
34 locality in which they reside. Such maintenance costs and the total
35 cost of hospital care for children as provided for herein shall be borne
36 by the State. However, no costs shall be chargeable if incurred earlier
37 than the date of the child's acceptance in care as provided in section 12
38 hereof, or earlier than the date of an order of commitment to
39 guardianship as provided in section 20 hereof.

40 Whenever a medical or psychological examination shall be required
41 for any child as a condition to providing care or custody, or whenever
42 the division avails itself of the facilities and services of any privately
43 sponsored agency or institution, the cost of the examination or service
44 shall be a proper charge against State funds, within the limits of
45 available appropriations, in the same manner and extent as
46 expenditures for maintenance.

1 In providing care, custody or guardianship for any child or in the
2 course of determining the eligibility of any child for care, custody or
3 guardianship in accordance with the provisions of this act, the division
4 may avail itself of the facilities and services of any privately sponsored
5 agency or institution, with due regard to the religious background of
6 the child, which complies with those rules and regulations as
7 established pursuant to this act, paying such fees for service as may be
8 mutually agreed upon by the division and the privately sponsored
9 agency or institution providing service.

10 Whenever a child under care, custody or guardianship is in need of
11 operation, anaesthesia, diagnostic tests or treatment, the division may
12 give its consent thereto. A consent to operation, anaesthesia,
13 diagnostic tests or treatment when given by the division on behalf of
14 any child receiving care, custody or guardianship shall be deemed legal
15 and valid for all purposes with respect to any person or hospital
16 affording service to such child pursuant to and in reliance upon such
17 consent.

18 Nothing contained herein shall modify the provisions of section 6
19 of the act of which this act is amendatory.

20 (cf: P.L.1990, c.66, s.3)

21

22 68. Section 1 of P.L.1962, c.135 (C.30:4C-27.1) is amended to
23 read as follows:

24 1. As used in this act ["foster"] "resource family parent" shall
25 mean any person with whom a child in the care, custody or
26 guardianship of the [Bureau of Childrens] Division of Youth and
27 Family Services, is placed for temporary or long-term care[, but] and
28 shall [not] include any [persons] person with whom a child is placed
29 by the division for the purpose of adoption.

30 (cf: P.L.1964, c.102, s.5)

31

32 69. Section 2 of P.L.1962, c.135 (C.30:4C-27.2) is amended to
33 read as follows:

34 2. Notwithstanding the provision of any other law, the maintenance
35 of a clothing warehouse and distribution center for the distribution of
36 clothing to children in the care, custody or guardianship of the
37 [Bureau of Childrens] Division of Youth and Family Services, shall be
38 discontinued and in lieu thereof the [bureau] division shall increase
39 the monthly allowance payable to any [foster] resource family parent
40 caring for any of [said] the children in a sufficient amount to enable
41 [said foster] the resource family parent to purchase the necessary
42 clothing items required by [said] the children from the local merchants
43 of the locality wherein the [foster] resource family parent resides.

44 (cf: P.L.1964, c.102, s.6)

1 70. Section 1 of P.L.2001, c.419 (C.30:4C-27.3) is amended to
2 read as follows:

3 1. This act shall be known and may be cited as the ["Foster"]
4 "Resource Family Parent Licensing Act."

5 (cf: P.L.2001, c.419, s.1)

6

7 71. Section 2 of P.L.2001, c.419 (C.30:4C-27.4) is amended to
8 read as follows:

9 2. The Legislature finds and declares that: each child requiring
10 [foster] resource family care should reside in a safe home with a
11 nurturing substitute family who can meet the child's individual needs;
12 the most effective way to ensure the health, safety, general well-being
13 and physical, emotional, social and educational needs of a child
14 residing in a [foster] resource family home is to require the annual
15 inspection and monitoring of a [foster] resource family home and to
16 obligate a person to secure and maintain a license in order to provide
17 [foster] resource family care to a child; therefore, it is in the public
18 interest to license [foster] resource family parents and regulate
19 [foster] resource family homes in order to ensure the safety, health
20 and proper development of children placed in [foster] resource family
21 care.

22 (cf: P.L.2001, c.419, s.2)

23

24 72. Section 3 of P.L.2001, c.419 (C.30:4C-27.5) is amended to
25 read as follows:

26 3. As used in this act:

27 "Child" means a person who: is either under the age of 18 or meets
28 the criteria set forth in subsection f. of section 2 of P.L.1972, c.81
29 (C.9:17B-2); and is under the care or custody of the division or
30 another public or private agency authorized to place children in New
31 Jersey.

32 "Commissioner" means the Commissioner of Human Services.

33 "Department" means the Department of Human Services.

34 "Division" means the Division of Youth and Family Services in the
35 Department of Human Services.

36 ["Foster"] "Resource family home" or "home" means a private
37 residence, other than a children's group home or shelter home, in
38 which board, lodging, care and temporary out-of-home placement
39 services are provided by a [foster] resource family parent on a
40 24-hour basis to a child under the auspices of the division or any
41 public or private agency authorized to place children in New Jersey.

42 ["Foster"] "Resource family parent" means a person who has been
43 licensed pursuant to this act to provide [foster] resource family care
44 to five or fewer children, except that the [division] department may
45 license a [foster] resource family parent to provide care for more than

1 five children, if necessary, to keep sibling groups intact or to serve the
2 best interests of the children in the home.

3 "License" means a document issued by the [division] department
4 to a person who meets the requirements of this act to provide
5 [foster] resource family care to children in the person's home.
6 (cf: P.L.2001, c.419, s.3)

7

8 73. Section 4 of P.L.2001, c.419 (C.30:4C-27.6) is amended to
9 read as follows:

10 4. a. A person shall not provide [foster] resource family care to
11 a child unless the person is licensed by the [division] department
12 pursuant to this act. The license shall be issued to a specific person
13 for a specific residence and shall not be transferable to another person
14 or residence. The [foster] resource family parent shall maintain the
15 license on file at the [foster] resource family home.

16 b. A person desiring to provide [foster] resource family care to a
17 child shall apply to the [division] department for a license in a manner
18 and form prescribed by the commissioner.

19 c. A [foster] resource family parent applicant or [foster] resource
20 family parent shall be of good moral character.

21 d. A [foster] resource family parent applicant or [foster] resource
22 family parent, as applicable, shall:

23 (1) Complete the license application form provided by the
24 [division] department;

25 (2) Provide written consent for the division to conduct a check of
26 its child abuse records pursuant to section 4 of P.L.1971, c.437
27 (C.9:6-8.11);

28 (3) Provide written consent from each adult member of the
29 [foster] resource family parent applicant's household for the division
30 to conduct a child abuse record information check on that person; and

31 (4) Immediately notify the [division] department when a new adult
32 becomes a resident of the [foster] resource family parent applicant's
33 or [foster] resource family parent's household in order to ensure that
34 the department can conduct a criminal history record background
35 check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the
36 division can conduct a child abuse record information check on the
37 new adult household member.

38 e. As a condition of securing a license, the applicant shall
39 participate in pre-service training in accordance with standards
40 adopted by the commissioner pursuant to this act.

41 f. A [foster] resource family parent licensed pursuant to this act
42 shall participate in [a minimum of 14 hours of] pre-service and
43 in-service training in [every 24-month period in] accordance with
44 standards adopted by the commissioner pursuant to this act.

45 (cf: P.L.2001, c.419, s.4)

1 74. Section 5 of P.L.2001, c.419 (C.30:4C-27.7) is amended to
2 read as follows:

3 5. a. The division shall conduct a child abuse record information
4 check of the division's child abuse records to determine if an incident
5 of child abuse or neglect has been substantiated, pursuant to section
6 4 of P.L.1971, c.437 (C.9:6-8.11), against a [foster] resource family
7 parent applicant or any adult member of the [foster] resource family
8 parent applicant's household, upon receipt of written consent from the
9 [foster] resource family parent applicant or any adult member of the
10 [foster] resource family parent applicant's household pursuant to
11 subsection d. of section 4 of [this act] P.L.2001, c.419 (C.30:4C-
12 27.6).

13 The [division] department shall consider, for the purposes of this
14 act, any incidents of child abuse or neglect that were substantiated on
15 or after June 29, 1995, to ensure that a [foster] resource family parent
16 applicant or adult member of the [foster] resource family parent
17 applicant's household has had an opportunity to appeal a substantiated
18 finding of child abuse or neglect pursuant to [N.J.A.C.10:120A-1.1 et
19 seq.] department regulations, except that the [division] department
20 may consider substantiated incidents prior to that date if the [division]
21 department, in its judgment, determines that the [foster] resource
22 family parent applicant or adult household member poses a risk of
23 harm in a [foster] resource family home. In cases involving incidents
24 substantiated prior to June 29, 1995, the [division] department shall
25 offer the [foster] resource family parent applicant or adult member of
26 the [foster] resource family parent applicant's household an
27 opportunity for a hearing to contest its action restricting the [foster]
28 resource family parent applicant from providing [foster] resource
29 family care to a child.

30 b. (1) The [division] department shall conduct an annual on-site
31 inspection of a [foster] resource family home and evaluate the
32 [foster] resource family home to determine whether it complies with
33 the provisions of this act.

34 (2) The [division] department may, without prior notice, inspect
35 and examine a [foster] resource family home and inspect all
36 documents, records, files or other data required to be maintained by
37 a [foster] resource family parent pursuant to this act.

38 c. If an applicant meets the requirements of this act, the [division]
39 department shall issue a license to that person.

40 d. (1) The license shall be valid for [three years] the time period
41 designated by the commissioner, subject to the [foster] resource
42 family parent's continued compliance with the provisions of this act.

43 (2) The [division] department shall determine if the license shall
44 be renewed based upon the results of the annual on-site inspection and

1 evaluation of the [foster] resource family home conducted pursuant
2 to this section. If the on-site inspection and evaluation indicate the
3 [foster] resource family home's full or substantial compliance with the
4 provisions of this act, the [division] department shall renew the
5 license.

6 (cf: P.L.2001, c.419, s.5)

7

8 75. Section 6 of P.L.2001, c.419 (C.30:4C-27.8) is amended to
9 read as follows:

10 6. a. The department shall ensure that a State and federal criminal
11 history record background check is conducted on a [foster] resource
12 family parent applicant and any adult member of the [foster] resource
13 family parent applicant's household pursuant to the provisions of
14 section 1 of P.L.1985, c.396 (C.30:4C-26.8).

15 b. The Division of State Police in the Department of Law and
16 Public Safety shall promptly notify the [division] department in the
17 event a [foster] resource family parent or any adult member of the
18 [foster] resource family parent's household, who was the subject of a
19 criminal history record background check conducted pursuant to this
20 section, is convicted of a crime or offense in this State after the date
21 the background check was performed. Upon receipt of such
22 notification, the [division] department shall make a determination
23 whether to suspend or revoke the [foster] resource family parent's
24 license.

25 (cf: P.L.2001, c.419, s.6)

26

27 76. Section 7 of P.L.2001, c.419 (C.30:4C-27.9) is amended to
28 read as follows:

29 7. The [division] department may deny, suspend or revoke a
30 license for good cause, including, but not limited to:

31 a. Failure of a [foster] resource family parent applicant or [foster]
32 resource family parent to comply with the provisions of this act;

33 b. Failure of a [foster] resource family parent applicant or any
34 adult member of the [foster] resource family parent applicant's
35 household to consent to, or cooperate in, the securing of a criminal
36 history record background check pursuant to section 1 of P.L.1985,
37 c.396 (C.30:4C-26.8) or a division child abuse record information
38 check pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

39 c. The conviction of a [foster] resource family parent applicant or
40 any adult member of the [foster] resource family parent applicant's
41 household of a crime enumerated under section 1 of P.L.1985, c.396
42 (C.30:4C-26.8);

43 d. A determination that an incident of child abuse or neglect by a
44 [foster] resource family parent applicant or any adult member of the
45 [foster] resource family parent applicant's household has been

- 1 substantiated, except that the [division] department may issue the
2 license if the [division] department determines that the [foster]
3 resource family parent applicant or adult household member poses no
4 continuing risk of harm to the child and the issuance of the license is
5 in the child's best interests;
- 6 e. Violation of the terms and conditions of a license;
- 7 f. Use of fraud or misrepresentation by a [foster] resource family
8 parent applicant or [foster] resource family parent in obtaining a
9 license;
- 10 g. Refusal by a [foster] resource family parent applicant or
11 [foster] resource family parent to furnish the [division] department
12 with information, files, reports or records required for compliance with
13 the provisions of this act;
- 14 h. Refusal by a [foster] resource family parent applicant or
15 [foster] resource family parent to permit an inspection of a [foster]
16 resource family home by an authorized representative of the [division]
17 department; and
- 18 i. Any conduct, engaged in or permitted, which adversely affects
19 or presents a serious hazard to the education, health, safety, general
20 well-being or physical, emotional and social development of the child
21 residing in the [foster] resource family home, or which otherwise fails
22 to comply with the standards required for the provision of [foster]
23 resource family care to a child and the maintenance of a [foster]
24 resource family home.
25 (cf: P.L.2001, c.419, s.7)

26
27 77. Section 8 of P.L.2001, c.419 (30:4C-27.10) is amended to read
28 as follows:

- 29 8. Before denying, suspending or revoking a license, the [division]
30 department shall give notice to a [foster] resource family parent
31 applicant or [foster] resource family parent personally or by mail to
32 the last known address of the [foster] resource family parent applicant
33 or [foster] resource family parent with return receipt requested. The
34 notice shall afford the [foster] resource family parent applicant or
35 [foster] resource family parent the opportunity to be heard and to
36 contest the [division's] department's action. The hearing shall be
37 conducted in accordance with the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.).
39 (cf: P.L.2001, c.419, s.8)

40
41 78. Section 9 of P.L.2001, c.419 (C.30:4C-27.11) is amended to
42 read as follows:

- 43 9. A person aggrieved by a final decision of the [division]
44 department is entitled to seek judicial review in the Appellate Division
45 of the Superior Court. All petitions for review shall be filed in

1 accordance with the Rules of Court.
2 (cf: P.L.2001, c.419, s.9)

3
4 79. Section 13 of P.L.2001, c.419 (C.30:4C-27.15) is amended to
5 read as follows:

6 13. a. The commissioner shall adopt rules and regulations pursuant
7 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
8 et seq.) to carry out the purposes of this act.

9 The regulations shall include standards governing: the safety and
10 adequacy of the physical premises of a [foster] resource family home;
11 the health, safety, general well-being and physical, emotional, social
12 and educational needs of a child in [foster] resource family care; the
13 training of a [foster] resource family parent; the responsibility of a
14 [foster] resource family parent to participate in the case plan of a
15 child in [foster] resource family care and to allow access by the
16 [division] department to the child; the maintenance and confidentiality
17 of records and furnishing of required information to the [division]
18 department; the transportation of a child in [foster] resource family
19 care; and the provision of other needed services on behalf of a child in
20 [foster] resource family care. The commissioner shall also adopt rules
21 and regulations for license application, issuance, denial, suspension
22 and revocation.

23 b. Nothing in this act shall be construed to permit the department
24 to adopt any code or standard that exceeds the standards established
25 pursuant to the "State Uniform Construction Code Act," P.L.1975,
26 c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act,"
27 P.L.1983, c.383 (C.52:27D-192 et seq.).
28 (cf: P.L.2001, c.419, s.13)

29

30 80. Section 1 P.L.1962, c.142 (C.30:4C-29.1) is amended to read
31 as follows:

32 1. a. In any case in which the Department of Human Services,
33 through the Division of Youth and Family Services, is providing care
34 or custody for any child when the child is in a [foster] resource family
35 home, any legally responsible person of the child, if of sufficient
36 financial ability, is liable for the full costs of maintenance of the child
37 incurred by the division. If the legally responsible person is of
38 insufficient financial ability, the person is liable in an amount which a
39 court of competent jurisdiction directs according to a scheduled rate
40 approved by the division. Nothing contained herein shall prevent the
41 legally responsible person from voluntarily executing an agreement for
42 payment to the division for the costs of maintenance of the child
43 receiving care or custody when the child is in a [foster] resource
44 family home.

45 b. The division shall have a lien against the property of the legally

1 responsible person in an amount equal to the amount to be paid, which
2 lien shall have priority over all unrecorded encumbrances.

3 c. If the legally responsible person fails to reimburse the
4 department, through the [Division of Youth and Family Services]
5 division, for the costs of maintenance of a child incurred by the
6 division when the child is in a [foster] resource family home, a court
7 of competent jurisdiction, upon the complaint of the Commissioner of
8 Human Services, may summon the legally responsible person and other
9 witnesses, and may order the legally responsible person to pay an
10 amount to the department, according to a scheduled rate approved by
11 the division.

12 d. In any case in which the department, through the [Division of
13 Youth and Family Services] division, has agreed to provide youth
14 facilities aid to a public, private or voluntary agency pursuant to this
15 act, the division shall have a lien against the property of any person,
16 persons or agency so contracting, in an amount equal to the amount
17 or amounts so contracted to be paid, which lien shall have priority
18 over all unrecorded encumbrances. Such lien shall be reduced for each
19 year of service provided by the agency at a rate to be negotiated by the
20 division and the agency, but in no case more than 20% a year;
21 provided, however, that annual reductions shall not exceed
22 ~~[\$10,000.00]~~ \$10,000.

23 (cf: P.L.1985, c.8, s.4)

24

25 81. Section 1 of P.L.1973, c.81 (C.30:4C-45) is amended to read
26 as follows:

27 1. It is the intent of the Legislature in enacting this act to benefit
28 hard-to-place children in [foster] resource family care at State
29 expense by providing the stability and security of permanent homes.
30 (cf: P.L.1973, c.81, s.1)

31

32 82. Section 2 of P.L.1973, c.81 (C.30:4C-46) is amended to read
33 as follows:

34 2. The Division of Youth and Family Services shall make payments
35 to adoptive parents on behalf of a child placed for adoption by the
36 division whenever:

37 a. The child because of physical or mental condition, race, age, or
38 membership in a sibling group, or for any other reason falls into the
39 category of a child hard to place for adoption;

40 b. The adoptive family is capable of providing the permanent family
41 relationships needed by the child; and

42 c. Except in situations involving adoption by a child's [foster]
43 resource family parent, there has been a reasonable effort to place the
44 child in an adoptive setting without providing a subsidy.

45 Payments shall be made on behalf of a child placed for adoption by
46 the [Division of Youth and Family Services] division except that

1 whenever a child who would otherwise be eligible for subsidy payment
2 is in the care of an approved New Jersey adoption agency pursuant to
3 P.L.1977, C.367 (C.9:3-37 et seq.) a child shall, upon application by
4 the agency and satisfaction of the regular requirements of the adoption
5 subsidy program, be approved for participation in the adoption subsidy
6 program. In any case the division may approve payment in
7 subsidization of adoption for a child without legal transfer of care or
8 custody of the child to the division. The division shall adopt
9 regulations for administration of this program with respect to these
10 children, except that all children are evaluated for eligibility in the
11 same manner as children already under the care, custody or
12 guardianship of the division.
13 (cf: P.L.1983, c.484, s.1)

14

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

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

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

19 b. "Child placed outside his home" means a child under the care,
20 custody or guardianship of the division, through voluntary agreement
21 or court order, who resides in a [foster] resource family home, group
22 home, residential treatment facility, shelter for the care of abused or
23 neglected children or juveniles considered as juvenile-family crisis
24 cases, or independent living arrangement operated by or approved for
25 payment by the division, or a child who has been placed by the division
26 in the home of a person who is not related to the child and does not
27 receive any payment for the care of the child from the division, or a
28 child placed by the court in juvenile-family crisis cases pursuant to
29 P.L.1982, c.77 (C.2A:4A-20 et seq.), but does not include a child
30 placed by the court in the home of a person related to the child who
31 does not receive any payment from the division for the care of the
32 child;

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

35 d. "Division" means the Division of Youth and Family Services in
36 the Department of Human Services;

37 e. "Temporary caretaker" means a [foster] resource family parent
38 as defined in section 1 of P.L.1962, c.136 (C.30:4C-26.4) or a director
39 of a group home or residential treatment facility;

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

43 (cf: P.L.1999, c.53, s.38)

44

45 84. Section 1 of P.L.1991, c.448 (C.30:4C-53.1) is amended to
46 read as follows:

1 1. The Legislature finds and declares that it is in the public interest,
2 whereby the safety of children shall be of paramount concern, to afford
3 every child placed outside his home by the [division]Division of
4 Youth and Family Services in the Department of Human Services with
5 permanency through return to his own home, if the child can be
6 returned home without endangering the child's health or safety;
7 through adoption, if family reunification is not possible; or through an
8 alternative permanent placement, if termination of parental rights is not
9 appropriate:

10 a. Due to the severity of health and social problems such as AIDS,
11 drug abuse and homelessness, the [Division of Youth and Family
12 Services in the Department of Human Services] division often works
13 with families over a period of many years, and the children of these
14 families often spend a majority of their young lives in [foster]
15 resource family care; and

16 b. Research has shown that the longer children remain in the
17 [foster] resource family care system, the greater number of
18 placements they experience. As a result of these multiple placements,
19 from birth family to [foster] resource family home and from one
20 [foster] resource family home to another [foster] resource family
21 home, children develop emotional and psychological problems, making
22 it more difficult for them to develop a positive self-image; and

23 c. [For the majority of these children, placement in residential
24 treatment facilities becomes the only viable option left to the division
25 because it is more difficult for the division to find adoptive homes for
26 them when, and if, adoption becomes a case goal; and] (Deleted by
27 amendment, P.L. _____, c. _____ (pending before the Legislature as this
28 bill).)

29 d. The obligation of the State to recognize and protect the rights
30 of children in the child welfare system should be fulfilled in the context
31 of a clear and consistent policy which limits the repeated placement of
32 children in [foster] resource family care and promotes the eventual
33 placement of these children in stable and safe permanent homes.

34 (cf: P.L.1999, c.53, s.40)

35

36 85. Section 2 of P.L.1991, c.448 (C.30:4C-53.2) is amended to
37 read as follows:

38 2. For purposes of this act, the terms "repeated placement into
39 [foster] resource family care" and "placed again into [foster]
40 resource family care" shall apply to a child who has been placed in the
41 custody of the Division of Youth and Family Services for placement
42 in [foster] resource family care by the [family part] Family Part of the
43 Chancery Division of the Superior Court or as a result of a voluntary
44 placement agreement pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.),
45 released into the custody of his parents or legally responsible guardian

1 at the conclusion of the placement and is once again temporarily
2 removed from his place of residence and placed under the division's
3 care and supervision.

4 (cf: P.L.1991, c.448, s.2)

5
6 86. Section 3 of P.L.1991, c.448 (C.30:4C-53.3) is amended to
7 read as follows:

8 3. a. The division shall not treat a child's repeated placement into
9 **[foster] resource family** care as an initial placement. The child's
10 revised placement plan, updated at the time of the child's repeated
11 placement, shall summarize the child's prior history with the division
12 regarding previous placements, the findings of the child placement
13 review board, as well as a copy of the court order for the removal of
14 the child from the custody of his parents or guardian. The revised
15 placement plan shall be used by the division when preparing the child's
16 repeated placement plan pursuant to this section.

17 b. Whenever a child is placed again into **[foster] resource family**
18 care, the division shall prepare a repeated placement plan which shall
19 ensure the goals of safety and permanency through the safe return of
20 the child to his parents or, if this is not possible, through the State's
21 assumption of guardianship for the purpose of finding the child an
22 adoptive home or, if termination of parental rights is not appropriate,
23 through an alternative permanent placement. The plan shall be
24 prepared within 30 days after the child's repeated placement and
25 submitted to the court. The plan shall be valid for 12 months after the
26 date the child was placed again into **[foster] resource family** care.

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

28 (1) The specific reasons for the repeated placement of the child,
29 including a description of the problems or conditions in the home of
30 the parents or guardian which necessitated the child's removal, and a
31 summary of the efforts made by the division to prevent the child's
32 repeated placement or the exception to the requirement to make
33 reasonable efforts to prevent placement in accordance with section 24
34 of P.L.1999, c.53 (C.30:4C-11.2);

35 (2) The specific actions to be taken by the child's parents or
36 guardian to eliminate the identified problems or conditions which were
37 the basis of the child's repeated placement into **[foster] resource**
38 **family** care, which actions shall be taken within a specific time limit
39 agreed upon by the child's caseworker and the parents or guardian;

40 (3) The social services to be provided to the child and the **[foster]**
41 **resource family** parents during the period the child is in **[foster]**
42 **resource family** care and the social services to be provided to the
43 child's parent or guardian, or the exception to the requirement to make
44 reasonable efforts toward family reunification in accordance with
45 section 25 of P.L.1999, c.53 (C.30:4C-11.3), and the goal for the child
46 and anticipated date for achieving the goal. The purpose of the

1 supportive services shall be to promote the child's best interest and to
2 facilitate his safe return to his home, placement for adoption or an
3 alternative permanent placement. Services to facilitate adoption or an
4 alternative permanent placement may be provided concurrently with
5 services to reunify the child with the parent or guardian;

6 (4) An assessment of the division's ability to obtain a child's birth
7 certificate, locate the child's parents for future contact and have access
8 to the child's extended family, in the event that a plan for adoption or
9 an alternative permanent placement becomes necessary;

10 (5) A stipulation that the child be placed with his prior [foster]
11 resource family parent, if possible and if in the child's best interest, to
12 provide the child with continuity and stability in his living
13 environment; and

14 (6) A permanency plan for the child and the reasonable efforts of
15 the division to achieve that plan, if: the division has established an
16 exception to the requirement to provide reasonable efforts toward
17 family reunification in accordance with section 25 of P.L.1999, c.53
18 (C.30:4C-11.3); or the child has, in any period of 22 consecutive
19 months, been in any placement or placements for a total of 12 months.

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

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

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

26 (c) the division has determined that termination of parental rights
27 is not appropriate in accordance with section 31 of P.L.1999, c.53
28 (C.30:4C-15.3), and the child shall be placed in an alternative
29 permanent placement.

30 (cf: P.L.1999, c.53, s.41)

31

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

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

38 a. The division or agency;

39 b. The child;

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

41 d. The temporary caretaker;

42 e. Any other person or agency whom the board determines has an
43 interest in or information relating to the welfare of the child;

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

46 and

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

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

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

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

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

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

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

34 (cf: P.L.1999, c.53, s.46)

35

36 88. Section 11 of P.L.1977, c.424 (C.30:4C-60) is amended to
37 read as follow:

38 11. Within 10 days after the completion of such review, the board
39 shall submit a written report to the Family Part of the Chancery
40 Division of the Superior Court and the division. Such report shall
41 offer one of the following findings, stating the specific reasons
42 therefor:

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

1 implement the return home;

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

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

6 (2) Adoption,

7 (3) Permanent placement with a relative,

8 (4) ~~Long-term foster care custody~~ Kinship legal guardianship,

9 (5) Independent living,

10 (6) Institutionalization, or

11 (7) An alternative permanent placement;

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

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

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

23 When making its finding pursuant to this section, the child's health,
24 safety and need for permanency shall be of paramount concern to the
25 board. The board shall give priority to the goal of return to the child's
26 parents or legal guardian unless that goal is not in the best interest of
27 the child. If the return has not been achieved within one year, and
28 after considering the family's efforts; the division's or designated
29 agency's provision of reasonable and available services, if reasonable
30 efforts are required; or other relevant factors; the board shall
31 recommend another permanent plan for the child.

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

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

40 Within 10 days of the completion of its review, the board shall
41 provide to those persons entitled to notice under section 10 of
42 P.L.1977, c.424 (C.30:4C-59) the specific finding made pursuant to
43 this section, unless the board recommends that the finding shall not be
44 provided to specific individuals as provided in this paragraph. The
45 court may waive notice of findings to the child on a case-by-case basis
46 on its own motion or on the petition of a person listed in section 10 of

1 P.L.1977, c.424 (C.30:4C-59) in cases where the court determines that
2 the nature of the findings would be harmful to the child, or if notice to
3 the child of review was waived. The court may waive notice of
4 findings to persons included in subsection e. of section 10 of P.L.1977,
5 c.424 (C.30:4C-59) on the recommendation of the board or on the
6 petition of other persons entitled to notice.
7 (cf: P.L.1999, c.53, s.47)

8
9 89. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to
10 read as follows:

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

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

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

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

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

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

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

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

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

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

44 (3) The court concludes that the interests of justice require that a
45 hearing be held; or

46 (4) The board recommends that a hearing be held due to lack of

1 compliance with the placement plan, including achievement of the
2 permanent placement identified in the permanency plan; or

3 (5) The division has documented an exception to the requirement
4 to provide reasonable efforts toward family reunification pursuant to
5 section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

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

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

13 (1) The division;

14 (2) The child;

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

17 (4) The review board;

18 (5) The temporary caretaker;

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

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

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

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

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

37 e. Any person who receives a copy of the court order shall comply
38 with the confidentiality requirements established by the Supreme Court
39 for the purposes of this act.

40 (cf: P.L.1999, c.53, s.48)

41

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

44 8. a. If the division proposes to return a child home, although the
45 return home is either prohibited by the placement plan approved by the
46 court or expressly contingent upon certain conditions in the placement

1 plan that have not been met, the division shall promptly notify the
2 board and the court in writing.

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

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

23 d. The division shall not return the child home unless the court
24 approves the division's proposed action and orders the return home of
25 the child.

26 e. Notwithstanding the provisions of this section to the contrary,
27 in an emergency situation, the court may waive the special review
28 provisions of this section and approve the return home, upon the
29 request of the division to do so. The request of the division for a
30 court waiver of the special review provisions shall be accompanied by
31 a written statement from the division declaring and finding that the
32 out-of-home placement has been disrupted, that no appropriate
33 alternative placement for the child can be found in the home of a
34 relative, a [foster] resource family home, group home, shelter,
35 residential care facility or other setting following the change in
36 placement, and that the return home will not endanger the health,
37 safety or welfare of the child. The written statement submitted with
38 a request shall also outline the specific reasons for the findings made.
39 The division shall conduct an on-site visit of the home of a child when
40 in an emergency situation the division plans to request of the court a
41 waiver of the special review provisions. A report of the on-site visit
42 shall be included with the request.

43 If the court approves the division's request, the division shall
44 promptly notify the board of the court's approval of the request. The
45 board shall conduct a review of the change in the placement plan
46 within 15 days of the date the child is returned home. The division

1 shall conduct a minimum of two on-site visits to the home of a child
2 returned there in an emergency situation within the first 10 days of the
3 return to ascertain the continued health, safety and welfare of the
4 child. The court, upon granting a request for a waiver, may require
5 additional on-site visits. A detailed written report of each on-site visit
6 to the home of a child returned in an emergency situation shall
7 promptly be submitted to the court and to the child placement review
8 board.

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

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

19 f. If, subsequent to the review and approval of a plan by the court,
20 the division proposes to change the long-term goal in the plan or
21 otherwise substantially modify the plan, it shall notify the court and the
22 board in writing, within five days. The board shall schedule review of
23 the modification. The division shall continue to implement the current
24 court ordered plan until the court orders a modified or new plan.

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

27 (cf: P.L.1999, c.53, s.49)

28

29 91. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to
30 read as follows:

31 50. a. A permanency hearing shall be held that provides review
32 and approval by the court of the placement plan:

33 (1) within 30 days after the determination of an exception to the
34 reasonable effort requirement to reunify the child with the parent in
35 accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

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

37 b. Written notice of the date, time and place of the permanency
38 hearing shall be provided at least 15 days in advance to the following,
39 each of whom shall be entitled to attend the hearing and to submit
40 written information to the court:

41 (1) the division or agency;

42 (2) the child;

43 (3) the parents, including a non-custodial parent or legal guardian;

44 (4) the temporary caretaker;

45 (5) any other person or agency whom the court determines has an
46 interest in or information relating to the welfare of the child;

1 (6) the counsel for a parent, child or other interested party who has
2 provided or is providing representation in the case before the court;
3 and

4 (7) the child's [foster parent, preadoptive] resource family parent
5 or relative providing care for the child shall also receive written notice
6 of and an opportunity to be heard at the hearing, but the [foster
7 parent, preadoptive] resource family parent or relative shall not be
8 made a party to the hearing solely on the basis of the notice and
9 opportunity to be heard.

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

13 (1) a statement of the goal for the permanent placement or return
14 home of the child and the anticipated date that the goal will be
15 achieved;

16 (2) the intermediate objectives relating to the attainment of the
17 goal;

18 (3) a statement of the duties and responsibilities of the division, the
19 parents or legal guardian and the temporary caretaker, including the
20 services to be provided by the division to the child and to the
21 temporary caretaker;

22 (4) a statement of the services to be provided to the parent or legal
23 guardian or an exception to the requirement to provide reasonable
24 efforts toward family reunification in accordance with section 25 of
25 P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an
26 alternative permanent placement may be provided concurrently with
27 services to reunify the child with the parent or guardian;

28 (5) a permanency plan which includes whether and, if applicable,
29 when:

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

32 (b) the division has determined that family reunification is not
33 possible and the division shall file a petition for the termination of
34 parental rights for the purpose of adoption; or

35 (c) the division has determined that termination of parental rights
36 is not appropriate in accordance with section 31 of P.L.1999, c.53
37 (C.30:4C-15.3) and the child shall be placed in an alternative
38 permanent placement.

39 d. If the court approves a permanency plan for the child, the court
40 shall make a specific finding of the reasonable efforts made thus far by
41 the division and the appropriateness of the reasonable efforts to
42 achieve the permanency plan.

43 (cf: P.L.1999, c.53, s.50)

44

45 92. Section 8 of P.L.1993, c.157 (C.30:4C-81) is amended to read
46 as follows:

1 8. The Commissioner of Human Services shall report to the
2 Governor and the Legislature by December 31 of each year, on the
3 family preservation services program. The annual report shall contain,
4 but not be limited to:

5 a. The number of families receiving services through the program;

6 b. The number of children placed in ~~["foster"]~~ resource family care,
7 group homes and residential treatment facilities, both in-State and
8 out-of-State;

9 c. The average cost of providing services to a family through the
10 program;

11 d. The number of children who remain with their families for one
12 year after receiving services through the program; and

13 e. Any recommendations needed to improve the delivery of family
14 preservation services in the State.

15 (cf: P.L.1993, c.157, s.8)

16
17 93. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
18 as follows:

19 3. Definitions. As used in this act, and unless the context
20 otherwise requires:

21 a. "Applicant" means any person who has made application for
22 purposes of becoming a "qualified applicant."

23 b. "Commissioner" means the Commissioner of Human Services.

24 c. "Department" means the Department of Human Services, which
25 is herein designated as the single State agency to administer the
26 provisions of this act.

27 d. "Director" means the Director of the Division of Medical
28 Assistance and Health Services.

29 e. "Division" means the Division of Medical Assistance and Health
30 Services.

31 f. "Medicaid" means the New Jersey Medical Assistance and Health
32 Services Program.

33 g. "Medical assistance" means payments on behalf of recipients to
34 providers for medical care and services authorized under this act.

35 h. "Provider" means any person, public or private institution,
36 agency or business concern approved by the division lawfully
37 providing medical care, services, goods and supplies authorized under
38 this act, holding, where applicable, a current valid license to provide
39 such services or to dispense such goods or supplies.

40 i. "Qualified applicant" means a person who is a resident of this
41 State, and either a citizen of the United States or an eligible alien, and
42 is determined to need medical care and services as provided under this
43 act, with respect to whom the period for which eligibility to be a
44 recipient is determined shall be the maximum period permitted under
45 federal law, and who:

46 (1) Is a dependent child or parent or caretaker relative of a

1 dependent child who would be, except for resources, eligible for the
2 [aid to] temporary assistance for needy families [with dependent
3 children] program under the State Plan for Title IV-A of the federal
4 Social Security Act as of July 16, 1996;

5 (2) Is a recipient of Supplemental Security Income for the Aged,
6 Blind and Disabled under Title XVI of the Social Security Act;

7 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
8 Income for the Aged, Blind and Disabled under Title XVI of the Social
9 Security Act, as defined by the federal Social Security Administration;

10 (4) Would be eligible to receive Supplemental Security Income
11 under Title XVI of the federal Social Security Act or, without regard
12 to resources, would be eligible for the [aid to] temporary assistance
13 for needy families [with dependent children] program under the State
14 Plan for Title IV-A of the federal Social Security Act as of July 16,
15 1996, except for failure to meet an eligibility condition or requirement
16 imposed under such State program which is prohibited under Title
17 XIX of the federal Social Security Act such as a durational residency
18 requirement, relative responsibility, consent to imposition of a lien;

19 (5) (Deleted by amendment, P.L.2000, c.71).

20 (6) Is an individual under 21 years of age who, without regard to
21 resources, would be, except for dependent child requirements, eligible
22 for the [aid to] temporary assistance for needy families [with
23 dependent children] program under the State Plan for Title IV-A of
24 the federal Social Security Act as of July 16, 1996, or groups of such
25 individuals, including but not limited to, children in [foster] resource
26 family placement under supervision of the Division of Youth and
27 Family Services whose maintenance is being paid in whole or in part
28 from public funds, children placed in a [foster] resource family home
29 or institution by a private adoption agency in New Jersey or children
30 in intermediate care facilities, including developmental centers for the
31 developmentally disabled, or in psychiatric hospitals;

32 (7) Would be eligible for the Supplemental Security Income
33 program, but is not receiving such assistance and applies for medical
34 assistance only;

35 (8) Is determined to be medically needy and meets all the eligibility
36 requirements described below:

37 (a) The following individuals are eligible for services, if they are
38 determined to be medically needy:

39 (i) Pregnant women;

40 (ii) Dependent children under the age of 21;

41 (iii) Individuals who are 65 years of age and older; and

42 (iv) Individuals who are blind or disabled pursuant to either 42
43 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

44 (b) The following income standard shall be used to determine
45 medically needy eligibility:

46 (i) For one person and two person households, the income standard

1 shall be the maximum allowable under federal law, but shall not exceed
2 133 1/3% of the State's payment level to two person households under
3 the [aid to] temporary assistance for needy families [with dependent
4 children] program under the State Plan for Title IV-A of the federal
5 Social Security Act in effect as of July 16, 1996; and

6 (ii) For households of three or more persons, the income standard
7 shall be set at 133 1/3% of the State's payment level to similar size
8 households under the [aid to] temporary assistance for needy families
9 [with dependent children] program under the State Plan for Title
10 IV-A of the federal Social Security Act in effect as of July 16, 1996.

11 (c) The following resource standard shall be used to determine
12 medically needy eligibility:

13 (i) For one person households, the resource standard shall be 200%
14 of the resource standard for recipients of Supplemental Security
15 Income pursuant to 42 U.S.C. s.1382(1)(B);

16 (ii) For two person households, the resource standard shall be
17 200% of the resource standard for recipients of Supplemental Security
18 Income pursuant to 42 U.S.C. s.1382(2)(B);

19 (iii) For households of three or more persons, the resource
20 standard in subparagraph (c)(ii) above shall be increased by \$100.00
21 for each additional person; and

22 (iv) The resource standards established in (i), (ii), and (iii) are
23 subject to federal approval and the resource standard may be lower if
24 required by the federal Department of Health and Human Services.

25 (d) Individuals whose income exceeds those established in
26 subparagraph (b) of paragraph (8) of this subsection may become
27 medically needy by incurring medical expenses as defined in 42
28 C.F.R.435.831(c) which will reduce their income to the applicable
29 medically needy income established in subparagraph (b) of paragraph
30 (8) of this subsection.

31 (e) A six-month period shall be used to determine whether an
32 individual is medically needy.

33 (f) Eligibility determinations for the medically needy program shall
34 be administered as follows:

35 (i) County welfare agencies and other entities designated by the
36 commissioner are responsible for determining and certifying the
37 eligibility of pregnant women and dependent children. The division
38 shall reimburse county welfare agencies for 100% of the reasonable
39 costs of administration which are not reimbursed by the federal
40 government for the first 12 months of this program's operation.
41 Thereafter, 75% of the administrative costs incurred by county welfare
42 agencies which are not reimbursed by the federal government shall be
43 reimbursed by the division;

44 (ii) The division is responsible for certifying the eligibility of
45 individuals who are 65 years of age and older and individuals who are
46 blind or disabled. The division may enter into contracts with county

1 welfare agencies to determine certain aspects of eligibility. In such
2 instances the division shall provide county welfare agencies with all
3 information the division may have available on the individual.

4 The division shall notify all eligible recipients of the Pharmaceutical
5 Assistance to the Aged and Disabled program, P.L.1975, c.194
6 (C.30:4D-20 et seq.) on an annual basis of the medically needy
7 program and the program's general requirements. The division shall
8 take all reasonable administrative actions to ensure that
9 Pharmaceutical Assistance to the Aged and Disabled recipients, who
10 notify the division that they may be eligible for the program, have their
11 applications processed expeditiously, at times and locations convenient
12 to the recipients; and

13 (iii) The division is responsible for certifying incurred medical
14 expenses for all eligible persons who attempt to qualify for the
15 program pursuant to subparagraph (d) of paragraph (8) of this
16 subsection;

17 (9) (a) Is a child who is at least one year of age and under 19 years
18 of age and, if older than six years of age but under 19 years of age, is
19 uninsured; and

20 (b) Is a member of a family whose income does not exceed 133%
21 of the poverty level and who meets the federal Medicaid eligibility
22 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
23 s.1396a);

24 (10) Is a pregnant woman who is determined by a provider to be
25 presumptively eligible for medical assistance based on criteria
26 established by the commissioner, pursuant to section 9407 of
27 Pub.L.99-509 (42 U.S.C. s.1396a(a));

28 (11) Is an individual 65 years of age and older, or an individual
29 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
30 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
31 level, adjusted for family size, and whose resources do not exceed
32 100% of the resource standard used to determine medically needy
33 eligibility pursuant to paragraph (8) of this subsection;

34 (12) Is a qualified disabled and working individual pursuant to
35 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
36 does not exceed 200% of the poverty level and whose resources do
37 not exceed 200% of the resource standard used to determine eligibility
38 under the Supplemental Security Income Program, P.L.1973, c.256
39 (C.44:7-85 et seq.);

40 (13) Is a pregnant woman or is a child who is under one year of
41 age and is a member of a family whose income does not exceed 185%
42 of the poverty level and who meets the federal Medicaid eligibility
43 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
44 s.1396a), except that a pregnant woman who is determined to be a
45 qualified applicant shall, notwithstanding any change in the income of
46 the family of which she is a member, continue to be deemed a qualified

1 applicant until the end of the 60-day period beginning on the last day
2 of her pregnancy;

3 (14) (Deleted by amendment, P.L.1997, c.272).

4 (15) (a) Is a specified low-income Medicare beneficiary pursuant
5 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
6 1993 do not exceed 200% of the resource standard used to determine
7 eligibility under the Supplemental Security Income program, P.L.1973,
8 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
9 1993 does not exceed 110% of the poverty level, and beginning
10 January 1, 1995 does not exceed 120% of the poverty level.

11 (b) An individual who has, within 36 months, or within 60 months
12 in the case of funds transferred into a trust, of applying to be a
13 qualified applicant for Medicaid services in a nursing facility or a
14 medical institution, or for home or community-based services under
15 section 1915(c) of the federal Social Security Act (42 U.S.C.
16 s.1396n(c)), disposed of resources or income for less than fair market
17 value shall be ineligible for assistance for nursing facility services, an
18 equivalent level of services in a medical institution, or home or
19 community-based services under section 1915(c) of the federal Social
20 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
21 shall be the number of months resulting from dividing the
22 uncompensated value of the transferred resources or income by the
23 average monthly private payment rate for nursing facility services in
24 the State as determined annually by the commissioner. In the case of
25 multiple resource or income transfers, the resulting penalty periods
26 shall be imposed sequentially. Application of this requirement shall be
27 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
28 this provision is effective for all transfers of resources or income made
29 on or after August 11, 1993. Notwithstanding the provisions of this
30 subsection to the contrary, the State eligibility requirements
31 concerning resource or income transfers shall not be more restrictive
32 than those enacted pursuant to 42 U.S.C. s.1396p(c).

33 (c) An individual seeking nursing facility services or home or
34 community-based services and who has a community spouse shall be
35 required to expend those resources which are not protected for the
36 needs of the community spouse in accordance with section 1924(c) of
37 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
38 of long-term care, burial arrangements, and any other expense deemed
39 appropriate and authorized by the commissioner. An individual shall
40 be ineligible for Medicaid services in a nursing facility or for home or
41 community-based services under section 1915(c) of the federal Social
42 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
43 violation of this subparagraph. The period of ineligibility shall be the
44 number of months resulting from dividing the uncompensated value of
45 transferred resources and income by the average monthly private
46 payment rate for nursing facility services in the State as determined by

1 the commissioner. The period of ineligibility shall begin with the
2 month that the individual would otherwise be eligible for Medicaid
3 coverage for nursing facility services or home or community-based
4 services.

5 This subparagraph shall be operative only if all necessary approvals
6 are received from the federal government including, but not limited to,
7 approval of necessary State plan amendments and approval of any
8 waivers;

9 (16) Subject to federal approval under Title XIX of the federal
10 Social Security Act, is a dependent child, parent or specified caretaker
11 relative of a child who is a qualified applicant, who would be eligible,
12 without regard to resources, for the ~~[aid to]~~ temporary assistance for
13 needy families [with dependent children] program under the State
14 Plan for Title IV-A of the federal Social Security Act as of July 16,
15 1996, except for the income eligibility requirements of that program,
16 and whose family earned income does not exceed 133% of the poverty
17 level plus such earned income disregards as shall be determined
18 according to a methodology to be established by regulation of the
19 commissioner;

20 (17) Is an individual from 18 through 20 years of age who is not
21 a dependent child and would be eligible for medical assistance
22 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
23 income or resources, who, on the individual's 18th birthday was in
24 ~~[foster]~~ resource family care under the care and custody of the
25 Division of Youth and Family Services and whose maintenance was
26 being paid in whole or in part from public funds;

27 (18) Is a person between the ages of 16 and 65 who is permanently
28 disabled and working, and:

29 (a) whose income is at or below 250% of the poverty level, plus
30 other established disregards;

31 (b) who pays the premium contribution and other cost sharing as
32 established by the commissioner, subject to the limits and conditions
33 of federal law; and

34 (c) whose assets, resources and unearned income do not exceed
35 limitations as established by the commissioner; or

36 (19) Is an uninsured individual under 65 years of age who:

37 (a) has been screened for breast or cervical cancer under the
38 federal Centers for Disease Control and Prevention breast and cervical
39 cancer early detection program;

40 (b) requires treatment for breast or cervical cancer based upon
41 criteria established by the commissioner;

42 (c) has an income that does not exceed the income standard
43 established by the commissioner pursuant to federal guidelines;

44 (d) meets all other Medicaid eligibility requirements; and

45 (e) in accordance with Pub.L.106-354, is determined by a qualified
46 entity to be presumptively eligible for medical assistance pursuant to

1 42 U.S.C. s.1396a(aa), based upon criteria established by the
2 commissioner pursuant to section 1920B of the federal Social Security
3 Act (42 U.S.C. s.1396r-1b).

4 j. "Recipient" means any qualified applicant receiving benefits
5 under this act.

6 k. "Resident" means a person who is living in the State voluntarily
7 with the intention of making his home here and not for a temporary
8 purpose. Temporary absences from the State, with subsequent returns
9 to the State or intent to return when the purposes of the absences have
10 been accomplished, do not interrupt continuity of residence.

11 l. "State Medicaid Commission" means the Governor, the
12 Commissioner of Human Services, the President of the Senate and the
13 Speaker of the General Assembly, hereby constituted a commission to
14 approve and direct the means and method for the payment of claims
15 pursuant to this act.

16 m. "Third party" means any person, institution, corporation,
17 insurance company, group health plan as defined in section 607(1) of
18 the federal "Employee Retirement and Income Security Act of 1974,"
19 29 U.S.C. s.1167(1), service benefit plan, health maintenance
20 organization, or other prepaid health plan, or public, private or
21 governmental entity who is or may be liable in contract, tort, or
22 otherwise by law or equity to pay all or part of the medical cost of
23 injury, disease or disability of an applicant for or recipient of medical
24 assistance payable under this act.

25 n. "Governmental peer grouping system" means a separate class of
26 skilled nursing and intermediate care facilities administered by the
27 State or county governments, established for the purpose of screening
28 their reported costs and setting reimbursement rates under the
29 Medicaid program that are reasonable and adequate to meet the costs
30 that must be incurred by efficiently and economically operated State
31 or county skilled nursing and intermediate care facilities.

32 o. "Comprehensive maternity or pediatric care provider" means any
33 person or public or private health care facility that is a provider and
34 that is approved by the commissioner to provide comprehensive
35 maternity care or comprehensive pediatric care as defined in
36 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
37 (C.30:4D-6).

38 p. "Poverty level" means the official poverty level based on family
39 size established and adjusted under Section 673(2) of Subtitle B, the
40 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
41 s.9902(2)).

42 q. "Eligible alien" means one of the following:

43 (1) an alien present in the United States prior to August 22, 1996,
44 who is:

45 (a) a lawful permanent resident;

46 (b) a refugee pursuant to section 207 of the federal "Immigration

1 and Nationality Act" (8 U.S.C. s.1157);

2 (c) an asylee pursuant to section 208 of the federal "Immigration
3 and Nationality Act" (8 U.S.C. s.1158);

4 (d) an alien who has had deportation withheld pursuant to section
5 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
6 s.1253 (h));

7 (e) an alien who has been granted parole for less than one year by
8 the [federal Immigration and Naturalization Service] U.S. Citizenship
9 and Immigration Services pursuant to section 212(d)(5) of the federal
10 "Immigration and Nationality Act" (8 U.S.C. s.1182(d)(5));

11 (f) an alien granted conditional entry pursuant to section 203(a)(7)
12 of the federal "Immigration and Nationality Act" (8 U.S.C.
13 s.1153(a)(7)) in effect prior to April 1, 1980; or

14 (g) an alien who is honorably discharged from or on active duty in
15 the United States armed forces and the alien's spouse and unmarried
16 dependent child.

17 (2) An alien who entered the United States on or after August 22,
18 1996, who is:

19 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
20 subsection; or

21 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
22 subsection who entered the United States at least five years ago.

23 (3) A legal alien who is a victim of domestic violence in
24 accordance with criteria specified for eligibility for public benefits as
25 provided in Title V of the federal "Illegal Immigration Reform and
26 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

27 (cf: P.L.2001, c.186, s.1)

28

29 94. Section 7 of P.L.1968, c.413 (C.30:4D-7) is amended to read
30 as follow:

31 7. Duties of commissioner. The commissioner is authorized and
32 empowered to issue, or to cause to be issued through the Division of
33 Medical Assistance and Health Services, all necessary rules and
34 regulations and administrative orders, and to do or cause to be done
35 all other acts and things necessary to secure for the State of New
36 Jersey the maximum federal participation that is available with respect
37 to a program of medical assistance, consistent with fiscal responsibility
38 and within the limits of funds available for any fiscal year, and to the
39 extent authorized by the medical assistance program plan; to adopt fee
40 schedules with regard to medical assistance benefits and otherwise to
41 accomplish the purposes of this act, including specifically the
42 following:

43 a. Subject to the limits imposed by this act, to submit a plan for
44 medical assistance, as required by Title XIX of the federal Social
45 Security Act, to the federal Department of Health and Human Services
46 for approval pursuant to the provisions of such law; to act for the

1 State in making negotiations relative to the submission and approval
2 of such plan, to make such arrangements, not inconsistent with the
3 law, as may be required by or pursuant to federal law to obtain and
4 retain such approval and to secure for the State the benefits of the
5 provisions of such law;

6 b. Subject to the limits imposed by this act, to determine the
7 amount and scope of services to be covered, that the amounts to be
8 paid are reasonable, and the duration of medical assistance to be
9 furnished; provided, however, that the department shall provide
10 medical assistance on behalf of all recipients of categorical assistance
11 and such other related groups as are mandatory under federal laws and
12 rules and regulations, as they now are or as they may be hereafter
13 amended, in order to obtain federal matching funds for such purposes
14 and, in addition, provide medical assistance for the [foster] resource
15 family children specified in [section 3i. (7) of this act] subsection i.(7)
16 of section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance
17 provided for these groups shall not be less in scope, duration, or
18 amount than is currently furnished such groups, and in addition, shall
19 include at least the minimum services required under federal laws and
20 rules and regulations to obtain federal matching funds for such
21 purposes.

22 The commissioner is authorized and empowered, at such times as
23 he may determine feasible, within the limits of appropriated funds for
24 any fiscal year, to extend the scope, duration, and amount of medical
25 assistance on behalf of these groups of categorical assistance
26 recipients, related groups as are mandatory, and [foster] resource
27 family children authorized pursuant to section 3i. (7) of this act, so as
28 to include, in whole or in part, the optional medical services
29 authorized under federal laws and rules and regulations, and the
30 commissioner shall have the authority to establish and maintain the
31 priorities given such optional medical services; provided, however,
32 that medical assistance shall be provided to at least such groups and
33 in such scope, duration, and amount as are required to obtain federal
34 matching funds.

35 The commissioner is further authorized and empowered, at such
36 times as he may determine feasible, within the limits of appropriated
37 funds for any fiscal year, to issue, or cause to be issued through the
38 Division of Medical Assistance and Health Services, all necessary
39 rules, regulations and administrative orders, and to do or cause to be
40 done all other acts and things necessary to implement and administer
41 demonstration projects pursuant to Title XI, section 1115 of the
42 federal Social Security Act, including, but not limited to waiving
43 compliance with specific provisions of this act, to the extent and for
44 the period of time the commissioner deems necessary, as well as
45 contracting with any legal entity, including but not limited to
46 corporations organized pursuant to Title 14A, New Jersey Statutes

1 (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes (R.S.15:1-1 et
2 seq.) and Title 15A, New Jersey Statutes (N.J.S.15A:1-1 et seq.) as
3 well as boards, groups, agencies, persons and other public or private
4 entities;

5 c. To administer the provisions of this act;

6 d. To make reports to the federal Department of Health and
7 Human Services as from time to time may be required by such federal
8 department and to the New Jersey Legislature as hereinafter provided;

9 e. To assure that any applicant, qualified applicant or recipient shall
10 be afforded the opportunity for a hearing should his claim for medical
11 assistance be denied, reduced, terminated or not acted upon within a
12 reasonable time;

13 f. To assure that providers shall be afforded the opportunity for an
14 administrative hearing within a reasonable time on any valid complaint
15 arising out of the claim payment process;

16 g. To provide safeguards to restrict the use or disclosure of
17 information concerning applicants and recipients to purposes directly
18 connected with administration of this act;

19 h. To take all necessary action to recover any and all payments
20 incorrectly made to or illegally received by a provider from such
21 provider or his estate or from any other person, firm, corporation,
22 partnership or entity responsible for or receiving the benefit or
23 possession of the incorrect or illegal payments or their estates,
24 successors or assigns, and to assess and collect such penalties as are
25 provided for herein;

26 i. To take all necessary action to recover the cost of benefits
27 incorrectly provided to or illegally obtained by a recipient, including
28 those made after a voluntary divestiture of real or personal property
29 or any interest or estate in property for less than adequate
30 consideration made for the purpose of qualifying for assistance. The
31 division shall take action to recover the cost of benefits from a
32 recipient, legally responsible relative, representative payee, or any
33 other party or parties whose action or inaction resulted in the incorrect
34 or illegal payments or who received the benefit of the divestiture, or
35 from their respective estates, as the case may be and to assess and
36 collect the penalties as are provided for herein, except that no lien
37 shall be imposed against property of the recipient prior to his death
38 except in accordance with section 17 of P.L.1968, c.413
39 (C.30:4D-17). No recovery action shall be initiated more than five
40 years after an incorrect payment has been made to a recipient when the
41 incorrect payment was due solely to an error on the part of the State
42 or any agency, agent or subdivision thereof;

43 j. To take all necessary action to recover the cost of benefits
44 correctly provided to a recipient from the estate of said recipient in
45 accordance with sections 6 through 12 of this amendatory and
46 supplementary act;

1 k. To take all reasonable measures to ascertain the legal or
2 equitable liability of third parties to pay for care and services (available
3 under the plan) arising out of injury, disease, or disability; where it is
4 known that a third party has a liability, to treat such liability as a
5 resource of the individual on whose behalf the care and services are
6 made available for purposes of determining eligibility; and in any case
7 where such a liability is found to exist after medical assistance has
8 been made available on behalf of the individual, to seek reimbursement
9 for such assistance to the extent of such liability;

10 l. To compromise, waive or settle and execute a release of any
11 claim arising under this act including interest or other penalties, or
12 designate another to compromise, waive or settle and execute a release
13 of any claim arising under this act. The commissioner or his designee
14 whose title shall be specified by regulation may compromise, settle or
15 waive any such claim in whole or in part, either in the interest of the
16 Medicaid program or for any other reason which the commissioner by
17 regulation shall establish;

18 m. To pay or credit to a provider any net amount found by final
19 audit as defined by regulation to be owing to the provider. Such
20 payment, if it is not made within 45 days of the final audit, shall
21 include interest on the amount due at the maximum legal rate in effect
22 on the date the payment became due, except that such interest shall
23 not be paid on any obligation for the period preceding September 15,
24 1976. This subsection shall not apply until federal financial
25 participation is available for such interest payments;

26 n. To issue, or designate another to issue, subpoenas to compel the
27 attendance of witnesses and the production of books, records,
28 accounts, papers and documents of any party, whether or not that
29 party is a provider, which directly or indirectly relate to goods or
30 services provided under this act, for the purpose of assisting in any
31 investigation, examination, or inspection, or in any suspension,
32 debarment, disqualification, recovery, or other proceeding arising
33 under this act;

34 o. To solicit, receive and review bids pursuant to the provisions of
35 P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments and
36 supplements thereto, by any corporation doing business in the State of
37 New Jersey, including nonprofit hospital service corporations, medical
38 service corporations, health service corporations or dental service
39 corporations incorporated in New Jersey and authorized to do business
40 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74
41 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), or
42 P.L.1968, c.305 (C.17:48C-1 et seq.), and to make recommendations
43 in connection therewith to the State Medicaid Commission;

44 p. To contract, or otherwise provide as in this act provided, for the
45 payment of claims in the manner approved by the State Medicaid
46 Commission;

1 q. Where necessary, to advance funds to the underwriter or fiscal
2 agent to enable such underwriter or fiscal agent, in accordance with
3 terms of its contract, to make payments to providers;

4 r. To enter into contracts with federal, State, or local governmental
5 agencies, or other appropriate parties, when necessary to carry out the
6 provisions of this act;

7 s. To assure that the nature and quality of the medical assistance
8 provided for under this act shall be uniform and equitable to all
9 recipients;

10 t. To provide for the reimbursement of State and
11 county-administered skilled nursing and intermediate care facilities
12 through the use of a governmental peer grouping system, subject to
13 federal approval and the availability of federal reimbursement.

14 (1) In establishing a governmental peer grouping system, the
15 State's financial participation is limited to an amount equal to the
16 nonfederal share of the reimbursement which would be due each
17 facility if the governmental peer grouping system was not established,
18 and each county's financial participation in this reimbursement system
19 is equal to the nonfederal share of the increase in reimbursement for
20 its facility or facilities which results from the establishment of the
21 governmental peer grouping system.

22 (2) On or before December 1 of each year, the commissioner shall
23 estimate and certify to the Director of the Division of Local
24 Government Services in the Department of Community Affairs the
25 amount of increased federal reimbursement a county may receive
26 under the governmental peer grouping system. On or before
27 December 15 of each year, the Director of the Division of Local
28 Government Services shall certify the increased federal reimbursement
29 to the chief financial officer of each county. If the amount of
30 increased federal reimbursement to a county exceeds or is less than the
31 amount certified, the certification for the next year shall account for
32 the actual amount of federal reimbursement that the county received
33 during the prior calendar year.

34 (3) The governing body of each county entitled to receive
35 increased federal reimbursement under the provisions of this
36 amendatory act shall, by March 31 of each year, submit a report to the
37 commissioner on the intended use of the savings in county
38 expenditures which result from the increased federal reimbursement.
39 The governing body of each county, with the advice of agencies
40 providing social and health related services, shall use not less than
41 10% and no more than 50% of the savings in county expenditures
42 which result from the increased federal reimbursement for
43 community-based social and health related programs for elderly and
44 disabled persons who may otherwise require nursing home care. This
45 percentage shall be negotiated annually between the governing body
46 and the commissioner and shall take into account a county's social,

1 demographic and fiscal conditions, a county's social and health related
2 expenditures and needs, and estimates of federal revenues to support
3 county operations in the upcoming year, particularly in the areas of
4 social and health related services.

5 (4) The commissioner, subject to approval by law, may terminate
6 the governmental peer grouping system if federal reimbursement is
7 significantly reduced or if the Medicaid program is significantly altered
8 or changed by the federal government subsequent to the enactment of
9 this amendatory act. The commissioner, prior to terminating the
10 governmental peer grouping system, shall submit to the Legislature
11 and to the governing body of each county a report as to the reasons
12 for terminating the governmental peer grouping system;

13 u. The commissioner, in consultation with the Commissioner of
14 Health and Senior Services, shall:

15 (1) Develop criteria and standards for comprehensive maternity or
16 pediatric care providers and determine whether a provider who
17 requests to become a comprehensive maternity or pediatric care
18 provider meets the department's criteria and standards;

19 (2) Develop a program of comprehensive maternity care services
20 which defines the type of services to be provided, the level of services
21 to be provided, and the frequency with which qualified applicants are
22 to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

23 (3) Develop a program of comprehensive pediatric care services
24 which defines the type of services to be provided, the level of services
25 to be provided, and the frequency with which qualified applicants are
26 to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

27 (4) Develop and implement a system for monitoring the quality and
28 delivery of comprehensive maternity and pediatric care services and a
29 system for evaluating the effectiveness of the services programs in
30 meeting their objectives;

31 (5) Establish provider reimbursement rates for the comprehensive
32 maternity and pediatric care services;

33 v. The commissioner, jointly with the Commissioner of Health and
34 Senior Services, shall report to the Governor and the Legislature no
35 later than two years following the date of enactment of P.L.1987,
36 c.115 (C.30:4D-2.1 et al.) and annually thereafter on the status of the
37 comprehensive maternity and pediatric care services and their
38 effectiveness in meeting the objectives set forth in section 1 of
39 P.L.1987, c.115 (C.30:4D-2.1) accompanying the report with any
40 recommendations for changes in the law governing the services that
41 the commissioners deem necessary.

42 (cf: P.L.1988, c.6, s.1)

43

44 95. Section 2 of P.L.1997, c.254 (C.30:5B-6.2) is amended to read
45 as follows:

46 2. a. As a condition of securing a new or renewal license or

1 approval, the division shall conduct a check of the division's child
2 abuse records to determine if an incident of child abuse or neglect has
3 been substantiated pursuant to section 4 of P.L.1971, c.437
4 (C.9:6-8.11), against any staff member of a child care center.

5 b. The [division] department shall not issue a regular license or
6 approval to a center until the [division] department determines that no
7 staff member employed by or working at the center has a record of
8 substantiated child abuse or neglect.

9 c. The [division] department shall deny, revoke or refuse to renew
10 the center's license or approval, as appropriate, if the [division]
11 department determines that an incident of child abuse or neglect by an
12 owner or sponsor of a center has been substantiated.

13 (cf: P.L.1997, c.254, s.2)

14

15 96. Section 3 of P.L.1997, c.254 (C.30:5B-6.3) is amended to read
16 as follows:

17 3. a. The staff member shall provide prior written consent for the
18 division to conduct a check of its child abuse records.

19 b. If the owner or sponsor of the center refuses to consent to, or
20 cooperate in, the securing of a division child abuse record information
21 check, the [division] department shall suspend, deny, revoke or refuse
22 to renew the center's license or approval, as appropriate.

23 c. If a staff member of a center, other than the owner or sponsor,
24 refuses to consent to, or cooperate in, the securing of a division child
25 abuse record information check, the person shall be immediately
26 terminated from employment at the center.

27 (cf: P.L.1997, c.254, s.3)

28

29 97. Section 6 of P.L.1997, c.254 (C.30:5B-6.6) is amended to read
30 as follows:

31 6. The [division] department shall consider, for the purposes of
32 this act, any incidents of child abuse or neglect that were substantiated
33 on or after June 29, 1995, to ensure that perpetrators have had an
34 opportunity to appeal a substantiated finding of abuse or neglect;
35 except that the [division] department may consider substantiated
36 incidents prior to that date if the [division] department, in its
37 judgment, determines that the individual poses a risk of harm to
38 children in a child care center. In cases involving incidents
39 substantiated prior to June 29, 1995, the [division] department shall
40 offer the individual an opportunity for a hearing to contest its action
41 restricting the individual from employment in a child care center.

42 (cf: P.L.1997, c.254, s.6)

43

44 98. Section 3 of P.L.2000, c.77 (C.30:5B-6.12) is amended to read
45 as follows:

1 3. a. If the owner or sponsor of the child care center refuses to
2 consent to, or cooperate in, the securing of a criminal history record
3 background check, the [division] department shall suspend, deny,
4 revoke or refuse to renew the center's license or life-safety approval,
5 as appropriate.

6 b. If a staff member of a child care center, other than the owner or
7 sponsor, refuses to consent to, or cooperate in, the securing of a
8 criminal history record background check, the person shall be
9 immediately terminated from employment at the center.

10 (cf: P.L.2000, c.77, s.3)

11
12 99. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to read
13 as follows:

14 4. a. In the case of a child care center established after the
15 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or
16 sponsor of the center, prior to the center's opening, shall ensure that
17 a request for a criminal history record background check on each staff
18 member is sent to the Department of Human Services for processing
19 by the Division of State Police in the Department of Law and Public
20 Safety and the Federal Bureau of Investigation.

21 A staff member shall not be left alone as the only adult caring for
22 a child at the center until the criminal history record background has
23 been reviewed by the [division] department pursuant to P.L.2000,
24 c.77 (C.30:5B-6.10 et al.).

25 b. In the case of a child care center licensed or granted life-safety
26 approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10
27 et al.), the owner or sponsor of the center, at the time of the center's
28 first renewal of license or life-safety approval next following that
29 effective date, shall ensure that a request for a criminal history record
30 background check for each staff member is sent to the department for
31 processing by the Division of State Police and the Federal Bureau of
32 Investigation.

33 c. Within two weeks after a new staff member begins employment
34 at a child care center, the owner or sponsor of the center shall ensure
35 that a request for a criminal history record background check is sent
36 to the department for processing by the Division of State Police and
37 the Federal Bureau of Investigation.

38 A new staff member shall not be left alone as the only adult caring
39 for a child at the center until the criminal history record background
40 has been reviewed by the [division] department pursuant to P.L.2000,
41 c.77 (C.30:5B-6.10 et al.).

42 d. In the case of child care centers under contract to implement
43 early childhood education programs in the Abbott districts as defined
44 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
45 [division] department shall ensure that a criminal history record
46 background check is conducted on all current staff members as soon

1 as practicable, but no later than six months after the effective date of
2 P.L.2000, c.77 (C.30:5B-6.10 et al.).
3 (cf: P.L.2000, c.77, s.4)

4
5 100. Section 6 of P.L.2000, c.77 (C.30:5B-6.15) is amended to
6 read as follows:

7 6. a. If a staff member of a child care center is convicted of a
8 crime specified in section 5 of P.L.2000, c.77 (C.30:5B-6.14) after the
9 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the staff
10 member shall be terminated from employment at, or ownership or
11 sponsorship of, a child care center.

12 b. For crimes and offenses other than those cited in section 5 of
13 P.L.2000, c.77 (C.30:5B-6.14), an applicant or staff member may be
14 eligible for employment at, or ownership or sponsorship of, a child
15 care center if the [division] department determines that the person has
16 affirmatively demonstrated to the [division] department clear and
17 convincing evidence of the person's rehabilitation pursuant to
18 subsection c. of this section.

19 c. In determining whether a person has affirmatively demonstrated
20 rehabilitation, the following factors shall be considered:

21 (1) the nature and responsibility of the position at the child care
22 center which the convicted person would hold, has held or currently
23 holds, as the case may be;

24 (2) the nature and seriousness of the offense;

25 (3) the circumstances under which the offense occurred;

26 (4) the date of the offense;

27 (5) the age of the person when the offense was committed;

28 (6) whether the offense was an isolated or repeated incident;

29 (7) any social conditions which may have contributed to the
30 offense; and

31 (8) any evidence of rehabilitation, including good conduct in prison
32 or in the community, counseling or psychiatric treatment received,
33 acquisition of additional academic or vocational schooling, successful
34 participation in correctional work-release programs, or the
35 recommendation of those who have had the person under their
36 supervision.

37 d. The [division] department shall make the final determination
38 regarding the employment of an applicant or staff member with a
39 criminal conviction.

40 (cf: P.L.2000, c.77, s.6)

41
42 101. Section 7 of P.L.2000, c.77 (C.30:5B-6.16) is amended to
43 read as follows:

44 7. If a child care center owner or sponsor has knowledge that a
45 staff member has criminal charges pending against the staff member,
46 the owner or sponsor shall promptly notify the [division] department

1 to determine whether any action concerning the staff member is
2 necessary in order to ensure the safety of the children who attend the
3 center.

4 (cf: P.L.2000, c.77, s.7)

5

6 102. Section 9 of P.L.2000, c.77 (C.30:5B-6.17) is amended to
7 read as follows:

8 9. a. A child care center that has received an employment
9 application from an individual or currently employs a staff member
10 shall be immune from liability for acting upon or disclosing information
11 about the disqualification or termination to another center seeking to
12 employ that person if the center has:

13 (1) received notice from the [division] department that the
14 applicant or staff member, as applicable, has been determined by the
15 [division] department to be disqualified from employment in a child
16 care center pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14
17 or C.30:5B-6.15); or

18 (2) terminated the employment of a staff member because the
19 person was disqualified from employment at the center on the basis of
20 a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c.77
21 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the
22 center.

23 b. A child care center which acts upon or discloses information
24 pursuant to subsection a. of this section shall be presumed to be acting
25 in good faith unless it is shown by clear and convincing evidence that
26 the center acted with actual malice toward the person who is the
27 subject of the information.

28 (cf: P.L.2000, c.77, s.9)

29

30 103. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read
31 as follows:

32 3. As used in this act:

33 a. "Certificate of registration" means a certificate issued by the
34 [division] department to a family day care provider, acknowledging
35 that the provider is registered pursuant to the provisions of this act.

36 b. ["Division" means the Division of Youth and Family Services in
37 the State] "Department" means the Department of Human Services.

38 c. "Family day care home" means a private residence in which child
39 care services are provided for a fee to no less than three and no more
40 than five children at any one time for no less than 15 hours per week;
41 except that the [division] department shall not exclude a family day
42 care home with less than three children from voluntary registration.
43 A child being cared for under the following circumstances is not
44 included in the total number of children receiving child care services:

45 (1) The child being cared for is legally related to the provider; or

46 (2) Care is being provided as part of an employment agreement

1 between the family day care provider and an assistant or substitute
2 provider where no payment for the care is being provided.

3 d. "Family day care provider" means a person at least 18 years of
4 age who is responsible for the operation and management of a family
5 day care home.

6 e. "Family day care sponsoring organization" means an agency or
7 organization which contracts with the [division] department to assist
8 in the registration of family day care providers in a specific
9 geographical area.

10 f. "Monitor" means to visit a family day care provider to review the
11 provider's compliance with the standards established pursuant to this
12 act.

13 (cf: P.L.1992, c.13, s.2)

14

15 104. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read
16 as follows:

17 4. a. The [division] department has the responsibility and
18 authority to contract with family day care sponsoring organizations for
19 the voluntary registration of family day care providers and shall adopt
20 regulations for the operation and maintenance of family day care
21 sponsoring organizations.

22 b. The [division] department shall contract in writing with an
23 agency or organization authorizing the agency or organization to
24 operate as a family day care sponsoring organization to assist in the
25 voluntary registration of family day care providers in a specific
26 geographical area and to perform other functions with regard to family
27 day care providers in accordance with the provisions of this act and
28 the regulations adopted thereunder for which purposes the
29 organization shall receive funds from the [division] department based
30 upon a fee for the service. The [division] department shall contract
31 with a family day care sponsoring organization for a period of one
32 year.

33 c. The [division] department shall contract with one family day
34 care sponsoring organization to serve each county; however, the
35 [division] department may, as it deems appropriate, contract with
36 additional family day care sponsoring organizations in a county, except
37 that the [division] department shall make all necessary arrangements
38 to avoid duplication of effort and to promote a cooperative working
39 relationship among the sponsoring organizations. Within one year
40 following the effective date of this act there shall be a family day care
41 sponsoring organization serving each county in this State.

42 (cf: P.L.1987, c.27, s.4)

43

44 105. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read
45 as follows:

46 5. a. A family day care sponsoring organization with which the

1 [division] department contracts is authorized to register family day
2 care providers within its designated geographical area and is
3 responsible for providing administrative services, including, but not
4 limited to, training, technical assistance, and consultation to family day
5 care providers and inspection, supervision, monitoring and evaluation
6 of family day care providers.

7 b. The family day care sponsoring organization shall maintain
8 permanent records for each family day care provider it registers. The
9 sponsoring organization shall also maintain its own staff and
10 administrative and financial records. All records are open to
11 inspection by an authorized representative of the [division]
12 department for the purpose of determining compliance with this act.

13 c. The family day care sponsoring organization shall provide a
14 program of outreach and public relations to inform providers of the
15 provisions of this act.

16 (cf: P.L.1987, c.27, s.5)

17

18 106. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read
19 as follows:

20 8. a. The [division] department shall also establish standards for
21 the issuance, renewal, denial, suspension and revocation of a
22 certificate of registration which the family day care sponsoring
23 organization shall apply. In developing the standards, the [division]
24 department shall consult with the Advisory Council on Child Care
25 established pursuant to the "Child Care Center Licensing Act,"
26 P.L.1983, c.492 (C.30:5B-1 et seq.).

27 b. A person operating as a registered family day care provider who
28 violates the provisions of this act by failing to adhere to the standards
29 established by the [division] department pursuant to this act shall be
30 notified in writing of the violation of the provisions of this act and
31 provided with an opportunity to comply with those provisions. For a
32 subsequent violation, the person's certificate of registration may be
33 revoked, or the person may be fined in an amount determined by the
34 Commissioner of Human Services, or both. The receipt of excessive
35 complaints by the municipal police or other local or State authorities
36 concerning neglect of children, excessive noise, or property damage
37 resulting from the operation of a family day care home may be
38 considered by the [division] department when renewing, suspending
39 or revoking a certificate of registration.

40 c. The [division] department, before denying, suspending,
41 revoking or refusing to renew a certificate of registration, shall give
42 notice thereof to the provider personally, or by certified or registered
43 mail to the last known address of the family day care home with return
44 receipt requested. The notice shall afford the provider the opportunity
45 to be heard. The hearing shall take place within 60 days from the
46 receipt of the notice and shall be conducted in accordance with the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.).

3 d. If the certificate of registration is suspended or revoked or not
4 renewed, the provider shall so notify the parent of each child attending
5 the family day care home in writing within 10 days of the action.

6 e. (Deleted by amendment, P.L.1993, c.350).

7 (cf: P.L.1993, c.350, s.6)

8

9 107. Section 2 of P.L.1993, c.350 (C.30:5B-25.2) is amended to
10 read as follows:

11 2. As used in sections 1 through 4 of P.L.1993, c.350
12 (C.30:5B-25.1 through C.30:5B-25.4):

13 ["Central"] "Child abuse registry" means the [central] child abuse
14 registry of the Division of Youth and Family Services in the
15 Department of Human Services established pursuant to section 4 of
16 P.L.1971, c.437 (C.9:6-8.11).

17 "Provider" means a family day care provider as defined by section
18 3 of P.L.1987, c.27 (C.30:5B-18) and includes, but is not limited to,
19 a family day care provider's assistant and a substitute family day care
20 provider.

21 "Family day care sponsoring organization" means an agency or
22 organization which contracts with the [Division of Youth and Family]
23 Department of Human Services to assist in the registration of family
24 day care providers in a specific geographic area pursuant to P.L.1987,
25 c.27 (C.30:5B-16 et seq.).

26 "Household member" means an individual over 14 years of age who
27 resides in a family day care provider's home.

28 (cf: P.L.1993, c.350, s.2)

29

30 108. Section 3 of P.L.1993, c.350 (C.30:5B-25.3) is amended to
31 read as follows

32 3. a. The Division of Youth and Family Services in the Department
33 of Human Services shall conduct a search of its [central] child abuse
34 registry to determine if a report of child abuse or neglect has been
35 filed, pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), involving
36 a person registering as a prospective provider or a household member
37 of the prospective provider or as a current provider or household
38 member of the current provider.

39 b. The division shall conduct the search only upon receipt of the
40 prospective or current provider or household member's written consent
41 to the search. If the person refuses to provide his consent, the family
42 day care sponsoring organization shall deny the prospective or current
43 provider's application for a certificate or renewal of registration.

44 c. The division shall advise the sponsoring organization of the
45 results of the [central] child abuse registry search within a time period
46 to be determined by the Department of Human Services.

1 d. The [division] department shall not issue a certificate or
2 renewal of registration to a prospective or current provider unless the
3 [division] department has first determined that no substantiated
4 charge of child abuse or neglect against the prospective or current
5 provider or household member is found during the [central] child
6 abuse registry search.

7 (cf: P.L.1993, c.350, s.3)

8

9 109. Section 4 of P.L.1993, c.350 (C.30:5B-25.4) is amended to
10 read as follows:

11 4. In accordance with the "Administrative Procedure Act,"
12 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of Human
13 Services shall adopt rules and regulations necessary to implement the
14 provisions of sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1
15 through C.30:5B-25.4) including, but not limited to:

16 a. Implementation of an appeals process to be used in the case of
17 the denial of an application for a certificate or for renewal of
18 registration based upon information obtained during a [central] child
19 abuse registry search; and

20 b. Establishment of time limits for conducting a [central] child
21 abuse registry search and providing a family day care sponsoring
22 organization with the results of the search.

23 (cf: P.L.1993, c.350, s.4)

24

25 110. Section 3 of P.L.1993, c.98 (C.30:6D-35) is amended to read
26 as follows:

27 3. For the purposes of this act:

28 "Department" means the Department of Human Services.

29 "Family member with a developmental disability" means a person
30 who has a developmental disability as defined pursuant to section 3 of
31 the "Division of Developmental Disabilities Act," P.L.1985, c.145
32 (C.30:6D-25).

33 "Family" means the family member with a developmental disability
34 and his parents and siblings, or spouse and children.

35 "Family support services" means a coordinated system of ongoing
36 public and private support services which are designed to maintain and
37 enhance the quality of life of a family member with a developmental
38 disability and his family as set forth in section 4 of this act.

39 "Parent" means the biological or adoptive parent or uncompensated
40 [foster] resource family parent or legal guardian who cares for the
41 family member with a developmental disability and with whom the
42 family member with a developmental disability resides.

43 "System" means the Family Support System established pursuant to
44 section 4 of this act.

45 (cf: P.L.1993, c.98, s.3)

1 111. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
2 read as follows:

3 3. As used in this act:

4 a. "Child" means a biological, adopted, or [foster] resource family
5 child, stepchild, legal ward, or child of a parent who is

6 (1) under 18 years of age; or

7 (2) 18 years of age or older but incapable of self-care because of
8 a mental or physical impairment.

9 b. "Director" means the Director of the Division on Civil Rights.

10 c. "Division" means the Division on Civil Rights in the Department
11 of Law and Public Safety.

12 d. "Employ" means to suffer or permit to work for compensation,
13 and includes ongoing, contractual relationships in which the employer
14 retains substantial direct or indirect control over the employee's
15 employment opportunities or terms and conditions of employment.

16 e. "Employee" means a person who is employed for at least 12
17 months by an employer, with respect to whom benefits are sought
18 under this act, for not less than 1,000 base hours during the
19 immediately preceding 12-month period.

20 f. "Employer" means a person or corporation, partnership,
21 individual proprietorship, joint venture, firm or company or other
22 similar legal entity which engages the services of an employee and
23 which:

24 (1) With respect to the period of time from the effective date of
25 this act until the 365th day following the effective date of this act,
26 employs 100 or more employees for each working day during each of
27 20 or more calendar workweeks in the then current or immediately
28 preceding calendar year;

29 (2) With respect to the period of time from the 366th day following
30 the effective date of this act until the 1,095th day following the
31 effective date of this act, employs 75 or more employees for each
32 working day during each of 20 or more calendar workweeks in the
33 then current or immediately preceding calendar year; and

34 (3) With respect to any time after the 1,095th day following the
35 effective date of this act, employs 50 or more employees for each
36 working day during each of 20 or more calendar workweeks in the
37 then current or immediately preceding calendar year. "Employer"
38 includes the State, any political subdivision thereof, and all public
39 offices, agencies, boards or bodies.

40 g. "Employment benefits" means all benefits and policies provided
41 or made available to employees by an employer, and includes group
42 life insurance, health insurance, disability insurance, sick leave, annual
43 leave, pensions, or other similar benefits.

44 h. "Parent" means a person who is the biological parent, adoptive
45 parent, [foster] resource family parent, step-parent, parent-in-law or
46 legal guardian, having a "parent-child relationship" with a child as

1 defined by law, or having sole or joint legal or physical custody, care,
2 guardianship, or visitation with a child.

3 i. "Family leave" means leave from employment so that the
4 employee may provide care made necessary by reason of:

5 (1) the birth of a child of the employee;

6 (2) the placement of a child with the employee in connection with
7 adoption of such child by the employee; or

8 (3) the serious health condition of a family member of the
9 employee.

10 j. "Family member" means a child, parent, or spouse.

11 k. "Reduced leave schedule" means leave scheduled for fewer than
12 an employee's usual number of hours worked per workweek but not
13 for fewer than an employee's usual number of hours worked per
14 workday, unless agreed to by the employee and the employer.

15 l. "Serious health condition" means an illness, injury, impairment,
16 or physical or mental condition which requires:

17 (1) inpatient care in a hospital, hospice, or residential medical care
18 facility; or

19 (2) continuing medical treatment or continuing supervision by a
20 health care provider.

21 (cf: P.L.1989, c.261, s.3)

22

23 112. Section 1 of P.L.1999, c.410 (C.39:4-50.15) is amended to
24 read as follows:

25 1. a. As used in this act:

26 "Minor" means a person who is 17 years of age or younger.

27 "Parent or guardian" means any natural parent, adoptive parent,
28 [foster] resource family parent, stepparent, or any person temporarily
29 responsible for the care, custody or control of a minor or upon whom
30 there is a legal duty for such care, custody or control.

31 b. A parent or guardian who is convicted of a violation of
32 R.S.39:4-50 and who, at the time of the violation, has a minor as a
33 passenger in the motor vehicle is guilty of a disorderly persons offense.

34 c. In addition to the penalties otherwise prescribed by law, a
35 person who is convicted under subsection b. of this section shall forfeit
36 the right to operate a motor vehicle over the highways of this State for
37 a period of not more than six months and shall be ordered to perform
38 community service for a period of not more than five days.

39 (cf: P.L.1999, c.410, s.1)

40

41 113. Section 53 of P.L.1975, c.291 (C.40:55D-66) is amended to
42 read as follows:

43 53. a. For purposes of this act, model homes or sales offices
44 within a subdivision and only during the period necessary for the sale
45 of new homes within such subdivision shall not be considered a
46 business use.

1 b. No zoning ordinance governing the use of land by or for schools
2 shall, by any of its provisions or by any regulation adopted in
3 accordance therewith, discriminate between public and private
4 nonprofit day schools of elementary or high school grade accredited
5 by the State Department of Education.

6 c. No zoning ordinance shall, by any of its provisions or by any
7 regulation adopted in accordance therewith, discriminate between
8 children who are members of families by reason of their relationship
9 by blood, marriage or adoption, and **[foster] resource family** children
10 placed with such families in a dwelling by the Division of Youth and
11 Family Services in the Department of **[Institutions and Agencies]**
12 Human Services or a duly incorporated child care agency and children
13 placed pursuant to law in single family dwellings known as group
14 homes. As used in this section, the term "group home" means and
15 includes any single family dwelling used in the placement of children
16 pursuant to law recognized as a group home by the Department of
17 **[Institutions and Agencies]** Human Services in accordance with rules
18 and regulations adopted by the Commissioner of **[Institutions and**
19 **Agencies]** Human Services provided, however, that no group home
20 shall contain more than 12 children.

21 (cf: P.L.1975, c.291, s.53)

22

23 114. N.J.S.40A:10-16 is amended to read as follows:

24 40A:10-16. As used in this subarticle:

25 a. "Dependents" means an employee's spouse and the employee's
26 unmarried children, including stepchildren, legally adopted children,
27 and, at the option of the employer and the carrier, **[foster] children**
28 placed by the Division of Youth and Family Services, under the age of
29 19 who live with the employee in a regular parent-child relationship,
30 and may also include, at the option of the employer and the carrier,
31 other unmarried children of the employee under the age of 23 who are
32 dependent upon the employee for support and maintenance, but shall
33 not include a spouse or child while serving in the military service;

34 b. "Employees" may, at the option of the employer, include elected
35 officials, but shall not include persons employed on a short-term,
36 seasonal, intermittent or emergency basis, persons compensated on a
37 fee basis, or persons whose compensation from the employer is limited
38 to reimbursement of necessary expenses actually incurred in the
39 discharge of their duties;

40 c. "Federal Medicare Program" means the coverage provided
41 under Title XVIII of the Social Security Act as amended in 1965, or
42 its successor plan or plans.

43 (cf: N.J.S.40A:10-16)

44

45 115. Section 1 of P.L.1983, c.191 (C.40A:10-34.1) is amended to
46 read as follows:

1 1. Any municipality or county, or agency thereof, hereinafter
2 referred to as employers, may enter into contracts of group legal
3 insurance with any insurer authorized, pursuant to P.L.1981, c.160
4 (C.17:46C-1 et seq.), to engage in the business of legal insurance in
5 this State or may contract with a duly recognized prepaid legal
6 services plan with respect to the benefits which they are authorized to
7 provide. Such contract or contracts shall provide such coverage for
8 the employees of such employer and may include their dependents.
9 "Dependents" shall include an employee's spouse and the employee's
10 unmarried children, including stepchildren and legally adopted
11 children, and, at the option of the employer and the carrier, [foster]
12 children placed by the Division of Youth and Family Services in the
13 Department of Human Services, under the age of 19 who live with the
14 employee in a regular parent-child relationship, and may also include,
15 at the option of the employer and the carrier, other unmarried children
16 of the employee under the age of 23 who are dependent upon the
17 employee for support and maintenance. A spouse or child enlisting or
18 inducted into military service shall not be considered a dependent
19 during such military service.

20 Elected officials may be considered, at the option of the employer,
21 to be "employees" for the purposes hereof, but "employees" shall not
22 otherwise include persons employed on a short-term, seasonal,
23 intermittent or emergency basis, persons compensated on a fee basis,
24 or persons whose compensation from the public employer is limited to
25 reimbursement of necessary expenses actually incurred in the discharge
26 of their duties.

27 The contract shall include provisions to prevent duplication of
28 benefits and shall condition the eligibility of any employee for
29 coverage upon satisfying a waiting period stated in the contract.

30 The coverage of any employee, and of his dependents, if any, shall
31 cease upon the discontinuance of his employment or upon cessation of
32 active full-time employment in the classes eligible for coverage, subject
33 to such provision as may be made in any contract by his employer for
34 limited continuance of coverage during disability, part-time
35 employment, leave of absence other than leave for military service or
36 layoff, or for continuance of coverage after retirement.

37 (cf: P.L.1983, c.191, s.1)

38

39 116. R.S.43:21-4 is amended to read as follows:

40 43:21-4. Benefit eligibility conditions. An unemployed individual
41 shall be eligible to receive benefits with respect to any week only if:

42 (a) The individual has filed a claim at an unemployment insurance
43 claims office and thereafter continues to report at an employment
44 service office or unemployment insurance claims office, as directed by
45 the division in accordance with such regulations as the division may
46 prescribe, except that the division may, by regulation, waive or alter

1 either or both of the requirements of this subsection as to individuals
2 attached to regular jobs, and as to such other types of cases or
3 situations with respect to which the division finds that compliance with
4 such requirements would be oppressive, or would be inconsistent with
5 the purpose of this act; provided that no such regulation shall conflict
6 with subsection (a) of R.S.43:21-3.

7 (b) The individual has made a claim for benefits in accordance with
8 the provisions of subsection (a) of R.S.43:21-6.

9 (c) (1) The individual is able to work, and is available for work,
10 and has demonstrated to be actively seeking work, except as
11 hereinafter provided in this subsection or in subsection (f) of this
12 section.

13 (2) The director may modify the requirement of actively seeking
14 work if such modification of this requirement is warranted by
15 economic conditions.

16 (3) No individual, who is otherwise eligible, shall be deemed
17 ineligible, or unavailable for work, because the individual is on
18 vacation, without pay, during said week, if said vacation is not the
19 result of the individual's own action as distinguished from any
20 collective action of a collective bargaining agent or other action
21 beyond the individual's control.

22 (4) (A) Subject to such limitations and conditions as the division
23 may prescribe, an individual, who is otherwise eligible, shall not be
24 deemed unavailable for work or ineligible because the individual is
25 attending a training program approved for the individual by the
26 division to enhance the individual's employment opportunities or
27 because the individual failed or refused to accept work while attending
28 such program.

29 (B) For the purpose of this paragraph (4), any training program
30 shall be regarded as approved by the division for the individual if the
31 program and the individual meet the following requirements:

32 (i) The training is for a labor demand occupation and is likely to
33 enhance the individual's marketable skills and earning power;

34 (ii) The training is provided by a competent and reliable private or
35 public entity approved by the Commissioner of Labor pursuant to the
36 provisions of section 8 of the "1992 New Jersey Employment and
37 Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

38 (iii) The individual can reasonably be expected to complete the
39 program, either during or after the period of benefits;

40 (iv) The training does not include on the job training or other
41 training under which the individual is paid by an employer for work
42 performed by the individual during the time that the individual receives
43 benefits; and

44 (v) The individual enrolls in vocational training, remedial education
45 or a combination of both on a full-time basis.

46 (C) If the requirements of subparagraph (B) of this paragraph (4)

1 are met, the division shall not withhold approval of the training
2 program for the individual for any of the following reasons:

3 (i) The training includes remedial basic skills education necessary
4 for the individual to successfully complete the vocational component
5 of the training;

6 (ii) The training is provided in connection with a program under
7 which the individual may obtain a college degree, including a
8 post-graduate degree;

9 (iii) The length of the training period under the program; or

10 (iv) The lack of a prior guarantee of employment upon completion
11 of the training.

12 (D) For the purpose of this paragraph (4), "labor demand
13 occupation" means an occupation for which there is or is likely to be
14 an excess of demand over supply for adequately trained workers,
15 including, but not limited to, an occupation designated as a labor
16 demand occupation by the New Jersey Occupational Information
17 Coordinating Committee pursuant to the provisions of subsection h.
18 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
19 P.L.1992, c.43 (C.34:1A-78).

20 (5) An unemployed individual, who is otherwise eligible, shall not
21 be deemed unavailable for work or ineligible solely by reason of the
22 individual's attendance before a court in response to a summons for
23 service on a jury.

24 (6) An unemployed individual, who is otherwise eligible, shall not
25 be deemed unavailable for work or ineligible solely by reason of the
26 individual's attendance at the funeral of an immediate family member,
27 provided that the duration of the attendance does not extend beyond
28 a two-day period.

29 For purposes of this paragraph, "immediate family member"
30 includes any of the following individuals: father, mother,
31 mother-in-law, father-in-law, grandmother, grandfather, grandchild,
32 spouse, child, [foster] child placed by the Division of Youth and
33 Family Services in the Department of Human Services, sister or
34 brother of the unemployed individual and any relatives of the
35 unemployed individual residing in the unemployed individual's
36 household.

37 (7) No individual, who is otherwise eligible, shall be deemed
38 ineligible or unavailable for work with respect to any week because,
39 during that week, the individual fails or refuses to accept work while
40 the individual is participating on a full-time basis in self-employment
41 assistance activities authorized by the division, whether or not the
42 individual is receiving a self-employment allowance during that week.

43 (8) Any individual who is determined to be likely to exhaust
44 regular benefits and need reemployment services based on information
45 obtained by the worker profiling system shall not be eligible to receive
46 benefits if the individual fails to participate in available reemployment

1 services to which the individual is referred by the division or in similar
2 services, unless the division determines that:

3 (A) The individual has completed the reemployment services; or

4 (B) There is justifiable cause for the failure to participate, which
5 shall include participation in employment and training,
6 self-employment assistance activities or other activities authorized by
7 the division to assist reemployment or enhance the marketable skills
8 and earning power of the individual and which shall include any other
9 circumstance indicated pursuant to this section in which an individual
10 is not required to be available for and actively seeking work to receive
11 benefits.

12 (9) An unemployed individual, who is otherwise eligible, shall not
13 be deemed unavailable for work or ineligible solely by reason of the
14 individual's work as a board worker for a county board of elections on
15 an election day.

16 (d) With respect to any benefit year commencing before January 1,
17 2002, the individual has been totally or partially unemployed for a
18 waiting period of one week in the benefit year which includes that
19 week. When benefits become payable with respect to the third
20 consecutive week next following the waiting period, the individual
21 shall be eligible to receive benefits as appropriate with respect to the
22 waiting period. No week shall be counted as a week of unemployment
23 for the purposes of this subsection:

24 (1) If benefits have been paid, or are payable with respect thereto;
25 provided that the requirements of this paragraph shall be waived with
26 respect to any benefits paid or payable for a waiting period as provided
27 in this subsection;

28 (2) If it has constituted a waiting period week under the
29 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
30 seq.);

31 (3) Unless the individual fulfills the requirements of subsections (a)
32 and of this section;

33 (4) If with respect thereto, claimant was disqualified for benefits
34 in accordance with the provisions of subsection (d) of R.S.43:21-5.

35 The waiting period provided by this subsection shall not apply to
36 benefit years commencing on or after January 1, 2002. An individual
37 whose total benefit amount was reduced by the application of the
38 waiting period to a claim which occurred on or after January 1, 2002
39 and before the effective date of P.L.2002, c.13, shall be permitted to
40 file a claim for the additional benefits attributable to the waiting period
41 in the form and manner prescribed by the division, but not later than
42 the 180th day following the effective date of P.L.2002, c.13 unless the
43 division determines that there is good cause for a later filing.

44 (e) (1) (Deleted by amendment, P.L.2001, c.17).

45 (2) With respect to benefit years commencing on or after January
46 1, 1996 and before January 7, 2001, except as otherwise provided in

1 paragraph (3) of this subsection, the individual has, during his base
2 year as defined in subsection of R.S.43:21-19:

3 (A) Established at least 20 base weeks as defined in paragraph (2)
4 of subsection (t) of R.S.43:21-19; or

5 (B) ~~【f】~~ If the individual has not met the requirements of
6 subparagraph (A) of this paragraph (2), earned remuneration not less
7 than an amount 12 times the Statewide average weekly remuneration
8 paid to workers, as determined under R.S.43:21-3(c), which amount
9 shall be adjusted to the next higher multiple of ~~【\$100.00】~~\$100 if not
10 already a multiple thereof; or

11 If the individual has not met the requirements of subparagraph (A)
12 or (B) of this paragraph (2), earned remuneration not less than an
13 amount 1,000 times the minimum wage in effect pursuant to section
14 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
15 year preceding the calendar year in which the benefit year commences,
16 which amount shall be adjusted to the next higher multiple of
17 ~~【\$100.00】~~\$100 if not already a multiple thereof.

18 (3) With respect to benefit years commencing before January 7,
19 2001, notwithstanding the provisions of paragraph (2) of this
20 subsection, an unemployed individual claiming benefits on the basis of
21 service performed in the production and harvesting of agricultural
22 crops shall, subject to the limitations of subsection (i) of
23 R.S.43:21-19, be eligible to receive benefits if during his base year, as
24 defined in subsection of R.S.43:21-19, the individual:

25 (A) Has established at least 20 base weeks as defined in paragraph
26 (2) of subsection (t) of R.S.43:21-19; or

27 (B) Has earned 12 times the Statewide average weekly
28 remuneration paid to workers, as determined under R.S.43:21-3(c),
29 raised to the next higher multiple of \$100.00 if not already a multiple
30 thereof, or more; or

31 (C) Has performed at least 770 hours of service in the production
32 and harvesting of agricultural crops.

33 (4) With respect to benefit years commencing on or after January
34 7, 2001, except as otherwise provided in paragraph (5) of this
35 subsection, the individual has, during his base year as defined in
36 subsection of R.S.43:21-19:

37 (A) Established at least 20 base weeks as defined in paragraphs (2)
38 and (3) of subsection (t) of R.S.43:21-19; or

39 (B) If the individual has not met the requirements of subparagraph
40 (A) of this paragraph (4), earned remuneration not less than an amount
41 1,000 times the minimum wage in effect pursuant to section 5 of
42 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
43 preceding the calendar year in which the benefit year commences,
44 which amount shall be adjusted to the next higher multiple of \$100 if
45 not already a multiple thereof.

46 (5) With respect to benefit years commencing on or after January

1 7, 2001, notwithstanding the provisions of paragraph (4) of this
2 subsection, an unemployed individual claiming benefits on the basis of
3 service performed in the production and harvesting of agricultural
4 crops shall, subject to the limitations of subsection (i) of R.S.43:21-19,
5 be eligible to receive benefits if during his base year, as defined in
6 subsection of R.S.43:21-19, the individual:

7 (A) Has established at least 20 base weeks as defined in paragraphs
8 (2) and (3) of subsection (t) of R.S.43:21-19; or

9 (B) Has earned remuneration not less than an amount 1,000 times
10 the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
11 (C.34:11-56a4) on October 1 of the calendar year preceding the
12 calendar year in which the benefit year commences, which amount
13 shall be adjusted to the next higher multiple of \$100 if not already a
14 multiple thereof; or

15 (C) Has performed at least 770 hours of service in the production
16 and harvesting of agricultural crops.

17 (6) The individual applying for benefits in any successive benefit
18 year has earned at least six times his previous weekly benefit amount
19 and has had four weeks of employment since the beginning of the
20 immediately preceding benefit year. This provision shall be in addition
21 to the earnings requirements specified in paragraph (2), (3), (4) or (5)
22 of this subsection, as applicable.

23 (f) (1) The individual has suffered any accident or sickness not
24 compensable under the workers' compensation law, R.S.34:15-1 et
25 seq. and resulting in the individual's total disability to perform any
26 work for remuneration, and would be eligible to receive benefits under
27 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
28 amount of benefits payable during any benefit year) except for the
29 inability to work and has furnished notice and proof of claim to the
30 division, in accordance with its rules and regulations, and payment is
31 not precluded by the provisions of R.S.43:21-3(d); provided, however,
32 that benefits paid under this subsection (f) shall be computed on the
33 basis of only those base year wages earned by the claimant as a
34 "covered individual," as defined in R.S.43:21-27(b); provided further
35 that no benefits shall be payable under this subsection to any
36 individual:

37 (A) For any period during which such individual is not under the
38 care of a legally licensed physician, dentist, optometrist, podiatrist,
39 practicing psychologist or chiropractor;

40 (B) (Deleted by amendment, P.L.1980, c.90.)

41 (C) For any period of disability due to willfully or intentionally
42 self-inflicted injury, or to injuries sustained in the perpetration by the
43 individual of a crime of the first, second or third degree;

44 (D) For any week with respect to which or a part of which the
45 individual has received or is seeking benefits under any unemployment
46 compensation or disability benefits law of any other state or of the

1 United States; provided that if the appropriate agency of such other
2 state or the United States finally determines that the individual is not
3 entitled to such benefits, this disqualification shall not apply;

4 (E) For any week with respect to which or part of which the
5 individual has received or is seeking disability benefits under the
6 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
7 seq.);

8 (F) For any period of disability commencing while such individual
9 is a "covered individual," as defined in subsection (b) of section 3 of
10 the "Temporary Disability Benefits Law," P.L.1948, c.110
11 (C.43:21-27).

12 (2) Benefit payments under this subsection (f) shall be charged to
13 and paid from the State disability benefits fund established by the
14 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
15 seq.), and shall not be charged to any employer account in computing
16 any employer's experience rate for contributions payable under this
17 chapter.

18 (g) Benefits based on service in employment defined in
19 subparagraphs (B) and of R.S.43:21-19 (i)(1) shall be payable in the
20 same amount and on the terms and subject to the same conditions as
21 benefits payable on the basis of other service subject to the
22 "unemployment compensation law"; except that, notwithstanding any
23 other provisions of the "unemployment compensation law":

24 (1) With respect to service performed after December 31, 1977, in
25 an instructional research, or principal administrative capacity for an
26 educational institution, benefits shall not be paid based on such
27 services for any week of unemployment commencing during the period
28 between two successive academic years, or during a similar period
29 between two regular terms, whether or not successive, or during a
30 period of paid sabbatical leave provided for in the individual's contract,
31 to any individual if such individual performs such services in the first
32 of such academic years (or terms) and if there is a contract or a
33 reasonable assurance that such individual will perform services in any
34 such capacity for any educational institution in the second of such
35 academic years or terms;

36 (2) With respect to weeks of unemployment beginning after
37 September 3, 1982, on the basis of service performed in any other
38 capacity for an educational institution, benefits shall not be paid on the
39 basis of such services to any individual for any week which commences
40 during a period between two successive academic years or terms if
41 such individual performs such services in the first of such academic
42 years or terms and there is a reasonable assurance that such individual
43 will perform such services in the second of such academic years or
44 terms, except that if benefits are denied to any individual under this
45 paragraph (2) and the individual was not offered an opportunity to
46 perform these services for the educational institution for the second of

1 any academic years or terms, the individual shall be entitled to a
2 retroactive payment of benefits for each week for which the individual
3 filed a timely claim for benefits and for which benefits were denied
4 solely by reason of this clause;

5 (3) With respect to those services described in paragraphs (1) and
6 (2) above, benefits shall not be paid on the basis of such services to
7 any individual for any week which commences during an established
8 and customary vacation period or holiday recess if such individual
9 performs such services in the period immediately before such vacation
10 period or holiday recess, and there is a reasonable assurance that such
11 individual will perform such services in the period immediately
12 following such period or holiday recess;

13 (4) With respect to any services described in paragraphs (1) and
14 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
15 and (3) above to any individual who performed those services in an
16 educational institution while in the employ of an educational service
17 agency, and for this purpose the term "educational service agency"
18 means a governmental agency or governmental entity which is
19 established and operated exclusively for the purpose of providing
20 those services to one or more educational institutions.

21 (h) Benefits shall not be paid to any individual on the basis of any
22 services, substantially all of which consist of participating in sports or
23 athletic events or training or preparing to so participate, for any week
24 which commences during the period between two successive sports
25 seasons (or similar periods) if such individual performed such services
26 in the first of such seasons (or similar periods) and there is a
27 reasonable assurance that such individual will perform such services in
28 the later of such seasons (or similar periods).

29 (i) (1) Benefits shall not be paid on the basis of services performed
30 by an alien unless such alien is an individual who was lawfully admitted
31 for permanent residence at the time the services were performed and
32 was lawfully present for the purpose of performing the services or
33 otherwise was permanently residing in the United States under color
34 of law at the time the services were performed (including an alien who
35 is lawfully present in the United States as a result of the application of
36 the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the
37 Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided
38 that any modifications of the provisions of section 3304(a)(14) of the
39 Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as
40 provided by Pub.L.94-566, which specify other conditions or other
41 effective dates than stated herein for the denial of benefits based on
42 services performed by aliens and which modifications are required to
43 be implemented under State law as a condition for full tax credit
44 against the tax imposed by the Federal Unemployment Tax Act, shall
45 be deemed applicable under the provisions of this section.

46 (2) Any data or information required of individuals applying for

1 benefits to determine whether benefits are not payable to them because
2 of their alien status shall be uniformly required from all applicants for
3 benefits.

4 (3) In the case of an individual whose application for benefits
5 would otherwise be approved, no determination that benefits to such
6 individual are not payable because of alien status shall be made except
7 upon a preponderance of the evidence.

8 (j) Notwithstanding any other provision of this chapter, the
9 director may, to the extent that it may be deemed efficient and
10 economical, provide for consolidated administration by one or more
11 representatives or deputies of claims made pursuant to subsection (f)
12 of this section with those made pursuant to Article III (State plan) of
13 the "Temporary Disability Benefits Law," P.L.1948, c.110
14 (C.43:21-25 et seq.).

15 (cf: P.L.2002, c.94, s.1.)

16

17 117. Section 2 of P.L.1997, c.38 (C.44:10-56) is amended to read
18 as follows:

19 2. The Legislature finds and declares that:

20 a. The federal "Personal Responsibility and Work Opportunity
21 Reconciliation Act of 1996," Pub.L.104-193, establishes the federal
22 block grant for temporary assistance for needy families and provides
23 the opportunity for a state to establish and design its own welfare
24 program;

25 b. Work and the earning of income promote the best interests of
26 families and children;

27 c. Working individuals and families needing temporary assistance
28 should have the transitional support necessary to obtain and keep a
29 job in order to be able to avoid cycling back onto public assistance;

30 d. Teenage pregnancy is counter to the best interests of children;

31 e. Successful welfare reform requires the active involvement of the
32 private sector as well as all departments of State government;

33 f. Personal and family security and stability, including the
34 protection of children and vulnerable adults, are important to the
35 establishment and maintenance of successful family life and childhood
36 development and a family's inability or failure to qualify for benefits
37 under the Work First New Jersey program established pursuant to this
38 act shall not in and of itself be the basis for the separation of a
39 dependent child from his family or the justification for the [foster]
40 resource family care placement of a dependent child;

41 g. Children and teenagers need the benefits of the support and
42 guidance which a family structure provides; the welfare system has
43 provided a vehicle for breaking up families by giving teenage mothers
44 the means to shift their financial dependence from their parents to the
45 State; in the process, these youths deprive themselves of the education
46 and family structure necessary to support themselves and their babies;

1 and the support and structure provided by families are important to the
2 development of a child's maximum potential; and

3 h. The Work First New Jersey program established pursuant to this
4 act incorporates and builds upon the fundamental concepts of the
5 Family Development Initiative established pursuant to P.L.1991, c.523
6 (C.44:10-19 et seq.) in a manner that is consistent with the federal
7 program of temporary assistance for needy families, by establishing
8 requirements for: time limits on cash assistance; the participation of
9 recipients in work activities; enhanced efforts to establish paternity and
10 establish and enforce child support obligations; sanctions for failure to
11 comply with program requirements; a cap on the use of funds for
12 administrative costs; the maintenance of State and county financial
13 support of the program; teenage parent recipients to live at home and
14 finish high school; and restrictions on eligibility for benefits for aliens.
15 (cf: P.L.1997, c.38, s.2)

16

17 118. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
18 read as follows:

19 2. As used in this act:

20 (a) The term "State" means the State of New Jersey.

21 (b) The term "commission" means the State Health Benefits
22 Commission, created by section 3 of this act.

23 (c) The term "employee" means an appointive or elective officer or
24 full-time employee of the State of New Jersey. For the purposes of
25 this act an employee of Rutgers, The State University of New Jersey,
26 shall be deemed to be an employee of the State, and an employee of
27 the New Jersey Institute of Technology shall be considered to be an
28 employee of the State during such time as the Trustees of the Institute
29 are party to a contractual agreement with the State Treasurer for the
30 provision of educational services. The term "employee" shall further
31 mean, for purposes of this act, a former employee of the South Jersey
32 Port Corporation, who is employed by a subsidiary corporation or
33 other corporation, which has been established by the Delaware River
34 Port Authority pursuant to subdivision (m) of Article I of the compact
35 creating the Delaware River Port Authority (R.S.32:3-2), as defined
36 in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for
37 continued membership in the Public Employees' Retirement System
38 pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

39 For the purposes of this act the term "employee" shall not include
40 persons employed on a short-term, seasonal, intermittent or emergency
41 basis, persons compensated on a fee basis, persons having less than
42 two months of continuous service or persons whose compensation
43 from the State is limited to reimbursement of necessary expenses
44 actually incurred in the discharge of their official duties. An employee
45 paid on a 10-month basis, pursuant to an annual contract, will be
46 deemed to have satisfied the two-month waiting period if the employee

1 begins employment at the beginning of the contract year. The term
2 "employee" shall also not include retired persons who are otherwise
3 eligible for benefits under this act but who, although they meet the age
4 eligibility requirement of Medicare, are not covered by the complete
5 federal program. A determination by the commission that a person is
6 an eligible employee within the meaning of this act shall be final and
7 shall be binding on all parties.

8 (d) (1) The term "dependents" means an employee's spouse, or an
9 employee's domestic partner as defined in section 3 of P.L.2003, c.246
10 (C.26:8A-3), and the employee's unmarried children under the age of
11 23 years who live with the employee in a regular parent-child
12 relationship. "Children" shall include stepchildren, legally adopted
13 children and [foster] children placed by the Division of Youth and
14 Family Services, provided they are reported for coverage and are
15 wholly dependent upon the employee for support and maintenance. A
16 spouse, domestic partner or child enlisting or inducted into military
17 service shall not be considered a dependent during the military service.
18 The term "dependents" shall not include spouses or domestic partners
19 of retired persons who are otherwise eligible for the benefits under this
20 act but who, although they meet the age eligibility requirement of
21 Medicare, are not covered by the complete federal program.

22 (2) Notwithstanding the provisions of paragraph (1) of this
23 subsection to the contrary and subject to the provisions of paragraph
24 (3) of this subsection, for the purposes of an employer other than the
25 State that is participating in the State Health Benefits Program
26 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
27 "dependents" means an employee's spouse and the employee's
28 unmarried children under the age of 23 years who live with the
29 employee in a regular parent-child relationship. "Children" shall
30 include stepchildren, legally adopted children and [foster] children
31 placed by the Division of Youth and Family Services in the
32 Department of Human Services provided they are reported for
33 coverage and are wholly dependent upon the employee for support and
34 maintenance. A spouse or child enlisting or inducted into military
35 service shall not be considered a dependent during the military service.
36 The term "dependents" shall not include spouses of retired persons
37 who are otherwise eligible for benefits under P.L.1961, c.49
38 (C.52:14-17.25 et seq.) but who, although they meet the age eligibility
39 requirement of Medicare, are not covered by the complete federal
40 program.

41 (3) An employer other than the State that is participating in the
42 State Health Benefits Program pursuant to section 3 of P.L.1964,
43 c.125 (C.52:14-17.34) may adopt a resolution providing that the term
44 "dependents" as defined in paragraph (2) of this subsection shall
45 include domestic partners as provided in paragraph (1) of this
46 subsection.

1 (e) The term "carrier" means a voluntary association, corporation
2 or other organization, including a health maintenance organization as
3 defined in section 2 of the "Health Maintenance Organizations Act,"
4 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
5 or paying for or reimbursing the cost of, personal health services,
6 including hospitalization, medical and surgical services, under
7 insurance policies or contracts, membership or subscription contracts,
8 or the like, in consideration of premiums or other periodic charges
9 payable to the carrier.

10 (f) The term "hospital" means (1) an institution operated pursuant
11 to law which is primarily engaged in providing on its own premises,
12 for compensation from its patients, medical diagnostic and major
13 surgical facilities for the care and treatment of sick and injured persons
14 on an inpatient basis, and which provides such facilities under the
15 supervision of a staff of physicians and with 24 hour a day nursing
16 service by registered graduate nurses, or (2) an institution not meeting
17 all of the requirements of (1) but which is accredited as a hospital by
18 the Joint Commission on Accreditation of Hospitals. In no event shall
19 the term "hospital" include a convalescent nursing home or any
20 institution or part thereof which is used principally as a convalescent
21 facility, residential center for the treatment and education of children
22 with mental disorders, rest facility, nursing facility or facility for the
23 aged or for the care of drug addicts or alcoholics.

24 (g) The term "State managed care plan" means a health care plan
25 under which comprehensive health care services and supplies are
26 provided to eligible employees, retirees, and dependents: (1) through
27 a group of doctors and other providers employed by the plan; or (2)
28 through an individual practice association, preferred provider
29 organization, or point of service plan under which services and
30 supplies are furnished to plan participants through a network of
31 doctors and other providers under contracts or agreements with the
32 plan on a prepayment or reimbursement basis and which may provide
33 for payment or reimbursement for services and supplies obtained
34 outside the network. The plan may be provided on an insured basis
35 through contracts with carriers or on a self-insured basis, and may be
36 operated and administered by the State or by carriers under contracts
37 with the State.

38 (h) The term "Medicare" means the program established by the
39 "Health Insurance for the Aged Act," Title XVIII of the "Social
40 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
41 or its successor plan or plans.

42 (i) The term "traditional plan" means a health care plan which
43 provides basic benefits, extended basic benefits and major medical
44 expense benefits as set forth in section 5 of P.L.1961, c.49
45 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
46 dependents for expenses for covered health care services and supplies

1 through payments to providers or reimbursements to participants.
2 (cf: P.L.2003, c.246, s.41)

3
4 119. Section 5 of P.L.2003, c.187 (C.52:17D-5) is amended to
5 read as follows:

6 5. The child advocate may:

7 a. Investigate, review, monitor or evaluate any State agency
8 response to, or disposition of, an allegation of child abuse or neglect
9 in this State;

10 b. Inspect and review the operations, policies and procedures of:

11 (1) juvenile detention centers operated by the counties or the
12 Juvenile Justice Commission;

13 (2) **[foster] resource family** homes, group homes, residential
14 treatment facilities, shelters for the care of abused or neglected
15 children, shelters for the care of juveniles considered as juvenile-family
16 crisis cases, shelters for the care of homeless youth, or independent
17 living arrangements operated by or approved for payment by the
18 Department of Human Services; and

19 (3) any other public or private residential setting in which a child
20 has been placed by a State or county agency or department.

21 c. Review, evaluate, report on and make recommendations
22 concerning the procedures established by any State agency providing
23 services to children who are at risk of abuse or neglect, children in
24 State or institutional custody, or children who receive child protective
25 or permanency services;

26 d. Review, monitor and report on the performance of State-funded
27 private entities charged with the care and supervision of children due
28 to abuse or neglect by conducting research audits or other studies of
29 case records, policies, procedures and protocols, as deemed necessary
30 by the child advocate to assess the performance of the entities;

31 e. Receive, investigate and make referrals to other agencies or take
32 other appropriate actions with respect to a complaint received by the
33 office regarding the actions of a State, county or municipal agency or
34 a State-funded private entity providing services to children who are at
35 risk of abuse or neglect;

36 f. Hold a public hearing on the subject of an investigation or study
37 underway by the office, and receive testimony from agency and
38 program representatives, the public and other interested parties, as the
39 child advocate deems appropriate; and

40 g. Establish and maintain a 24-hour toll-free telephone hotline to
41 receive and respond to calls from citizens referring problems to the
42 child advocate, both individual and systemic, in how the State, through
43 its agencies or contract services, protects children.

44 (cf: P.L.2003, c.187, s.5)

45
46 120. Section 9 of P.L.2003, c.187 (C.52:17D-9) is amended to

1 read as follows:

2 9. The child advocate shall seek to ensure the protection of
3 children who are in an institution or [foster] resource family care by
4 reviewing, evaluating and monitoring the operation and activities of
5 the Institutional Abuse Investigation Unit in the Department of Human
6 Services.

7 a. In order to enable the child advocate to carry out its
8 responsibilities under this section, the Institutional Abuse Investigation
9 Unit shall:

10 (1) promptly notify the child advocate of any allegations of abuse
11 or neglect made against an institution or [foster] resource family
12 home serving children in this State;

13 (2) promptly provide the child advocate with a copy of the unit's
14 response to the complaint and the actions taken by the unit to address
15 the complaint;

16 (3) provide the child advocate with monthly updates of the status
17 of actions proposed by the unit regarding an existing complaint that
18 has not been resolved; and

19 (4) provide the child advocate with such other information as the
20 child advocate may deem necessary to carry out his responsibilities to
21 review, evaluate and monitor the operation and activities of the unit.

22 b. As used in this section, "institution" means a public or private
23 facility, in this State or out-of-State, that provides children with
24 out-of-home care, supervision or maintenance. Institution includes,
25 but is not limited to: a correctional facility, detention facility,
26 treatment facility, child care center, group home, residential school,
27 shelter, psychiatric hospital and developmental center.

28 (cf: P.L.2003, c.187, s.9)

29

30 121. Section 2 of P.L.1985, c.69 (C.53:1-20.6) is amended to read
31 as follows:

32 2. a. The Superintendent of State Police, with the approval of the
33 Attorney General, shall, pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
35 regulations authorizing the dissemination, by the State Bureau of
36 Identification, of criminal history record background information
37 requested by State, county and local government agencies, including
38 the Division of State Police, in noncriminal matters, or requested by
39 individuals, nongovernmental entities or other governmental entities
40 whose access to such criminal history record background information
41 is not prohibited by law. A fee not to exceed \$30 shall be imposed for
42 processing fingerprint identification checks; a fee not to exceed \$18
43 shall be imposed for processing criminal history name search
44 identification checks. These fees shall be in addition to any other fees
45 required by law. In addition to any fee specified herein, a
46 nonrefundable fee, the amount of which shall be determined by the

1 Superintendent of State Police, with the approval of the Attorney
2 General, shall be collected to cover the cost of securing and processing
3 a federal criminal records check for each applicant.

4 b. State, county and local government agencies, including the
5 Division of State Police, and nongovernmental entities are authorized
6 to impose and collect the processing fee established pursuant to
7 subsection a. of this section from the person for whom the criminal
8 history record background check is being processed or from the party
9 requesting the criminal history record background check. The
10 Superintendent of State Police shall provide this processing service
11 without the collection of fees from the applicants in processing
12 background checks of prospective ~~[foster]~~ resource family parents or
13 members of their immediate families. In such cases, the Department of
14 Human Services shall be responsible for paying the fees imposed
15 pursuant to subsection a. of this section. Nothing in this section shall
16 prohibit the Superintendent of State Police, with the approval of the
17 Attorney General, from providing this processing service without the
18 collection of fees from the applicant in other circumstances which in
19 his sole discretion he deems appropriate, if the applicants would not
20 receive a wage or salary for the time and services they provide to an
21 organization or who are considered volunteers. In those circumstances
22 where the Superintendent of State Police, with the approval of the
23 Attorney General, determines to provide this processing service
24 without the collection of fees to the individual applicants, the
25 superintendent may assess the fees for providing this service on behalf
26 of the applicants to any department of State, county or municipal
27 government which is responsible for operating or overseeing that
28 volunteer program. The agencies shall transfer all moneys collected
29 for the processing fee to the Division of State Police.

30 (cf: P.L.2003, c.117, s.17)

31

32 122. Section 8 of P.L.2000, c.77 (C.53:1-20.9b) is amended to
33 read as follows:

34 8. a. The Commissioner of Human Services is authorized to
35 exchange fingerprint data with, and to receive information from, the
36 Division of State Police in the Department of Law and Public Safety
37 and the Federal Bureau of Investigation.

38 Upon receipt of the criminal history record information for an
39 applicant or staff member of a child care center from the Federal
40 Bureau of Investigation and the Division of State Police, the ~~[Division
41 of Youth and Family]~~ Department of Human Services shall notify the
42 applicant or staff member, as applicable, and the child care center, in
43 writing, of the applicant's or staff member's qualification or
44 disqualification for employment or service under P.L.2000, c.77
45 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified,
46 the convictions that constitute the basis for the disqualification shall

1 be identified in the written notice to the applicant or staff member.
2 The applicant or staff member shall have 14 days from the date of the
3 written notice of disqualification to challenge the accuracy of the
4 criminal history record information. If no challenge is filed or if the
5 determination of the accuracy of the criminal history record
6 information upholds the disqualification, the [Division of Youth and
7 Family] Department of Human Services shall notify the center that the
8 applicant or staff member has been disqualified from employment.

9 b. The Division of State Police shall promptly notify the [Division
10 of Youth and Family] Department of Human Services in the event an
11 applicant or staff member who was the subject of a criminal history
12 record background check conducted pursuant to subsection a. of this
13 section, is convicted of a crime or offense in this State after the date
14 the background check was performed. Upon receipt of such
15 notification, the [Division of Youth and Family] Department of
16 Human Services shall make a determination regarding the employment
17 of the applicant or staff member.

18 (cf: P.L.2000, c.77, s.8)

19

20 123. Section 3 of P.L.1979, c.496 (C.55:13B-3) is amended to
21 read as follows:

22 3. As used in this act:

23 a. "Boarding house" means any building, together with any related
24 structure, accessory building, any land appurtenant thereto, and any
25 part thereof, which contains two or more units of dwelling space
26 arranged or intended for single room occupancy, exclusive of any such
27 unit occupied by an owner or operator, and wherein personal or
28 financial services are provided to the residents, including any
29 residential hotel or congregate living arrangement, but excluding any
30 hotel, motel or established guest house wherein a minimum of 85% of
31 the units of dwelling space are offered for limited tenure only, any
32 [foster] resource family home as defined in section 1 of P.L.1962,
33 c.137 (C.30:4C-26.1), any community residence for the
34 developmentally disabled and any community residence for the
35 mentally ill as defined in section 2 of P.L.1977, c.448 (C.30:11B-2),
36 any adult family care home as defined in section 3 of P.L.2001, c.304
37 (C.26:2Y-3), any dormitory owned or operated on behalf of any
38 nonprofit institution of primary, secondary or higher education for the
39 use of its students, any building arranged for single room occupancy
40 wherein the units of dwelling space are occupied exclusively by
41 students enrolled in a full-time course of study at an institution of
42 higher education approved by the New Jersey Commission on Higher
43 Education, any facility or living arrangement operated by, or under
44 contract with, any State department or agency, upon the written
45 authorization of the commissioner, and any owner-occupied,
46 one-family residential dwelling made available for occupancy by not

- 1 more than six guests, where the primary purpose of the occupancy is
2 to provide charitable assistance to the guests and where the owner
3 derives no income from the occupancy. A dwelling shall be deemed
4 "owner-occupied" within the meaning of this section if it is owned or
5 operated by a nonprofit religious or charitable association or
6 corporation and is used as the principal residence of a minister or
7 employee of that corporation or association. For any such dwelling,
8 however, fire detectors shall be required as determined by the
9 Department of Community Affairs.
- 10 b. "Commissioner" means the Commissioner of the Department of
11 Community Affairs.
- 12 c. "Financial services" means any assistance permitted or required
13 by the commissioner to be furnished by an owner or operator to a
14 resident in the management of personal financial matters, including,
15 but not limited to, the cashing of checks, holding of personal funds for
16 safekeeping in any manner or assistance in the purchase of goods or
17 services with a resident's personal funds.
- 18 d. "Limited tenure" means residence at a rooming or boarding
19 house on a temporary basis, for a period lasting no more than 90 days,
20 when a resident either maintains a primary residence at a location other
21 than the rooming or boarding house or intends to establish a primary
22 residence at such a location and does so within 90 days after taking up
23 original residence at the rooming or boarding house.
- 24 e. "Operator" means any individual who is responsible for the daily
25 operation of a rooming or boarding house.
- 26 f. "Owner" means any person who owns, purports to own, or
27 exercises control of any rooming or boarding house.
- 28 g. "Personal services" means any services permitted or required to
29 be furnished by an owner or operator to a resident, other than shelter,
30 including, but not limited to, meals or other food services, and
31 assistance in dressing, bathing or attending to other personal needs.
- 32 h. "Rooming house" means a boarding house wherein no personal
33 or financial services are provided to the residents.
- 34 i. "Single room occupancy" means an arrangement of dwelling
35 space which does not provide a private, secure dwelling space
36 arranged for independent living, which contains both the sanitary and
37 cooking facilities required in dwelling spaces pursuant to the "Hotel
38 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and
39 which is not used for limited tenure occupancy in a hotel, motel or
40 established guest house, regardless of the number of individuals
41 occupying any room or rooms.
- 42 j. "Unit of dwelling space" means any room, rooms, suite, or
43 portion thereof, whether furnished or unfurnished, which is occupied
44 or intended, arranged or designed to be occupied for sleeping or
45 dwelling purposes by one or more persons.
- 46 k. "Alzheimer's disease and related disorders" means a form of

1 dementia characterized by a general loss of intellectual abilities of
2 sufficient severity to interfere with social or occupational functioning.

3 1. "Dementia" means a chronic or persistent disorder of the mental
4 processes due to organic brain disease, for which no curative treatment
5 is available, and marked by memory disorders, changes in personality,
6 deterioration in personal care, impaired reasoning ability and
7 disorientation.

8 (cf: P.L.2001, c.304, s.12)

9

10 124. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to
11 read as follows:

12 3. As used in this act:

13 a. "Agency" means the New Jersey Housing and Mortgage Finance
14 Agency as consolidated by section 4 of P.L.1983, c.530 (C.55:14K-4),
15 or, if that agency shall be abolished by law, the person, board, body or
16 commission succeeding to the powers and duties thereof or to whom
17 its powers and duties shall be given by law.

18 b. "Boarding house" means any building, together with any related
19 structure, accessory building, any land appurtenant thereto, and any
20 part thereof, which contains two or more units of dwelling space
21 arranged or intended for single room occupancy, exclusive of any such
22 unit occupied by an owner or operator, including:

23 (1) any residential hotel or congregate living arrangement, but
24 excluding any hotel, motel or established guesthouse wherein a
25 minimum of 85% of the units of dwelling space are offered for limited
26 tenure only; (2) a residential health care facility as defined in section
27 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971,
28 c.136 (C.26:2H-1 et seq.); (3) any [foster] resource family home as
29 defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any
30 community residence for the developmentally disabled as defined in
31 section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory owned
32 or operated on behalf of any nonprofit institution of primary,
33 secondary or higher education for the use of its students; (6) any
34 building arranged for single room occupancy wherein the units of
35 dwelling space are occupied exclusively by students enrolled in a
36 full-time course of study at an institution of higher education approved
37 by the Department of Higher Education; and (7) any facility or living
38 arrangement operated by, or under contract with, any State
39 department or agency.

40 c. "Bonds" mean any bonds, notes, bond anticipation notes,
41 debentures or other evidences of financial indebtedness issued by the
42 agency pursuant to this act.

43 d. "Continuing-care retirement community" means any work or
44 undertaking, whether new construction, improvement or rehabilitation,
45 which may be financed in part or in whole by the agency and which is
46 designed to complement fully independent residential units with social

1 and health care services (usually including nursing and medical
2 services) for retirement families and which is intended to provide
3 continuing care for the term of a contract in return for an entrance fee
4 or periodic payments, or both, and which may include such
5 appurtenances and facilities as the agency deems to be necessary,
6 convenient or desirable.

7 e. "Eligible loan" means a loan, secured or unsecured, made for the
8 purpose of financing the operation, maintenance, construction,
9 acquisition, rehabilitation or improvement of property, or the
10 acquisition of a direct or indirect interest in property, located in the
11 State, which is or shall be: (1) primarily residential in character or (2)
12 used or to be used to provide services to the residents of an area or
13 project which is primarily residential in character. The agency shall
14 adopt regulations defining the term "primarily residential in character,"
15 which may include single-family, multi-family and congregate or other
16 single room occupancy housing, continuing-care retirement
17 communities, mobile homes and nonhousing properties and facilities
18 which enhance the livability of the residential property or area; and
19 specifying the types of residential services and facilities for which
20 eligible loans may be made, which may include, but shall not be limited
21 to, parking facilities, streets, sewers, utilities, and administrative,
22 community, educational, welfare and recreational facilities, food,
23 laundry, health and other services and commercial establishments and
24 professional offices providing supplies and services enhancing the area.
25 The term "loan" includes an obligation the return on which may vary
26 with any appreciation in value of the property or interest in property
27 financed with the proceeds of the loan, or a co-ventured instrument by
28 which an institutional lender or the agency assumes an equity position
29 in the property. Any undivided interest in an eligible loan shall qualify
30 as an eligible loan.

31 f. "Family" means two or more persons who live or expect to live
32 together as a single household in the same dwelling unit; but any
33 individual who (1) has attained retirement age as defined in section
34 216a of the federal Social Security Act, or (2) is under a disability as
35 defined in section 223 of that act, or (3) such other individuals as the
36 agency by rule or regulation shall include, shall be considered as a
37 family for the purpose of this act; and the surviving member of a family
38 whose other members died during occupancy of a housing project shall
39 be considered as a family for the purposes of permitting continued
40 occupancy of the dwelling unit occupied by such family.

41 g. "Gross aggregate family income" means the total annual income
42 of all members of a family, from whatever source derived, including
43 but not limited to, pension, annuity, retirement and social security
44 benefits; except that there may be excluded from income (1) such
45 reasonable allowances for dependents, (2) such reasonable allowances
46 for medical expenses, (3) all or any proportionate part of the earnings

1 of gainfully employed minors, or (4) such income as is not received
2 regularly, as the agency by rule or regulation may determine.

3 h. "Housing project" or "project" means any work or undertaking,
4 other than a continuing-care community, whether new construction,
5 improvement, rehabilitation, or acquisition of existing buildings or
6 units which is designed for the primary purpose of providing
7 multi-family rental housing or acquisition of sites for future
8 multi-family rental housing.

9 i. "Housing sponsor" means any person, partnership, corporation
10 or association, whether organized as for profit or not for profit, to
11 which the agency has made or proposes to make a loan, either directly
12 or through an institutional lender, for a housing project.

13 j. "Institutional lender" means any bank or trust company, savings
14 bank, national banking association, savings and loan association, or
15 building and loan association maintaining an office in the State, or any
16 insurance company or any mortgage banking firm or mortgage banking
17 corporation authorized to transact business in the State.

18 k. "Life safety improvement" means any addition, modification or
19 repair to a boarding house which is necessary to improve the life safety
20 of the residents of the boarding house, as certified by the Department
21 of Community Affairs, including, but not limited to, the correction of
22 a violation of the "State Uniform Construction Code Act," P.L.1975,
23 c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act
24 of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire
25 Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the
26 administrative regulations promulgated in accordance with these acts.

27 l. "Life safety improvement loan" means an eligible loan the
28 proceeds of which are to be used to finance, in whole or in part, the
29 construction, acquisition or rendering of life safety improvements at
30 or to boarding houses.

31 m. "Loan originator" means any bank or trust company, savings
32 bank, national banking association, savings and loan association, or
33 building and loan association maintaining an office in the State, or any
34 insurance company or any mortgage banking firm or mortgage banking
35 corporation authorized to transact business in the State, or any agency
36 or instrumentality of the United States or the State or a political
37 subdivision of the State, which is authorized to make eligible loans.

38 n. "Municipality" means any city of any class or any town,
39 township, village or borough.

40 o. "Mutual housing" means a housing project operated or to be
41 operated upon completion of construction, improvement or
42 rehabilitation exclusively for the benefit of the families who are
43 entitled to occupancy by reason of ownership of stock in the housing
44 sponsor, or by reason of co-ownership of premises in a horizontal
45 property regime pursuant to P.L.1963, c.168; but the agency may
46 adopt rules and regulations permitting a reasonable percentage of

1 space in such project to be rented for residential or for commercial
2 use.

3 p. "Persons and families of low and moderate income" mean
4 persons and families, irrespective of race, creed, national origin or sex,
5 determined by the agency to require assistance on account of personal
6 or family income being not sufficient to afford adequate housing. In
7 making such determination the agency shall take into account the
8 following:

9 (1) the amount of the total income of such persons and families
10 available for housing needs, (2) the size of the family, (3) the cost and
11 condition of housing facilities available and (4) the eligibility of such
12 persons and families to compete successfully in the normal housing
13 market and to pay the amounts at which private enterprise is providing
14 sanitary, decent and safe housing. In the case of projects with respect
15 to which income limits have been established by any agency of the
16 federal government having jurisdiction thereover for the purpose of
17 defining eligibility of low and moderate income families, the agency
18 may determine that the limits so established shall govern. In all other
19 cases income limits for the purpose of defining low or moderate
20 income persons shall be established by the agency in its rules and
21 regulations.

22 q. "Project cost" means the sum total of all costs incurred in the
23 acquisition, development, construction, improvement or rehabilitation
24 of a housing project, which are approved by the agency as reasonable
25 or necessary, which costs shall include, but are not necessarily limited
26 to, (1) cost of land acquisition and any buildings thereon, (2) cost of
27 site preparation, demolition and development, (3) architect, engineer,
28 legal, agency and other fees paid or payable in connection with the
29 planning, execution and financing of the project, (4) cost of necessary
30 studies, surveys, plans and permits, (5) insurance, interest, financing,
31 tax and assessment costs and other operating and carrying costs during
32 construction, (6) cost of construction, reconstruction, fixtures, and
33 equipment related to the real property, (7) cost of land improvements,
34 (8) necessary expenses in connection with initial occupancy of the
35 project, (9) a reasonable profit or fee to the builder and developer,
36 (10) an allowance established by the agency for working capital and
37 contingency reserves, and reserves for any operating deficits, (11)
38 costs of guarantees, insurance or other additional financial security for
39 the project and (12) the cost of such other items, including tenant
40 relocation, as the agency shall determine to be reasonable and
41 necessary for the development of the project, less any and all net rents
42 and other net revenues received from the operation of the real and
43 personal property on the project site during construction, improvement
44 or rehabilitation.

45 All costs shall be subject to approval and audit by the agency. The
46 agency may adopt rules and regulations specifying in detail the types

1 and categories of cost which shall be allowable if actually incurred in
2 the development, acquisition, construction, improvement or
3 rehabilitation of a housing project.

4 r. "Retirement family" means one or more persons related by
5 blood, marriage or adoption who live or expect to live together as a
6 single household in the same dwelling unit, provided that at least one
7 of the persons is an individual who (1) has attained retirement age as
8 defined in section 216a of the Federal Social Security Act, or (2) is
9 under a disability as defined in section 223 of that act, or (3) such
10 individuals as the agency by rule or regulation shall include; and
11 provided further, that the surviving member of a retirement family
12 whose other members died during occupancy of a continuing-care
13 retirement community shall be considered as a retirement family for
14 purposes of permitting continued occupancy of the dwelling unit
15 occupied by such retirement family.

16 (cf: P.L.1997, c.31, s.1)

17

18 125. The Commissioner of Human Services, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), shall adopt rules and regulations necessary to carry out the
21 provisions of this act.

22

23 126. The following are repealed:

24 Section 5 of P.L.1951, c.138 (C.30:4C-5); and

25 Section 11 of P.L.2001, c.419 (C.30:4C-27.13).

26

27 127. P.L.1992, c.139 (C.30:4C-26.10 et seq.) is repealed.

28

29 128. This act shall take effect immediately, except that sections 88
30 and 127 shall take effect on September 1, 2005.

31

32

33

STATEMENT

34

35 The purpose of this bill is to better protect abused and neglected
36 children, and children at risk of abuse or neglect, throughout New
37 Jersey, and more generally to improve the quality of services provided
38 by the State to children and families in the child welfare system.

39 The bill restructures child protection services within the Department
40 of Human Services, establishes the Office of Children's Services (OCS)
41 in the department, and provides for a third deputy commissioner within
42 the department to assume responsibility for the operation of OCS.
43 The new deputy commissioner will oversee the Division of Youth and
44 Family Services (DYFS) and two new divisions created under the bill.

45 Specifically:

46 -- The bill establishes OCS in order to oversee such entities within

1 the department as are designated by the Commissioner of Human
2 Services, including, but not limited to, DYFS, the Division of Child
3 Behavioral Health Services and the Division of Prevention and
4 Community Development. The Division of Child Behavioral Health
5 Services and the Division of Prevention and Community Development
6 are created under the bill and will, along with DYFS, operate under
7 the umbrella of OCS.

8 -- The bill provides that different entities within the State child
9 welfare system may provide similar categories of services but for
10 different reasons; for example, DYFS and the new Division of Child
11 Behavioral Health Services will both provide out-of-home placements,
12 but the primary reason for the former will be protection of the child
13 and for the latter will be treatment of the child.

14 -- The bill transfers responsibility for the following activities from
15 DYFS to the Department of Human Services:

16 * the conduct of criminal history record background checks on
17 resource family parents (defined below), child care center employees
18 and family day care providers;

19 * the licensure of resource family homes (defined below) and child
20 care centers and registration of family day care providers; and

21 * the investigation of institutional abuse or neglect of children and
22 imposition of appropriate sanctions on an institution for failure to take
23 required remedial action.

24 -- The bill establishes the New Jersey Child Welfare Training
25 Academy in the department for the purpose of providing a training
26 program to meet the needs of the child welfare system Statewide. The
27 training program is to provide:

28 * pre-service and in-service training for public employees of the
29 child welfare system;

30 * training opportunities for community-based entities and other
31 child welfare system stakeholders as designated by the commissioner;
32 and

33 * pre-service and in-service training for resource families.

34 -- The academy will be responsible for developing and managing
35 the training activities provided under this program, for which purpose
36 it will:

37 * administer, coordinate and evaluate all training activities under
38 the program;

39 * seek to partner with social work and other professionals to
40 ensure that the training provided under the program reflects best
41 practices;

42 * develop training curricula, resources and products;

43 * schedule and provide notice of training events and provide
44 training materials for those events;

45 * employ and compensate training event instructors as necessary;

46 * create mechanisms and processes to assess, identify and monitor

1 training needs for public employees of the child welfare system,
2 including competency-based training;

3 * create mechanisms and processes to evaluate the effectiveness of
4 the training provided under the program;

5 * provide for the development of multimedia training tools to
6 inform, educate and train public agency staff, resource families and
7 others in the child welfare system;

8 * determine the minimum number of pre-service and in-service
9 training hours required of, and ensure the availability of sufficient
10 training opportunities for, public agency staff Statewide; and

11 * conduct any other activities necessary to develop, implement and
12 manage the training program.

13 -- The training provided to resource families under the bill is to
14 include courses in the role of caregivers as part of the care and
15 treatment of children requiring out-of-home placement, and a resource
16 family parent will be required to complete the number of hours of pre-
17 service and in-service training prescribed under the training program
18 as a condition of licensure under the "Resource Family Parent
19 Licensing Act" (N.J.S.A.30:4C-27.3 et seq.), formerly the "Foster
20 Parent Licensing Act."

21 -- The bill directs the department, through OCS or as otherwise
22 designated by the Commissioner of Human Services, to provide
23 services to individuals who are between 18 and 21 years of age and
24 meet the following conditions:

25 * The individual was receiving services from OCS, or otherwise
26 from the department as designated by the commissioner, on or after
27 the individual's 16th birthday;

28 * The individual, on or after the individual's 18th birthday, has not
29 requested that these services be terminated; and

30 * OCS or another entity designated by the commissioner
31 determines that a continuation of services is in the individual's best
32 interest and would assist the individual to become an independent and
33 productive adult.

34 -- The bill requires that a representative of DYFS, or such other
35 entity in the Department of Human Services as may be designated by
36 the commissioner to investigate child abuse or neglect, initiate an
37 investigation of a report of child abuse or neglect made pursuant to
38 N.J.S.A.9:6-8.10 within 24 hours of receipt of the report, unless
39 DYFS or the other entity authorizes a delay based upon the request of
40 a law enforcement official.

41 -- The bill requires DYFS to maintain a centralized emergency
42 telephone hotline for the receipt of calls involving a report, complaint
43 or allegation of child abuse or neglect.

44 -- The bill renames the central registry operated by DYFS as the
45 child abuse registry and designates it as the repository of all
46 information regarding child abuse or neglect that is accessible to the

1 public pursuant to State and federal law.

2 -- The bill expands the list of persons or entities to whom the
3 Department of Human Services is authorized to release records of
4 child abuse reports to include members of a family team or other case
5 planning group formed by DYFS and established in accordance with
6 regulations adopted by the commissioner for the purpose of addressing
7 the child's safety, permanency or well-being, when the provision of
8 such information is in the best interests of the child as determined by
9 DYFS.

10 -- The bill adopts the following terms:

11 * "resource family parent" to mean any person with whom a child
12 in the care, custody or guardianship of DYFS is placed for temporary
13 or long-term care and includes any person with whom a child is placed
14 by DYFS for the purpose of adoption; and

15 * "resource family home" to mean a private residence, other than
16 a children's group home or shelter home, in which board, lodging, care
17 and temporary out-of-home placement services are provided by a
18 resource family parent on a 24-hour basis to a child under the auspices
19 of DYFS or any public or private agency authorized to place children
20 in New Jersey.

21 -- The bill makes placement by informed consent an option, rather
22 than mandating that informed consent for an out-of-home placement
23 be sought prior to seeking a court order for placement. This change
24 anticipates the future elimination of voluntary out-of-home placements
25 as envisioned in the comprehensive child welfare reform plan issued by
26 the Department of Human Services.

27 -- The bill provides for the gradual elimination of long-term foster
28 care with custody as a permanency option for children, in the belief
29 that other permanency options (such as adoption or kinship legal
30 guardianship) are preferable alternatives for children who cannot live
31 with their birth families; and, to that end, the bill repeals
32 N.J.S.A.30:4C-26.10 through 26.19 (the "Long-Term Foster Care
33 Custody Act") effective September 1, 2005.

34 -- Finally, the bill also repeals the following provisions of statutory
35 law, which are obviated by the bill:

36 * N.J.S.A.30:4C-5 (concerning authorization of the Bureau of
37 Childrens Services to accept the care or custody of, or provide welfare
38 services for, any child); and

39 * N.J.S.A.30:4C-27.13 (concerning the provision of care by a
40 certified foster parent until DYFS conducts an on-site inspection and
41 reevaluation of the foster parent's home for the purpose of licensure).

ASSEMBLY FAMILY, WOMEN AND CHILDREN'S SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2985

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 3, 2004

The Assembly Family, Women and Children's Services Committee reports favorably and with committee amendments Assembly Bill No. 2985.

As amended by committee, the purpose of this bill is to better protect abused and neglected children, and children at risk of abuse or neglect, throughout New Jersey, and more generally to improve the quality of services provided by the State to children and families in the child welfare system.

The bill restructures child protection services within the Department of Human Services, establishes the Office of Children's Services (OCS) in the department, and provides for a third deputy commissioner within the department to assume responsibility for the operation of OCS. The new deputy commissioner will oversee the Division of Youth and Family Services (DYFS) and two new divisions created under the bill.

Specifically:

-- The bill establishes OCS in order to oversee such entities within the department as are designated by the Commissioner of Human Services, including, but not limited to, DYFS, the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships. The Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships are created under the bill and will, along with DYFS, operate under the umbrella of OCS.

-- The bill provides that different entities within the State child welfare system may provide similar categories of services but for different reasons; for example, DYFS and the new Division of Child Behavioral Health Services will both provide out-of-home placements, but the primary reason for the former will be protection of the child and for the latter will be treatment of the child.

-- The bill transfers responsibility for the following activities from DYFS to the Department of Human Services:

* the conduct of criminal history record background checks on

resource family parents (defined below), child care center employees and family day care providers;

- * the licensure of resource family homes (defined below) and child care centers and registration of family day care providers; and

- * the investigation of institutional abuse or neglect of children and imposition of appropriate sanctions on an institution for failure to take required remedial action.

-- The bill establishes the New Jersey Child Welfare Training Academy in the department for the purpose of providing a training program to meet the needs of the child welfare system Statewide. The training program is to provide:

- * pre-service and in-service training for public employees of the child welfare system;

- * training opportunities for community-based entities and other child welfare system stakeholders as designated by the commissioner; and

- * pre-service and in-service training for resource families.

-- The academy will be responsible for developing and managing the training activities provided under this program, for which purpose it will:

- * administer, coordinate and evaluate all training activities under the program;

- * seek to partner with social work and other professionals to ensure that the training provided under the program reflects best practices;

- * develop training curricula, resources and products;

- * schedule and provide notice of training events and provide training materials for those events;

- * employ and compensate training event instructors as necessary;

- * create mechanisms and processes to assess, identify and monitor training needs for public employees of the child welfare system, including competency-based training;

- * create mechanisms and processes to evaluate the effectiveness of the training provided under the program;

- * provide for the development of multimedia training tools to inform, educate and train public agency staff, resource families and others in the child welfare system;

- * determine the minimum number of pre-service and in-service training hours required of, and ensure the availability of sufficient training opportunities for, public agency staff Statewide; and

- * conduct any other activities necessary to develop, implement and manage the training program.

-- The training provided to resource families under the bill is to include courses in the role of caregivers as part of the care and treatment of children requiring out-of-home placement, and a resource family parent will be required to complete the number of hours of pre-service and in-service training prescribed under the training program as a condition of licensure under the "Resource Family Parent

Licensing Act" (N.J.S.A.30:4C-27.3 et seq.), formerly the "Foster Parent Licensing Act."

-- The bill directs the department, through OCS or as otherwise designated by the Commissioner of Human Services, to provide services to individuals who are between 18 and 21 years of age and meet the following conditions:

* The individual was receiving services from OCS, or otherwise from the department as designated by the commissioner, on or after the individual's 16th birthday;

* The individual, on or after the individual's 18th birthday, has not requested that these services be terminated; and

* OCS or another entity designated by the commissioner determines that a continuation of services is in the individual's best interest and would assist the individual to become an independent and productive adult.

-- The bill requires that a representative of DYFS, or such other entity in the Department of Human Services as may be designated by the commissioner to investigate child abuse or neglect, initiate an investigation of a report of child abuse or neglect made pursuant to N.J.S.A.9:6-8.10 within 24 hours of receipt of the report, unless DYFS or the other entity authorizes a delay based upon the request of a law enforcement official.

-- The bill requires DYFS to maintain a centralized emergency telephone hotline for the receipt of calls involving a report, complaint or allegation of child abuse or neglect.

-- The bill renames the central registry operated by DYFS as the child abuse registry and designates it as the repository of all information regarding child abuse or neglect that is accessible to the public pursuant to State and federal law.

-- The bill expands the list of persons or entities to whom the Department of Human Services is authorized to release records of child abuse reports to include members of a family team or other case planning group formed by DYFS and established in accordance with regulations adopted by the commissioner for the purpose of addressing the child's safety, permanency or well-being, when the provision of such information is in the best interests of the child as determined by DYFS.

-- The bill adopts the following terms:

* "resource family parent" to mean any person with whom a child in the care, custody or guardianship of DYFS is placed for temporary or long-term care and includes any person with whom a child is placed by DYFS for the purpose of adoption; and

* "resource family home" to mean a private residence, other than a children's group home or shelter home, in which board, lodging, care and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of DYFS or any public or private agency authorized to place children in New Jersey.

-- The bill makes placement by informed consent an option, rather than mandating that informed consent for an out-of-home placement be sought prior to seeking a court order for placement. This change anticipates the future elimination of voluntary out-of-home placements as envisioned in the comprehensive child welfare reform plan issued by the Department of Human Services.

-- The bill provides for the gradual elimination of long-term foster care with custody as a permanency option for children, in the belief that other permanency options (such as adoption or kinship legal guardianship) are preferable alternatives for children who cannot live with their birth families; and, to that end, the bill repeals N.J.S.A.30:4C-26.10 through 26.19 (the "Long-Term Foster Care Custody Act") effective September 1, 2005.

-- The bill amends N.J.S.A.30:4C-27.16 to stipulate that staff members of State-operated children's psychiatric facilities providing inpatient treatment shall be required to undergo criminal history record and child abuse information background checks.

-- Finally, the bill also repeals the following provisions of statutory law, which are obviated by the bill:

* N.J.S.A.30:4C-5 (concerning authorization of the Bureau of Children's Services to accept the care or custody of, or provide welfare services for, any child); and

* N.J.S.A.30:4C-27.13 (concerning the provision of care by a certified foster parent until DYFS conducts an on-site inspection and reevaluation of the foster parent's home for the purpose of licensure).

COMMITTEE AMENDMENTS

The committee amendments:

--replace references to "Division of Prevention and Community Development" with "Division of Prevention and Community Partnerships;" and

--amend N.J.S.A.30:4C-27.16 to stipulate that staff members of State-operated children's psychiatric facilities providing inpatient treatment shall be required to undergo criminal history record background and child abuse record information checks.

SENATE, No. 1648

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 7, 2004

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex)

SYNOPSIS

Restructures child protective services in DHS.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning child protective services and revising various
2 parts of the statutory law.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. New Jersey must improve the ability of its child welfare system
9 to protect children from abuse and neglect, and to provide services to
10 at-risk children and families in order to prevent harm to their children;

11 b. Recent data and assessments of the child welfare system in this
12 State demonstrate the need for a new approach to delivering services
13 to this vulnerable population, and the system must therefore be
14 reformed;

15 c. Because the safety of children must always be paramount,
16 allegations of child abuse and neglect must be investigated quickly and
17 thoroughly and protective actions must be taken immediately if
18 necessary;

19 d. Concerns about the safety, permanency and well-being of
20 children require significant changes in: the organization of the child
21 welfare system, the ability to implement best practices within the
22 system; the development of effective services to meet the needs of
23 children and families; and the elimination of impediments to the quick
24 and efficient management of abuse and neglect cases;

25 e. Children need safe, stable and positive relationships with caring
26 adults in order to thrive; and, if their parents are incapable of
27 providing such a caring relationship, the State must look to other
28 families to provide this kind of relationship;

29 f. To ensure the best outcomes for children and their families, these
30 substitute families must be viewed and treated as "resource families"
31 and provided with appropriate support, training and responsibilities,
32 which will include: expedited licensure for this purpose, equalized
33 payment rates for care among the various types of resource families,
34 and enhanced access to necessary support services tailored to their
35 respective needs;

36 g. Youths must be provided with supports and services in their
37 communities that will enable them to grow into healthy and productive
38 adults; and those youths who previously received child welfare
39 services must continue to receive those services beyond the age of 18,
40 up to age 21, as appropriate;

41 h. This act is necessary in order to make the initial statutory
42 changes required under a comprehensive child welfare reform plan
43 issued by the Department of Human Services as part of a federal class

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.

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1 action settlement, which is designed to address the deficiencies
2 identified in the child welfare system in this State over a five-year
3 period;

4 i. The comprehensive child welfare reform plan calls for changes
5 in the approach taken by the State to case practice, recruitment and
6 support of resource families, partnering with the community, creating
7 and delivering services to children and families, providing support and
8 training to the child welfare system workforce, and ensuring
9 accountability and continuous quality improvement within the system;

10 j. This act is designed to allow the Division of Youth and Family
11 Services to focus its mission on abused and neglected children by
12 creating the Division of Child Behavioral Health Services and the
13 Division of Prevention and Community Development in order to build
14 the capacity to meet the needs of children and families in those
15 respective areas of the child welfare system, with all three divisions
16 operating under a deputy commissioner who is responsible for the
17 Office of Children's Services established under this act;

18 k. This act is also designed to enable the Division of Youth and
19 Family Services to better focus on issues relating to abused and
20 neglected children by transferring its responsibilities for licensure and
21 investigating institutional abuse to the Department of Human Services,
22 as well as transferring other responsibilities to the department that will
23 be assigned to the new Division of Child Behavioral Health Services
24 and the new Division of Prevention and Community Development; and

25 l. This act will otherwise enhance the quality of the child welfare
26 system in New Jersey by facilitating the transition to other needed
27 long-term systemic changes with regard to out-of-home placements
28 and permanency options for children who cannot live with their birth
29 families.

30

31 2. (New section) There is established the Office of Children's
32 Services in the Department of Human Services, which shall be under
33 the direction of the Deputy Commissioner for Children's Services. The
34 office shall oversee such entities within the department as are
35 designated by the Commissioner of Human Services, including, but not
36 limited to, the Division of Youth and Family Services, the Division of
37 Child Behavioral Health Services and the Division of Prevention and
38 Community Development.

39

40 3. (New section) Notwithstanding any provision of law to the
41 contrary, the Department of Human Services, through the Office of
42 Children's Services or as otherwise designated by the Commissioner
43 of Human Services, shall provide services to individuals who are
44 between 18 and 21 years of age and meet the following conditions:

45 a. The individual was receiving services from the Office of
46 Children's Services, or otherwise from the department as designated

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- 1 by the commissioner, on or after the individual's 16th birthday;
- 2 b. The individual, on or after the individual's 18th birthday, has not
3 refused or requested that these services be terminated, as applicable;
4 and
- 5 c. The Office of Children's Services or another entity designated by
6 the commissioner determines that a continuation of services would be
7 in the individual's best interest and would assist the individual to
8 become an independent and productive adult.
9
- 10 4. (New section) a. There is established the New Jersey Child
11 Welfare Training Academy in the Department of Human Services for
12 the purpose of providing a training program to meet the needs of the
13 child welfare system Statewide. The training program shall provide:
14 (1) pre-service and in-service training for public employees of the
15 child welfare system;
16 (2) training opportunities for community-based entities and other
17 child welfare system stakeholders as designated by the commissioner;
18 and
19 (3) pre-service and in-service training for resource families.
- 20 b. The academy shall be responsible for developing and managing
21 the training activities provided under this program, for which purpose
22 it shall:
- 23 (1) administer, coordinate and evaluate all training activities under
24 the program;
25 (2) seek to partner with social work and other professionals to
26 ensure that the training provided under the program reflects best
27 practices;
28 (3) develop training curricula, resources and products;
29 (4) schedule and provide notice of training events and provide
30 training materials for those events;
31 (5) employ and compensate training event instructors as necessary;
32 (6) create mechanisms and processes to assess, identify and
33 monitor training needs for public employees of the child welfare
34 system, including competency-based training;
35 (7) create mechanisms and processes to evaluate the effectiveness
36 of the training provided under the program;
37 (8) provide for the development of multimedia training tools to
38 inform, educate and train public agency staff, resource families and
39 others in the child welfare system;
40 (9) determine the minimum number of pre-service and in-service
41 training hours required of, and ensure the availability of sufficient
42 training opportunities for, public agency staff Statewide; and
43 (10) conduct any other activities necessary to develop, implement
44 and manage the training program.
- 45 c. The training provided to resource families pursuant to this
46 section shall include courses in the role of caregivers as part of the

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1 care and treatment of children requiring out-of-home placement. A
2 resource family parent shall be required to complete the number of
3 hours of pre-service and in-service training prescribed under the
4 training program as a condition of licensure under P.L.2001, c.419
5 (C.30:4C-27.3 et seq.).

6

7 5. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read
8 as follows:

9 23. Predispositional evaluation. a. Before making a disposition,
10 the court may refer the juvenile to an appropriate individual, agency
11 or institution for examination and evaluation.

12 b. In arriving at a disposition, the court may also consult with such
13 individuals and agencies as may be appropriate to the juvenile's
14 situation, including the county probation division, the [Division of
15 Youth and Family] Department of Human Services, the Juvenile
16 Justice Commission established pursuant to section 2 of P.L.1995,
17 c.284 (C.52:17B-170), the county youth services commission, school
18 personnel, clergy, law enforcement authorities, family members and
19 other interested and knowledgeable parties. In so doing, the court
20 may convene a predispositional conference to discuss and recommend
21 disposition.

22 c. The predisposition report ordered pursuant to the Rules of Court
23 may include a statement by the victim of the offense for which the
24 juvenile has been adjudicated delinquent or by the nearest relative of
25 a homicide victim. The statement may include the nature and extent of
26 any physical harm or psychological or emotional harm or trauma
27 suffered by the victim, the extent of any loss to include loss of earnings
28 or ability to work suffered by the victim and the effect of the crime
29 upon the victim's family. The probation division shall notify the victim
30 or nearest relative of a homicide victim of his right to make a
31 statement for inclusion in the predisposition report if the victim or
32 relative so desires. Any statement shall be made within 20 days of
33 notification by the probation division. The report shall further include
34 information on the financial resources of the juvenile. This
35 information shall be made available on request to the Victims of Crime
36 Compensation Board established pursuant to section 3 of P.L.1971,
37 c.317 (C.52:4B-3) or to any officer authorized under section 3 of
38 P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment,
39 restitution or fine. Any predisposition report prepared pursuant to this
40 section shall include an analysis of the circumstances attending the
41 commission of the act, the impact of the offense on the community, the
42 offender's history of delinquency or criminality, family situation,
43 financial resources, the financial resources of the juvenile's parent or
44 guardian, and information concerning the parent or guardian's exercise
45 of supervision and control relevant to commission of the act.

46 Information concerning financial resources included in the report

1 shall be made available to any officer authorized to collect payment on
2 any assessment, restitution or fine.
3 (cf: P.L.2001, c.408, s.2)

4
5 6. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read
6 as follows:

7 24. Disposition of delinquency cases. a. In determining the
8 appropriate disposition for a juvenile adjudicated delinquent the court
9 shall weigh the following factors:

10 (1) The nature and circumstances of the offense;

11 (2) The degree of injury to persons or damage to property caused
12 by the juvenile's offense;

13 (3) The juvenile's age, previous record, prior social service
14 received and out-of-home placement history;

15 (4) Whether the disposition supports family strength, responsibility
16 and unity and the well-being and physical safety of the juvenile;

17 (5) Whether the disposition provides for reasonable participation
18 by the child's parent, guardian, or custodian, provided, however, that
19 the failure of a parent or parents to cooperate in the disposition shall
20 not be weighed against the juvenile in arriving at an appropriate
21 disposition;

22 (6) Whether the disposition recognizes and treats the unique
23 physical, psychological and social characteristics and needs of the
24 child;

25 (7) Whether the disposition contributes to the developmental needs
26 of the child, including the academic and social needs of the child where
27 the child has mental retardation or learning disabilities;

28 (8) Any other circumstances related to the offense and the
29 juvenile's social history as deemed appropriate by the court;

30 (9) The impact of the offense on the victim or victims;

31 (10) The impact of the offense on the community; and

32 (11) The threat to the safety of the public or any individual posed
33 by the child.

34 b. If a juvenile is adjudged delinquent, and except to the extent that
35 an additional specific disposition is required pursuant to subsection e.
36 or f. of this section, the court may order incarceration pursuant to
37 section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the
38 following dispositions:

39 (1) Adjourn formal entry of disposition of the case for a period not
40 to exceed 12 months for the purpose of determining whether the
41 juvenile makes a satisfactory adjustment, and if during the period of
42 continuance the juvenile makes such an adjustment, dismiss the
43 complaint; provided that if the court adjourns formal entry of
44 disposition of delinquency for a violation of an offense defined in
45 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall
46 assess the mandatory penalty set forth in N.J.S.2C:35-15 but may

- 1 waive imposition of the penalty set forth in N.J.S.2C:35-16 for
2 juveniles adjudicated delinquent;
- 3 (2) Release the juvenile to the supervision of the juvenile's parent
4 or guardian;
- 5 (3) Place the juvenile on probation to the chief probation officer of
6 the county or to any other suitable person who agrees to accept the
7 duty of probation supervision for a period not to exceed three years
8 upon such written conditions as the court deems will aid rehabilitation
9 of the juvenile;
- 10 (4) Transfer custody of the juvenile to any relative or other person
11 determined by the court to be qualified to care for the juvenile;
- 12 (5) Place the juvenile under the care and responsibility of the
13 Department of Human Services [under the responsibility of the
14 Division of Youth and Family Services] so that the commissioner may
15 designate a division or organizational unit in the department pursuant
16 to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing
17 services in or out of the home. Within 14 days, unless for good cause
18 shown, but not later than 30 days, the Department of Human Services
19 shall submit to the court a service plan, which shall be presumed valid,
20 detailing the specifics of any disposition order. The plan shall be
21 developed within the limits of fiscal and other resources available to
22 the department. If the court determines that the service plan is
23 inappropriate, given existing resources, the department may request a
24 hearing on that determination;
- 25 (6) Place the juvenile under the care and custody of the
26 Commissioner of [the Department of] Human Services for the
27 purpose of receiving the services of the Division of Developmental
28 Disabilities of that department, provided that the juvenile has been
29 determined to be eligible for those services under P.L.1965, c.59, s.16
30 (C.30:4-25.4);
- 31 (7) Commit the juvenile, pursuant to applicable laws and the Rules
32 of Court governing civil commitment, to the Department of Human
33 Services under the responsibility of the Division of [Mental] Child
34 Behavioral Health Services for the purpose of placement in a suitable
35 public or private hospital or other residential facility for the treatment
36 of persons who are mentally ill, on the ground that the juvenile is in
37 need of involuntary commitment;
- 38 (8) Fine the juvenile an amount not to exceed the maximum
39 provided by law for such a crime or offense if committed by an adult
40 and which is consistent with the juvenile's income or ability to pay and
41 financial responsibility to the juvenile's family, provided that the fine
42 is specially adapted to the rehabilitation of the juvenile or to the
43 deterrence of the type of crime or offense. If the fine is not paid due
44 to financial limitations, the fine may be satisfied by requiring the
45 juvenile to submit to any other appropriate disposition provided for in
46 this section;

S1648 CODEY

1 (9) Order the juvenile to make restitution to a person or entity who
2 has suffered loss resulting from personal injuries or damage to
3 property as a result of the offense for which the juvenile has been
4 adjudicated delinquent. The court may determine the reasonable
5 amount, terms and conditions of restitution. If the juvenile
6 participated in the offense with other persons, the participants shall be
7 jointly and severally responsible for the payment of restitution. The
8 court shall not require a juvenile to make full or partial restitution if
9 the juvenile reasonably satisfies the court that the juvenile does not
10 have the means to make restitution and could not reasonably acquire
11 the means to pay restitution;

12 (10) Order that the juvenile perform community services under the
13 supervision of a probation division or other agency or individual
14 deemed appropriate by the court. Such services shall be compulsory
15 and reasonable in terms of nature and duration. Such services may be
16 performed without compensation, provided that any money earned by
17 the juvenile from the performance of community services may be
18 applied towards any payment of restitution or fine which the court has
19 ordered the juvenile to pay;

20 (11) Order that the juvenile participate in work programs which are
21 designed to provide job skills and specific employment training to
22 enhance the employability of job participants. Such programs may be
23 without compensation, provided that any money earned by the juvenile
24 from participation in a work program may be applied towards any
25 payment of restitution or fine which the court has ordered the juvenile
26 to pay;

27 (12) Order that the juvenile participate in programs emphasizing
28 self-reliance, such as intensive outdoor programs teaching survival
29 skills, including but not limited to camping, hiking and other
30 appropriate activities;

31 (13) Order that the juvenile participate in a program of academic
32 or vocational education or counseling, such as a youth service bureau,
33 requiring attendance at sessions designed to afford access to
34 opportunities for normal growth and development. This may require
35 attendance after school, evenings and weekends;

36 (14) Place the juvenile in a suitable residential or nonresidential
37 program for the treatment of alcohol or narcotic abuse, provided that
38 the juvenile has been determined to be in need of such services;

39 (15) Order the parent or guardian of the juvenile to participate in
40 appropriate programs or services when the court has found either that
41 such person's omission or conduct was a significant contributing factor
42 towards the commission of the delinquent act, or, under its authority
43 to enforce litigant's rights, that such person's omission or conduct has
44 been a significant contributing factor towards the ineffective
45 implementation of a court order previously entered in relation to the
46 juvenile;

S1648 CODEY

1 (16) (a) Place the juvenile in a nonresidential program operated by
2 a public or private agency, providing intensive services to juveniles for
3 specified hours, which may include education, counseling to the
4 juvenile and the juvenile's family if appropriate, vocational training,
5 employment counseling, work or other services;

6 (b) Place the juvenile under the custody of the Juvenile Justice
7 Commission established pursuant to section 2 of P.L.1995, c.284
8 (C.52:17B-170) for placement with any private group home or private
9 residential facility with which the commission has entered into a
10 purchase of service contract;

11 (17) Instead of or in addition to any disposition made according to
12 this section, the court may postpone, suspend, or revoke for a period
13 not to exceed two years the driver's license, registration certificate, or
14 both of any juvenile who used a motor vehicle in the course of
15 committing an act for which the juvenile was adjudicated delinquent.
16 In imposing this disposition and in deciding the duration of the
17 postponement, suspension, or revocation, the court shall consider the
18 severity of the delinquent act and the potential effect of the loss of
19 driving privileges on the juvenile's ability to be rehabilitated. Any
20 postponement, suspension, or revocation shall be imposed
21 consecutively with any custodial commitment;

22 (18) Order that the juvenile satisfy any other conditions reasonably
23 related to the rehabilitation of the juvenile;

24 (19) Order a parent or guardian who has failed or neglected to
25 exercise reasonable supervision or control of a juvenile who has been
26 adjudicated delinquent to make restitution to any person or entity who
27 has suffered a loss as a result of that offense. The court may
28 determine the reasonable amount, terms and conditions of restitution;
29 or

30 (20) Place the juvenile, if eligible, in an appropriate juvenile
31 offender program established pursuant to P.L.1997, c.81 (C.30:8-61
32 et al.).

33 c. (1) Except as otherwise provided in subsections e. and f. of this
34 section, if the county in which the juvenile has been adjudicated
35 delinquent has a juvenile detention facility meeting the physical and
36 program standards established pursuant to this subsection by the
37 Juvenile Justice Commission, the court may, in addition to any of the
38 dispositions not involving placement out of the home enumerated in
39 this section, incarcerate the juvenile in the youth detention facility in
40 that county for a term not to exceed 60 consecutive days. Counties
41 which do not operate their own juvenile detention facilities may
42 contract for the use of approved commitment programs with counties
43 with which they have established agreements for the use of
44 pre-disposition juvenile detention facilities. The Juvenile Justice
45 Commission shall promulgate such rules and regulations from time to
46 time as deemed necessary to establish minimum physical facility and

1 program standards for the use of juvenile detention facilities pursuant
2 to this subsection.

3 (2) No juvenile may be incarcerated in any county detention facility
4 unless the county has entered into an agreement with the Juvenile
5 Justice Commission concerning the use of the facility for sentenced
6 juveniles. Upon agreement with the county, the Juvenile Justice
7 Commission shall certify detention facilities which may receive
8 juveniles sentenced pursuant to this subsection and shall specify the
9 capacity of the facility that may be made available to receive such
10 juveniles; provided, however, that in no event shall the number of
11 juveniles incarcerated pursuant to this subsection exceed 50% of the
12 maximum capacity of the facility.

13 (3) The court may fix a term of incarceration under this subsection
14 where:

15 (a) The act for which the juvenile was adjudicated delinquent, if
16 committed by an adult, would have constituted a crime or repetitive
17 disorderly persons offense;

18 (b) Incarceration of the juvenile is consistent with the goals of
19 public safety, accountability and rehabilitation and the court is clearly
20 convinced that the aggravating factors substantially outweigh the
21 mitigating factors as set forth in section 25 of P.L.1982, c.77
22 (C.2A:4A-44); and

23 (c) The detention facility has been certified for admission of
24 adjudicated juveniles pursuant to paragraph (2).

25 (4) If as a result of incarceration of adjudicated juveniles pursuant
26 to this subsection, a county is required to transport a predisposition
27 juvenile to a juvenile detention facility in another county, the costs of
28 such transportation shall be borne by the Juvenile Justice Commission.

29 d. Whenever the court imposes a disposition upon an adjudicated
30 delinquent which requires the juvenile to perform a community service,
31 restitution, or to participate in any other program provided for in this
32 section other than subsection c., the duration of the juvenile's
33 mandatory participation in such alternative programs shall extend for
34 a period consistent with the program goal for the juvenile and shall in
35 no event exceed one year beyond the maximum duration permissible
36 for the delinquent if the juvenile had been committed to a term of
37 incarceration.

38 e. In addition to any disposition the court may impose pursuant to
39 this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
40 following orders shall be included in dispositions of the adjudications
41 set forth below:

42 (1) An order of incarceration for a term of the duration authorized
43 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
44 or an order to perform community service pursuant to paragraph (10)
45 of subsection b. of this section for a period of at least 60 days, if the
46 juvenile has been adjudicated delinquent for an act which, if committed

1 by an adult, would constitute the crime of theft of a motor vehicle, or
2 the crime of unlawful taking of a motor vehicle in violation of
3 subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding
4 in violation of subsection b. of N.J.S.2C:29-2;

5 (2) An order of incarceration for a term of the duration authorized
6 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
7 which shall include a minimum term of 60 days during which the
8 juvenile shall be ineligible for parole, if the juvenile has been
9 adjudicated delinquent for an act which, if committed by an adult,
10 would constitute the crime of aggravated assault in violation of
11 paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree
12 crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or
13 theft of a motor vehicle, in a case in which the juvenile has previously
14 been adjudicated delinquent for an act, which if committed by an adult,
15 would constitute unlawful taking of a motor vehicle or theft of a motor
16 vehicle;

17 (3) An order to perform community service pursuant to paragraph
18 (10) of subsection b. of this section for a period of at least 30 days, if
19 the juvenile has been adjudicated delinquent for an act which, if
20 committed by an adult, would constitute the fourth degree crime of
21 unlawful taking of a motor vehicle in violation of subsection b. of
22 N.J.S.2C:20-10;

23 (4) An order of incarceration for a term of the duration authorized
24 pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44)
25 which shall include a minimum term of 30 days during which the
26 juvenile shall be ineligible for parole, if the juvenile has been
27 adjudicated delinquent for an act which, if committed by an adult,
28 would constitute the crime of unlawful taking of a motor vehicle in
29 violation of N.J.S.2C:20-10 or the third degree crime of eluding in
30 violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has
31 previously been adjudicated delinquent for an act which, if committed
32 by an adult, would constitute either theft of a motor vehicle, the
33 unlawful taking of a motor vehicle or eluding.

34 f. (1) The minimum terms of incarceration required pursuant to
35 subsection e. of this section shall be imposed regardless of the weight
36 or balance of factors set forth in this section or in section 25 of
37 P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those
38 factors shall determine the length of the term of incarceration
39 appropriate, if any, beyond any mandatory minimum term required
40 pursuant to subsection e. of this section.

41 (2) When a court in a county that does not have a juvenile
42 detention facility or a contractual relationship permitting incarceration
43 pursuant to subsection c. of this section is required to impose a term
44 of incarceration pursuant to subsection e. of this section, the court
45 may, subject to limitations on commitment to State correctional
46 facilities of juveniles who are under the age of 11 or developmentally

1 disabled, set a term of incarceration consistent with subsection c.
2 which shall be served in a State correctional facility. When a juvenile
3 who because of age or developmental disability cannot be committed
4 to a State correctional facility or cannot be incarcerated in a county
5 facility, the court shall order a disposition appropriate as an alternative
6 to any incarceration required pursuant to subsection e.

7 (3) For purposes of subsection e. of this section, in the event that
8 a "boot camp" program for juvenile offenders should be developed and
9 is available, a term of commitment to such a program shall be
10 considered a term of incarceration.

11 g. Whenever the court imposes a disposition upon an adjudicated
12 delinquent which requires the juvenile to perform a community service,
13 restitution, or to participate in any other program provided for in this
14 section, the order shall include provisions which provide balanced
15 attention to the protection of the community, accountability for
16 offenses committed, fostering interaction and dialogue between the
17 offender, victim and community and the development of competencies
18 to enable the child to become a responsible and productive member of
19 the community.

20 (cf: P.L.2001, c.408, s.3)

21

22 7. Section 13 of P.L.1982, c.80 (C.2A:4A-88) is amended to read
23 as follows:

24 13. Temporary placement. Placement of the juvenile prior to the
25 placement hearing or pending determination by the court concerning
26 placement under a family service plan, pursuant to section 14 of
27 P.L.1982, c.80 (C.2A:4A-89), shall be made in a host shelter, [foster]
28 resource family or group home, a county shelter care facility as defined
29 by law, or other suitable family setting. In no event shall such
30 placement be arranged in a secure detention or other facility or in a
31 secure correctional institution for the detention or treatment of
32 juveniles accused of crimes or adjudged delinquent.

33 (cf: P.L.1995, c.280, s.17)

34

35 8. Section 17 of P.L.1985, c.278 (C.2A:17-56.20) is amended to
36 read as follows:

37 17. a. In enforcing all existing and future orders for support, and
38 notwithstanding other provisions to the contrary, the State IV-D
39 agency, without a new order, shall have the authority to assess interest
40 or late payment fees on any support order not paid within 30 days of
41 the due date.

42 b. The late payment fee or interest shall be determined by the State
43 IV-D agency within amounts specified by the federal Department of
44 Health and Human Services.

45 c. The fee or interest shall accrue as arrearages accumulate and
46 shall not be reduced upon partial payment of arrears. The fee or

1 interest may be collected only after the full amount of overdue support
2 is paid and all State requirements for notice to the obligor have been
3 met.

4 d. The collection of the fee or interest shall not directly or
5 indirectly reduce the amount of current or overdue support paid to the
6 obligee to whom it is owed.

7 e. The late payment fee or interest shall be uniformly applied in all
8 cases administered under the State IV-D program, including public
9 assistance, nonpublic assistance, and [foster care] resource family
10 cases.

11 (cf: P.L.1985, c.278, s.17)

12

13 9. N.J.S.2A:22-3 is amended to read as follows:

14 2A:22-3. The adoption, when granted by the court, shall have the
15 following effect:

16 a. The right of the person adopted, and of such persons as legally
17 represent him on his death, to take and inherit intestate personal and
18 real property from his natural parents and their kindred shall not be
19 altered by the adoption.

20 b. In all other respects, all rights, privileges and obligations due
21 from the natural parents to the person adopted and from the person
22 adopted to them and all relations existing between such person and
23 them shall be at an end, including the right of the natural parents and
24 their kindred to take and inherit intestate personal and real property
25 from and through the person adopted.

26 c. All rights, privileges and obligations due from the parents by
27 adoption to the person adopted and from the person adopted to them
28 and all relations between such person and them shall be the same as
29 if the person adopted had been born to them in lawful wedlock,
30 including the right to take and inherit intestate personal and real
31 property from and through each other.

32 Except, however, that:

33 a. The person adopted shall not be capable of taking property
34 expressly limited by a will or any other instrument to the heirs of the
35 body of the adopting parent or parents, nor property coming on
36 intestacy from the collateral kindred of the adopting parent or parents
37 by right of representation; and

38 b. On the death of the parent or parents by adoption and the
39 subsequent death of the person adopted, without issue or a spouse, the
40 property of the deceased parent or parents by adoption shall descend
41 to and be distributed among the heirs and next of kin of the parent or
42 parents by adoption and not to the heirs and next of kin of the person
43 adopted; and

44 c. If the parent or parents by adoption shall have another child or
45 other children entitled to take and inherit from them on intestacy, such
46 children and the person adopted shall, respectively, take and inherit

1 intestate personal and real property from and through each other as
2 if all had been children of the same parents born in lawful wedlock;
3 and

4 d. Where a parent who has procured a divorce, or a surviving
5 parent, having lawful custody of a child, lawfully marries again, or
6 where an adult unmarried person who has become a [foster] resource
7 family parent and has lawful custody of a child, marries, and such
8 parent or [foster] resource family parent consents that the person who
9 thus becomes the stepfather or the stepmother of the person so
10 adopted may adopt the person so adopted, the rights, privileges and
11 obligations due from the parent or [foster] resource family parent, so
12 consenting, to the person adopted and from the person adopted to
13 such parent and the relations existing between them shall not be
14 altered by the adoption.

15 (cf: N.J.S.2A:22-3)

16

17 10. Section 1 of P.L.1992, c.109 (C.2A:61B-1) is amended to read
18 as follows:

19 1. a. As used in this act:

20 (1) "Sexual abuse" means an act of sexual contact or sexual
21 penetration between a child under the age of 18 years and an adult. A
22 parent, [foster] resource family parent, guardian or other person
23 standing in loco parentis within the household who knowingly permits
24 or acquiesces in sexual abuse by any other person also commits sexual
25 abuse, except that it is an affirmative defense if the parent, [foster]
26 resource family parent, guardian or other person standing in loco
27 parentis was subjected to, or placed in, reasonable fear of physical or
28 sexual abuse by the other person so as to undermine the person's
29 ability to protect the child.

30 (2) "Sexual contact" means an intentional touching by the victim
31 or actor, either directly or through clothing, of the victim's or actor's
32 intimate parts for the purpose of sexually arousing or sexually
33 gratifying the actor. Sexual contact of the adult with himself must be
34 in view of the victim whom the adult knows to be present.

35 (3) "Sexual penetration" means vaginal intercourse, cunnilingus,
36 fellatio or anal intercourse between persons or insertion of the hand,
37 finger or object into the anus or vagina either by the adult or upon the
38 adult's instruction.

39 (4) "Intimate parts" means the following body parts: sexual organs,
40 genital area, anal area, inner thigh, groin, buttock or breast of a
41 person.

42 (5) "Injury or illness" includes psychological injury or illness,
43 whether or not accompanied by physical injury or illness.

44 b. In any civil action for injury or illness based on sexual abuse, the
45 cause of action shall accrue at the time of reasonable discovery of the
46 injury and its causal relationship to the act of sexual abuse. Any such

1 action shall be brought within two years after reasonable discovery.

2 c. Nothing in this act is intended to preclude the court from finding
3 that the statute of limitations was tolled in a case because of the
4 plaintiff's mental state, duress by the defendant, or any other equitable
5 grounds. Such a finding shall be made after a plenary hearing. At the
6 plenary hearing the court shall hear all credible evidence and the Rules
7 of Evidence shall not apply, except for Rule 403 or a valid claim of
8 privilege. The court may order an independent psychiatric evaluation
9 of the plaintiff in order to assist in the determination as to whether the
10 statute of limitations was tolled.

11 d. (1) Evidence of the victim's previous sexual conduct shall not
12 be admitted nor reference made to it in the presence of a jury except
13 as provided in this subsection. When the defendant seeks to admit
14 such evidence for any purpose, the defendant must apply for an order
15 of the court before the trial or preliminary hearing, except that the
16 court may allow the motion to be made during trial if the court
17 determines that the evidence is newly discovered and could not have
18 been obtained earlier through the exercise of due diligence. After the
19 application is made, the court shall conduct a hearing in camera to
20 determine the admissibility of the evidence. If the court finds that
21 evidence offered by the defendant regarding the sexual conduct of the
22 victim is relevant and that the probative value of the evidence offered
23 is not outweighed by its collateral nature or by the probability that its
24 admission will create undue prejudice, confusion of the issues, or
25 unwarranted invasion of the privacy of the victim, the court shall enter
26 an order setting forth with specificity what evidence may be introduced
27 and the nature of the questions which shall be permitted, and the
28 reasons why the court finds that such evidence satisfies the standards
29 contained in this section. The defendant may then offer evidence
30 under the order of the court.

31 (2) In the absence of clear and convincing proof to the contrary,
32 evidence of the victim's sexual conduct occurring more than one year
33 before the date of the offense charged is presumed to be inadmissible
34 under this section.

35 (3) Evidence of the victim's previous sexual conduct shall not be
36 considered relevant unless it is material to proving that the source of
37 semen, pregnancy or disease is a person other than the defendant. For
38 the purposes of this subsection, "sexual conduct" shall mean any
39 conduct or behavior relating to sexual activities of the victim,
40 including but not limited to previous or subsequent experience of
41 sexual penetration or sexual contact, use of contraceptives, living
42 arrangement and life style.

43 e. (1) The court may, on motion and after conducting a hearing in
44 camera, order the taking of the testimony of a victim on closed circuit
45 television at the trial, out of the view of the jury, defendant, or
46 spectators upon making findings as provided in paragraph (2) of this

1 subsection.

2 (2) An order under this section may be made only if the court finds
3 that the victim is 16 years of age or younger and that there is a
4 substantial likelihood that the victim would suffer severe emotional or
5 mental distress if required to testify in open court. The order shall be
6 specific as to whether the victim will testify outside the presence of
7 spectators, the defendant, the jury, or all of them and shall be based on
8 specific findings relating to the impact of the presence of each.

9 (3) A motion seeking closed circuit testimony under paragraph (1)
10 of this subsection may be filed by:

- 11 (a) The victim or the victim's attorney, parent or legal guardian;
- 12 (b) The defendant or the defendant's counsel; or
- 13 (c) The trial judge on the judge's own motion.

14 (4) The defendant's counsel shall be present at the taking of
15 testimony in camera. If the defendant is not present, he and his
16 attorney shall be able to confer privately with each other during the
17 testimony by a separate audio system.

18 (5) If testimony is taken on closed circuit television pursuant to the
19 provisions of this act, a stenographic recording of that testimony shall
20 also be required. A typewritten transcript of that testimony shall be
21 included in the record on appeal. The closed circuit testimony itself
22 shall not constitute part of the record on appeal except on motion for
23 good cause shown.

24 f. (1) The name, address, and identity of a victim or a defendant
25 shall not appear on the complaint or any other public record as defined
26 in P.L.1963, c.73 (C.47:1A-1 et seq.). In their place initials or a
27 fictitious name shall appear.

28 (2) Any report, statement, photograph, court document, complaint
29 or any other public record which states the name, address and identity
30 of a victim shall be confidential and unavailable to the public.

31 (3) The information described in this subsection shall remain
32 confidential and unavailable to the public unless the victim consents to
33 the disclosure or if the court, after a hearing, determines that good
34 cause exists for the disclosure. The hearing shall be held after notice
35 has been made to the victim and to the defendant and the defendant's
36 counsel.

37 (4) Nothing contained herein shall prohibit the court from imposing
38 further restrictions with regard to the disclosure of the name, address,
39 and identity of the victim when it deems it necessary to prevent trauma
40 or stigma to the victim.

41 g. In accordance with R.5:3-2 of the Rules Governing the Courts
42 of the State of New Jersey, the court may, on its own or a party's
43 motion, direct that any proceeding or portion of a proceeding
44 involving a victim sixteen years of age or younger be conducted in
45 camera.

46 h. A plaintiff who prevails in a civil action pursuant to this act shall

1 be awarded damages in the amount of \$10,000, plus reasonable
2 attorney's fees, or actual damages, whichever is greater. Actual
3 damages shall consist of compensatory and punitive damages and costs
4 of suit, including reasonable attorney's fees. Compensatory damages
5 may include, but are not limited to, damages for pain and suffering,
6 medical expenses, emotional trauma, diminished childhood, diminished
7 enjoyment of life, costs of counseling, and lost wages.

8 (cf: P.L.1999, c.393, s.1)

9

10 11. Section 1 of P.L.1993, c.214 (C.2A:61C-1) is amended to read
11 as follows:

12 1. a. A person who commits the offense of shoplifting as defined
13 in N.J.S.2C:20-11 or a person who commits the offense of theft as
14 defined in Chapter 20 of Title 2C of the New Jersey Statutes by
15 stealing food or drink from an eating establishment shall be liable for
16 any criminal penalties imposed by law and shall be liable to the
17 merchant in a civil action in an amount equal to the following:

18 (1) The value of the merchandise as damages, not to exceed
19 ~~[\$500.00]~~ \$500, if the merchandise cannot be restored to the
20 merchant in its original condition;

21 (2) Additional damages, if any, arising from the incident, not to
22 include any loss of time or wages incurred by the merchant in
23 connection with the apprehension of the defendant; and

24 (3) A civil penalty payable to the merchant in an amount of up to
25 \$150.

26 b. A parent, guardian or other person having legal custody of a
27 minor who commits the offense of shoplifting or the offense of theft
28 of food or drink from an eating establishment shall be liable to the
29 merchant for the damages specified in subsection a. of this section.
30 This subsection shall not apply to a parent whose parental custody and
31 control of such minor has been removed by court order, decree,
32 judgment, military service, or marriage of such infant, or to a ~~[foster]~~
33 resource family parent of such minor.

34 c. If a merchant institutes a civil action pursuant to the provisions
35 of this section, the prevailing party in that action shall be entitled to an
36 award of reasonable attorney's fees and reasonable court costs.

37 d. Limitations on civil action:

38 (1) Before a civil action may be commenced, the merchant shall
39 send a notice to the defendant's last known address giving the
40 defendant 20 days to respond. It is not a condition precedent to
41 maintaining an action under this act that the defendant has been
42 convicted of shoplifting or theft.

43 (2) No civil action under this act may be maintained if the
44 defendant has paid the merchant a penalty equal to the retail value of
45 the merchandise where the merchandise was not recovered in its
46 original condition, plus a sum of up to ~~[\$150.00]~~ \$150.

1 (3) The provisions of this act do not apply in any case where the
2 value of the merchandise exceeds ~~[\$500.00]~~ \$500.

3 e. If the person to whom a written demand is made complies with
4 such demand within 20 days following the receipt of the demand, that
5 person shall be given a written release from further civil liability with
6 respect to the specific act of shoplifting or theft.

7 (cf: P.L.1993, c.214, s.1)

8

9 12. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read
10 as follows:

11 2. a. Pursuant to the provisions of this section, the Superintendent
12 of State Police shall develop and maintain a system for making certain
13 information in the central registry established pursuant to subsection
14 d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by
15 means of electronic Internet technology.

16 b. The public may, without limitation, obtain access to the Internet
17 registry to view an individual registration record, any part of, or the
18 entire Internet registry concerning all offenders whose risk of
19 re-offense is high or for whom the court has ordered notification in
20 accordance with paragraph (3) of subsection c. of section 3 of
21 P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

22 c. Except as provided in subsection d. of this section, the public
23 may, without limitation, obtain access to the Internet registry to view
24 an individual registration record, any part of, or the entire Internet
25 registry concerning offenders whose risk of re-offense is moderate and
26 for whom the court has ordered notification in accordance with
27 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
28 (C.2C:7-8).

29 d. The individual registration record of an offender whose risk of
30 re-offense has been determined to be moderate and for whom the court
31 has ordered notification in accordance with paragraph (2) of
32 subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be
33 made available to the public on the Internet registry if the sole sex
34 offense committed by the offender which renders him subject to the
35 requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the
36 following:

37 (1) An adjudication of delinquency for any sex offense as defined
38 in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

39 (2) A conviction or acquittal by reason of insanity for a violation
40 of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the
41 offender was related to the victim by blood or affinity to the third
42 degree or was a ~~[foster]~~ resource family parent, a guardian, or stood
43 in loco parentis within the household; or

44 (3) A conviction or acquittal by reason of insanity for a violation
45 of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which the victim
46 assented to the commission of the offense but by reason of age was

1 not capable of giving lawful consent.

2 e. Notwithstanding the provisions of paragraph d. of this
3 subsection, the individual registration record of an offender to whom
4 an exception enumerated in paragraph (1), (2) or (3) of subsection d.
5 of this section applies shall be made available to the public on the
6 Internet registry if the State establishes by clear and convincing
7 evidence that, given the particular facts and circumstances of the
8 offense and the characteristics and propensities of the offender, the
9 risk to the general public posed by the offender is substantially similar
10 to that posed by offenders whose risk of re-offense is moderate and
11 who do not qualify under the enumerated exceptions.

12 f. The individual registration records of offenders whose risk of
13 re-offense is low or of offenders whose risk of re-offense is moderate
14 but for whom the court has not ordered notification in accordance with
15 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
16 (C.2C:7-8) shall not be available to the public on the Internet registry.

17 g. The information concerning a registered offender to be made
18 publicly available on the Internet shall include: the offender's name and
19 any aliases the offender has used or under which the offender may be
20 or may have been known; any sex offense as defined in subsection b.
21 of section 2 of P.L.1994, c.133 (C.2C:7-2) for which the offender was
22 convicted, adjudicated delinquent or acquitted by reason of insanity,
23 as the case may be; the date and location of disposition; a brief
24 description of any such offense, including the victim's gender and
25 indication of whether the victim was less than 18 years old or less than
26 13 years old; a general description of the offender's modus operandi,
27 if any; the determination of whether the risk of re-offense by the
28 offender is moderate or high; the offender's age, race, sex, date of
29 birth, height, weight, hair, eye color and any distinguishing scars or
30 tattoos; a photograph of the offender and the date on which the
31 photograph was entered into the registry; the make, model, color, year
32 and license plate number of any vehicle operated by the offender; and
33 the street address, zip code, municipality and county in which the
34 offender resides.

35 (cf: P.L.2001, c.167, s.2)

36

37 13. N.J.S.2C:14-2 is amended to read as follows:

38 2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual
39 assault if he commits an act of sexual penetration with another person
40 under any one of the following circumstances:

41 (1) The victim is less than 13 years old;

42 (2) The victim is at least 13 but less than 16 years old; and

43 (a) The actor is related to the victim by blood or affinity to the
44 third degree, or

45 (b) The actor has supervisory or disciplinary power over the victim
46 by virtue of the actor's legal, professional, or occupational status, or

1 (c) The actor is a [foster] resource family parent, a guardian, or
2 stands in loco parentis within the household;

3 (3) The act is committed during the commission, or attempted
4 commission, whether alone or with one or more other persons, of
5 robbery, kidnapping, homicide, aggravated assault on another,
6 burglary, arson or criminal escape;

7 (4) The actor is armed with a weapon or any object fashioned in
8 such a manner as to lead the victim to reasonably believe it to be a
9 weapon and threatens by word or gesture to use the weapon or object;

10 (5) The actor is aided or abetted by one or more other persons and
11 the actor uses physical force or coercion;

12 (6) The actor uses physical force or coercion and severe personal
13 injury is sustained by the victim;

14 (7) The victim is one whom the actor knew or should have known
15 was physically helpless, mentally defective or mentally incapacitated.

16 Aggravated sexual assault is a crime of the first degree.

17 b. An actor is guilty of sexual assault if he commits an act of sexual
18 contact with a victim who is less than 13 years old and the actor is at
19 least four years older than the victim.

20 c. An actor is guilty of sexual assault if he commits an act of sexual
21 penetration with another person under any one of the following
22 circumstances:

23 (1) The actor uses physical force or coercion, but the victim does
24 not sustain severe personal injury;

25 (2) The victim is on probation or parole, or is detained in a
26 hospital, prison or other institution and the actor has supervisory or
27 disciplinary power over the victim by virtue of the actor's legal,
28 professional or occupational status;

29 (3) The victim is at least 16 but less than 18 years old and:

30 (a) The actor is related to the victim by blood or affinity to the
31 third degree; or

32 (b) The actor has supervisory or disciplinary power of any nature
33 or in any capacity over the victim; or

34 (c) The actor is a [foster] resource family parent, a guardian, or
35 stands in loco parentis within the household;

36 (4) The victim is at least 13 but less than 16 years old and the actor
37 is at least four years older than the victim.

38 Sexual assault is a crime of the second degree.

39 (cf: P.L.2001, c.60, s.1)

40

41 14. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read
42 as follows:

43 4. a. When a person is charged with a criminal offense on a
44 warrant and the person is released from custody before trial on bail or
45 personal recognizance, the court, upon application of a law
46 enforcement officer or prosecuting attorney pursuant to section 3 of

1 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
2 e. of this section, shall as a condition of release issue an order
3 prohibiting the person from entering any place defined by subsection
4 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
5 zone surrounding the place or modifications as provided by subsection
6 f. of this section.

7 b. When a person is charged with a criminal offense on a summons,
8 the court, upon application of a law enforcement officer or prosecuting
9 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
10 except as provided in subsection e. of this section, shall, at the time of
11 the defendant's first appearance, issue an order prohibiting the person
12 from entering any place defined by subsection b. of section 3 of
13 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding
14 the place or modifications as provided by subsection f. of this section.

15 c. When a person is charged with a criminal offense on a juvenile
16 delinquency complaint and is released from custody at a detention
17 hearing pursuant to section 19 of P.L.1982, c.77 (C.2A:4A-38), the
18 court, upon application of a law enforcement officer or prosecuting
19 attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and
20 except as provided in subsection e. of this section, shall issue an order
21 prohibiting the person from entering any place defined by subsection
22 b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer
23 zone surrounding the place or modifications as provided by subsection
24 f. of this section.

25 d. When a person is charged with a criminal offense on a juvenile
26 delinquency complaint and is released without being detained pursuant
27 to section 15 or 16 of P.L.1982, c.77 (C.2A:4A:34 or C.2A:4A-35),
28 the law enforcement officer or prosecuting attorney shall prepare an
29 application pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) for
30 filing on the next court day.

31 The law enforcement officer releasing the juvenile shall serve the
32 juvenile and his parent or guardian with written notice that an order
33 shall be issued by the Family Part of the Superior Court on the next
34 court day prohibiting the juvenile from entering any place defined by
35 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including
36 a buffer zone surrounding the place or modifications as provided by
37 subsection f. of this section.

38 The court shall issue such order on the first court day following the
39 release of the juvenile. If the restraints contained in the court order
40 differ from the restraints contained in the notice, the order shall not be
41 effective until the third court day following the issuance of the order.
42 The juvenile may apply to the court to stay or modify the order on the
43 grounds set forth in subsection e. of this section.

44 e. The court may forego issuing a restraining order for which
45 application has been made pursuant to section 3 of P.L.2001, c.365
46 (C.2C:35-5.9) only if the defendant establishes by clear and convincing

1 evidence that:

2 (1) the defendant lawfully resides at or has legitimate business on
3 or near the place, or otherwise legitimately needs to enter the place.
4 In such an event, the court shall not issue an order pursuant to this
5 section unless the court is clearly convinced that the need to bar the
6 person from the place in order to protect the public safety and the
7 rights, safety and health of the residents and persons working in the
8 place outweighs the person's interest in returning to the place. If the
9 balance of the interests of the person and the public so warrants, the
10 court may issue an order imposing conditions upon the person's entry
11 at, upon or near the place; or

12 (2) the issuance of an order would cause undue hardship to
13 innocent persons and would constitute a serious injustice which
14 overrides the need to protect the rights, safety and health of persons
15 residing in or having business in the place.

16 f. A restraining order issued pursuant to subsection a., b., c., d. or
17 h. of this section shall describe the place from which the person has
18 been barred and any conditions upon the person's entry into the place,
19 with sufficient specificity to enable the person to guide his conduct
20 accordingly and to enable a law enforcement officer to enforce the
21 order. The order shall also prohibit the person from entering an area
22 of up to 500 feet surrounding the place, unless the court rules that a
23 different buffer zone would better effectuate the purposes of this act.
24 In the discretion of the court, the order may contain modifications to
25 permit the person to enter the area during specified times for specified
26 purposes, such as attending school during regular school hours. When
27 appropriate, the court may append to the order a map depicting the
28 place. The person shall be given a copy of the restraining order and
29 any appended map and shall acknowledge in writing the receipt
30 thereof.

31 g. (1) The court shall provide notice of the restraining order to the
32 local law enforcement agency where the arrest occurred and to the
33 county prosecutor.

34 (2) Notwithstanding the provisions of section 1 of P.L.1982, c.79
35 (C.2A:4A-60), prior to the person's conviction or adjudication of
36 delinquency for a criminal offense, the local law enforcement agency
37 may post a copy of any orders issued pursuant to this section, or an
38 equivalent notice containing the terms of the order, upon one or more
39 of the principal entrances of the place or in any other conspicuous
40 location. Such posting shall be for the purpose of informing the
41 public, and the failure to post a copy of the order shall in no way
42 excuse any violation of the order.

43 (3) Notwithstanding the provisions of section 1 of P.L.1982, c.79
44 (C.2A:4A-60), prior to the person's conviction or adjudication of
45 delinquency for a criminal offense, any law enforcement agency may
46 publish a copy of any orders issued pursuant to this section, or an

1 equivalent notice containing the terms of the order, in a newspaper
2 circulating in the area of the restraining order. Such publication shall
3 be for the purpose of informing the public, and the failure to publish
4 a copy of the order shall in no way excuse any violation of the order.

5 (4) Notwithstanding the provisions of section 1 of P.L.1982, c.79
6 (C.2A:4A-60), prior to the person's conviction or adjudication of
7 delinquency for a criminal offense, any law enforcement agency may
8 distribute copies of any orders issued pursuant to this section, or an
9 equivalent notice containing the terms of the order, to residents or
10 businesses located within the area delineated in the order or, in the
11 case of a school or any government-owned property, to the
12 appropriate administrator, or to any tenant association representing the
13 residents of the affected area. Such distribution shall be for the
14 purpose of informing the public, and the failure to publish a copy of
15 the order shall in no way excuse any violation of the order.

16 h. When a person is convicted of or adjudicated delinquent for any
17 criminal offense, the court, upon application of a law enforcement
18 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
19 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
20 section, shall, by separate order or within the judgment of conviction,
21 issue an order prohibiting the person from entering any place defined
22 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
23 including a buffer zone surrounding the place or modifications as
24 provided by subsection f. of this section. Upon the person's conviction
25 or adjudication of delinquency for a criminal offense, a law
26 enforcement agency, in addition to posting, publishing, and
27 distributing the order or an equivalent notice pursuant to paragraphs
28 (2), (3) and (4) of subsection g. of this section, may also post, publish
29 and distribute a photograph of the person.

30 i. When a juvenile has been adjudicated delinquent for an act
31 which, if committed by an adult, would be a criminal offense, in
32 addition to an order required by subsection h. of this section or any
33 other disposition authorized by law, the court may order the juvenile
34 and any parent, guardian or any family member over whom the court
35 has jurisdiction to take such actions or obey such restraints as may be
36 necessary to facilitate the rehabilitation of the juvenile or to protect
37 public safety or to safeguard or enforce the rights of residents of the
38 place. The court may commit the juvenile to the care and
39 responsibility of the Department of Human Services [under the
40 responsibility of the Division of Youth and Family Services] until such
41 time as the juvenile reaches the age of 18 or until the order of removal
42 and restraint expires, whichever first occurs, or to such alternative
43 residential placement as is practicable.

44 j. An order issued pursuant to subsection a., b., c. or d. of this
45 section shall remain in effect until the case has been adjudicated or
46 dismissed, or for not less than two years, whichever is less. An order

1 issued pursuant to subsection h. of this section shall remain in effect
2 for such period of time as shall be fixed by the court but not longer
3 than the maximum term of imprisonment or incarceration allowed by
4 law for the underlying offense or offenses. When the court issues a
5 restraining order pursuant to subsection h. of this section and the
6 person is also sentenced to any form of probationary supervision or
7 participation in the Intensive Supervision Program, the court shall
8 make continuing compliance with the order an express condition of
9 probation or the Intensive Supervision Program. When the person has
10 been sentenced to a term of incarceration, continuing compliance with
11 the terms and conditions of the order shall be made an express
12 condition of the person's release from confinement or incarceration on
13 parole. At the time of sentencing or, in the case of a juvenile, at the
14 time of disposition of the juvenile case, the court shall advise the
15 defendant that the restraining order shall include a fixed time period in
16 accordance with this subsection and shall include that provision in the
17 judgment of conviction, dispositional order, separate order or order
18 vacating an existing restraining order, to the law enforcement agency
19 that made the arrest and to the county prosecutor.

20 k. All applications to stay or modify an order issued pursuant to
21 this act, including an order originally issued in municipal court, shall
22 be made in the Superior Court. The court shall immediately notify the
23 county prosecutor in writing whenever an application is made to stay
24 or modify an order issued pursuant to this act. If the court does not
25 issue a restraining order, the sentence imposed by the court for a
26 criminal offense as defined in subsection b. of this section shall not
27 become final for ten days in order to permit the appeal of the court's
28 findings by the prosecution.

29 l. Nothing in this section shall be construed in any way to limit the
30 authority of the court to take such other actions or to issue such
31 orders as may be necessary to protect the public safety or to safeguard
32 or enforce the rights of others with respect to the place.

33 m. Notwithstanding any other provision of this section, the court
34 may permit the person to return to the place to obtain personal
35 belongings and effects and, by court order, may restrict the time and
36 duration and provide for police supervision of such a visit.

37 (cf: P.L.2001, c.365, s.2)

38

39 15. N.J.S.3B:1-1 is amended to read as follows:

40 3B:1-1. As used in this title, unless otherwise defined:

41 "Administrator" includes general administrators of an intestate and
42 unless restricted by the subject or context, administrators with the will
43 annexed, substituted administrators, substituted administrators with
44 the will annexed, temporary administrators and administrators
45 pendente lite.

46 "Beneficiary," as it relates to trust beneficiaries, includes a person

1 who has any present or future interest, vested or contingent, and also
2 includes the owner of an interest by assignment or other transfer and
3 as it relates to a charitable trust, includes any person entitled to
4 enforce the trust.

5 "Child" means any individual, including a natural or adopted child,
6 entitled to take by intestate succession from the parent whose
7 relationship is involved and excludes any person who is only a
8 stepchild, a [foster] resource family child, a grandchild or any more
9 remote descendant.

10 "Claims" include liabilities whether arising in contract, or in tort or
11 otherwise, and liabilities of the estate which arise at or after the death
12 of the decedent, including funeral expenses and expenses of
13 administration, but does not include estate or inheritance taxes,
14 demands or disputes regarding title to specific assets alleged to be
15 included in the estate.

16 "Cofiduciary" means each of two or more fiduciaries jointly serving
17 in a fiduciary capacity.

18 "Devise," when used as a noun, means a testamentary disposition
19 of real or personal property and when used as a verb, means to dispose
20 of real or personal property by will.

21 "Devisee" means any person designated in a will to receive a devise.
22 In the case of a devise to an existing trust or trustee, or to a trustee on
23 trust described by will, trust or trustee is the devisee and the
24 beneficiaries are not devisees.

25 "Distributee" means any person who has received property of a
26 decedent from his personal representative other than as a creditor or
27 purchaser. A trustee is a distributee only to the extent of a distributed
28 asset or increment thereto remaining in his hands. A beneficiary of a
29 trust to whom the trustee has distributed property received from a
30 personal representative is a distributee of the personal representative.

31 "Domiciliary foreign fiduciary" means any fiduciary who has
32 received letters, or has been appointed, or is authorized to act as a
33 fiduciary, in the jurisdiction in which the decedent was domiciled at the
34 time of his death, in which the ward is domiciled or in which is located
35 the principal place of the administration of a trust.

36 "Estate" means all of the property of a decedent, minor or
37 incapacitated person, trust or other person whose affairs are subject
38 to this title as the property is originally constituted and as it exists
39 from time to time during administration.

40 "Fiduciary" includes executors, general administrators of an
41 intestate, administrators with the will annexed, substituted
42 administrators, substituted administrators with the will annexed,
43 guardians, substituted guardians, trustees, substituted trustees and,
44 unless restricted by the subject or context, temporary administrators,
45 administrators pendente lite, administrators ad prosequendum,
46 administrators ad litem and other limited fiduciaries.

1 "Guardian" means a person who has qualified as a guardian of the
2 person or estate of a minor or incapacitated person pursuant to
3 testamentary or court appointment, but excludes one who is merely a
4 guardian ad litem.

5 "Heirs" means those persons, including the surviving spouse, who
6 are entitled under the statutes of intestate succession to the property
7 of a decedent.

8 (cf: P.L.1997, c.379, s.2)

9

10 16. N.J.S.3B:1-2 is amended to read as follows:

11 3B:1-2. "Issue" of a person includes all of his lineal descendants,
12 natural or adopted, of all generations, with the relationship of parent
13 and child at each generation being determined by the definition of child
14 and parent.

15 "Local administration" means administration by a personal
16 representative appointed in this State.

17 "Local fiduciary" means any fiduciary who has received letters in
18 this State and excludes foreign fiduciaries who acquire the power of
19 local fiduciary pursuant to this title.

20 "Incapacitated person" means a person who is impaired by reason
21 of mental illness or mental deficiency to the extent that he lacks
22 sufficient capacity to govern himself and manage his affairs.

23 The term incapacitated person is also used to designate a person
24 who is impaired by reason of physical illness or disability, chronic use
25 of drugs, chronic alcoholism or other cause (except minority) to the
26 extent that he lacks sufficient capacity to govern himself and manage
27 his affairs.

28 The terms incapacity and incapacitated person refer to the state or
29 condition of an incapacitated person as hereinbefore defined.

30 "Minor" means a person who is under 18 years of age.

31 "Nonresident decedent" means a decedent who was domiciled in
32 another jurisdiction at the time of his death.

33 "Parent" means any person entitled to take or would be entitled to
34 take if the child, natural or adopted, died without a will, by intestate
35 succession from the child whose relationship is in question and
36 excludes any person who is a stepparent, ~~[foster]~~ resource family
37 parent or grandparent.

38 "Personal representative" includes executor, administrator,
39 successor personal representative, special administrator, and persons
40 who perform substantially the same function under the law governing
41 their status. "General personal representative" excludes special
42 administrator.

43 "Resident creditor" means a person domiciled in, or doing business
44 in this State, who is, or could be, a claimant against an estate.

45 "Security" includes any note, stock, treasury stock, bond, mortgage,
46 financing statement, debenture, evidence of indebtedness, certificate

1 of interest or participation in an oil, gas or mining title or lease or in
2 payments out of production under the title or lease, collateral, trust
3 certificate, transferable share, voting trust certificate or, in general,
4 any interest or instrument commonly known as a security or as a
5 security interest or any certificate of interest or participation, any
6 temporary or interim certificate, receipt or certificate of deposit for,
7 or any warrant or right to subscribe to or purchase, any of the
8 foregoing.

9 "Successor personal representative" means a personal
10 representative, other than a special administrator, who is appointed to
11 succeed a previously appointed personal representative.

12 "Successors" means those persons, other than creditors, who are
13 entitled to real and personal property of a decedent under his will or
14 the laws governing intestate succession.

15 "Testamentary trustee" means a trustee designated by will or
16 appointed to exercise a trust created by will.

17 "Trust" includes any express trust, private or charitable, with
18 additions thereto, wherever and however created. It also includes a
19 trust created by judgment under which the trust is to be administered
20 in the manner of an express trust. "Trust" excludes other constructive
21 trusts, and it excludes resulting trusts, guardianships, personal
22 representatives, trust accounts created under the "Multiple-party
23 Deposit Account Act," P.L.1979, c.491 [(C.17:161-1 et
24 seq.)](C.17:161-1 et seq.), gifts to minors under the "New Jersey
25 Uniform Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.),
26 business trusts providing for certificates to be issued to beneficiaries,
27 common trusts, security arrangements, liquidation trusts, and trusts for
28 the primary purpose of paying debts, dividends, interest, salaries,
29 wages, profits, pensions or employee benefits of any kind, and any
30 arrangement under which a person is nominee or escrowee for another.

31 "Ward" means a person for whom a guardian is appointed or a
32 person under the protection of the court.

33 "Will" means the last will and testament of a testator or testatrix
34 and includes any codicil.

35 (cf: P.L.1997, c.379, s.3)

36

37 17. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as
38 follows:

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

47 (cf: P.L.1999, c.53, s.3)

1 18. Section 12 of P.L.1977, c.367 (C.9:3-48) is amended to read
2 as follows:

3 12. a. When the child to be adopted has not been received from an
4 approved agency, the prospective parent shall file with the court a
5 complaint for adoption. Upon receipt of the complaint, the court shall
6 by its order:

7 (1) Declare the child to be a ward of the court and declare that the
8 plaintiff shall have custody of the child subject to further order of the
9 court;

10 (2) Appoint an approved agency to make an investigation and
11 submit a written report to the court which shall include:

12 (a) the facts and circumstances surrounding the surrender of
13 custody by the child's parents and the placement of the child in the
14 home of the plaintiff, including the identity of any intermediary who
15 participated in the placement of the child;

16 (b) an evaluation of the child and of the plaintiff and the spouse of
17 the plaintiff if not the child's parent and any other person residing in
18 the prospective home; and

19 (c) any fees, expenses or costs paid by or on behalf of the adopting
20 parent in connection with the adoption.

21 The agency conducting the investigation shall, if it is able to,
22 contact the birth parent and confirm that counseling, if required by
23 section 18 of P.L.1993, c.345 (C.9:3-39.1), has either been provided
24 or waived by the birth parent. If not previously provided, the agency
25 shall advise the parent of the availability of such counseling through
26 the agency and shall provide such counseling if requested by the birth
27 parent or if the birth parent resides out of State or out of the country,
28 such counseling should be made available by or through an agency
29 approved to provide such counseling in the birth parent's state or
30 country of domicile. The agency shall further confirm that the birth
31 parent has been advised that the decision of the birth parent not to
32 place the child for adoption or the return of the child to the birth
33 parent can not be conditioned upon the repayment of expenses by the
34 birth parent to the adoptive parent.

35 All expenses and fees for the investigation and any counseling
36 provided shall be the responsibility of the plaintiff;

37 (3) Direct the plaintiff to cooperate with the approved agency
38 making the investigation and report;

39 (4) Fix a day for a preliminary hearing not less than two or more
40 than three months from the date of the filing of the complaint; except
41 that the hearing may be accelerated upon the application of the
42 approved agency and upon notice to the plaintiff if the agency
43 determines that removal of the child from the plaintiff's home is
44 required, in which case the court shall appoint a guardian ad litem to
45 represent the child at all future proceedings regarding the adoption.

46 Whenever the plaintiff is a stepparent of the child, the court, in its

1 discretion, may dispense with the agency investigation and report and
2 take direct evidence at the preliminary hearing of the facts and
3 circumstances surrounding the filing of the complaint for adoption.

4 Whenever a plaintiff is a brother, sister, grandparent, aunt, uncle,
5 or birth father of the child, the order may limit the investigation to an
6 inquiry concerning the status of the parents of the child and an
7 evaluation of the plaintiff. At least 10 days prior to the day fixed for
8 the preliminary hearing the approved agency shall file its report with
9 the court and serve a copy on the plaintiff; and

10 (5) Conduct a search of the records of the central registry
11 established pursuant to section 1 of P.L.1999, c.421 (C.2C:25-34),
12 upon the request of a surrogate and not more than 30 days prior to the
13 preliminary hearing, to determine whether a prospective adoptive
14 parent or any member of the parent's household has:

15 (a) had a domestic violence restraining order entered against them;
16 or

17 (b) been charged with a violation of a court order involving
18 domestic violence.

19 The court shall provide the results of the search to the surrogate for
20 inclusion in the court's adoption file. If the results of the search
21 contain any material findings or recommendations adverse to the
22 plaintiff, the surrogate shall provide the material findings or
23 recommendations to the approved agency.

24 In a case in which the plaintiff is a stepparent of the child and the
25 court dispenses with the agency investigation and report pursuant to
26 paragraph (4) of this subsection and the results of the court's search
27 contain any material findings or recommendations adverse to the
28 plaintiff, the surrogate shall serve a copy of that part of the results of
29 the search upon the plaintiff at least five days prior to the preliminary
30 hearing.

31 b. The preliminary hearing shall be in camera and shall have for its
32 purpose the determination of the circumstances under which the child
33 was relinquished by his parents and received into the home of the
34 plaintiff, the status of the parental rights of the parents, the fitness of
35 the child for adoption and the fitness of the plaintiff to adopt the child
36 and to provide a suitable home. If the report of the approved agency
37 pursuant to subsection a. of this section contains or the results of the
38 search of the central registry contain material findings or
39 recommendations adverse to the plaintiff, the presence of a
40 representative of the approved agency who has personal knowledge of
41 the investigation shall be required at the preliminary hearing. If in the
42 course of the preliminary hearing the court determines that there is
43 lack of jurisdiction, lack of qualification on the part of the plaintiff or
44 that the best interests of the child would not be promoted by the
45 adoption, the court shall deny the adoption and make such further
46 order concerning the custody and guardianship of the child as may be

1 deemed proper in the circumstances.

2 c. If upon completion of the preliminary hearing the court finds
3 that:

4 (1) The parents of the child do not have rights as to custody of the
5 child by reason of their rights previously having been terminated by
6 court order; or, the parents' objection has been contravened pursuant
7 to subsection a. of section 10 of P.L.1977, c.367 (C.9:3-46);

8 (2) The guardian, if any, should have no further control or
9 authority over the child;

10 (3) The child is fit for adoption; and

11 (4) The plaintiff is fit to adopt the child, the court shall: (a) issue
12 an order stating its findings, declaring that no parent or guardian of the
13 child has a right to custody or guardianship of the child; (b) terminate
14 the parental rights of that person, which order shall be a final order;
15 (c) fix a date for final hearing not less than six nor more than nine
16 months from the date of the preliminary hearing; and (d) appoint an
17 approved agency to supervise and evaluate the continuing placement
18 in accordance with subsection d. of this section. If the plaintiff is a
19 brother, sister, grandparent, aunt, uncle, birth father, stepparent or
20 [foster] resource family parent of the child, or if the child has been
21 in the home of the plaintiff for at least two years immediately
22 preceding the commencement of the adoption action, and if the court
23 is satisfied that the best interests of the child would be promoted by
24 the adoption, the court may dispense with this evaluation and final
25 hearing and enter a judgment of adoption immediately upon
26 completion of the preliminary hearing.

27 d. The approved agency appointed pursuant to subsection c. of this
28 section shall from time to time visit the home of the plaintiff and make
29 such further inquiry as may be necessary to observe and evaluate the
30 care being received by the child and the adjustment of the child and the
31 plaintiff as members of a family. At least 15 days prior to the final
32 hearing the approved agency shall file with the court a written report
33 of its findings, including a recommendation concerning the adoption,
34 and shall mail a copy of the report to the plaintiff.

35 If at any time following the preliminary hearing the approved
36 agency concludes that the best interests of the child would not be
37 promoted by the adoption, the court shall appoint a guardian ad litem
38 for the child and after a hearing held upon the application of the
39 approved agency and upon notice to the plaintiff, may modify or
40 revoke any order entered in the action and make such further order
41 concerning the custody and guardianship of the child as may be
42 deemed proper in the circumstances.

43 e. At the final hearing the court shall proceed in camera; except
44 that if the approved agency in its report pursuant to subsection d. of
45 this section has recommended that the adoption be granted, the final
46 hearing may be dispensed with and, if the court is satisfied that the

1 best interests of the child would be promoted by the adoption, a
2 judgment of adoption may be entered immediately.

3 The appearance of the approved agency at the final hearing shall not
4 be required unless its recommendations are adverse to the plaintiff or
5 unless ordered by the court. If its appearance is required, the
6 approved agency shall be entitled to present testimony and to
7 cross-examine witnesses and shall be subject to cross-examination with
8 respect to its report and recommendations in the matter.

9 f. If, based upon the report and the evidence presented, the court
10 is satisfied that the best interests of the child would be promoted by
11 the adoption, the court shall enter a judgment of adoption. If, based
12 upon the evidence, the court is not satisfied that the best interests of
13 the child would be promoted by the adoption, the court shall deny the
14 adoption and make such further order concerning the custody and
15 guardianship of the child as may be deemed proper in the
16 circumstances.

17 (cf: P.L.2003, c.286, s.3)

18

19 19. Section 19 of P.L.1997, c.367 (C.9:3-55) is amended to read
20 as follows:

21 19. a. A prospective parent who is not a brother, sister, aunt,
22 uncle, grandparent, [foster] resource family parent, birth father or
23 stepparent of the child to be adopted shall file before the complaint is
24 heard, in accordance with court rules, a detailed report which shall be
25 signed and verified by each prospective parent and shall disclose all
26 sums of money or other valuable consideration paid, given or agreed
27 to be given to any person, firm, partnership, corporation, association
28 or agency by or on behalf of the prospective parent in connection with
29 the adoption, and the names and addresses of each person, firm,
30 partnership, corporation, association or agency to whom the
31 consideration was given or promised. The report, a copy of which
32 shall be provided to the approved agency pursuant to section 11 or 12
33 of P.L.1977, c.367 (C.9:3-47 or C.9:3-48), shall include but not be
34 limited to expenses incurred or to be incurred by or on behalf of a
35 prospective parent in connection with:

36 (1) The birth of the child;

37 (2) The placement for adoption of the child with the prospective
38 parent;

39 (3) Medical or hospital care received by the mother or the child
40 during the mother's pre- and postnatal period; and

41 (4) Services relating to the adoption or to the placement for
42 adoption, including legal services, which were rendered or are to be
43 rendered to or for the benefit of the prospective parent, either parent
44 of the child or any other person or agency.

45 b. Whenever based upon a report filed pursuant to this section it
46 appears to the court that any person may have violated section 18 of

1 P.L.1993, c.345 (C.9:3-39.1) the court or the division may refer the
2 matter to the appropriate county prosecutor.
3 (cf: P.L.1993, c.345, s.17)

4
5 20. R.S.9:6-2 is amended to read as follows:

6 9:6-2. "Parent", as used in this chapter, shall include the stepfather
7 and stepmother and the adoptive or [foster] resource family parent.
8 "The person having the care, custody and control of any child", as
9 used in this chapter, shall mean any person who has assumed the care
10 of a child, or any person with whom a child is living at the time the
11 offense is committed, and shall include a teacher, employee or
12 volunteer, whether compensated or uncompensated, of an institution
13 as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is
14 responsible for the child's welfare, and a person who legally or
15 voluntarily assumes the care, custody, maintenance or support of the
16 child. Custodian also includes any other staff person of an institution
17 regardless of whether or not the person is responsible for the care or
18 supervision of the child. Custodian also includes a teaching staff
19 member or other employee, whether compensated or uncompensated,
20 of a day school as defined in section 1 of P.L.1974, c.119
21 (C.9:6-8.21).

22 (cf: P.L.1987, c.341, s.2)

23

24 21. Section 7 of P.L.1987, c.341 (C.9:6-3.1) is amended to read as
25 follow:

26 7. a. A teacher, employee, volunteer or staff person of an
27 institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who
28 is alleged to have committed an act of child abuse or neglect as defined
29 in R.S.9:6-1, section 2 of P.L.1971, c.437 (C.9:6-8.9) and section 1
30 of P.L.1974, c.119 (C.9:6-8.21) shall be temporarily suspended by the
31 appointing authority from his position at the institution with pay, or
32 reassigned to other duties which would remove the risk of harm to the
33 child under the person's custody or control, if there is reasonable cause
34 for the appointing authority to believe that the life or health of the
35 alleged victim or other children at the institution is in imminent danger
36 due to continued contact between the alleged perpetrator and a child
37 at the institution.

38 A public employee suspended pursuant to this subsection shall be
39 accorded and may exercise due process rights, including notice of the
40 proposed suspension and a presuspension opportunity to respond and
41 any other due process rights provided under the laws of this State
42 governing public employment and under any applicable individual or
43 group contractual agreement. A private employee suspended pursuant
44 to this subsection shall be accorded and may exercise due process
45 rights provided for under the laws of this State governing private
46 employment and under any applicable individual or group employee

1 contractual agreement.

2 b. If the child abuse or neglect is the result of a single act occurring
3 in an institution, within 30 days of receipt of the report of child abuse
4 or neglect, the [division] Department of Human Services may request
5 that the chief administrator of the institution formulate a plan of
6 remedial action. The plan may include, but shall not be limited to,
7 action to be taken with respect to a teacher, employee, volunteer or
8 staff person of the institution to assure the health and safety of the
9 alleged victim and other children at the institution and to prevent
10 future acts of abuse or neglect. Within 30 days of the date the
11 [division] department requested the remedial plan, the chief
12 administrator shall notify the [division] department in writing of the
13 progress in preparing the plan. The chief administrator shall complete
14 the plan within 90 days of the date the [division] department
15 requested the plan.

16 c. If the child abuse or neglect is the result of several incidents
17 occurring in an institution, within 30 days of receipt of the report of
18 child abuse or neglect, the [division] department may request that the
19 chief administrator of the institution make administrative, personnel or
20 structural changes at the institution. Within 30 days of the date the
21 [division] department made its request, the chief administrator shall
22 notify the [division] department of the progress in complying with the
23 terms of the [division's] department's request. The [division]
24 department and chief administrator shall determine a time frame for
25 completion of the terms of the request.

26 d. If a chief administrator of an institution does not formulate or
27 implement a remedial plan or make[any] the changes requested by the
28 [division] department, the [division] department may impose
29 appropriate sanctions or actions if the department licenses, oversees,
30 approves or authorizes the operation of the institution. If the
31 department does not license, oversee, approve or authorize the
32 operation of the institution, the department may recommend to the
33 authority which licenses, oversees, approves or authorizes the
34 operation of the institution that appropriate sanctions or actions be
35 [enforced or taken] imposed against the institution.

36 (cf: P.L.1987, c.341, s.7)

37

38 22. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read
39 as follows:

40 1. a. All records of child abuse reports made pursuant to section
41 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
42 [Division of Youth and Family] Department of Human Services in
43 investigating such reports including reports received pursuant to
44 section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings
45 forwarded to the [central] child abuse registry pursuant to section 4

1 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be
2 disclosed only under the circumstances expressly authorized under
3 subsections b., c., d., e., f. and g. herein. The [division] department
4 shall disclose information only as authorized under subsections b., c.,
5 d., e., f. and g. of this section that is relevant to the purpose for which
6 the information is required, provided, however, that nothing may be
7 disclosed which would likely endanger the life, safety, or physical or
8 emotional well-being of a child or the life or safety of any other person
9 or which may compromise the integrity of a [division] department
10 investigation or a civil or criminal investigation or judicial proceeding.
11 If the [division] department denies access to specific information on
12 this basis, the requesting entity may seek disclosure through the
13 Chancery Division of the Superior Court. This section shall not be
14 construed to prohibit disclosure pursuant to paragraphs (2) and (7) of
15 subsection b. of this section.

16 Nothing in this act shall be construed to permit the disclosure of
17 any information deemed confidential by federal or State law.

18 b. The [division] department may and upon written request, shall
19 release the records and reports referred to in subsection a., or parts
20 thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83
21 et al.) to:

22 (1) A public or private child protective agency authorized to
23 investigate a report of child abuse or neglect;

24 (2) A police or other law enforcement agency investigating a report
25 of child abuse or neglect;

26 (3) A physician who has before him a child whom he reasonably
27 suspects may be abused or neglected or an authorized member of the
28 staff of a duly designated regional child abuse diagnostic and treatment
29 center which is involved with a particular child who is the subject of
30 the request;

31 (4) A physician, a hospital director or his designate, a police officer
32 or other person authorized to place a child in protective custody when
33 such person has before him a child whom he reasonably suspects may
34 be abused or neglected and requires the information in order to
35 determine whether to place the child in protective custody;

36 (5) An agency, whether public or private, including any [other]
37 division or unit in the Department of Human Services, authorized to
38 care for, treat, assess, evaluate or supervise a child who is the subject
39 of a child abuse report, or a parent, guardian, resource family parent
40 or other person who is responsible for the child's welfare, or both,
41 when the information is needed in connection with the provision of
42 care, treatment, assessment, evaluation or supervision to such child or
43 such parent, guardian, resource family parent or other person and the
44 provision of information is in the best interests of the child as
45 determined by the Division of Youth and Family Services;

46 (6) A court or the Office of Administrative Law, upon its finding

1 that access to such records may be necessary for determination of an
2 issue before it, and such records may be disclosed by the court or the
3 Office of Administrative Law in whole or in part to the law guardian,
4 attorney or other appropriate person upon a finding that such further
5 disclosure is necessary for determination of an issue before the court
6 or the Office of Administrative Law;

7 (7) A grand jury upon its determination that access to such records
8 is necessary in the conduct of its official business;

9 (8) Any appropriate State legislative committee acting in the
10 course of its official functions, provided, however, that no names or
11 other information identifying persons named in the report shall be
12 made available to the legislative committee unless it is absolutely
13 essential to the legislative purpose;

14 (9) (Deleted by amendment, P.L.1997, c.175).

15 (10) A family day care sponsoring organization for the purpose of
16 providing information on child abuse or neglect allegations involving
17 prospective or current providers or household members pursuant to
18 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in
19 administrative appeals related to information obtained through a
20 **[central]** child abuse registry search;

21 (11) The Victims of Crime Compensation Board, for the purpose
22 of providing services available pursuant to the "Criminal Injuries
23 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
24 a child victim who is the subject of such report;

25 (12) Any person appealing a **[division]** department service or
26 status action or a substantiated finding of child abuse or neglect and
27 his attorney or authorized lay representative upon a determination by
28 the **[division]** department or the presiding Administrative Law Judge
29 that such disclosure is necessary for a determination of the issue on
30 appeal;

31 (13) Any person or entity mandated by statute to consider child
32 abuse or neglect information when conducting a background check or
33 employment-related screening of an individual employed by or seeking
34 employment with an agency or organization providing services to
35 children;

36 (14) Any person or entity conducting a disciplinary, administrative
37 or judicial proceeding to determine terms of employment or continued
38 employment of an officer, employee, or volunteer with an agency or
39 organization providing services for children. The information may be
40 disclosed in whole or in part to the appellant or other appropriate
41 person only upon a determination by the person or entity conducting
42 the proceeding that the disclosure is necessary to make a
43 determination;

44 (15) The members of a county multi-disciplinary team, established
45 in accordance with State guidelines, for the purpose of coordinating
46 the activities of agencies handling alleged cases of child abuse and

1 neglect;

2 (16) A person being evaluated by the [division] department or the
3 court as a potential care-giver to determine whether that person is
4 willing and able to provide the care and support required by the child;

5 (17) The legal counsel of a child, parent or guardian, whether
6 court-appointed or retained, when information is needed to discuss the
7 case with the [division] department in order to make decisions
8 relating to or concerning the child;

9 (18) A person who has filed a report of suspected child abuse or
10 neglect for the purpose of providing that person with only the
11 disposition of the investigation;

12 (19) A parent, resource family parent or legal guardian when the
13 information is needed in a [division] department matter in which that
14 parent, resource family parent or legal guardian is directly involved.
15 The information may be released only to the extent necessary for the
16 requesting parent, resource family parent or legal guardian to discuss
17 services or the basis for the [division's] department's involvement or
18 to develop, discuss, or implement a case plan for the child;

19 (20) A federal, State or local government entity, to the extent
20 necessary for such entity to carry out its responsibilities under law to
21 protect children from abuse and neglect;

22 (21) Citizen review panels designated by the State in compliance
23 with the federal "Child Abuse Prevention and Treatment Act
24 Amendments of 1996," Pub.L.104-235;

25 (22) The Child Fatality and Near Fatality Review Board established
26 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); or

27 (23) Members of a family team or other case planning group
28 formed by the Division of Youth and Family Services and established
29 in accordance with regulations adopted by the Commissioner of
30 Human Services for the purpose of addressing the child's safety,
31 permanency or well-being, when the provision of such information is
32 in the best interests of the child as determined by the Division of
33 Youth and Family Services.

34 Any individual, agency, board, court, grand jury, legislative
35 committee, or other entity which receives from the [division]
36 department the records and reports referred to in subsection a., shall
37 keep such records and reports, or parts thereof, confidential and shall
38 not disclose such records and reports or parts thereof except as
39 authorized by law.

40 c. The [division] department may share information with a child
41 who is the subject of a child abuse or neglect report, as appropriate to
42 the child's age or condition, to enable the child to understand the basis
43 for the [division's] department's involvement and to participate in the
44 development, discussion, or implementation of a case plan for the
45 child.

46 d. The [division] department may release the records and reports

1 referred to in subsection a. of this section to any person engaged in a
2 bona fide research purpose, provided, however, that no names or other
3 information identifying persons named in the report shall be made
4 available to the researcher unless it is absolutely essential to the
5 research purpose and provided further that the approval of the
6 **[Director of the Division of Youth and Family Services]**
7 Commissioner of Human Services or his designee shall first have been
8 obtained.

9 e. For incidents determined by the **[division]** department to be
10 substantiated, the **[division]** department shall forward to the police or
11 law enforcement agency in whose jurisdiction the child named in the
12 report resides, the identity of persons alleged to have committed child
13 abuse or neglect and of victims of child abuse or neglect, their
14 addresses, the nature of the allegations, and other relevant
15 information, including, but not limited to, prior reports of abuse or
16 neglect and names of siblings obtained by the **[division]** department
17 during its investigation of a report of child abuse or neglect. The
18 police or law enforcement agency shall keep such information
19 confidential.

20 f. The **[division]** department may disclose to the public the
21 findings or information about a case of child abuse or neglect which
22 has resulted in a child fatality or near fatality. Nothing may be
23 disclosed which would likely endanger the life, safety, or physical or
24 emotional well-being of a child or the life or safety of any other person
25 or which may compromise the integrity of a **[division]** department
26 investigation or a civil or criminal investigation or judicial proceeding.
27 If the **[division]** department denies access to specific information on
28 this basis, the requesting entity may seek disclosure of the information
29 through the Chancery Division of the Superior Court. No information
30 may be disclosed which is deemed confidential by federal or State law.
31 The name or any other information identifying the person or entity
32 who referred the child to the **[division]** department shall not be
33 released to the public.

34 g. The **[division]** department shall release the records and reports
35 referred to in subsection a. of this section to a unified child care
36 agency contracted with the **[Department of Human Services]**
37 department pursuant to N.J.A.C.10:15-2.1 for the purpose of
38 providing information on child abuse or neglect allegations involving
39 a prospective approved home provider or any adult household member
40 pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child's
41 parent when the information is necessary for the parent to make a
42 decision concerning the placement of the child in an appropriate child
43 care arrangement.

44 The **[division]** department shall not release any information that
45 would likely endanger the life, safety, or physical or emotional

1 well-being of a child or the life or safety of any other person.
2 (cf: P.L.2003, c.185, s.1)

3
4 23. Section 4 of P.L.1971, c.437 (C.9:6-8.11) is amended to read
5 as follows:

6 4. Upon receipt of any such report, the **[Bureau of Children's]**
7 Division of Youth and Family Services, or such another entity in the
8 Department of Human Services as may be designated by the
9 Commissioner of Human Services to investigate child abuse or neglect,
10 shall immediately take such action as shall be necessary to insure the
11 safety of the child and to that end may request and shall receive
12 appropriate assistance from local and State law enforcement officials.
13 A representative of the division or other designated entity shall initiate
14 an investigation within 24 hours of receipt of the report, unless the
15 division or other entity authorizes a delay based upon the request of
16 a law enforcement official. The **[bureau] division or other entity** shall
17 also, within 72 hours, forward a report of such matter to the **[Central**
18 **Registry of the Bureau of Children's Services]** child abuse registry
19 operated by the division in Trenton.

20 The child abuse registry shall be the repository of all information
21 regarding child abuse or neglect that is accessible to the public
22 pursuant to State and federal law. No information received in the
23 **[central] child abuse registry** shall be considered as a public record
24 within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
25 c.404 (C.47:1A-5 et al.).

26 (cf: P.L.1971, c.437, s.4)

27

28 24. Section 5 of P.L.1971, c.437 (C.9:6-8.12) is amended to read
29 as follows:

30 5. The **[Bureau of Children's] Division of Youth and Family**
31 **Services** shall maintain **[in each of its districts on a 24 hour daily basis**
32 **throughout each year], at all times,** an emergency telephone service
33 for the receipt of **[child abuse] calls involving a report, complaint or**
34 allegation of child abuse or neglect.

35 (cf: P.L.1971, c.437, s.5)

36

37 25. Section 2 of P.L.1973, c.147 (C.9:6-8.17) is amended to read
38 as follows:

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

45 (cf: P.L.1973, c.47, s.2)

1 26. Section 5 of P.L.1999, c.53 (C.9:6-8.19a) is amended to read
2 as follows:

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

11 (cf: P.L.1999, c.53, s.5)

12

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

15 1. As used in this act, unless the specific context indicates
16 otherwise:

17 a. "Parent or guardian" means any natural parent, adoptive parent,
18 [foster] resource family parent, stepparent, or any person, who has
19 assumed responsibility for the care, custody or control of a child or
20 upon whom there is a legal duty for such care. Parent or guardian
21 includes a teacher, employee or volunteer, whether compensated or
22 uncompensated, of an institution who is responsible for the child's
23 welfare and any other staff person of an institution regardless of
24 whether or not the person is responsible for the care or supervision of
25 the child. Parent or guardian also includes a teaching staff member or
26 other employee, whether compensated or uncompensated, of a day
27 school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

28 b. "Child" means any child alleged to have been abused or
29 neglected.

30 c. "Abused or neglected child" means a child less than 18 years of
31 age whose parent or guardian, as herein defined, (1) inflicts or allows
32 to be inflicted upon such child physical injury by other than accidental
33 means which causes or creates a substantial risk of death, or serious
34 or protracted disfigurement, or protracted impairment of physical or
35 emotional health or protracted loss or impairment of the function of
36 any bodily organ; (2) creates or allows to be created a substantial or
37 ongoing risk of physical injury to such child by other than accidental
38 means which would be likely to cause death or serious or protracted
39 disfigurement, or protracted loss or impairment of the function of any
40 bodily organ; (3) commits or allows to be committed an act of sexual
41 abuse against the child; (4) or a child whose physical, mental, or
42 emotional condition has been impaired or is in imminent danger of
43 becoming impaired as the result of the failure of his parent or
44 guardian, as herein defined, to exercise a minimum degree of care (a)
45 in supplying the child with adequate food, clothing, shelter, education,
46 medical or surgical care though financially able to do so or though

1 offered financial or other reasonable means to do so, or (b) in
2 providing the child with proper supervision or guardianship, by
3 unreasonably inflicting or allowing to be inflicted harm, or substantial
4 risk thereof, including the infliction of excessive corporal punishment;
5 or by any other acts of a similarly serious nature requiring the aid of
6 the court; (5) or a child who has been willfully abandoned by his
7 parent or guardian, as herein defined; (6) or a child upon whom
8 excessive physical restraint has been used under circumstances which
9 do not indicate that the child's behavior is harmful to himself, others
10 or property; (7) or a child who is in an institution and (a) has been
11 placed there inappropriately for a continued period of time with the
12 knowledge that the placement has resulted or may continue to result
13 in harm to the child's mental or physical well-being or (b) who has
14 been willfully isolated from ordinary social contact under
15 circumstances which indicate emotional or social deprivation.

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

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

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

29 e. "Attorney" means an attorney admitted to the practice of law in
30 this State who shall be privately retained; or, in the instance of an
31 indigent parent or guardian, an attorney from the Office of the Public
32 Defender or an attorney appointed by the court who shall be appointed
33 in order to avoid conflict between the interests of the child and the
34 parent or guardian in regard to representation.

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

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

42 h. "Day school" means a public or private school which provides
43 general or special educational services to day students in grades
44 kindergarten through 12. Day school does not include a residential
45 facility, whether public or private, which provides care on a 24-hour
46 basis.

47 (cf: P.L.1999, c.53, s.55)

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

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

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

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

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

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

34 (cf: P.L.1999, c.53, s.8)

35

36 29. Section 10 P.L.1977, c.210 (C.9:6-8.30) is amended to read as
37 follows:

38 10. Action by the division upon emergency removal. a. The
39 division when informed that there has been an emergency removal of
40 a child from his home without court order shall make every reasonable
41 effort to communicate immediately with the child's parent or guardian
42 that such emergency removal has been made and the location of the
43 facility to which the child has been taken, and advise the parent or
44 guardian to appear in the appropriate Superior Court, Chancery
45 Division, Family Part [on the next court day] within two court days.
46 The division shall make a reasonable effort, at least 24 hours prior to

1 the court hearing, to: notify the parent or guardian of the time to
2 appear in court; and inform the parent or guardian of his right to
3 obtain counsel, and how to obtain counsel through the Office of the
4 Public Defender if the parent or guardian is indigent. The division
5 shall also advise the party making the removal to appear. If the
6 removed child is returned to his home prior to the court hearing, there
7 shall be no court hearing to determine the sufficiency of cause for the
8 child's removal, unless the child's parent or guardian makes application
9 to the court for review. For the purposes of this section, "facility"
10 means a hospital, shelter or child care institution in which a child may
11 be placed for temporary care, but does not include a [foster] resource
12 family home.

13 b. The division shall cause a complaint to be filed under this act
14 [immediately or on the first court day] within two court days after
15 such removal takes place.

16 c. Whenever a child has been removed pursuant to section 7 or 9
17 of this act, the division shall arrange for immediate medical
18 examination of the child and shall have legal authority to consent to
19 such examination. If necessary to safeguard the child's health or life,
20 the division also is authorized to arrange for and consent to medical
21 care or treatment of the child. Consent by the division pursuant to this
22 subsection shall be deemed legal and valid for all purposes with
23 respect to any person, hospital, or other health care facility examining
24 or providing care or treatment to a child in accordance with and in
25 reliance upon such consent. Medical reports resulting from such
26 examination or care or treatment shall be released to the division for
27 the purpose of aiding in the determination of whether the child has
28 been abused or neglected. Any person or health care facility acting in
29 good faith in the examination of or provision of care and treatment to
30 a child or in the release of medical records shall have immunity from
31 any liability, civil or criminal, that might otherwise be incurred or
32 imposed as a result of such act.

33 (cf: P.L.1991, c.91, s.203)

34

35 30. Section 1 of P.L.1977, c.210 (C.9:6-8.36a) is amended to read
36 as follows:

37 1. The [Division of Youth and Family] Department of Human
38 Services shall immediately report all instances of suspected child abuse
39 and neglect, as defined by regulations, to the county prosecutor of the
40 county in which the child resides. [Said] The regulations shall be
41 developed jointly by the [division] department and the county
42 prosecutors, approved by the Attorney General, and promulgated by
43 the Commissioner of [the Department of]Human Services.

44 (cf: P.L.1977, c.210, s.1)

45

46 31. Section 20 of P.L.1974, c.119 (C.9:6-8.40) is amended to read

1 as follows:

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

21 (cf: P.L.1999, c.53, s.13)

22

23 32. Section 1 of P.L.1997, c.62 (C.9:6-8.40a) is amended to read
24 as follows:

25 1. a. The Division of Youth and Family Services in the Department
26 of Human Services shall expunge from its records all information
27 relating to a report, complaint or allegation of an incident of child
28 abuse or neglect with respect to which the division or other entity
29 designated by the Commissioner of Human Services to investigate
30 allegations of child abuse or neglect has determined, based upon its
31 investigation thereof, that the report, complaint or allegation of the
32 incident was unfounded.

33 b. [For purposes of this act, "unfounded" means there is no
34 concern on the part of the division that the safety or welfare of the
35 child is at risk] (~~Deleted by amendment, P.L. _____, c. _____ (pending~~
36 ~~before the Legislature as this bill)).~~

37 The definition of, and process [of] for, making a determination of
38 an unfounded report, complaint or allegation of an incident of child
39 abuse or neglect shall be [further] defined in regulations promulgated
40 by the department pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.).

42 (cf: P.L.1997, c.62, s.1)

43

44 33. Section 23 of P.L.1974, c.119 (C.9:6-8.43) is amended to read
45 as follows:

1 23. Notice of rights. a. The court shall advise the parent or
2 guardian of his right to have an adjournment to retain counsel and
3 consult with him. The court shall advise the respondent that if he is
4 indigent, he may apply for an attorney through the Office of the Public
5 Defender. In cases where the parent or guardian applies for an
6 attorney through the Office of the Public Defender, the court may
7 adjourn the case for a reasonable period of time for the parent or
8 guardian to secure counsel; however, the adjournment shall not
9 preclude the court from granting temporary relief as appropriate under
10 the law. The court shall appoint a law guardian for the child as
11 provided by this act.

12 b. The general public may be excluded from any hearing under this
13 act, and only such persons and the representatives of authorized
14 agencies may be admitted thereto as have an interest in the case.
15 (cf: P.L.1994, c.58, s.40)

16

17 34. Section 8 of P.L.1987, c.341 (C.9:6-8.72a) is amended to read
18 as follows:

19 8. The Commissioner of [the Department of] Education shall, in
20 cooperation and consultation with the Commissioner of [the
21 Department of] Human Services, adopt rules and regulations, pursuant
22 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
23 et seq.), concerning the relationship, rights and responsibilities of the
24 [Division of Youth and Family Services in the] Department of Human
25 Services and local school districts regarding the reporting and
26 investigation of allegations of child abuse.

27 (cf: P.L.1987, c.341, s.8)

28

29 35. Section 4 of P.L.1998, c.19 (C.9:6-8.102) is amended to read
30 as follows:

31 4. Services provided by the center's staff shall include, but not be
32 limited to:

33 a. Providing psychological and medical evaluation and treatment
34 of the child, counseling for family members and substance abuse
35 assessment and mental health and substance abuse counseling for the
36 parents or guardians of the child;

37 b. Providing referral for appropriate social services and medical
38 care;

39 c. Providing testimony regarding alleged child abuse or neglect at
40 judicial proceedings;

41 d. Providing treatment recommendations for the child and mental
42 health and substance abuse treatment recommendations for his family,
43 and providing mental health and substance abuse treatment
44 recommendations for persons convicted of child abuse or neglect;

45 e. Receiving referrals from the [Division of Youth and Family]
46 Department of Human Services and the county prosecutor's office and

1 assisting them in any investigation of child abuse or neglect;

2 f. Providing educational material and seminars on child abuse and
3 neglect and the services the center provides to children, parents,
4 teachers, law enforcement officials, the judiciary, attorneys and other
5 citizens.

6 (cf: P.L.1998, c.19, s.4)

7

8 36. Section 6 of P.L.1998, c.19 (C.9:6-8.104) is amended to read
9 as follows:

10 6. Regional centers shall act as a resource in the establishment and
11 maintenance of county-based multidisciplinary teams which work in
12 conjunction with the county prosecutor and the [Division of Youth
13 and Family] Department of Human Services in the investigation of
14 child abuse and neglect in the county in which the child who is
15 undergoing evaluation and treatment resides. The Commissioner of
16 Human Services, in consultation with the New Jersey Task Force on
17 Child Abuse and Neglect, shall establish standards for a county team.
18 The county team shall consist of representatives of the following
19 disciplines: law enforcement; child protective services; mental health;
20 substance abuse identification and treatment; and medicine; and, in
21 those counties where a child advocacy center has been established,
22 shall include a staff representative of a child advocacy center, all of
23 whom have been trained to recognize child abuse and neglect. The
24 county team shall provide: facilitation of the investigation,
25 management and disposition of cases of criminal child abuse and
26 neglect; referral services to the regional diagnostic center; appropriate
27 referrals to medical and social service agencies; information regarding
28 the identification and treatment of child abuse and neglect; and
29 appropriate follow-up care for abused children and their families.

30 As used in this section, "child advocacy center" means a
31 county-based center which meets the standards for a county team
32 established by the commissioner pursuant to this section and
33 demonstrates a multidisciplinary approach in providing comprehensive,
34 culturally competent child abuse prevention, intervention and
35 treatment services to children who are victims of child abuse or
36 neglect.

37 (cf: P.L.2001, c.344, s.1)

38

39 37. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
40 follows:

41 5. As used in this act, unless a different meaning clearly appears
42 from the context:

43 a. "Person" includes one or more individuals, partnerships,
44 associations, organizations, labor organizations, corporations, legal
45 representatives, trustees, trustees in bankruptcy, receivers, and
46 fiduciaries.

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- 1 b. "Employment agency" includes any person undertaking to
2 procure employees or opportunities for others to work.
- 3 c. "Labor organization" includes any organization which exists and
4 is constituted for the purpose, in whole or in part, of collective
5 bargaining, or of dealing with employers concerning grievances, terms
6 or conditions of employment, or of other mutual aid or protection in
7 connection with employment.
- 8 d. "Unlawful employment practice" and "unlawful discrimination"
9 include only those unlawful practices and acts specified in section 11
10 of this act.
- 11 e. "Employer" includes all persons as defined in subsection a. of
12 this section unless otherwise specifically exempt under another section
13 of this act, and includes the State, any political or civil subdivision
14 thereof, and all public officers, agencies, boards or bodies.
- 15 f. "Employee" does not include any individual employed in the
16 domestic service of any person.
- 17 g. "Liability for service in the Armed Forces of the United States"
18 means subject to being ordered as an individual or member of an
19 organized unit into active service in the Armed Forces of the United
20 States by reason of membership in the National Guard, naval militia or
21 a reserve component of the Armed Forces of the United States, or
22 subject to being inducted into such armed forces through a system of
23 national selective service.
- 24 h. "Division" means the "Division on Civil Rights" created by this
25 act.
- 26 i. "Attorney General" means the Attorney General of the State of
27 New Jersey or his representative or designee.
- 28 j. "Commission" means the Commission on Civil Rights created by
29 this act.
- 30 k. "Director" means the Director of the Division on Civil Rights.
- 31 l. "A place of public accommodation" shall include, but not be
32 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
33 camp, day camp, or resort camp, whether for entertainment of
34 transient guests or accommodation of those seeking health, recreation
35 or rest; any producer, manufacturer, wholesaler, distributor, retail
36 shop, store, establishment, or concession dealing with goods or
37 services of any kind; any restaurant, eating house, or place where food
38 is sold for consumption on the premises; any place maintained for the
39 sale of ice cream, ice and fruit preparations or their derivatives, soda
40 water or confections, or where any beverages of any kind are retailed
41 for consumption on the premises; any garage, any public conveyance
42 operated on land or water, or in the air, any stations and terminals
43 thereof; any bathhouse, boardwalk, or seashore accommodation; any
44 auditorium, meeting place, or hall; any theatre, motion-picture house,
45 music hall, roof garden, skating rink, swimming pool, amusement and
46 recreation park, fair, bowling alley, gymnasium, shooting gallery,

1 billiard and pool parlor, or other place of amusement; any comfort
2 station; any dispensary, clinic or hospital; any public library; any
3 kindergarten, primary and secondary school, trade or business school,
4 high school, academy, college and university, or any educational
5 institution under the supervision of the State Board of Education, or
6 the Commissioner of Education of the State of New Jersey. Nothing
7 herein contained shall be construed to include or to apply to any
8 institution, bona fide club, or place of accommodation, which is in its
9 nature distinctly private; nor shall anything herein contained apply to
10 any educational facility operated or maintained by a bona fide religious
11 or sectarian institution, and the right of a natural parent or one in loco
12 parentis to direct the education and upbringing of a child under his
13 control is hereby affirmed; nor shall anything herein contained be
14 construed to bar any private secondary or post secondary school from
15 using in good faith criteria other than race, creed, color, national
16 origin, ancestry or affectional or sexual orientation in the admission of
17 students.

18 m. "A publicly assisted housing accommodation" shall include all
19 housing built with public funds or public assistance pursuant to
20 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
21 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
22 and all housing financed in whole or in part by a loan, whether or not
23 secured by a mortgage, the repayment of which is guaranteed or
24 insured by the federal government or any agency thereof.

25 n. The term "real property" includes real estate, lands, tenements
26 and hereditaments, corporeal and incorporeal, and leaseholds,
27 provided, however, that, except as to publicly assisted housing
28 accommodations, the provisions of this act shall not apply to the
29 rental: (1) of a single apartment or flat in a two-family dwelling, the
30 other occupancy unit of which is occupied by the owner as a residence;
31 or (2) of a room or rooms to another person or persons by the owner
32 or occupant of a one-family dwelling occupied by the owner or
33 occupant as a residence at the time of such rental. Nothing herein
34 contained shall be construed to bar any religious or denominational
35 institution or organization, or any organization operated for charitable
36 or educational purposes, which is operated, supervised or controlled
37 by or in connection with a religious organization, in the sale, lease or
38 rental of real property, from limiting admission to or giving preference
39 to persons of the same religion or denomination or from making such
40 selection as is calculated by such organization to promote the religious
41 principles for which it is established or maintained. Nor does any
42 provision under this act regarding discrimination on the basis of
43 familial status apply with respect to housing for older persons.

44 o. "Real estate broker" includes a person, firm or corporation who,
45 for a fee, commission or other valuable consideration, or by reason of
46 promise or reasonable expectation thereof, lists for sale, sells,

1 exchanges, buys or rents, or offers or attempts to negotiate a sale,
2 exchange, purchase, or rental of real estate or an interest therein, or
3 collects or offers or attempts to collect rent for the use of real estate,
4 or solicits for prospective purchasers or assists or directs in the
5 procuring of prospects or the negotiation or closing of any transaction
6 which does or is contemplated to result in the sale, exchange, leasing,
7 renting or auctioning of any real estate, or negotiates, or offers or
8 attempts or agrees to negotiate a loan secured or to be secured by
9 mortgage or other encumbrance upon or transfer of any real estate for
10 others; or any person who, for pecuniary gain or expectation of
11 pecuniary gain conducts a public or private competitive sale of lands
12 or any interest in lands. In the sale of lots, the term "real estate
13 broker" shall also include any person, partnership, association or
14 corporation employed by or on behalf of the owner or owners of lots
15 or other parcels of real estate, at a stated salary, or upon a
16 commission, or upon a salary and commission or otherwise, to sell
17 such real estate, or any parts thereof, in lots or other parcels, and who
18 shall sell or exchange, or offer or attempt or agree to negotiate the
19 sale or exchange, of any such lot or parcel of real estate.

20 p. "Real estate salesperson" includes any person who, for
21 compensation, valuable consideration or commission, or other thing of
22 value, or by reason of a promise or reasonable expectation thereof, is
23 employed by and operates under the supervision of a licensed real
24 estate broker to sell or offer to sell, buy or offer to buy or negotiate
25 the purchase, sale or exchange of real estate, or offers or attempts to
26 negotiate a loan secured or to be secured by a mortgage or other
27 encumbrance upon or transfer of real estate, or to lease or rent, or
28 offer to lease or rent any real estate for others, or to collect rents for
29 the use of real estate, or to solicit for prospective purchasers or lessees
30 of real estate, or who is employed by a licensed real estate broker to
31 sell or offer to sell lots or other parcels of real estate, at a stated
32 salary, or upon a commission, or upon a salary and commission, or
33 otherwise to sell real estate, or any parts thereof, in lots or other
34 parcels.

35 q. "Disability" means physical disability, infirmity, malformation or
36 disfigurement which is caused by bodily injury, birth defect or illness
37 including epilepsy and other seizure disorders, and which shall include,
38 but not be limited to, any degree of paralysis, amputation, lack of
39 physical coordination, blindness or visual impediment, deafness or
40 hearing impediment, muteness or speech impediment or physical
41 reliance on a service or guide dog, wheelchair, or other remedial
42 appliance or device, or any mental, psychological or developmental
43 disability resulting from anatomical, psychological, physiological or
44 neurological conditions which prevents the normal exercise of any
45 bodily or mental functions or is demonstrable, medically or
46 psychologically, by accepted clinical or laboratory diagnostic

1 techniques. Disability shall also mean AIDS or HIV infection.

2 r. "Blind person" means any individual whose central visual acuity
3 does not exceed 20/200 in the better eye with correcting lens or whose
4 visual acuity is better than 20/200 if accompanied by a limit to the field
5 of vision in the better eye to such a degree that its widest diameter
6 subtends an angle of no greater than 20 degrees.

7 s. "Guide dog" means a dog used to assist deaf persons or which
8 is fitted with a special harness so as to be suitable as an aid to the
9 mobility of a blind person, and is used by a blind person who has
10 satisfactorily completed a specific course of training in the use of such
11 a dog, and has been trained by an organization generally recognized by
12 agencies involved in the rehabilitation of the blind or deaf as reputable
13 and competent to provide dogs with training of this type.

14 t. "Guide or service dog trainer" means any person who is
15 employed by an organization generally recognized by agencies
16 involved in the rehabilitation of persons with disabilities as reputable
17 and competent to provide dogs with training, and who is actually
18 involved in the training process.

19 u. "Housing accommodation" means any publicly assisted housing
20 accommodation or any real property, or portion thereof, which is used
21 or occupied, or is intended, arranged, or designed to be used or
22 occupied, as the home, residence or sleeping place of one or more
23 persons, but shall not include any single family residence the occupants
24 of which rent, lease, or furnish for compensation not more than one
25 room therein.

26 v. "Public facility" means any place of public accommodation and
27 any street, highway, sidewalk, walkway, public building, and any other
28 place or structure to which the general public is regularly, normally or
29 customarily permitted or invited.

30 w. "Deaf person" means any person whose hearing is so severely
31 impaired that the person is unable to hear and understand normal
32 conversational speech through the unaided ear alone, and who must
33 depend primarily on a supportive device or visual communication such
34 as writing, lip reading, sign language, and gestures.

35 x. "Atypical hereditary cellular or blood trait" means sickle cell
36 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
37 fibrosis trait.

38 y. "Sickle cell trait" means the condition wherein the major natural
39 hemoglobin components present in the blood of the individual are
40 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
41 defined by standard chemical and physical analytic techniques,
42 including electrophoresis; and the proportion of hemoglobin A is
43 greater than the proportion of hemoglobin S or one natural parent of
44 the individual is shown to have only normal hemoglobin components
45 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
46 proportions by standard chemical and physical analytic tests.

- 1 z. "Hemoglobin C trait" means the condition wherein the major
2 natural hemoglobin components present in the blood of the individual
3 are hemoglobin A (normal) and hemoglobin C as defined by standard
4 chemical and physical analytic techniques, including electrophoresis;
5 and the proportion of hemoglobin A is greater than the proportion of
6 hemoglobin C or one natural parent of the individual is shown to have
7 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
8 hemoglobin F) in normal proportions by standard chemical and
9 physical analytic tests.
- 10 aa. "Thalassemia trait" means the presence of the thalassemia gene
11 which in combination with another similar gene results in the chronic
12 hereditary disease Cooley's anemia.
- 13 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
14 which in combination with another similar gene results in the chronic
15 hereditary disease Tay-Sachs.
- 16 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
17 gene which in combination with another similar gene results in the
18 chronic hereditary disease cystic fibrosis.
- 19 dd. "Service dog" means any dog individually trained to the
20 requirements of a person with a disability including, but not limited to
21 minimal protection work, rescue work, pulling a wheelchair or
22 retrieving dropped items. This term shall include a "seizure dog"
23 trained to alert or otherwise assist persons subject to epilepsy or other
24 seizure disorders.
- 25 ee. "Qualified Medicaid applicant" means an individual who is a
26 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 27 ff. "AIDS" means acquired immune deficiency syndrome as defined
28 by the Centers for Disease Control and Prevention of the United States
29 Public Health Service.
- 30 gg. "HIV infection" means infection with the human
31 immunodeficiency virus or any other related virus identified as a
32 probable causative agent of AIDS.
- 33 hh. "Affectional or sexual orientation" means male or female
34 heterosexuality, homosexuality or bisexuality by inclination, practice,
35 identity or expression, having a history thereof or being perceived,
36 presumed or identified by others as having such an orientation.
- 37 ii. "Heterosexuality" means affectional, emotional or physical
38 attraction or behavior which is primarily directed towards persons of
39 the other gender.
- 40 jj. "Homosexuality" means affectional, emotional or physical
41 attraction or behavior which is primarily directed towards persons of
42 the same gender.
- 43 kk. "Bisexuality" means affectional, emotional or physical
44 attraction or behavior which is directed towards persons of either
45 gender.
- 46 ll. "Familial status" means being the natural parent of a child, the

1 adoptive parent of a child, the [foster] resource family parent of a
2 child, having a "parent and child relationship" with a child as defined
3 by State law, or having sole or joint legal or physical custody, care,
4 guardianship, or visitation with a child, or any person who is pregnant
5 or is in the process of securing legal custody of any individual who has
6 not attained the age of 18 years.

7 mm. "Housing for older persons" means housing:

8 (1) provided under any State program that the Attorney General
9 determines is specifically designed and operated to assist elderly
10 persons (as defined in the State program); or provided under any
11 federal program that the United States Department of Housing and
12 Urban Development determines is specifically designed and operated
13 to assist elderly persons (as defined in the federal [program]program);

14 or

15 (2) intended for, and solely occupied by persons 62 years of age or
16 older; or

17 (3) intended and operated for occupancy by at least one person 55
18 years of age or older per unit. In determining whether housing
19 qualifies as housing for older persons under this subsection, the
20 Attorney General shall adopt regulations which require at least the
21 following factors:

22 (a) the existence of significant facilities and services specifically
23 designed to meet the physical or social needs of older persons, or if the
24 provision of such facilities and services is not practicable, that such
25 housing is necessary to provide important housing opportunities for
26 older persons; and

27 (b) that at least 80 percent of the units are occupied by at least one
28 person 55 years of age or older per unit; and

29 (c) the publication of, and adherence to, policies and procedures
30 which demonstrate an intent by the owner or manager to provide
31 housing for persons 55 years of age or older.

32 Housing shall not fail to meet the requirements for housing for
33 older persons by reason of: persons residing in such housing as of
34 September 13, 1988 not meeting the age requirements of this
35 subsection, provided that new occupants of such housing meet the age
36 requirements of this subsection; or unoccupied units, provided that
37 such units are reserved for occupancy by persons who meet the age
38 requirements of this subsection.

39 nn. "Genetic characteristic" means any inherited gene or
40 chromosome, or alteration thereof, that is scientifically or medically
41 believed to predispose an individual to a disease, disorder or
42 syndrome, or to be associated with a statistically significant increased
43 risk of development of a disease, disorder or syndrome.

44 oo. "Genetic information" means the information about genes, gene
45 products or inherited characteristics that may derive from an individual
46 or family member.

1 pp. "Genetic test" means a test for determining the presence or
2 absence of an inherited genetic characteristic in an individual, including
3 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
4 chromosomes or proteins in order to identify a predisposing genetic
5 characteristic.

6 qq. "Domestic partnership" means a domestic partnership
7 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).
8 (cf: P.L.2003, c.293, s.1)

9

10 38. Section 1 of P.L.1995, c.34 (C.18A:6-7a) is amended to read
11 as follows:

12 1. When a complaint made against a school employee alleging child
13 abuse or neglect is investigated by the [Division of Youth and Family]
14 Department of Human Services, the [division] department shall notify
15 the school district and the employee of its findings. Upon receipt of a
16 finding by the [division] department that such a complaint is
17 unfounded, the school district shall remove any references to the
18 complaint and investigation by the [division] department from the
19 employee's personnel records. A complaint made against a school
20 employee that has been classified as unfounded by the [Division of
21 Youth and Family Services] department shall not be used against the
22 employee for any purpose relating to employment, including but not
23 limited to, discipline, salary, promotion, transfer, demotion, retention
24 or continuance of employment, termination of employment or any right
25 or privilege relating to employment.

26 (cf: P.L.1995, c.34, s.1)

27

28 39. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to
29 read as follows:

30 19. For school funding purposes, the Commissioner of Education
31 shall determine district of residence as follows:

32 a. The district of residence for children in [foster] resource family
33 homes shall be the district in which the [foster] resource family
34 parents reside. If a child in a [foster] resource family home is
35 subsequently placed in a State facility or by a State agency, the district
36 of residence of the child shall then be determined as if no such [foster]
37 resource family placement had occurred.

38 b. The district of residence for children who are in residential State
39 facilities, or who have been placed by State agencies in group homes,
40 skill development homes, private schools or out-of-State facilities,
41 shall be the present district of residence of the parent or guardian with
42 whom the child lived prior to his most recent admission to a State
43 facility or most recent placement by a State agency.

44 If this cannot be determined, the district of residence shall be the
45 district in which the child resided prior to such admission or

1 placement.

2 c. The district of residence for children whose parent or guardian
3 temporarily moves from one school district to another as the result of
4 being homeless shall be the district in which the parent or guardian last
5 resided prior to becoming homeless. For the purpose of this
6 amendatory and supplementary act, "homeless" shall mean an
7 individual who temporarily lacks a fixed, regular and adequate
8 residence.

9 d. If the district of residence cannot be determined according to the
10 criteria contained herein, or if the criteria contained herein identify a
11 district of residence outside of the State, the State shall assume fiscal
12 responsibility for the tuition of the child. The tuition shall equal the
13 approved per pupil cost established pursuant to P.L.1996, c.138
14 (C.18A:7F-1 et seq.). This amount shall be appropriated in the same
15 manner as other State aid under this act. The Department of
16 Education shall pay the amount to the Department of Human Services,
17 the Department of Corrections or the Juvenile Justice Commission
18 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
19 or, in the case of a homeless child, the Department of Education shall
20 pay the appropriate T&E amount and any appropriate additional cost
21 factor for special education pursuant to Section 19 of P.L.1996, c.138
22 (C.18A:7F-19) to the school district in which the child is enrolled.

23 e. If the State has assumed fiscal responsibility for the tuition of a
24 child in a private educational facility approved by the Department of
25 Education to serve children who are classified as needing special
26 education services, the department shall pay to the Department of
27 Human Services or the Juvenile Justice Commission, as appropriate,
28 the aid specified in subsection d. of this Section and in addition, such
29 aid as required to make the total amount of aid equal to the actual cost
30 of the tuition.

31 (cf: P.L.1999, c.114, s.1)

32

33 40. Section 19 of P.L.1996, c.138 (C.18A:7F-19) is amended to
34 read as follows:

35 19. a. Special education categorical aid for each school district
36 and county vocational school district shall be calculated for the
37 1997-98 school year as follows:

38 Tier I is the number of pupils classified for other than speech
39 correction services resident in the district which receive related
40 services including, but not limited to, occupational therapy, physical
41 therapy, speech and counseling. Aid shall equal 0.0223 of the T&E
42 amount rounded to the nearest whole dollar for each of the four
43 service categories provided per classified pupil.

44 Tier II is the number of pupils resident in the district meeting the
45 classification definitions for perceptually impaired, neurologically
46 impaired, educable mentally retarded and preschool handicapped; all

1 classified pupils in shared time county vocational programs in a county
2 vocational school which does not have a child study team receiving
3 services pursuant to chapter 46 of Title 18A of the New Jersey
4 Statutes; and nonclassified pupils in State training schools or secure
5 care facilities. For the purpose of calculating State aid for 1997-98,
6 each district, other than a county vocational school district, shall have
7 its pupil count for perceptually impaired reduced by perceptually
8 impaired classifications in excess of one standard deviation above the
9 State average classification rate at December 1995 or 9.8 percent of
10 the district's resident enrollment. The perceptually impaired limitation
11 shall be phased down to the State average of the prebudget year over
12 a five-year period by adjusting the standard deviation as follows: 75
13 percent in 1998-99, 50 percent in 1999-2000, 25 percent in 2000-2001
14 and the State average in year five. No reduction in aid shall be
15 assessed against any district in which the perceptually impaired
16 classification rate is 6.5% or less of resident enrollment. Aid shall
17 equal 0.4382 of the T&E amount rounded to the nearest whole dollar
18 for each student meeting the Tier II criteria.

19 The commissioner shall develop a system to provide that each
20 school district submits data to the department on the number of the
21 district's pupils with a classification definition of perceptually impaired
22 who are enrolled in a county vocational school. Such pupils shall be
23 counted in the district of residence's resident enrollment for the
24 purpose of calculating the limit on perceptually impaired classifications
25 for Tier II State aid.

26 Tier III is the number of classified pupils resident in the district in
27 categories other than speech correction services, perceptually
28 impaired, neurologically impaired, educable mentally retarded, socially
29 maladjusted, preschool handicapped, and who do not meet the criteria
30 of Tier IV, intensive services; and nonclassified pupils in juvenile
31 community programs. Aid shall equal 0.8847 of the T&E amount for
32 each pupil meeting the Tier III criteria.

33 Tier IV is the number of classified pupils resident in the district
34 receiving intensive services. For 1997-98, intensive services are
35 defined as those provided in a county special services school district
36 and services provided for pupils who meet the classification definitions
37 for autistic, chronically ill, day training eligible, or visually
38 handicapped, or are provided for pupils who meet the classification
39 definition for multiply handicapped and are in a private school for the
40 handicapped, educational services commission, or jointure commission
41 placement in the 1996-97 school year. The commissioner shall collect
42 data and conduct a study to determine intensive service criteria and the
43 appropriate per pupil cost factor to be universally applied to all service
44 settings, beginning in the 1998-99 school year. Aid shall equal 1.2277
45 of the T&E amount for each pupil meeting the Tier IV criteria.

46 Classified pupils in Tiers II through IV shall be eligible for Tier I

1 aid. Classified pupils shall be eligible to receive aid for up to four
2 services under Tier I.

3 For the 1998-99 school year, these cost factors shall remain in
4 effect and special education aid growth shall be limited by the CPI
5 growth rate applied to the T&E amount and changes in classified pupil
6 counts. For subsequent years, the additional cost factors shall be
7 established biennially in the Report on the Cost of Providing a
8 Thorough and Efficient Education.

9 For the purposes of this section, classified pupil counts shall include
10 pupils attending State developmental centers, [DHS] Department of
11 Human Services Regional Day Schools, [State Division of Youth and
12 Family Services'] Department of Human Services residential centers,
13 State residential mental health centers, and institutions operated by or
14 under contract with the Department of Human Services. Classified
15 pupils of elementary equivalent age shall include classified preschool
16 handicapped and kindergarten pupils.

17 b. In those instances in which the cost of providing education for
18 an individual classified pupil exceeds \$40,000:

19 (1) For costs in excess of \$40,000 incurred in the 2002-2003
20 through 2004-2005 school years, the district of residence shall, in
21 addition to any special education State aid to which the district is
22 entitled on behalf of the pupil pursuant to subsection a. of this section,
23 receive additional special education State aid as follows: (a) with
24 respect to the amount of any costs in excess of \$40,000 but less than
25 or equal to \$60,000, the additional State aid for the classified pupil
26 shall equal 60% of that amount; (b) with respect to the amount of any
27 costs in excess of \$60,000 but less than or equal to \$80,000, the
28 additional State aid for the classified pupil shall equal 70% of that
29 amount; and (c) with respect to the amount of any costs in excess of
30 \$80,000, the additional State aid for the classified pupil shall equal
31 80% of that amount; provided that in the case of an individual
32 classified pupil for whom additional special education State aid was
33 awarded to a district for the 2001-2002 school year, the amount of
34 such aid awarded annually to the district for that pupil for the
35 2002-2003, 2003-2004 or 2004-2005 school year shall not be less than
36 the amount for the 2001-2002 school year, except that if the district's
37 actual special education costs incurred for the pupil in the 2002-2003,
38 2003-2004 or 2004-2005 school year are reduced below the amount
39 of such costs for the pupil in the 2001-2002 school year, the amount
40 of aid shall be decreased by the amount of that reduction; and

41 (2) For costs in excess of \$40,000 incurred in the 2005-2006
42 school year and thereafter, a district shall receive additional special
43 education State aid equal to 100% of the amount of that excess.

44 A district, in order to receive funding pursuant to this subsection,
45 shall file an application with the department that details the expenses
46 incurred on behalf of the particular classified pupil for which the

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1 district is seeking reimbursement. Additional State aid awarded for
2 extraordinary special education costs shall be recorded by the district
3 as revenue in the current school year and paid to the district in the
4 subsequent school year.

5 c. A school district may apply to the commissioner to receive
6 emergency special education aid for any classified pupil who enrolls in
7 the district prior to March of the budget year and who is in a
8 placement with a cost in excess of \$40,000. The commissioner may
9 debit from the student's former district of residence any special
10 education aid which was paid to that district on behalf of the student.

11 d. The department shall review expenditures of federal and State
12 special education aid by a district in every instance in which special
13 education monitoring identifies a failure on the part of the district to
14 provide services consistent with a pupil's individualized education
15 program.

16 (cf: P.L.2001, c.356, s.1)

17

18 41. Section 1 of P.L.1979, c.391 (C.18A:16-12) is amended to
19 read as follows:

20 1. As used in this act:

21 a. "Dependents" means an employee's spouse and the employee's
22 unmarried children, including stepchildren, legally adopted children,
23 and, at the option of the local board of education and the carrier,
24 [foster] children placed by the Department of Human Services with
25 a resource family, under the age of 19 who live with the employee in
26 a regular parent-child relationship, and may also include, at the option
27 of the local board of education and the carrier, other unmarried
28 children of the employee under the age of 23 who are dependent upon
29 the employee for support and maintenance, but shall not include a
30 spouse or child while serving in the military service;

31 b. "Employees" may, at the option of the local board of education,
32 include elected officials, but shall not include persons employed on a
33 short-term, seasonal, intermittent or emergency basis, persons
34 compensated on a fee basis, or persons whose compensation from the
35 local board of education is limited to reimbursement of necessary
36 expenses actually incurred in the discharge of their duties;

37 c. "Federal Medicare Program" means the coverage provided under
38 Title XVIII of the Social Security Act as amended in 1965, or its
39 successor plan or plans.

40 (cf: P.L.1979, c.391, s.1)

41

42 42. Section 1 of P.L.1986, c.73 (C.18A:18A-3.2) is amended to
43 read as follows:

44 1. Any school district, hereinafter referred to as an employer, may
45 enter into contracts of group legal insurance with an insurer
46 authorized, pursuant to P.L.1981, c.160 (C.17:46C-1 et seq.), to

1 engage in the business of legal insurance in this State or may contract
2 with a duly recognized prepaid legal services plan with respect to the
3 benefits which they are authorized to provide. The contract or
4 contracts shall provide coverage for the employees of the employer
5 and may include their dependents. "Dependents" shall include an
6 employee's spouse and the employee's unmarried children, including
7 stepchildren and legally adopted children, and, at the option of the
8 employer and the carrier, [foster] children placed by the Department
9 of Human Services with a resource family, under the age of 19 who
10 live with the employee in a regular parent-child relationship, and may
11 also include, at the option of the employer and the carrier, other
12 unmarried children of the employee under the age of 23 who are
13 dependent upon the employee for support and maintenance. A spouse
14 or child enlisting or inducted into military service shall not be
15 considered a dependent during the military service.

16 "Employees" shall not include persons employed on a short-term,
17 seasonal, intermittent or emergency basis, persons compensated on a
18 fee basis, or persons whose compensation from the public employer is
19 limited to reimbursement of necessary expenses actually incurred in the
20 discharge of their duties.

21 The contract shall include provisions to prevent duplication of
22 benefits and shall condition the eligibility of an employee for coverage
23 upon satisfying a waiting period stated in the contract.

24 The coverage of an employee, and of his dependents, if any, shall
25 cease upon the discontinuance of his employment or upon cessation of
26 active full-time employment in the classes eligible for coverage, subject
27 to the provision as may be made in a contract by his employer for
28 limited continuance of coverage during disability, part-time
29 employment, leave of absence other than leave for military service or
30 layoff, or for continuance of coverage after retirement.

31 A contract for group legal insurance entered into pursuant to this
32 act shall not include any legal services attendant to a claim brought by
33 a teaching staff member against a board of education or legal services
34 for the defense of a teaching staff member facing disciplinary action
35 pursuant to subarticle B of article 2 of chapter 6 of Title 18A of the
36 New Jersey Statutes (N.J.S.18A:6-9 et seq.).
37 (cf: P.L.1986, c.73, s.1)

38

39 43. R.S.26:3-31 is amended to read as follows:

40 26:3-31. The local board of health shall have power to pass, alter
41 or amend ordinances and make rules and regulations in regard to the
42 public health within its jurisdiction, for the following purposes:

43 a. To protect the public water supply and prevent the pollution of
44 any stream of water or well, the water of which is used for domestic
45 purposes, and to prevent the use of or to close any well, the water of
46 which is polluted or detrimental to the public health.

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1 b. (1) To prohibit the cutting, sale or delivery of ice in any
2 municipality without obtaining a permit from the local board. No
3 person shall cut, sell or deliver ice in any municipality without
4 obtaining such permit.

5 (2) To refuse such permit or revoke any permit granted by it when
6 in its judgment the use of any ice cut, sold or delivered under the
7 permit would be detrimental to the public health. Upon the refusal or
8 revocation of a permit by the local board, an appeal may be taken to
9 the State department. Upon order of the State department a permit
10 shall be granted or the revocation set aside.

11 (3) To prohibit the importation, distribution or sale of any impure
12 ice which would be detrimental to the public health.

13 c. To license and regulate the sanitary conditions of hotels,
14 restaurants, cafes, and other public eating houses and to provide for
15 the posting of ratings or score cards setting forth the sanitary
16 condition of any public eating house after inspection of the same and
17 to post the rating or score card in some conspicuous or public place
18 in such eating house.

19 d. To compel any owner of property along the line of any sewer to
20 connect his house or other building therewith. This paragraph shall be
21 enforced by the local board within its jurisdiction and it shall by
22 ordinance provide a fine of [~~\$25.00~~] \$25 to be imposed upon any
23 person who shall not comply with any order issued under the authority
24 of this paragraph, within 30 days after notice by the proper officer of
25 the board to make the required connections. An additional fine of
26 [~~\$10.00~~] \$10 shall be provided for each day of delay, after the
27 expiration of the 30 days, in which the provisions of the order or
28 notice are not complied with. Such notice may be served upon the
29 owner personally or by leaving it at his usual place of abode with a
30 member of his family above the age of 18 years.

31 e. (Deleted by amendment, P.L. 1987, c. 442.)

32 f. To regulate, control, and prohibit the accumulation of offal and
33 any decaying or vegetable substance.

34 g. (1) To regulate the location, construction, maintenance, method
35 of emptying or cleaning, and the frequency of cleaning of any privy or
36 other place used for the reception or storage of human excrement, and
37 to prohibit the construction or maintenance of any privy or other such
38 place until a license therefor shall have been issued by the board,
39 which license shall continue in force for one year from the date of
40 issue.

41 (2) To fix the fee, not exceeding [~~\$5.00~~] \$5, for such license, and
42 to use the fees so collected in supervising and maintaining said privies
43 or other places and in removing and disposing of the excrement
44 therefrom.

45 (3) To revoke such license at any time if the owner or tenant of the
46 property on which any privy or other such place is located, maintains

1 the same in violation of law, or of the State sanitary code, or any
2 ordinance or rule of the board.

3 h. To regulate, control, or prohibit the cleaning of any sewer, the
4 dumping of garbage, the filling of any sunken lot or marsh land, and
5 to provide for the filling up of any such lot or land, which has become
6 filled with stagnant water and is located in any built-up area.

7 i. (1) To license and regulate the business of cleaning cesspools
8 and privies, which license shall continue for the term of one year from
9 the date of granting, and to fix the fee that shall be charged for such
10 license, not exceeding ~~[\$20.00]~~ \$20 for each vehicle or conveyance.

11 (2) To prohibit unlicensed persons from engaging in such business.

12 (3) To require any vehicle or conveyance used in such business
13 within its jurisdiction to be approved by it.

14 (4) To revoke such license if any licensee or his employee or agent
15 shall violate any ordinance or rule of the board in cleaning any
16 cesspool or privy, or in removing the contents thereof.

17 j. To aid in the enforcement of laws as to the adulteration of all
18 kinds of food and drink, and to prevent the sale or exposure for sale
19 of any meat or vegetable that is unwholesome or unfit for food.

20 k. To regulate, control, or prohibit the keeping or slaughtering of
21 animals.

22 l. To license and regulate the keeping of boarding houses for
23 infants and children and to fix a license fee for the same and to prevent
24 unlicensed persons from keeping such boarding houses. This
25 paragraph shall not apply to:

26 (1) The ~~[Division of Youth and Family Services]~~ Department of
27 Human Services.

28 (2) Any children's home, orphan asylum, or children's aid society
29 incorporated under the laws of this State.

30 (3) Any aid society of a properly organized and accredited church
31 or fraternal society organized for aid and relief to its members.

32 (4) Any charitable society incorporated under the laws of this State
33 having as one of its objects the prevention of cruelty to children or the
34 care and protection of children.

35 m. To require in buildings, designed to be occupied, or occupied,
36 as residences by more than two families and when the owners have
37 agreed to supply heat, that from October 1 of each year to the next
38 succeeding May 1, every unit of dwelling space and every habitable
39 room therein shall be maintained at least at 68` F. whenever the
40 outside temperature falls below 55` during daytime hours from 6 a.m.
41 to 11 p.m. At times other than those specified interiors of units of
42 dwelling space shall be maintained at least at 55` F. whenever the
43 outside temperature falls below 40`.

44 In meeting the aforesaid standards, the owner shall not be
45 responsible for heat loss and the consequent drop in the interior
46 temperature arising out of action by the occupants in leaving windows

1 or doors open to the exterior of the building. The owner shall be
2 obligated to supply required fuel or energy and maintain the heating
3 system in good operating condition so that it can supply heat as
4 required herein notwithstanding any contractual provision seeking to
5 delegate or shift responsibility to the occupant or third person, except
6 that the owner shall not be required to supply fuel or energy for
7 heating purposes to any unit where the occupant thereof agrees in
8 writing to supply heat to his own unit of dwelling space and the said
9 unit is served by its own exclusive heating equipment for which the
10 source of heat can be separately computed and billed.

11 n. To regulate the practice of midwifery, but the exercise of such
12 authority shall not conflict with the provisions of chapter 10 of Title
13 45 of the Revised Statutes ([s.] R.S.45:10-1 et seq.).

14 o. To enforce the making of returns or reports to the local board
15 on the part of any person charged with such duty under any law and
16 to take cognizance of any failure to make such returns and deal with
17 the same in an effective manner.

18 p. To act as the agent for a landlord in the engaging of repairmen
19 and the ordering of any parts necessary to restore to operating
20 condition the furnace, boiler or other equipment essential to the proper
21 heating of any residential unit rented by said landlord, provided,
22 however, that at least 24 hours have elapsed since the tenant has
23 lodged a complaint with the local board of health, prior to which a
24 bona fide attempt has been made by the tenant to notify the landlord
25 of the failure of the heating equipment, and the landlord has failed to
26 take appropriate action, and the outside air temperature is less than
27 55` F.

28 Any person who supplies material or services in accordance with
29 this section shall bill the landlord directly and by filing a notice
30 approved by the local board of health, with the county clerk, shall have
31 a lien on the premises where the materials were used or services
32 supplied.

33 (cf: P.L.1987, c.442, s.4)

34

35 44. Section 1 of P.L.1974, c.44 (C.30:1-8.1) is amended to read as
36 follows:

37 1. The commissioner shall be assisted in the performance of his
38 duties by ~~two~~ three deputy commissioners. Each deputy
39 commissioner shall be appointed by and shall serve at the pleasure of
40 the commissioner, and until his successor has been appointed and
41 qualified.

42 Each deputy commissioner shall exercise such powers and perform
43 such duties as the commissioner shall prescribe.

44 Unless otherwise provided by law, each deputy commissioner shall
45 receive such salary as may be established by the commissioner with the
46 approval of the [President of the Civil Service

1 Commission] Commissioner of Personnel and the Director of the
2 Division of Budget and Accounting.

3 The commissioner may designate one of the deputy commissioners
4 to exercise the powers and perform the duties of the commissioner
5 during his disability or absence.
6 (cf: P.L.1974, c.44, s.1)

7
8 45. Section 75 of P.L.1965, c.59 (C.30:4-107.1) is amended to
9 read as follows:

10 75. Whenever a mentally retarded minor or mentally deficient adult
11 is receiving functional services without court order, and is resident at
12 a State school, or private residential institution, or a [foster] resource
13 family home, or similar accommodation by arrangement of the
14 commissioner, the commissioner shall cause such mentally retarded
15 person to be released to the immediate custody of his parent or
16 guardian of the person, as the case may be, on written application of
17 said parent or guardian. Release shall be effected as promptly as
18 possible, provided, however, that 48 hours' notice may be required.
19 The department shall thereafter continue to provide such functional
20 services as may be appropriate, unless functional services are
21 terminated as hereinafter provided in this act.
22 (cf: P.L.1965, c.59, s.75)

23
24 46. Section 3 of P.L.1995, c.314 (C.30:4-177.45) is amended to
25 read as follows:

26 3. For the purposes of this act:
27 "Commissioner" means the Commissioner of Human Services.
28 "Department" means the Department of Human Services.
29 "Division" means the Division of Mental Health [Service] Services
30 in the Department of Human Services.
31 "Family" means persons related to the family member with a serious
32 mental illness by blood, marriage, adoption, guardianship,
33 [foster] resource family care or other significant care giving
34 relationship.
35 "Family member with a serious mental illness" means a person who
36 has a history, or is at serious risk, of hospitalization in a State, county
37 or private psychiatric institution.
38 "Family support services" means a coordinated system of on-going
39 public and private support services which are designed to maintain and
40 enhance the quality of life of a family.
41 "Family unit" means the family member with a serious mental illness
42 and his family.
43 "Program" means the program of family support services
44 established pursuant to this act.
45 (cf: P.L.1995, c.314, s.3)

1 47. Section 2 of P.L.1951, c.138 (C.30:4C-2) is amended to read
2 as follows:

3 2. For the purposes of this act the following words and terms shall,
4 unless otherwise indicated, be deemed and taken to have the meanings
5 herein given to them:

6 (a) The [title] term "Division of Youth and Family
7 [Services] Services, or "division," successor to the "Bureau of
8 Children's Services" means the State agency for the care, custody,
9 guardianship, maintenance and protection of children, as more
10 specifically described by the provisions of this act, and succeeding the
11 agency heretofore variously designated by the laws of this State as the
12 State Board of Child Welfare or the State Board of Children's
13 Guardians.

14 (b) The word "child" includes stepchild and illegitimate child, and
15 further means any person under the age of 18 years.

16 (c) The term "care" means cognizance of a child for the purpose of
17 providing necessary welfare services, or maintenance, or both.

18 (d) The term "custody" means continuing responsibility for the
19 person of a child, as established by a surrender and release of custody
20 or consent to adoption, for the purpose of providing necessary welfare
21 services, or maintenance, or both.

22 (e) The term "guardianship" means control over the person and
23 property of a child as established by the order of a court of competent
24 jurisdiction, and as more specifically defined by the provisions of this
25 act. Guardianship by the Division of Youth and Family Services shall
26 be treated as guardianship by the Commissioner of Human Services
27 exercised on his behalf wholly by and in the name of the Division of
28 Youth and Family Services, acting through the chief executive officer
29 of the division or his authorized representative. Such exercise of
30 guardianship by the division shall be at all times and in all respects
31 subject to the supervision of the commissioner.

32 (f) The term "maintenance" means moneys expended by the
33 Division of Youth and Family Services to procure board, lodging,
34 clothing, medical, dental, and hospital care, or any other similar or
35 specialized commodity or service furnished to, on behalf of, or for a
36 child pursuant to the provisions of this act; maintenance also includes
37 but is not limited to moneys expended for shelter, utilities, food,
38 repairs, essential household equipment, and other expenditures to
39 remedy situations of an emergent nature to permit, as far as
40 practicable, children to continue to live with their families.

41 (g) The term "welfare services" means consultation, counseling,
42 and referral to or utilization of available resources, for the purpose of
43 determining and correcting or adjusting matters and circumstances
44 which are endangering the welfare of a child, and for the purpose of
45 promoting his proper development and adjustment in the family and
46 the community.

- 1 (h) The term ["foster] "resource family parent" means any person
2 other than a natural or adoptive parent with whom a child in the care,
3 custody or guardianship of the [Division of Youth and Family]
4 Department of Human Services is placed by [said division] the
5 department, or with its approval, for temporary or long-term care,
6 [but shall not] and shall include any person with whom a child is
7 placed by the division for the purpose of adoption.
- 8 (i) The term ["foster] "resource family home" means and includes
9 private residences, group homes, residential facilities and institutions
10 wherein any child in the care, custody or guardianship of the [Division
11 of Youth and Family]Department of Human Services may be placed
12 by the [said division] department or with its approval for temporary
13 or long-term care, and shall include any private residence maintained
14 by persons with whom any such child is placed for adoption.
- 15 (j) The singular includes the plural form.
- 16 (k) The masculine noun and pronoun include the feminine.
- 17 (l) The word "may" shall be construed to be permissive.
- 18 (m) The term "group home" means and includes any single family
19 dwelling used in the placement of 12 children or less pursuant to law,
20 recognized as a group home by the Department of Human Services in
21 accordance with rules and regulations adopted by the Commissioner
22 of Human Services; provided, however, that no group home shall
23 contain more than 12 children.
- 24 (n) The term "youth facility" means a facility within this State used
25 to house or provide services to children under this act, including but
26 not limited to group homes, residential facilities, day care centers, and
27 day treatment centers.
- 28 (o) The term "youth facility aid" means aid provided by the
29 Division of Youth and Family Services to public, private or voluntary
30 agencies to purchase, construct, renovate, repair, upgrade or
31 otherwise improve a youth facility in consideration for an agreement
32 for the agency to provide residential care, day treatment or other
33 youth services for children in need of such services.
- 34 (p) The term "day treatment center" means a facility used to
35 provide counseling, supplemental educational services, therapy, and
36 other related services to children for whom it has been determined that
37 such services are necessary, but is not used to house these children in
38 a residential setting.
- 39 (q) The term "residential facility" means a facility used to house
40 and provide treatment and other related services on a 24-hour basis to
41 children determined to be in need of such housing and services.
- 42 (r) The term "legally responsible person" means the natural or
43 adoptive parent, or the spouse of a child receiving maintenance from
44 or through the Division of Youth and Family Services.
- 45 (s) "Commissioner" means the Commissioner of Human Services.
- 46 (t) "Department" means the Department of Human Services.

1 (cf: P.L.1985, c.8, s.1)

2 48. Section 2 of P.L.2001, c.252 (C.30:4C-3.2) is amended to read as
3 follows:

4 2. The Review Panel shall consist of nineteen (19) members as
5 follows:

6 a. The Commissioner of Human Services, or a designee, shall serve
7 ex-officio.

8 b. The Commissioner of Personnel, or a designee, shall serve
9 ex-officio.

10 c. The State Treasurer, or a designee, shall serve ex-officio.

11 d. The Attorney General, or a designee, shall serve ex-officio.

12 e. The Public Defender, or a designee, shall serve ex-officio.

13 f. The Director of the Administrative Office of the Courts, or a
14 designee, shall serve ex-officio.

15 g. A representative of the Office of the Governor.

16 h. Two members of the Senate to be appointed by the President of
17 the Senate who shall each be of different political parties and who shall
18 serve during the legislative session in which the appointment is made,
19 one of whom shall be the Chairman of the Senate [Women's Issues,
20 Children and Family Services] Health, Human Services and Senior
21 Citizens Committee, or its successor. A member may be appointed for
22 any number of successive terms.

23 i. Two members of the General Assembly to be appointed by the
24 Speaker of the General Assembly who shall each be of different
25 political parties and who shall serve during the legislative session in
26 which the appointment is made, one of whom shall be the Chairman of
27 the Assembly [Senior Issues and Community] Family, Woman and
28 Children's Services Committee, or its successor. A member may be
29 appointed for any number of successive terms.

30 j. Eight public members shall be directly appointed by the Governor
31 as follows:

32 (1) three public members who are representatives from employee
33 organizations, two of whom are representatives of the
34 Communications Workers of America;

35 (2) a public member who is a representative of the Association for
36 Children of New Jersey;

37 (3) a public member who is a representative of Legal Services of
38 New Jersey;

39 (4) a public member who is a representative of a contracted service
40 provider to the Division of Youth and Family Services; and

41 (5) two public members, one of whom is a [foster] resource family
42 parent and one of whom is an adoptive parent.

43 (cf: P.L.2001, c.252, s.2)

44

45 49. Section 4 of P.L.1951, c.138 (C.30:4C-4) is amended to read
46 as follows:

- 1 4. The [Division of Youth and Family] Office of Children's
2 Services or other entity designated by the commissioner shall have the
3 requisite powers to:
- 4 (a) Exercise general supervision over children for whom care,
5 custody or guardianship is provided in accordance with [article
6 2] Article II of this act;
- 7 (b) Administer for the Department of Human Services the powers
8 and duties provided in chapter 3 of Title 9 of the Revised Statutes
9 (Adoption), as amended and supplemented, as the same may be
10 delegated and assigned by the [said] department;
- 11 (c) Administer for the Commissioner of Human Services the
12 powers and duties as provided in chapter 7 of Title 9 of the Revised
13 Statutes (dependent children; bringing into State), as amended and
14 supplemented, as the same may be delegated and assigned by the
15 [said] commissioner;
- 16 (d) Administer for the State Board of Institutional Trustees the
17 powers and duties provided in [sections] R.S.30:1-14 through
18 30:1-17 of chapter 1 of Title 30 of the Revised Statutes (visitation
19 and inspection), as amended and supplemented, so far as the same may
20 be delegated and assigned by the [said] State Board of Institutional
21 Trustees with respect to institutions, organizations and
22 noninstitutional agencies for the care, custody and welfare of children;
- 23 (e) Provide care and exercise supervision over children paroled or
24 released from State correctional institutions for juveniles in
25 accordance with rules and regulations established by the State Board
26 of Control;
- 27 (f) Make investigations or provide supervision of any child in this
28 State at the request and on behalf of a public or private agency or
29 institution of any other State;
- 30 (g) Meet and confer, as the unmet needs of New Jersey's children
31 may require, with representatives of the public welfare boards and the
32 private agencies and institutions for the care of children in this State
33 in order that the programs of such boards, agencies and institutions
34 may be developed and fully utilized and that there may be a
35 coordination of all public and private facilities for the protection and
36 care of children;
- 37 (h) Issue such reasonable rules and regulations as may be necessary
38 for the purpose of carrying into effect the meaning of this act, which
39 rules and regulations shall be binding so far as they are consistent with
40 such purpose.
- 41 (i) Promulgate and file with the Secretary of State, subject to the
42 approval of the Board of Public Welfare, rules and regulations as may
43 be necessary as a basis for the provision for payment for services
44 rendered by privately sponsored agencies or institutions to children
45 under the care, custody or guardianship of the [Division of Youth and

1 Family Services] division. Such rules and regulations shall include,
2 but shall not be limited to, standards of professional training,
3 experience and practices, and requirements relating to the moral
4 responsibility of the trustees, officers or other persons supervising or
5 conducting the program, the adequacy of the facilities, the
6 maintenance of adequate casework records, and the furnishing of
7 comprehensive reports;

8 (j) Enter into written agreements with public, private or voluntary
9 agencies to provide youth facility aid to such agencies, subject to a
10 preaward qualification review of the agency's fiscal and programmatic
11 abilities and periodic reviews.

12 (cf: P.L.1979, c.309, s.3)

13

14 50. Section 24 of P.L.1999, c.53 (C.30:4C-11.2) is amended to
15 read as follows:

16 24. In any case in which the Division of Youth and Family Services
17 accepts a child in care or custody, including placement, the division
18 shall not be required to provide reasonable efforts to prevent
19 placement of the child if a court of competent jurisdiction has
20 determined that both of the following criteria are met:

21 a. One of the following actions has occurred:

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

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

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

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

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

40 When determining whether reasonable efforts are required to
41 prevent placement, the health and safety of the child shall be of
42 paramount concern to the court.

43 (cf: P.L.1999, c.53, s.24)

44

45 51. Section 25 of P.L.1999, c.53 (C.30:4C-11.3) is amended to
46 read as follows:

1 25. In any case in which the Division of Youth and Family Services
2 accepts a child in care or custody, including placement, the division
3 shall not be required to provide reasonable efforts to reunify the child
4 with a parent if a court of competent jurisdiction has determined that:

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

7 b. The parent has been convicted of murder, aggravated
8 manslaughter or manslaughter of [a] another child of the parent;
9 aiding or abetting, attempting, conspiring or soliciting to commit
10 murder, aggravated manslaughter or manslaughter of [a] the child or
11 another child of the parent; committing or attempting to commit an
12 assault that resulted, or could have resulted, in significant bodily injury
13 to [a] the child or another child of the parent; or committing a
14 similarly serious criminal act which resulted, or could have resulted,
15 in the death of or significant bodily injury to [a] the child or another
16 child of the parent; or

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

19 When determining whether reasonable efforts are required to
20 reunify the child with the parent, the health and safety of the child and
21 the child's need for permanency shall be of paramount concern to the
22 court.

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

26 A permanency plan for the child may be established at the same
27 hearing at which the court determines that reasonable efforts are not
28 required to reunify the child with the parent, if the hearing meets all of
29 the requirements of a permanency hearing pursuant to section 50 of
30 P.L.1999, c.53 (C.30:4C-61.2).

31 (cf: P.L.1999, c.53, s.25)

32

33 52. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to
34 read as follows:

35 12. Whenever it shall appear that the parent or parents, guardian,
36 or person having custody and control of any child within this State is
37 unfit to be entrusted with the care and education of such child, or shall
38 fail to provide such child with proper protection, maintenance and
39 education, or shall fail to ensure the health and safety of the child, or
40 is endangering the welfare of such child, a written or oral complaint
41 may be filed with the [Division of Youth and Family
42 Services] division, or other entity designated by the commissioner, by
43 any person or by any public or private agency or institution interested
44 in such child. When such a complaint is filed by a public or private
45 agency or institution, it shall be accompanied by a summary setting
46 forth the reason for such complaint and other social history of the

1 child and his family's situation which justifies such complaint; or, if this
2 is not feasible, such summary shall be made available to the [Division
3 of Youth and Family Services] division, or other entity within the
4 department that is investigating the complaint, as soon thereafter as
5 possible. Upon receipt of a complaint as provided in this section, the
6 [Division of Youth and Family Services] division, or other entity
7 designated by the commissioner, shall investigate, or shall cause to be
8 investigated, the statements set forth in such complaint. If the
9 circumstances so warrant, the parent, parents, guardian, or person
10 having custody and control of the child [shall] may be afforded an
11 opportunity to file an application for care, as provided in section 11 of
12 P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or
13 person having custody and control of the child [shall refuse] refuses
14 to permit or [shall] in any way [impede] impedes an investigation,
15 and the [division] department determines that further investigation is
16 necessary in the best interests of the child, the division may thereupon
17 apply to the Family Part of the Chancery Division of the Superior
18 Court in the county where the child resides, for an order directing the
19 parent, parents, guardian, or person having custody and control of the
20 child to permit immediate investigation. The court, upon such
21 application, may proceed to hear the matter in a summary manner and
22 if satisfied that the best interests of the child so require may issue an
23 order as requested.

24 If, after such investigation has been completed, it appears that the
25 child requires care and supervision by the [Division of Youth and
26 Family Services] division or other action to ensure the health and
27 safety of the child, [but the parent, parents, guardian, or person having
28 custody and control of the child continue to refuse to apply for care in
29 the manner provided in section 11 of P.L.1951, c.138 (C.30:4C-11) or
30 to take action to ensure the health and safety of the child,] the division
31 may apply to the Family Part of the Chancery Division of the Superior
32 Court in the county where the child resides for an order making the
33 child a ward of the court and placing [such] the child under the care
34 and supervision of the [Division of Youth and Family
35 Services] division.

36 The court, at a summary hearing held upon notice to the [Division
37 of Youth and Family Services] division, and to the parent, parents,
38 guardian, or person having custody and control of the child, if satisfied
39 that the best interests of the child so require, may issue an order as
40 requested, which order shall have the same force and effect as the
41 acceptance of a child for care by the division as provided in section 11
42 of P.L.1951, c.138 (C.30:4C-11); provided, however, that such order
43 shall not be effective beyond a period of six months from the date of
44 entry unless the court, upon application by the [Division of Youth and
45 Family Services] division, at a summary hearing held upon notice to

1 the parent, parents, guardian, or person having custody of the child,
2 extends the time of the order.

3 Immediately after the court's order and while the child is in the
4 division's care, the division shall initiate a search for the child's mother
5 or father, if they are not known to the division. The search shall be
6 initiated within 30 days of the court order. The search will be
7 completed when all sources contacted have either responded to the
8 inquiry or failed to respond within 45 days. The results shall be valid
9 for six months after the date it was completed.

10 (cf: P.L.1999, c.53, s.27)

11

12 53. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to
13 read as follows:

14 6. a. In any case in which the Division of Youth and Family
15 Services accepts a child in its care or custody, including placement, the
16 division shall initiate a search for relatives who may be willing and able
17 to provide the care and support required by the child. The search shall
18 be initiated within 30 days of the division's acceptance of the child in
19 its care or custody. The search will be completed when all sources
20 contacted have either responded to the inquiry or failed to respond
21 within 45 days. The division shall complete an assessment of each
22 interested relative's ability to provide the care and support, including
23 placement, required by the child.

24 b. If the division determines that the relative is unwilling or unable
25 to assume the care of the child, the division shall not be required to
26 re-evaluate the relative. The division shall inform the relative in
27 writing of:

28 (1) the reasons for the division's determination;

29 (2) the responsibility of the relative to inform the division if there
30 is a change in the circumstances upon which the determination was
31 made;

32 (3) the possibility that termination of parental rights may occur if
33 the child remains in [foster] resource family care for more than six
34 months; and

35 (4) the right to seek review by the division of such determination.

36 c. The division may decide to pursue the termination of parental
37 rights if the division determines that termination of parental rights is
38 in the child's best interests.

39 (cf: P.L.1995, c.416, s.1)

40

41 54. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to
42 read as follows:

43 28. In any case in which the Division of Youth and Family Services
44 accepts a child in its care or custody, the child's [foster] resource
45 family parent[, preadoptive parent] or relative providing care for the
46 child, as applicable, shall receive written notice of and an opportunity

1 to be heard at any review or hearing held with respect to the child, but
2 the [foster] resource family parent[, preadoptive parent] or relative
3 shall not be made a party to the review or hearing solely on the basis
4 of the notice and opportunity to be heard.

5 (cf: P.L.1999, c.53, s.28)

6
7 55. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to
8 read as follows:

9 15. Whenever

10 (a) it appears that a court wherein a complaint has been proffered
11 as provided in chapter 6 of Title 9 of the Revised Statutes, has entered
12 a conviction against the parent or parents, guardian, or person having
13 custody and control of any child because of abuse, abandonment,
14 neglect of or cruelty to such child; or

15 (b) (Deleted by amendment, P.L.1991, c.275);

16 (c) it appears that the best interests of any child under the care or
17 custody of the [Division of Youth and Family Services] division
18 require that he be placed under guardianship; or

19 (d) it appears that a parent or guardian of a child, following the
20 acceptance of such child by the division pursuant to section 11 or 12
21 of P.L.1951, c.138 (C.30:4C-11 or 12), or following the placement or
22 commitment of such child in the care of an authorized agency, whether
23 in an institution or in a [foster] resource family home, and
24 notwithstanding the reasonable efforts of such agency to encourage
25 and strengthen the parental relationship, has failed for a period of one
26 year to remove the circumstances or conditions that led to the removal
27 or placement of the child, although physically and financially able to
28 do so, notwithstanding the division's reasonable efforts to assist the
29 parent or guardian in remedying the conditions; or

30 (e) the parent has abandoned the child; or

31 (f) the parent of a child has been found by a criminal court of
32 competent jurisdiction to have committed murder, aggravated
33 manslaughter or manslaughter of another child of the parent; to have
34 aided or abetted, attempted, conspired, or solicited to commit such
35 murder, aggravated manslaughter or manslaughter of the child or
36 another child of the parent; or to have committed, or attempted to
37 commit, an assault that resulted, or could have resulted, in the
38 significant bodily injury to the child or another child of the parent; or
39 the parent has committed a similarly serious act which resulted, or
40 could have resulted, in the death or significant bodily injury to the
41 child or another child of the parent; a petition to terminate the parental
42 rights of the child's parents, setting forth the facts in the case, shall be
43 filed by the division with the Family Part of the Chancery Division of
44 the Superior Court in the county where such child may be at the time
45 of the filing of such petition. A petition shall be filed as soon as any
46 one of the circumstances in subsections (a) through (f) of this section

1 is established, but no later than when the child has been in placement
2 for 15 of the most recent 22 months, unless the division establishes an
3 exception to the requirement to seek termination of parental rights in
4 accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3). Upon
5 filing the petition, the division shall initiate concurrent efforts to
6 identify, recruit, process and approve a qualified family to adopt the
7 child.

8 A petition as provided in this section may be filed by any person or
9 any association or agency, interested in such child in the circumstances
10 set forth in subsections (a) and (f) of this section. The division shall
11 seek to be joined as a party to a petition filed to terminate the parental
12 rights of a child in the care and custody of the division unless the
13 division has established an exception to the requirement to seek
14 termination of parental rights in accordance with section 31 of
15 P.L.1999, c.53 (C.30:4C-15.3).

16 (cf: P.L.1999, c.53, s.29)

17

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

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

24 (1) The child's safety, health or development has been or will
25 continue to be endangered by the parental relationship;

26 (2) The parent is unwilling or unable to eliminate the harm facing
27 the child or is unable or unwilling to provide a safe and stable home
28 for the child and the delay of permanent placement will add to the
29 harm. Such harm may include evidence that separating the child from
30 his [foster] resource family parents would cause serious and enduring
31 emotional or psychological harm to the child;

32 (3) The division has made reasonable efforts to provide services to
33 help the parent correct the circumstances which led to the child's
34 placement outside the home and the court has considered alternatives
35 to termination of parental rights; and

36 (4) Termination of parental rights will not do more harm than
37 good.

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

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

43 (a) the parent, although able to have contact, has had no contact
44 with the child, the child's [foster] resource family parent or the
45 division; and

46 (b) the parent's whereabouts are unknown, notwithstanding the

1 division's reasonable efforts to locate the parent; or

2 (2) where the identities of the parents are unknown and the
3 division has exhausted all reasonable methods of attempting
4 identification, the division may immediately file for termination of
5 parental rights upon the completion of the law enforcement
6 investigation; or

7 (3) where the parent voluntarily delivered the child to and left the
8 child at, or voluntarily arranged for another person to deliver the child
9 to and leave the child at a State, county or municipal police station or
10 at an emergency department of a licensed general hospital in this State
11 when the child is or appears to be no more than 30 days old, without
12 expressing an intent to return for the child, as provided in section 4 of
13 P.L.2000, c.58 (C.30:4C-15.7), the division shall file for termination
14 of parental rights no later than 21 days after the day the division
15 assumed care, custody and control of the child.

16 c. As used in this section and in section 15 of P.L.1951, c.138
17 (C.30:4C-15) "reasonable efforts" mean attempts by an agency
18 authorized by the division to assist the parents in remedying the
19 circumstances and conditions that led to the placement of the child and
20 in reinforcing the family structure, including, but not limited to:

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

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

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

27 (4) facilitating appropriate visitation.

28 d. The division shall not be required to provide "reasonable efforts"
29 as defined in subsection c. of this section prior to filing a petition for
30 the termination of parental rights if an exception to the requirement to
31 provide reasonable efforts to reunify the family has been established
32 pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

33 (cf: P.L.2000, c.58, s.3)

34

35 57. Section 22 of P.L.1951, c.138 (C.30:4C-22) is amended to
36 read as follows:

37 22. The care, custody or guardianship of the [Division of Youth
38 and Family Services] division shall be full and complete for all
39 purposes and shall vest in the division the custody and control of both
40 the person and property of children in its custody or care, and of its
41 wards, whether committed prior or subsequent to the effective date of
42 this act, when the children are in [foster] resource family homes,
43 without the necessity of giving bond, and notwithstanding any
44 previous appointment of a guardian for the children under its custody
45 or care or such wards.

46 Such care, custody or guardianship of the division shall enable the

1 division, acting through the chief executive officer of the division or
2 his authorized representative, to prosecute suits, claims and any and
3 all manner of proceedings or actions in law or equity for and on behalf
4 of the children under its custody or care or its wards when the children
5 are in [foster] resource family homes; to demand and receive from all
6 persons, including guardians previously appointed, any and all
7 property of the children under its custody or care or its wards when
8 the children are in [foster] resource family homes; and to hold and
9 administer the real and personal property of the children under its
10 custody or care or its wards when the children are in [foster] resource
11 family homes, or any interest they may have therein; provided,
12 however, that it shall be proper for the division, in its discretion, to
13 hold funds of the children under its custody or care or its wards when
14 the children are in [foster] resource family homes on deposit in one
15 or more banks, building and loan associations, or trust companies in
16 this State, and to apply funds, other than earned income or the corpus
17 of any trust, devise or intestate share, or the proceeds of an insurance
18 contract or a personal injury award which a court specifically awards
19 to a child to make the child whole as a result of an injury, of any child
20 under its custody or care or any ward when the child is in a [foster]
21 resource family home against expenditures for the maintenance of such
22 child under its custody or care or ward when the child is in a [foster]
23 resource family home.

24 A court of competent jurisdiction shall hear and determine petitions
25 by the division, on behalf of the children under its custody or care or
26 its wards when the children are in [foster] resource family homes, for
27 the transfer of any or all assets being held by guardians previously
28 appointed. The court shall have jurisdiction, in its discretion, to waive
29 costs in any proceedings by the division on behalf of the children under
30 its custody or care or its wards when the children are in [foster]
31 resource family homes.

32 (cf: P.L.1985, c.8, s.2)

33

34 58. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to
35 read as follows:

36 26. a. Whenever the circumstances of a child are such that his
37 needs cannot be adequately met in his own home, the [Division of
38 Youth and Family Services] division may effect his placement in a
39 [foster] resource family home, with or without payment of board, in
40 a group home, or in an appropriate institution if such care is deemed
41 essential for him. The [Division of Youth and Family Services]
42 division shall make every reasonable effort to select a [foster]
43 resource family home, a group home or an institution of the same
44 religious faith as the parent or parents of such child.

45 b. Whenever the [Division of Youth and Family Services] division

1 shall place any child, as provided by this section, in any municipality
2 and county of this State, the child shall be deemed a resident of such
3 municipality and county for all purposes except school funding, and he
4 shall be entitled to the use and benefit of all health, recreational,
5 vocational and other facilities of such municipality and county in the
6 same manner and extent as any other child living in such municipality
7 and county.

8 c. Whenever the [Division of Youth and Family Services] division
9 shall place any child, as provided by this section, in any school district,
10 the child shall be entitled to the educational benefits of such district;
11 provided, however, that the district of residence, as determined by the
12 Commissioner of Education pursuant to law, shall be responsible for
13 paying tuition for such child to the district in which he is placed.

14 d. No municipality shall enact a planning or zoning ordinance
15 governing the use of land by, or for, single family dwellings which
16 shall, by any of its terms or provisions or by any rule or regulation
17 adopted in accordance therewith, discriminate between children who
18 are members of such single families by reason of their relationship by
19 blood, marriage or adoption, [foster] children placed with such
20 families in such dwellings by the [Division of Youth and Family]
21 division, Office of Children's Services or other entity designated by the
22 Commissioner of Human Services, and children placed pursuant to law
23 with families in single family dwellings known as group homes.

24 Any planning or zoning ordinance, heretofore or hereafter enacted
25 by a municipality, which violates the provisions of this section, shall
26 be invalid and inoperative.

27 (cf: P.L.1979, c.207, s.18)

28

29 59. Section 1 of P.L.1962, c.137 (C.30:4C-26.1) is amended to
30 read as follows:

31 1. As used in this act ["foster] "resource family home" means and
32 includes private residences, group homes and institutions wherein any
33 child in the care, custody or guardianship of the Division of Youth and
34 Family Services, may be placed for temporary or long-term care, and
35 shall include any private residence maintained by persons with whom
36 any such child is placed by the division for adoption.

37 (cf: P.L.1974, c.178, s.3)

38

39 60. Section 3 of P.L.1962, c.137 (C.30:4C-26.3) is amended to
40 read as follows:

41 3. Such shelters shall be equipped and used for the temporary care
42 and supervision of children who are placed in the care, custody or
43 guardianship of the [Bureau of Childrens] Division of Youth and
44 Family Services, during the interim between such placement and
45 placement in a suitable [foster] resource family home. Such shelters
46 shall be properly staffed to provide for child care and supervision and

1 shall contain the necessary facilities for both physical and
2 psychological examinations of such children.

3 (cf: P.L.1964, c.102, s.13)

4 61. Section 1 of P.L.1962, c.136 (C.30:4C-26.4) is amended to
5 read as follows:

6 1. As used in this act ["foster] "resource family parent" shall
7 mean any person with whom a child in the care, custody or
8 guardianship of the [Bureau of Childrens] Division of Youth and
9 Family Services, is placed for temporary or long-term care[,but] and
10 shall [not] include any [persons] person with whom a child is placed
11 by the division for the purpose of adoption.

12 (cf: P.L.1964, c.102, s.8)

13

14 62. Section 2 of P.L.1962, c.136 (C.30:4C-26.5) is amended to
15 read as follows:

16 2. Notwithstanding the provisions of any other law or any rule or
17 regulation of the [Bureau of Childrens] Division of Youth and Family
18 Services, no agreement entered into between [said bureau] the
19 division and any [foster] resource family parent for the care of any
20 child in the care, custody or guardianship of [said bureau] the division
21 shall contain any provision prohibiting the adoption of any [said] child
22 by the [foster] resource family parent.

23 (cf: P.L.1964, c.102, s.9)

24

25 63. Section 1 of P.L.1962, c.139 (C.30:4C-26.6) is amended to
26 read as follows:

27 1. As used in this act ["foster] "resource family parent" shall
28 mean any person with whom a child in the care, custody or
29 guardianship of the [Bureau of Childrens] Division of Youth and
30 Family Services, is placed for temporary or long-term care[, but] and
31 shall [not] include any [persons] person with whom a child is placed
32 by the division for the purpose of adoption.

33 (cf: P.L.1964, c.102, s.15)

34

35 64. Section 2 of P.L.1962, c.139, (C.30:4C-26.7) is amended to
36 read as follows:

37 2. Any [husband and wife] person, who, as [foster parents] a
38 resource family parent, [have] has cared for a child continuously for
39 a period of [2 years] 15 months or more, may apply to the [Bureau
40 of Childrens] Division of Youth and Family Services, for the
41 placement of [said] the child with them for the purpose of adoption
42 and if [said] the child is eligible for adoption, the [bureau] division
43 shall give preference and first consideration to their application over
44 all other applications for adoption placements.

45 (cf: P.L.1964, c.102, s.16)

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

3 1. a. A person, in addition to meeting other requirements as may
4 be established by the Department of Human Services, shall become a
5 **[foster] resource family** parent or eligible to adopt a child only upon
6 the completion of an investigation to ascertain if there is a State or
7 federal record of criminal history for the prospective **[foster or]**
8 **adoptive or resource family** parent or any other adult residing in the
9 prospective parent's home. The investigation shall be conducted by
10 the Division of State Police in the Department of Law and Public
11 Safety and shall include an examination of its own files and the
12 obtaining of a similar examination by federal authorities.

13 b. If the prospective **[foster or adoptive] resource family** parent or
14 any adult residing in the prospective parent's home has a record of
15 criminal history, the Department of Human Services shall review the
16 record with respect to the type and date of the criminal offense and
17 make a determination as to the suitability of the person to become a
18 **[foster parent or adoptive] resource family** parent or the suitability of
19 placing a child in that person's home, as the case may be.

20 c. For the purposes of this section, a conviction for one of the
21 offenses enumerated in subsection d. or e. of this section has occurred
22 if the person has been convicted under the laws of this State or any
23 other state or jurisdiction for an offense that is substantially equivalent
24 to the offenses enumerated in these subsections.

25 d. A person shall be disqualified from being a **[foster] resource**
26 **family** parent or shall not be eligible to adopt a child if that person or
27 any adult residing in that person's household ever committed a crime
28 which resulted in a conviction for:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 e. A person shall be disqualified from being a [foster] resource
13 family parent [or shall not be eligible to adopt a child] if that person
14 or any adult residing in that person's household was convicted of one
15 of the following crimes and the date of release from confinement
16 occurred during the preceding five years:

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

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

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

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

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

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

28 For the purposes of this subsection, the "date of release from
29 confinement" means the date of termination of court-ordered
30 supervision through probation, parole, or residence in a correctional
31 facility, whichever date occurs last.

32 For purposes of this section, "resource family parent" means any
33 person with whom a child in the care, custody or guardianship of the
34 Division of Youth and Services is placed for temporary or long-term
35 care and shall include any person with whom a child is placed by the
36 division for the purpose of adoption.

37 (cf: P.L.1999, c.53, s.34)

38

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

41 1. The Department of Human Services may grant approval to a
42 prospective [foster] resource family parent for a period not to exceed
43 six months, upon completion of the State portion of the criminal
44 history record investigation required pursuant to P.L.1985, c.396
45 (C.30:4C-26.8), pending completion and review of the federal portion
46 of the criminal history record investigation required pursuant to that

1 act, if (1) the State portion of the criminal history record investigation
2 indicates no information which would disqualify the person, (2) the
3 prospective [foster] resource family parent and any adult residing in
4 the prospective [foster] resource family parent's home submit a sworn
5 statement to the Department of Human Services attesting that the
6 person does not have a record of criminal history which would
7 disqualify the person and (3) there is substantial compliance with
8 department standards for [foster] resource family homes indicating
9 there is no risk to a child's health or safety.

10 For purposes of this section, "resource family parent" means any
11 person with whom a child in the care, custody or guardianship of the
12 Division of Youth and Services is placed for temporary or long-term
13 care and shall not include any person with whom a child is placed by
14 the division for the purpose of adoption.

15 (cf: P.L.1999, c.53, s.35)

16
17 67. Section 27 of P.L.1951, c.138 (C.30:4C-27) is amended to
18 read as follows:

19 27. Pursuant to the providing of care, custody or guardianship for
20 any child, in accordance with the provisions of this act, the [Division
21 of Youth and Family Services] division may expend such sums as may
22 be necessary for the reasonable and proper cost of maintenance,
23 including board, lodging, clothing, medical, dental, and hospital care,
24 or any other similar or specialized commodity or service as the needs
25 of any such child may require, except that the division shall not
26 maintain a clothing warehouse for the distribution of clothing to
27 children under its jurisdiction. In lieu thereof, the division may pay
28 [foster] resource family parents caring for children under their
29 supervision a sufficient amount to enable them to purchase necessary
30 clothing items required by the children from the local merchants of the
31 locality in which they reside. Such maintenance costs and the total
32 cost of hospital care for children as provided for herein shall be borne
33 by the State. However, no costs shall be chargeable if incurred earlier
34 than the date of the child's acceptance in care as provided in section 12
35 hereof, or earlier than the date of an order of commitment to
36 guardianship as provided in section 20 hereof.

37 Whenever a medical or psychological examination shall be required
38 for any child as a condition to providing care or custody, or whenever
39 the division avails itself of the facilities and services of any privately
40 sponsored agency or institution, the cost of the examination or service
41 shall be a proper charge against State funds, within the limits of
42 available appropriations, in the same manner and extent as
43 expenditures for maintenance.

44 In providing care, custody or guardianship for any child or in the
45 course of determining the eligibility of any child for care, custody or
46 guardianship in accordance with the provisions of this act, the division

1 may avail itself of the facilities and services of any privately sponsored
2 agency or institution, with due regard to the religious background of
3 the child, which complies with those rules and regulations as
4 established pursuant to this act, paying such fees for service as may be
5 mutually agreed upon by the division and the privately sponsored
6 agency or institution providing service.

7 Whenever a child under care, custody or guardianship is in need of
8 operation, anaesthesia, diagnostic tests or treatment, the division may
9 give its consent thereto. A consent to operation, anaesthesia,
10 diagnostic tests or treatment when given by the division on behalf of
11 any child receiving care, custody or guardianship shall be deemed legal
12 and valid for all purposes with respect to any person or hospital
13 affording service to such child pursuant to and in reliance upon such
14 consent.

15 Nothing contained herein shall modify the provisions of section 6
16 of the act of which this act is amendatory.

17 (cf: P.L.1990, c.66, s.3)

18

19 68. Section 1 of P.L.1962, c.135 (C.30:4C-27.1) is amended to
20 read as follows:

21 1. As used in this act ["foster] "resource family parent" shall
22 mean any person with whom a child in the care, custody or
23 guardianship of the [Bureau of Childrens] Division of Youth and
24 Family Services, is placed for temporary or long-term care[, but] and
25 shall [not] include any [persons] person with whom a child is placed
26 by the division for the purpose of adoption.

27 (cf: P.L.1964, c.102, s.5)

28

29 69. Section 2 of P.L.1962, c.135 (C.30:4C-27.2) is amended to
30 read as follows:

31 2. Notwithstanding the provision of any other law, the maintenance
32 of a clothing warehouse and distribution center for the distribution of
33 clothing to children in the care, custody or guardianship of the
34 [Bureau of Childrens] Division of Youth and Family Services, shall be
35 discontinued and in lieu thereof the [bureau] division shall increase
36 the monthly allowance payable to any [foster] resource family parent
37 caring for any of [said] the children in a sufficient amount to enable
38 [said foster] the resource family parent to purchase the necessary
39 clothing items required by [said] the children from the local merchants
40 of the locality wherein the [foster] resource family parent resides.

41 (cf: P.L.1964, c.102, s.6)

42

43 70. Section 1 of P.L.2001, c.419 (C.30:4C-27.3) is amended to
44 read as follows:

45 1. This act shall be known and may be cited as the ["Foster]

1 "Resource Family Parent Licensing Act."

2 (cf: P.L.2001, c.419, s.1)

3

4 71. Section 2 of P.L.2001, c.419 (C.30:4C-27.4) is amended to
5 read as follows:

6 2. The Legislature finds and declares that: each child requiring
7 [foster] resource family care should reside in a safe home with a
8 nurturing substitute family who can meet the child's individual needs;
9 the most effective way to ensure the health, safety, general well-being
10 and physical, emotional, social and educational needs of a child
11 residing in a [foster] resource family home is to require the annual
12 inspection and monitoring of a [foster] resource family home and to
13 obligate a person to secure and maintain a license in order to provide
14 [foster] resource family care to a child; therefore, it is in the public
15 interest to license [foster] resource family parents and regulate
16 [foster] resource family homes in order to ensure the safety, health
17 and proper development of children placed in [foster] resource family
18 care.

19 (cf: P.L.2001, c.419, s.2)

20

21 72. Section 3 of P.L.2001, c.419 (C.30:4C-27.5) is amended to
22 read as follows:

23 3. As used in this act:

24 "Child" means a person who: is either under the age of 18 or meets
25 the criteria set forth in subsection f. of section 2 of P.L.1972, c.81
26 (C.9:17B-2); and is under the care or custody of the division or
27 another public or private agency authorized to place children in New
28 Jersey.

29 "Commissioner" means the Commissioner of Human Services.

30 "Department" means the Department of Human Services.

31 "Division" means the Division of Youth and Family Services in the
32 Department of Human Services.

33 ["Foster] Resource family home" or "home" means a private
34 residence, other than a children's group home or shelter home, in
35 which board, lodging, care and temporary out-of-home placement
36 services are provided by a [foster] resource family parent on a
37 24-hour basis to a child under the auspices of the division or any
38 public or private agency authorized to place children in New Jersey.

39 ["Foster] Resource family parent" means a person who has been
40 licensed pursuant to this act to provide [foster] resource family care
41 to five or fewer children, except that the [division] department may
42 license a [foster] resource family parent to provide care for more than
43 five children, if necessary, to keep sibling groups intact or to serve the
44 best interests of the children in the home.

45 "License" means a document issued by the [division] department

1 to a person who meets the requirements of this act to provide
2 [foster] resource family care to children in the person's home.
3 (cf: P.L.2001, c.419, s.3)

4
5 73. Section 4 of P.L.2001, c.419 (C.30:4C-27.6) is amended to
6 read as follows:

7 4. a. A person shall not provide [foster] resource family care to
8 a child unless the person is licensed by the [division] department
9 pursuant to this act. The license shall be issued to a specific person
10 for a specific residence and shall not be transferable to another person
11 or residence. The [foster] resource family parent shall maintain the
12 license on file at the [foster] resource family home.

13 b. A person desiring to provide [foster] resource family care to a
14 child shall apply to the [division] department for a license in a manner
15 and form prescribed by the commissioner.

16 c. A [foster] resource family parent applicant or [foster] resource
17 family parent shall be of good moral character.

18 d. A [foster] resource family parent applicant or [foster] resource
19 family parent, as applicable, shall:

20 (1) Complete the license application form provided by the
21 [division] department;

22 (2) Provide written consent for the division to conduct a check of
23 its child abuse records pursuant to section 4 of P.L.1971, c.437
24 (C.9:6-8.11);

25 (3) Provide written consent from each adult member of the
26 [foster] resource family parent applicant's household for the division
27 to conduct a child abuse record information check on that person; and

28 (4) Immediately notify the [division] department when a new adult
29 becomes a resident of the [foster] resource family parent applicant's
30 or [foster] resource family parent's household in order to ensure that
31 the department can conduct a criminal history record background
32 check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the
33 division can conduct a child abuse record information check on the
34 new adult household member.

35 e. As a condition of securing a license, the applicant shall
36 participate in pre-service training in accordance with standards
37 adopted by the commissioner pursuant to this act.

38 f. A [foster] resource family parent licensed pursuant to this act
39 shall participate in [a minimum of 14 hours of] pre-service and
40 in-service training in [every 24-month period in] accordance with
41 standards adopted by the commissioner pursuant to this act.

42 (cf: P.L.2001, c.419, s.4)

43
44 74. Section 5 of P.L.2001, c.419 (C.30:4C-27.7) is amended to
45 read as follows:

1 5. a. The division shall conduct a child abuse record information
2 check of the division's child abuse records to determine if an incident
3 of child abuse or neglect has been substantiated, pursuant to section
4 4 of P.L.1971, c.437 (C.9:6-8.11), against a [foster] resource family
5 parent applicant or any adult member of the [foster] resource family
6 parent applicant's household, upon receipt of written consent from the
7 [foster] resource family parent applicant or any adult member of the
8 [foster] resource family parent applicant's household pursuant to
9 subsection d. of section 4 of [this act] P.L.2001, c.419 (C.30:4C-
10 27.6).

11 The [division] department shall consider, for the purposes of this
12 act, any incidents of child abuse or neglect that were substantiated on
13 or after June 29, 1995, to ensure that a [foster] resource family parent
14 applicant or adult member of the [foster] resource family parent
15 applicant's household has had an opportunity to appeal a substantiated
16 finding of child abuse or neglect pursuant to [N.J.A.C.10:120A-1.1 et
17 seq.] department regulations, except that the [division] department
18 may consider substantiated incidents prior to that date if the [division]
19 department, in its judgment, determines that the [foster] resource
20 family parent applicant or adult household member poses a risk of
21 harm in a [foster] resource family home. In cases involving incidents
22 substantiated prior to June 29, 1995, the [division] department shall
23 offer the [foster] resource family parent applicant or adult member of
24 the [foster] resource family parent applicant's household an
25 opportunity for a hearing to contest its action restricting the [foster]
26 resource family parent applicant from providing [foster] resource
27 family care to a child.

28 b. (1) The [division] department shall conduct an annual on-site
29 inspection of a [foster] resource family home and evaluate the
30 [foster] resource family home to determine whether it complies with
31 the provisions of this act.

32 (2) The [division] department may, without prior notice, inspect
33 and examine a [foster] resource family home and inspect all
34 documents, records, files or other data required to be maintained by
35 a [foster] resource family parent pursuant to this act.

36 c. If an applicant meets the requirements of this act, the [division]
37 department shall issue a license to that person.

38 d. (1) The license shall be valid for [three years] the time period
39 designated by the commissioner, subject to the [foster] resource
40 family parent's continued compliance with the provisions of this act.

41 (2) The [division] department shall determine if the license shall
42 be renewed based upon the results of the annual on-site inspection and
43 evaluation of the [foster] resource family home conducted pursuant
44 to this section. If the on-site inspection and evaluation indicate the

1 [foster] resource family home's full or substantial compliance with the
2 provisions of this act, the [division] department shall renew the
3 license.

4 (cf: P.L.2001, c.419, s.5)

5 75. Section 6 of P.L.2001, c.419 (C.30:4C-27.8) is amended to
6 read as follows:

7 6. a. The department shall ensure that a State and federal criminal
8 history record background check is conducted on a [foster] resource
9 family parent applicant and any adult member of the [foster] resource
10 family parent applicant's household pursuant to the provisions of
11 section 1 of P.L.1985, c.396 (C.30:4C-26.8).

12 b. The Division of State Police in the Department of Law and
13 Public Safety shall promptly notify the [division] department in the
14 event a [foster] resource family parent or any adult member of the
15 [foster] resource family parent's household, who was the subject of a
16 criminal history record background check conducted pursuant to this
17 section, is convicted of a crime or offense in this State after the date
18 the background check was performed. Upon receipt of such
19 notification, the [division] department shall make a determination
20 whether to suspend or revoke the [foster] resource family parent's
21 license.

22 (cf: P.L.2001, c.419, s.6)

23

24 76. Section 7 of P.L.2001, c.419 (C.30:4C-27.9) is amended to
25 read as follows:

26 7. The [division] department may deny, suspend or revoke a
27 license for good cause, including, but not limited to:

28 a. Failure of a [foster] resource family parent applicant or [foster]
29 resource family parent to comply with the provisions of this act;

30 b. Failure of a [foster] resource family parent applicant or any
31 adult member of the [foster] resource family parent applicant's
32 household to consent to, or cooperate in, the securing of a criminal
33 history record background check pursuant to section 1 of P.L.1985,
34 c.396 (C.30:4C-26.8) or a division child abuse record information
35 check pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

36 c. The conviction of a [foster] resource family parent applicant or
37 any adult member of the [foster] resource family parent applicant's
38 household of a crime enumerated under section 1 of P.L.1985, c.396
39 (C.30:4C-26.8);

40 d. A determination that an incident of child abuse or neglect by a
41 [foster] resource family parent applicant or any adult member of the
42 [foster] resource family parent applicant's household has been
43 substantiated, except that the [division] department may issue the
44 license if the [division] department determines that the [foster]
45 resource family parent applicant or adult household member poses no

- 1 continuing risk of harm to the child and the issuance of the license is
2 in the child's best interests;
- 3 e. Violation of the terms and conditions of a license;
- 4 f. Use of fraud or misrepresentation by a [foster] resource family
5 parent applicant or [foster] resource family parent in obtaining a
6 license;
- 7 g. Refusal by a [foster] resource family parent applicant or
8 [foster] resource family parent to furnish the [division] department
9 with information, files, reports or records required for compliance with
10 the provisions of this act;
- 11 h. Refusal by a [foster] resource family parent applicant or
12 [foster] resource family parent to permit an inspection of a [foster]
13 resource family home by an authorized representative of the [division]
14 department; and
- 15 i. Any conduct, engaged in or permitted, which adversely affects
16 or presents a serious hazard to the education, health, safety, general
17 well-being or physical, emotional and social development of the child
18 residing in the [foster] resource family home, or which otherwise fails
19 to comply with the standards required for the provision of [foster]
20 resource family care to a child and the maintenance of a [foster]
21 resource family home.

22 (cf: P.L.2001, c.419, s.7)

23

24 77. Section 8 of P.L.2001, c.419 (30:4C-27.10) is amended to read
25 as follows:

26 8. Before denying, suspending or revoking a license, the [division]
27 department shall give notice to a [foster] resource family parent
28 applicant or [foster] resource family parent personally or by mail to
29 the last known address of the [foster] resource family parent applicant
30 or [foster] resource family parent with return receipt requested. The
31 notice shall afford the [foster] resource family parent applicant or
32 [foster] resource family parent the opportunity to be heard and to
33 contest the [division's] department's action. The hearing shall be
34 conducted in accordance with the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.).

36 (cf: P.L.2001, c.419, s.8)

37

38 78. Section 9 of P.L.2001, c.419 (C.30:4C-27.11) is amended to
39 read as follows:

40 9. A person aggrieved by a final decision of the [division]
41 department is entitled to seek judicial review in the Appellate Division
42 of the Superior Court. All petitions for review shall be filed in
43 accordance with the Rules of Court.

44 (cf: P.L.2001, c.419, s.9)

45

1 79. Section 13 of P.L.2001, c.419 (C.30:4C-27.15) is amended to
2 read as follows:

3 13. a. The commissioner shall adopt rules and regulations pursuant
4 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
5 et seq.) to carry out the purposes of this act.

6 The regulations shall include standards governing: the safety and
7 adequacy of the physical premises of a [foster] resource family home;
8 the health, safety, general well-being and physical, emotional, social
9 and educational needs of a child in [foster] resource family care; the
10 training of a [foster] resource family parent; the responsibility of a
11 [foster] resource family parent to participate in the case plan of a
12 child in [foster] resource family care and to allow access by the
13 [division] department to the child; the maintenance and confidentiality
14 of records and furnishing of required information to the [division]
15 department; the transportation of a child in [foster] resource family
16 care; and the provision of other needed services on behalf of a child in
17 [foster] resource family care. The commissioner shall also adopt rules
18 and regulations for license application, issuance, denial, suspension
19 and revocation.

20 b. Nothing in this act shall be construed to permit the department
21 to adopt any code or standard that exceeds the standards established
22 pursuant to the "State Uniform Construction Code Act," P.L.1975,
23 c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act,"
24 P.L.1983, c.383 (C.52:27D-192 et seq.).

25 (cf: P.L.2001, c.419, s.13)

26

27 80. Section 1 P.L.1962, c.142 (C.30:4C-29.1) is amended to read
28 as follows:

29 1. a. In any case in which the Department of Human Services,
30 through the Division of Youth and Family Services, is providing care
31 or custody for any child when the child is in a [foster] resource family
32 home, any legally responsible person of the child, if of sufficient
33 financial ability, is liable for the full costs of maintenance of the child
34 incurred by the division. If the legally responsible person is of
35 insufficient financial ability, the person is liable in an amount which a
36 court of competent jurisdiction directs according to a scheduled rate
37 approved by the division. Nothing contained herein shall prevent the
38 legally responsible person from voluntarily executing an agreement for
39 payment to the division for the costs of maintenance of the child
40 receiving care or custody when the child is in a [foster] resource
41 family home.

42 b. The division shall have a lien against the property of the legally
43 responsible person in an amount equal to the amount to be paid, which
44 lien shall have priority over all unrecorded encumbrances.

45 c. If the legally responsible person fails to reimburse the

1 department, through the [Division of Youth and Family Services]
2 division, for the costs of maintenance of a child incurred by the
3 division when the child is in a [foster] resource family home, a court
4 of competent jurisdiction, upon the complaint of the Commissioner of
5 Human Services, may summon the legally responsible person and other
6 witnesses, and may order the legally responsible person to pay an
7 amount to the department, according to a scheduled rate approved by
8 the division.

9 d. In any case in which the department, through the [Division of
10 Youth and Family Services] division, has agreed to provide youth
11 facilities aid to a public, private or voluntary agency pursuant to this
12 act, the division shall have a lien against the property of any person,
13 persons or agency so contracting, in an amount equal to the amount
14 or amounts so contracted to be paid, which lien shall have priority
15 over all unrecorded encumbrances. Such lien shall be reduced for each
16 year of service provided by the agency at a rate to be negotiated by the
17 division and the agency, but in no case more than 20% a year;
18 provided, however, that annual reductions shall not exceed
19 ~~[\$10,000.00]~~ \$10,000.

20 (cf: P.L.1985, c.8, s.4)

21

22 81. Section 1 of P.L.1973, c.81 (C.30:4C-45) is amended to read
23 as follows:

24 1. It is the intent of the Legislature in enacting this act to benefit
25 hard-to-place children in [foster] resource family care at State
26 expense by providing the stability and security of permanent homes.
27 (cf: P.L.1973, c.81, s.1)

28

29 82. Section 2 of P.L.1973, c.81 (C.30:4C-46) is amended to read
30 as follows:

31 2. The Division of Youth and Family Services shall make payments
32 to adoptive parents on behalf of a child placed for adoption by the
33 division whenever:

34 a. The child because of physical or mental condition, race, age, or
35 membership in a sibling group, or for any other reason falls into the
36 category of a child hard to place for adoption;

37 b. The adoptive family is capable of providing the permanent family
38 relationships needed by the child; and

39 c. Except in situations involving adoption by a child's [foster]
40 resource family parent, there has been a reasonable effort to place the
41 child in an adoptive setting without providing a subsidy.

42 Payments shall be made on behalf of a child placed for adoption by
43 the [Division of Youth and Family Services] division except that
44 whenever a child who would otherwise be eligible for subsidy payment
45 is in the care of an approved New Jersey adoption agency pursuant to
46 P.L.1977, C.367 (C.9:3-37 et seq.) a child shall, upon application by

1 the agency and satisfaction of the regular requirements of the adoption
2 subsidy program, be approved for participation in the adoption subsidy
3 program. In any case the division may approve payment in
4 subsidization of adoption for a child without legal transfer of care or
5 custody of the child to the division. The division shall adopt
6 regulations for administration of this program with respect to these
7 children, except that all children are evaluated for eligibility in the
8 same manner as children already under the care, custody or
9 guardianship of the division.

10 (cf: P.L.1983, c.484, s.1)

11

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

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

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

16 b. "Child placed outside his home" means a child under the care,
17 custody or guardianship of the division, through voluntary agreement
18 or court order, who resides in a [foster] resource family home, group
19 home, residential treatment facility, shelter for the care of abused or
20 neglected children or juveniles considered as juvenile-family crisis
21 cases, or independent living arrangement operated by or approved for
22 payment by the division, or a child who has been placed by the division
23 in the home of a person who is not related to the child and does not
24 receive any payment for the care of the child from the division, or a
25 child placed by the court in juvenile-family crisis cases pursuant to
26 P.L.1982, c.77 (C.2A:4A-20 et seq.), but does not include a child
27 placed by the court in the home of a person related to the child who
28 does not receive any payment from the division for the care of the
29 child;

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

32 d. "Division" means the Division of Youth and Family Services in
33 the Department of Human Services;

34 e. "Temporary caretaker" means a [foster] resource family parent
35 as defined in section 1 of P.L.1962, c.136 (C.30:4C-26.4) or a director
36 of a group home or residential treatment facility;

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

40 (cf: P.L.1999, c.53, s.38)

41

42 84. 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 interest,
45 whereby the safety of children shall be of paramount concern, to afford
46 every child placed outside his home by the [division] Division of

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

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

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

20 c. [For the majority of these children, placement in residential
21 treatment facilities becomes the only viable option left to the division
22 because it is more difficult for the division to find adoptive homes for
23 them when, and if, adoption becomes a case goal; and] (Deleted by
24 amendment, P.L. _____, c. _____ (pending before the Legislature as this
25 bill).)

26 d. The obligation of the State to recognize and protect the rights
27 of children in the child welfare system should be fulfilled in the context
28 of a clear and consistent policy which limits the repeated placement of
29 children in [foster] resource family care and promotes the eventual
30 placement of these children in stable and safe permanent homes.
31 (cf: P.L.1999, c.53, s.40)

32
33 85. Section 2 of P.L.1991, c.448 (C.30:4C-53.2) is amended to
34 read as follows:

35 2. For purposes of this act, the terms "repeated placement into
36 [foster] resource family care" and "placed again into [foster]
37 resource family care" shall apply to a child who has been placed in the
38 custody of the Division of Youth and Family Services for placement
39 in [foster] resource family care by the [family part] Family Part of the
40 Chancery Division of the Superior Court or as a result of a voluntary
41 placement agreement pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.),
42 released into the custody of his parents or legally responsible guardian
43 at the conclusion of the placement and is once again temporarily
44 removed from his place of residence and placed under the division's
45 care and supervision.

1 (cf: P.L.1991, c.448, s.2)

2

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

5 3. a. The division shall not treat a child's repeated placement into
6 **[foster] resource family** care as an initial placement. The child's
7 revised placement plan, updated at the time of the child's repeated
8 placement, shall summarize the child's prior history with the division
9 regarding previous placements, the findings of the child placement
10 review board, as well as a copy of the court order for the removal of
11 the child from the custody of his parents or guardian. The revised
12 placement plan shall be used by the division when preparing the child's
13 repeated placement plan pursuant to this section.

14 b. Whenever a child is placed again into **[foster] resource family**
15 care, the division shall prepare a repeated placement plan which shall
16 ensure the goals of safety and permanency through the safe return of
17 the child to his parents or, if this is not possible, through the State's
18 assumption of guardianship for the purpose of finding the child an
19 adoptive home or, if termination of parental rights is not appropriate,
20 through an alternative permanent placement. The plan shall be
21 prepared within 30 days after the child's repeated placement and
22 submitted to the court. The plan shall be valid for 12 months after the
23 date the child was placed again into **[foster] resource family** care.

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

25 (1) The specific reasons for the repeated placement of the child,
26 including a description of the problems or conditions in the home of
27 the parents or guardian which necessitated the child's removal, and a
28 summary of the efforts made by the division to prevent the child's
29 repeated placement or the exception to the requirement to make
30 reasonable efforts to prevent placement in accordance with section 24
31 of P.L.1999, c.53 (C.30:4C-11.2);

32 (2) The specific actions to be taken by the child's parents or
33 guardian to eliminate the identified problems or conditions which were
34 the basis of the child's repeated placement into **[foster] resource**
35 **family** care, which actions shall be taken within a specific time limit
36 agreed upon by the child's caseworker and the parents or guardian;

37 (3) The social services to be provided to the child and the **[foster]**
38 **resource family** parents during the period the child is in **[foster]**
39 **resource family** care and the social services to be provided to the
40 child's parent or guardian, or the exception to the requirement to make
41 reasonable efforts toward family reunification in accordance with
42 section 25 of P.L.1999, c.53 (C.30:4C-11.3), and the goal for the child
43 and anticipated date for achieving the goal. The purpose of the
44 supportive services shall be to promote the child's best interest and to
45 facilitate his safe return to his home, placement for adoption or an
46 alternative permanent placement. Services to facilitate adoption or an

1 alternative permanent placement may be provided concurrently with
2 services to reunify the child with the parent or guardian;

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

7 (5) A stipulation that the child be placed with his prior [foster]
8 resource family parent, if possible and if in the child's best interest, to
9 provide the child with continuity and stability in his living
10 environment; and

11 (6) A permanency plan for the child and the reasonable efforts of
12 the division to achieve that plan, if: the division has established an
13 exception to the requirement to provide reasonable efforts toward
14 family reunification in accordance with section 25 of P.L.1999, c.53
15 (C.30:4C-11.3); or the child has, in any period of 22 consecutive
16 months, been in any placement or placements for a total of 12 months.

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

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

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

23 (c) the division has determined that termination of parental rights
24 is not appropriate in accordance with section 31 of P.L.1999, c.53
25 (C.30:4C-15.3), and the child shall be placed in an alternative
26 permanent placement.

27 (cf: P.L.1999, c.53, s.41)

28

29 87. Section 10 of P.L.1977, c.424 (C.30:4C-59) is amended to
30 read 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;

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] resource
45 family parent or relative, the caretaker shall receive written notice of
46 and an opportunity to be heard at the review, but the caretaker shall

1 not be 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
14 the notice requirement to counsel for the child or other representatives
15 of 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 based
22 upon the written materials; provided, however, that the board shall
23 afford any party or person entitled to notice pursuant to this section
24 a reasonable opportunity to appear and to present his views and
25 recommendations. Upon the request of the board, the Family Part of
26 the Chancery Division of the Superior Court may subpoena a person to
27 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.1999, c.53, s.46)

32

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

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 not
41 in the child's best interest and the child should be returned home within
42 two weeks and that the division or designated agency, as appropriate,
43 shall provide reasonable and available services which are necessary to
44 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~~ Kinship legal guardianship,
- 6 (5) Independent living,
- 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.

29 In addition to the finding, the board shall state the reasons and
30 additional factors it deems appropriate to explain its conclusions.
31 When any change in the plan or situation of the child is recommended,
32 the board shall state its specific recommendations and the factual basis
33 therefor.

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

37 Within 10 days of the completion of its review, the board shall
38 provide to those persons entitled to notice under section 10 of
39 P.L.1977, c.424 (C.30:4C-59) the specific finding made pursuant to
40 this section, unless the board recommends that the finding shall not be
41 provided to specific individuals as provided in this paragraph. The
42 court may waive notice of findings to the child on a case-by-case basis
43 on its own motion or on the petition of a person listed in section 10 of
44 P.L.1977, c.424 (C.30:4C-59) in cases where the court determines that
45 the nature of the findings would be harmful to the child, or if notice to
46 the child of review was waived. The court may waive notice of

1 findings to persons included in subsection e. of section 10 of P.L.1977,
2 c.424 (C.30:4C-59) on the recommendation of the board or on the
3 petition of other persons entitled to notice.

4 (cf: P.L.1999, c.53, s.47)

5

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

8 12. a. Upon review of the board's report, the Family Part of the
9 Chancery Division of the Superior Court shall issue an order
10 concerning the child's placement which it deems will best serve the
11 health, safety and interests of the child. The court shall issue the order
12 within 21 calendar days of the court's receipt of the board's report
13 unless the court schedules a summary hearing. The court shall either:

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

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

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

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

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

28 In addition, if the placement plan does not satisfy the criteria of
29 section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that
30 the placement plan be modified or that a new plan be developed within
31 30 days.

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

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

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

41 (3) The court concludes that the interests of justice require that a
42 hearing be held; or

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

46 (5) The division has documented an exception to the requirement

1 to provide reasonable efforts toward family reunification pursuant to
2 section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

3 (6) If the review is to serve as a permanency hearing.

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

10 (1) The division;

11 (2) The child;

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

14 (4) The review board;

15 (5) The temporary caretaker;

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

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

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

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

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

34 e. Any person who receives a copy of the court order shall comply
35 with the confidentiality requirements established by the Supreme Court
36 for the purposes of this act.

37 (cf: P.L.1999, c.53, s.48)

38

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

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

46 b. The board shall conduct a special review within 15 days of

1 receipt of the notice provided pursuant to subsection a. or f. of this
2 section to consider and evaluate the reasons for the proposed action
3 and determine whether the action ensures the safety and serves the
4 best interests of the child. The board shall provide written notice of
5 the special review pursuant to section 10 of P.L.1977, c.424
6 (C.30:4C-59), except that the 15-day advance notice requirement is
7 waived. The board shall submit its report to the court pursuant to
8 section 11 of P.L.1977, c.424 (C.30:4C-60), except that the board
9 shall submit the report within five days of completion of the special
10 review.

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

20 d. The division shall not return the child home unless the court
21 approves the division's proposed action and orders the return home of
22 the child.

23 e. Notwithstanding the provisions of this section to the contrary,
24 in an emergency situation, the court may waive the special review
25 provisions of this section and approve the return home, upon the
26 request of the division to do so. The request of the division for a
27 court waiver of the special review provisions shall be accompanied by
28 a written statement from the division declaring and finding that the
29 out-of-home placement has been disrupted, that no appropriate
30 alternative placement for the child can be found in the home of a
31 relative, a [foster] resource family home, group home, shelter,
32 residential care facility or other setting following the change in
33 placement, and that the return home will not endanger the health,
34 safety or welfare of the child. The written statement submitted with
35 a request shall also outline the specific reasons for the findings made.
36 The division shall conduct an on-site visit of the home of a child when
37 in an emergency situation the division plans to request of the court a
38 waiver of the special review provisions. A report of the on-site visit
39 shall be included with the request.

40 If the court approves the division's request, the division shall
41 promptly notify the board of the court's approval of the request. The
42 board shall conduct a review of the change in the placement plan
43 within 15 days of the date the child is returned home. The division
44 shall conduct a minimum of two on-site visits to the home of a child
45 returned there in an emergency situation within the first 10 days of the
46 return to ascertain the continued health, safety and welfare of the

1 child. The court, upon granting a request for a waiver, may require
2 additional on-site visits. A detailed written report of each on-site visit
3 to the home of a child returned in an emergency situation shall
4 promptly be submitted to the court and to the child placement review
5 board.

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

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

16 f. If, subsequent to the review and approval of a plan by the court,
17 the division proposes to change the long-term goal in the plan or
18 otherwise substantially modify the plan, it shall notify the court and the
19 board in writing, within five days. The board shall schedule review of
20 the modification. The division shall continue to implement the current
21 court ordered plan until the court orders a modified or new plan.

22 g. Nothing in this section is intended to limit the court's authority
23 to exercise its regular remedies for enforcement of an order.
24 (cf: P.L.1999, c.53, s.49)

25
26 91. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to
27 read as follows:

28 50. a. A permanency hearing shall be held that provides review
29 and approval by the court of the placement plan:

30 (1) within 30 days after the determination of an exception to the
31 reasonable effort requirement to reunify the child with the parent in
32 accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); 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 has
45 provided or is providing representation in the case before the court;

46 and

1 (7) the child's [foster parent, preadoptive] resource family parent
2 or relative providing care for the child shall also receive written notice
3 of and an opportunity to be heard at the hearing, but the [foster
4 parent, preadoptive] resource family parent or relative shall not be
5 made a party to the hearing solely on the basis of the notice and
6 opportunity to be heard.

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

10 (1) a statement of the goal for the permanent placement or return
11 home of the child and the anticipated date that the goal will be
12 achieved;

13 (2) the intermediate objectives relating to the attainment of the
14 goal;

15 (3) a statement of the duties and responsibilities of the division, the
16 parents or legal guardian and the temporary caretaker, including the
17 services to be provided by the division to the child and to the
18 temporary caretaker;

19 (4) a statement of the services to be provided to the parent or legal
20 guardian or an exception to the requirement to provide reasonable
21 efforts toward family reunification in accordance with section 25 of
22 P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an
23 alternative permanent placement may be provided concurrently with
24 services to reunify the 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 child
28 can be returned home without endangering the child's health or safety;

29 (b) the division has determined that family reunification is not
30 possible and the division shall file a petition for the termination of
31 parental rights for the purpose of adoption; or

32 (c) the division has determined that termination of parental rights
33 is not appropriate in accordance with section 31 of P.L.1999, c.53
34 (C.30:4C-15.3) and the child shall be placed in an alternative
35 permanent placement.

36 d. If the court approves a permanency plan for the child, the court
37 shall make a specific finding of the reasonable efforts made thus far by
38 the division and the appropriateness of the reasonable efforts to
39 achieve the permanency plan.

40 (cf: P.L.1999, c.53, s.50)

41

42 92. Section 8 of P.L.1993, c.157 (C.30:4C-81) is amended to read
43 as follows:

44 8. The Commissioner of Human Services shall report to the
45 Governor and the Legislature by December 31 of each year, on the
46 family preservation services program. The annual report shall contain,

1 but not be limited to:

2 a. The number of families receiving services through the program;

3 b. The number of children placed in **[foster] resource family** care,
4 group homes and residential treatment facilities, both in-State and
5 out-of-State;

6 c. The average cost of providing services to a family through the
7 program;

8 d. The number of children who remain with their families for one
9 year after receiving services through the program; and

10 e. Any recommendations needed to improve the delivery of family
11 preservation services in the State.

12 (cf: P.L.1993, c.157, s.8)

13

14 93. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
15 as follows:

16 3. Definitions. As used in this act, and unless the context
17 otherwise requires:

18 a. "Applicant" means any person who has made application for
19 purposes of becoming a "qualified applicant."

20 b. "Commissioner" means the Commissioner of Human Services.

21 c. "Department" means the Department of Human Services, which
22 is herein designated as the single State agency to administer the
23 provisions of this act.

24 d. "Director" means the Director of the Division of Medical
25 Assistance and Health Services.

26 e. "Division" means the Division of Medical Assistance and Health
27 Services.

28 f. "Medicaid" means the New Jersey Medical Assistance and Health
29 Services Program.

30 g. "Medical assistance" means payments on behalf of recipients to
31 providers for medical care and services authorized under this act.

32 h. "Provider" means any person, public or private institution,
33 agency or business concern approved by the division lawfully
34 providing medical care, services, goods and supplies authorized under
35 this act, holding, where applicable, a current valid license to provide
36 such services or to dispense such goods or supplies.

37 i. "Qualified applicant" means a person who is a resident of this
38 State, and either a citizen of the United States or an eligible alien, and
39 is determined to need medical care and services as provided under this
40 act, with respect to whom the period for which eligibility to be a
41 recipient is determined shall be the maximum period permitted under
42 federal law, and who:

43 (1) Is a dependent child or parent or caretaker relative of a
44 dependent child who would be, except for resources, eligible for the
45 **[aid to] temporary assistance for needy families** **[with dependent**
46 **children]** program under the State Plan for Title IV-A of the federal

- 1 Social Security Act as of July 16, 1996;
- 2 (2) Is a recipient of Supplemental Security Income for the Aged,
3 Blind and Disabled under Title XVI of the Social Security Act;
- 4 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
5 Income for the Aged, Blind and Disabled under Title XVI of the Social
6 Security Act, as defined by the federal Social Security Administration;
- 7 (4) Would be eligible to receive Supplemental Security Income
8 under Title XVI of the federal Social Security Act or, without regard
9 to resources, would be eligible for the [aid to] temporary assistance
10 for needy families [with dependent children] program under the State
11 Plan for Title IV-A of the federal Social Security Act as of July 16,
12 1996, except for failure to meet an eligibility condition or requirement
13 imposed under such State program which is prohibited under Title
14 XIX of the federal Social Security Act such as a durational residency
15 requirement, relative responsibility, consent to imposition of a lien;
- 16 (5) (Deleted by amendment, P.L.2000, c.71).
- 17 (6) Is an individual under 21 years of age who, without regard to
18 resources, would be, except for dependent child requirements, eligible
19 for the [aid to] temporary assistance for needy families [with
20 dependent children] program under the State Plan for Title IV-A of
21 the federal Social Security Act as of July 16, 1996, or groups of such
22 individuals, including but not limited to, children in [foster] resource
23 family placement under supervision of the Division of Youth and
24 Family Services whose maintenance is being paid in whole or in part
25 from public funds, children placed in a [foster] resource family home
26 or institution by a private adoption agency in New Jersey or children
27 in intermediate care facilities, including developmental centers for the
28 developmentally disabled, or in psychiatric hospitals;
- 29 (7) Would be eligible for the Supplemental Security Income
30 program, but is not receiving such assistance and applies for medical
31 assistance only;
- 32 (8) Is determined to be medically needy and meets all the eligibility
33 requirements described below:
- 34 (a) The following individuals are eligible for services, if they are
35 determined to be medically needy:
- 36 (i) Pregnant women;
- 37 (ii) Dependent children under the age of 21;
- 38 (iii) Individuals who are 65 years of age and older; and
- 39 (iv) Individuals who are blind or disabled pursuant to either 42
40 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.
- 41 (b) The following income standard shall be used to determine
42 medically needy eligibility:
- 43 (i) For one person and two person households, the income standard
44 shall be the maximum allowable under federal law, but shall not exceed
45 133 1/3% of the State's payment level to two person households under
46 the [aid to] temporary assistance for needy families [with dependent

1 children] program under the State Plan for Title IV-A of the federal
2 Social Security Act in effect as of July 16, 1996; and

3 (ii) For households of three or more persons, the income standard
4 shall be set at 133 1/3% of the State's payment level to similar size
5 households under the [aid to] temporary assistance for needy families
6 [with dependent children] program under the State Plan for Title
7 IV-A of the federal Social Security Act in effect as of July 16, 1996.

8 (c) The following resource standard shall be used to determine
9 medically needy eligibility:

10 (i) For one person households, the resource standard shall be 200%
11 of the resource standard for recipients of Supplemental Security
12 Income pursuant to 42 U.S.C.s.1382(1)(B);

13 (ii) For two person households, the resource standard shall be
14 200% of the resource standard for recipients of Supplemental Security
15 Income pursuant to 42 U.S.C.s.1382(2)(B);

16 (iii) For households of three or more persons, the resource
17 standard in subparagraph (c)(ii) above shall be increased by \$100.00
18 for each additional person; and

19 (iv) The resource standards established in (i), (ii), and (iii) are
20 subject to federal approval and the resource standard may be lower if
21 required by the federal Department of Health and Human Services.

22 (d) Individuals whose income exceeds those established in
23 subparagraph (b) of paragraph (8) of this subsection may become
24 medically needy by incurring medical expenses as defined in 42
25 C.F.R.435.831(c) which will reduce their income to the applicable
26 medically needy income established in subparagraph (b) of paragraph
27 (8) of this subsection.

28 (e) A six-month period shall be used to determine whether an
29 individual is medically needy.

30 (f) Eligibility determinations for the medically needy program shall
31 be administered as follows:

32 (i) County welfare agencies and other entities designated by the
33 commissioner are responsible for determining and certifying the
34 eligibility of pregnant women and dependent children. The division
35 shall reimburse county welfare agencies for 100% of the reasonable
36 costs of administration which are not reimbursed by the federal
37 government for the first 12 months of this program's operation.
38 Thereafter, 75% of the administrative costs incurred by county welfare
39 agencies which are not reimbursed by the federal government shall be
40 reimbursed by the division;

41 (ii) The division is responsible for certifying the eligibility of
42 individuals who are 65 years of age and older and individuals who are
43 blind or disabled. The division may enter into contracts with county
44 welfare agencies to determine certain aspects of eligibility. In such
45 instances the division shall provide county welfare agencies with all
46 information the division may have available on the individual.

1 The division shall notify all eligible recipients of the Pharmaceutical
2 Assistance to the Aged and Disabled program, P.L.1975, c.194
3 (C.30:4D-20 et seq.) on an annual basis of the medically needy
4 program and the program's general requirements. The division shall
5 take all reasonable administrative actions to ensure that
6 Pharmaceutical Assistance to the Aged and Disabled recipients, who
7 notify the division that they may be eligible for the program, have their
8 applications processed expeditiously, at times and locations convenient
9 to the recipients; and

10 (iii) The division is responsible for certifying incurred medical
11 expenses for all eligible persons who attempt to qualify for the
12 program pursuant to subparagraph (d) of paragraph (8) of this
13 subsection;

14 (9) (a) Is a child who is at least one year of age and under 19 years
15 of age and, if older than six years of age but under 19 years of age, is
16 uninsured; and

17 (b) Is a member of a family whose income does not exceed 133%
18 of the poverty level and who meets the federal Medicaid eligibility
19 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
20 s.1396a);

21 (10) Is a pregnant woman who is determined by a provider to be
22 presumptively eligible for medical assistance based on criteria
23 established by the commissioner, pursuant to section 9407 of
24 Pub.L.99-509 (42 U.S.C. s.1396a(a));

25 (11) Is an individual 65 years of age and older, or an individual
26 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
27 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
28 level, adjusted for family size, and whose resources do not exceed
29 100% of the resource standard used to determine medically needy
30 eligibility pursuant to paragraph (8) of this subsection;

31 (12) Is a qualified disabled and working individual pursuant to
32 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
33 does not exceed 200% of the poverty level and whose resources do
34 not exceed 200% of the resource standard used to determine eligibility
35 under the Supplemental Security Income Program, P.L.1973, c.256
36 (C.44:7-85 et seq.);

37 (13) Is a pregnant woman or is a child who is under one year of
38 age and is a member of a family whose income does not exceed 185%
39 of the poverty level and who meets the federal Medicaid eligibility
40 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
41 s.1396a), except that a pregnant woman who is determined to be a
42 qualified applicant shall, notwithstanding any change in the income of
43 the family of which she is a member, continue to be deemed a qualified
44 applicant until the end of the 60-day period beginning on the last day
45 of her pregnancy;

46 (14) (Deleted by amendment, P.L.1997, c.272).

1 (15) (a) Is a specified low-income Medicare beneficiary pursuant
2 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
3 1993 do not exceed 200% of the resource standard used to determine
4 eligibility under the Supplemental Security Income program, P.L.1973,
5 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
6 1993 does not exceed 110% of the poverty level, and beginning
7 January 1, 1995 does not exceed 120% of the poverty level.

8 (b) An individual who has, within 36 months, or within 60 months
9 in the case of funds transferred into a trust, of applying to be a
10 qualified applicant for Medicaid services in a nursing facility or a
11 medical institution, or for home or community-based services under
12 section 1915(c) of the federal Social Security Act (42 U.S.C.
13 s.1396n(c)), disposed of resources or income for less than fair market
14 value shall be ineligible for assistance for nursing facility services, an
15 equivalent level of services in a medical institution, or home or
16 community-based services under section 1915(c) of the federal Social
17 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
18 shall be the number of months resulting from dividing the
19 uncompensated value of the transferred resources or income by the
20 average monthly private payment rate for nursing facility services in
21 the State as determined annually by the commissioner. In the case of
22 multiple resource or income transfers, the resulting penalty periods
23 shall be imposed sequentially. Application of this requirement shall be
24 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
25 this provision is effective for all transfers of resources or income made
26 on or after August 11, 1993. Notwithstanding the provisions of this
27 subsection to the contrary, the State eligibility requirements
28 concerning resource or income transfers shall not be more restrictive
29 than those enacted pursuant to 42 U.S.C. s.1396p(c).

30 (c) An individual seeking nursing facility services or home or
31 community-based services and who has a community spouse shall be
32 required to expend those resources which are not protected for the
33 needs of the community spouse in accordance with section 1924(c) of
34 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
35 of long-term care, burial arrangements, and any other expense deemed
36 appropriate and authorized by the commissioner. An individual shall
37 be ineligible for Medicaid services in a nursing facility or for home or
38 community-based services under section 1915(c) of the federal Social
39 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
40 violation of this subparagraph. The period of ineligibility shall be the
41 number of months resulting from dividing the uncompensated value of
42 transferred resources and income by the average monthly private
43 payment rate for nursing facility services in the State as determined by
44 the commissioner. The period of ineligibility shall begin with the
45 month that the individual would otherwise be eligible for Medicaid
46 coverage for nursing facility services or home or community-based

1 services.

2 This subparagraph shall be operative only if all necessary approvals
3 are received from the federal government including, but not limited to,
4 approval of necessary State plan amendments and approval of any
5 waivers;

6 (16) Subject to federal approval under Title XIX of the federal
7 Social Security Act, is a dependent child, parent or specified caretaker
8 relative of a child who is a qualified applicant, who would be eligible,
9 without regard to resources, for the [aid to] temporary assistance for
10 needy families [with dependent children] program under the State
11 Plan for Title IV-A of the federal Social Security Act as of July 16,
12 1996, except for the income eligibility requirements of that program,
13 and whose family earned income does not exceed 133% of the poverty
14 level plus such earned income disregards as shall be determined
15 according to a methodology to be established by regulation of the
16 commissioner;

17 (17) Is an individual from 18 through 20 years of age who is not
18 a dependent child and would be eligible for medical assistance
19 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
20 income or resources, who, on the individual's 18th birthday was in
21 [foster] resource family care under the care and custody of the
22 Division of Youth and Family Services and whose maintenance was
23 being paid in whole or in part from public funds;

24 (18) Is a person between the ages of 16 and 65 who is permanently
25 disabled and working, and:

26 (a) whose income is at or below 250% of the poverty level, plus
27 other established disregards;

28 (b) who pays the premium contribution and other cost sharing as
29 established by the commissioner, subject to the limits and conditions
30 of federal law; and

31 (c) whose assets, resources and unearned income do not exceed
32 limitations as established by the commissioner; or

33 (19) Is an uninsured individual under 65 years of age who:

34 (a) has been screened for breast or cervical cancer under the
35 federal Centers for Disease Control and Prevention breast and cervical
36 cancer early detection program;

37 (b) requires treatment for breast or cervical cancer based upon
38 criteria established by the commissioner;

39 (c) has an income that does not exceed the income standard
40 established by the commissioner pursuant to federal guidelines;

41 (d) meets all other Medicaid eligibility requirements; and

42 (e) in accordance with Pub.L.106-354, is determined by a qualified
43 entity to be presumptively eligible for medical assistance pursuant to
44 42 U.S.C. s.1396a(aa), based upon criteria established by the
45 commissioner pursuant to section 1920B of the federal Social Security
46 Act (42 U.S.C. s.1396r-1b).

- 1 j. "Recipient" means any qualified applicant receiving benefits
2 under this act.
- 3 k. "Resident" means a person who is living in the State voluntarily
4 with the intention of making his home here and not for a temporary
5 purpose. Temporary absences from the State, with subsequent returns
6 to the State or intent to return when the purposes of the absences have
7 been accomplished, do not interrupt continuity of residence.
- 8 l. "State Medicaid Commission" means the Governor, the
9 Commissioner of Human Services, the President of the Senate and the
10 Speaker of the General Assembly, hereby constituted a commission to
11 approve and direct the means and method for the payment of claims
12 pursuant to this act.
- 13 m. "Third party" means any person, institution, corporation,
14 insurance company, group health plan as defined in section 607(1) of
15 the federal "Employee Retirement and Income Security Act of 1974,"
16 29 U.S.C. s.1167(1), service benefit plan, health maintenance
17 organization, or other prepaid health plan, or public, private or
18 governmental entity who is or may be liable in contract, tort, or
19 otherwise by law or equity to pay all or part of the medical cost of
20 injury, disease or disability of an applicant for or recipient of medical
21 assistance payable under this act.
- 22 n. "Governmental peer grouping system" means a separate class of
23 skilled nursing and intermediate care facilities administered by the
24 State or county governments, established for the purpose of screening
25 their reported costs and setting reimbursement rates under the
26 Medicaid program that are reasonable and adequate to meet the costs
27 that must be incurred by efficiently and economically operated State
28 or county skilled nursing and intermediate care facilities.
- 29 o. "Comprehensive maternity or pediatric care provider" means any
30 person or public or private health care facility that is a provider and
31 that is approved by the commissioner to provide comprehensive
32 maternity care or comprehensive pediatric care as defined in
33 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
34 (C.30:4D-6).
- 35 p. "Poverty level" means the official poverty level based on family
36 size established and adjusted under Section 673(2) of Subtitle B, the
37 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
38 s.9902(2)).
- 39 q. "Eligible alien" means one of the following:
40 (1) an alien present in the United States prior to August 22, 1996,
41 who is:
42 (a) a lawful permanent resident;
43 (b) a refugee pursuant to section 207 of the federal "Immigration
44 and Nationality Act" (8 U.S.C. s.1157);
45 (c) an asylee pursuant to section 208 of the federal "Immigration
46 and Nationality Act" (8 U.S.C. s.1158);

1 (d) an alien who has had deportation withheld pursuant to section
2 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
3 s.1253 (h));

4 (e) an alien who has been granted parole for less than one year by
5 the [federal Immigration and Naturalization Service] U.S. Citizenship
6 and Immigration Services pursuant to section 212(d)(5) of the federal
7 "Immigration and Nationality Act" (8 U.S.C. s.1182(d)(5));

8 (f) an alien granted conditional entry pursuant to section 203(a)(7)
9 of the federal "Immigration and Nationality Act" (8 U.S.C.
10 s.1153(a)(7)) in effect prior to April 1, 1980; or

11 (g) an alien who is honorably discharged from or on active duty in
12 the United States armed forces and the alien's spouse and unmarried
13 dependent child.

14 (2) An alien who entered the United States on or after August 22,
15 1996, who is:

16 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
17 subsection; or

18 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
19 subsection who entered the United States at least five years ago.

20 (3) A legal alien who is a victim of domestic violence in
21 accordance with criteria specified for eligibility for public benefits as
22 provided in Title V of the federal "Illegal Immigration Reform and
23 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

24 (cf: P.L.2001, c.186, s.1)

25

26 94. Section 7 of P.L.1968, c 413 (C.30:4D-7) is amended to read
27 as follow:

28 7. Duties of commissioner. The commissioner is authorized and
29 empowered to issue, or to cause to be issued through the Division of
30 Medical Assistance and Health Services, all necessary rules and
31 regulations and administrative orders, and to do or cause to be done
32 all other acts and things necessary to secure for the State of New
33 Jersey the maximum federal participation that is available with respect
34 to a program of medical assistance, consistent with fiscal responsibility
35 and within the limits of funds available for any fiscal year, and to the
36 extent authorized by the medical assistance program plan; to adopt fee
37 schedules with regard to medical assistance benefits and otherwise to
38 accomplish the purposes of this act, including specifically the
39 following:

40 a. Subject to the limits imposed by this act, to submit a plan for
41 medical assistance, as required by Title XIX of the federal Social
42 Security Act, to the federal Department of Health and Human Services
43 for approval pursuant to the provisions of such law; to act for the
44 State in making negotiations relative to the submission and approval
45 of such plan, to make such arrangements, not inconsistent with the
46 law, as may be required by or pursuant to federal law to obtain and

1 retain such approval and to secure for the State the benefits of the
2 provisions of such law;

3 b. Subject to the limits imposed by this act, to determine the
4 amount and scope of services to be covered, that the amounts to be
5 paid are reasonable, and the duration of medical assistance to be
6 furnished; provided, however, that the department shall provide
7 medical assistance on behalf of all recipients of categorical assistance
8 and such other related groups as are mandatory under federal laws and
9 rules and regulations, as they now are or as they may be hereafter
10 amended, in order to obtain federal matching funds for such purposes
11 and, in addition, provide medical assistance for the [foster] resource
12 family children specified in [section 3i. (7) of this act] subsection i.(7)
13 of section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance
14 provided for these groups shall not be less in scope, duration, or
15 amount than is currently furnished such groups, and in addition, shall
16 include at least the minimum services required under federal laws and
17 rules and regulations to obtain federal matching funds for such
18 purposes.

19 The commissioner is authorized and empowered, at such times as
20 he may determine feasible, within the limits of appropriated funds for
21 any fiscal year, to extend the scope, duration, and amount of medical
22 assistance on behalf of these groups of categorical assistance
23 recipients, related groups as are mandatory, and [foster] resource
24 family children authorized pursuant to section 3i. (7) of this act, so as
25 to include, in whole or in part, the optional medical services
26 authorized under federal laws and rules and regulations, and the
27 commissioner shall have the authority to establish and maintain the
28 priorities given such optional medical services; provided, however,
29 that medical assistance shall be provided to at least such groups and
30 in such scope, duration, and amount as are required to obtain federal
31 matching funds.

32 The commissioner is further authorized and empowered, at such
33 times as he may determine feasible, within the limits of appropriated
34 funds for any fiscal year, to issue, or cause to be issued through the
35 Division of Medical Assistance and Health Services, all necessary
36 rules, regulations and administrative orders, and to do or cause to be
37 done all other acts and things necessary to implement and administer
38 demonstration projects pursuant to Title XI, section 1115 of the
39 federal Social Security Act, including, but not limited to waiving
40 compliance with specific provisions of this act, to the extent and for
41 the period of time the commissioner deems necessary, as well as
42 contracting with any legal entity, including but not limited to
43 corporations organized pursuant to Title 14A, New Jersey Statutes
44 (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes (R.S.15:1-1 et
45 seq.) and Title 15A, New Jersey Statutes (N.J.S.15A:1-1 et seq.) as
46 well as boards, groups, agencies, persons and other public or private

- 1 entities;
- 2 c. To administer the provisions of this act;
- 3 d. To make reports to the federal Department of Health and
4 Human Services as from time to time may be required by such federal
5 department and to the New Jersey Legislature as hereinafter provided;
- 6 e. To assure that any applicant, qualified applicant or recipient shall
7 be afforded the opportunity for a hearing should his claim for medical
8 assistance be denied, reduced, terminated or not acted upon within a
9 reasonable time;
- 10 f. To assure that providers shall be afforded the opportunity for an
11 administrative hearing within a reasonable time on any valid complaint
12 arising out of the claim payment process;
- 13 g. To provide safeguards to restrict the use or disclosure of
14 information concerning applicants and recipients to purposes directly
15 connected with administration of this act;
- 16 h. To take all necessary action to recover any and all payments
17 incorrectly made to or illegally received by a provider from such
18 provider or his estate or from any other person, firm, corporation,
19 partnership or entity responsible for or receiving the benefit or
20 possession of the incorrect or illegal payments or their estates,
21 successors or assigns, and to assess and collect such penalties as are
22 provided for herein;
- 23 i. To take all necessary action to recover the cost of benefits
24 incorrectly provided to or illegally obtained by a recipient, including
25 those made after a voluntary divestiture of real or personal property
26 or any interest or estate in property for less than adequate
27 consideration made for the purpose of qualifying for assistance. The
28 division shall take action to recover the cost of benefits from a
29 recipient, legally responsible relative, representative payee, or any
30 other party or parties whose action or inaction resulted in the incorrect
31 or illegal payments or who received the benefit of the divestiture, or
32 from their respective estates, as the case may be and to assess and
33 collect the penalties as are provided for herein, except that no lien
34 shall be imposed against property of the recipient prior to his death
35 except in accordance with section 17 of P.L.1968, c.413
36 (C.30:4D-17). No recovery action shall be initiated more than five
37 years after an incorrect payment has been made to a recipient when the
38 incorrect payment was due solely to an error on the part of the State
39 or any agency, agent or subdivision thereof;
- 40 j. To take all necessary action to recover the cost of benefits
41 correctly provided to a recipient from the estate of said recipient in
42 accordance with sections 6 through 12 of this amendatory and
43 supplementary act;
- 44 k. To take all reasonable measures to ascertain the legal or
45 equitable liability of third parties to pay for care and services (available
46 under the plan) arising out of injury, disease, or disability; where it is

1 known that a third party has a liability, to treat such liability as a
2 resource of the individual on whose behalf the care and services are
3 made available for purposes of determining eligibility; and in any case
4 where such a liability is found to exist after medical assistance has
5 been made available on behalf of the individual, to seek reimbursement
6 for such assistance to the extent of such liability;

7 l. To compromise, waive or settle and execute a release of any
8 claim arising under this act including interest or other penalties, or
9 designate another to compromise, waive or settle and execute a release
10 of any claim arising under this act. The commissioner or his designee
11 whose title shall be specified by regulation may compromise, settle or
12 waive any such claim in whole or in part, either in the interest of the
13 Medicaid program or for any other reason which the commissioner by
14 regulation shall establish;

15 m. To pay or credit to a provider any net amount found by final
16 audit as defined by regulation to be owing to the provider. Such
17 payment, if it is not made within 45 days of the final audit, shall
18 include interest on the amount due at the maximum legal rate in effect
19 on the date the payment became due, except that such interest shall
20 not be paid on any obligation for the period preceding September 15,
21 1976. This subsection shall not apply until federal financial
22 participation is available for such interest payments;

23 n. To issue, or designate another to issue, subpoenas to compel the
24 attendance of witnesses and the production of books, records,
25 accounts, papers and documents of any party, whether or not that
26 party is a provider, which directly or indirectly relate to goods or
27 services provided under this act, for the purpose of assisting in any
28 investigation, examination, or inspection, or in any suspension,
29 debarment, disqualification, recovery, or other proceeding arising
30 under this act;

31 o. To solicit, receive and review bids pursuant to the provisions of
32 P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments and
33 supplements thereto, by any corporation doing business in the State of
34 New Jersey, including nonprofit hospital service corporations, medical
35 service corporations, health service corporations or dental service
36 corporations incorporated in New Jersey and authorized to do business
37 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74
38 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), or
39 P.L.1968, c. 05 (C.17:48C-1 et seq.), and to make recommendations
40 in connection therewith to the State Medicaid Commission;

41 p. To contract, or otherwise provide as in this act provided, for the
42 payment of claims in the manner approved by the State Medicaid
43 Commission;

44 q. Where necessary, to advance funds to the underwriter or fiscal
45 agent to enable such underwriter or fiscal agent, in accordance with
46 terms of its contract, to make payments to providers;

1 r. To enter into contracts with federal, State, or local governmental
2 agencies, or other appropriate parties, when necessary to carry out the
3 provisions of this act;

4 s. To assure that the nature and quality of the medical assistance
5 provided for under this act shall be uniform and equitable to all
6 recipients;

7 t. To provide for the reimbursement of State and
8 county-administered skilled nursing and intermediate care facilities
9 through the use of a governmental peer grouping system, subject to
10 federal approval and the availability of federal reimbursement.

11 (1) In establishing a governmental peer grouping system, the
12 State's financial participation is limited to an amount equal to the
13 nonfederal share of the reimbursement which would be due each
14 facility if the governmental peer grouping system was not established,
15 and each county's financial participation in this reimbursement system
16 is equal to the nonfederal share of the increase in reimbursement for
17 its facility or facilities which results from the establishment of the
18 governmental peer grouping system.

19 (2) On or before December 1 of each year, the commissioner shall
20 estimate and certify to the Director of the Division of Local
21 Government Services in the Department of Community Affairs the
22 amount of increased federal reimbursement a county may receive
23 under the governmental peer grouping system. On or before
24 December 15 of each year, the Director of the Division of Local
25 Government Services shall certify the increased federal reimbursement
26 to the chief financial officer of each county. If the amount of
27 increased federal reimbursement to a county exceeds or is less than the
28 amount certified, the certification for the next year shall account for
29 the actual amount of federal reimbursement that the county received
30 during the prior calendar year.

31 (3) The governing body of each county entitled to receive
32 increased federal reimbursement under the provisions of this
33 amendatory act shall, by March 31 of each year, submit a report to the
34 commissioner on the intended use of the savings in county
35 expenditures which result from the increased federal reimbursement.
36 The governing body of each county, with the advice of agencies
37 providing social and health related services, shall use not less than
38 10% and no more than 50% of the savings in county expenditures
39 which result from the increased federal reimbursement for
40 community-based social and health related programs for elderly and
41 disabled persons who may otherwise require nursing home care. This
42 percentage shall be negotiated annually between the governing body
43 and the commissioner and shall take into account a county's social,
44 demographic and fiscal conditions, a county's social and health related
45 expenditures and needs, and estimates of federal revenues to support
46 county operations in the upcoming year, particularly in the areas of

1 social and health related services.

2 (4) The commissioner, subject to approval by law, may terminate
3 the governmental peer grouping system if federal reimbursement is
4 significantly reduced or if the Medicaid program is significantly altered
5 or changed by the federal government subsequent to the enactment of
6 this amendatory act. The commissioner, prior to terminating the
7 governmental peer grouping system, shall submit to the Legislature
8 and to the governing body of each county a report as to the reasons
9 for terminating the governmental peer grouping system;

10 u. The commissioner, in consultation with the Commissioner of
11 Health and Senior Services, shall:

12 (1) Develop criteria and standards for comprehensive maternity or
13 pediatric care providers and determine whether a provider who
14 requests to become a comprehensive maternity or pediatric care
15 provider meets the department's criteria and standards;

16 (2) Develop a program of comprehensive maternity care services
17 which defines the type of services to be provided, the level of services
18 to be provided, and the frequency with which qualified applicants are
19 to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

20 (3) Develop a program of comprehensive pediatric care services
21 which defines the type of services to be provided, the level of services
22 to be provided, and the frequency with which qualified applicants are
23 to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

24 (4) Develop and implement a system for monitoring the quality and
25 delivery of comprehensive maternity and pediatric care services and a
26 system for evaluating the effectiveness of the services programs in
27 meeting their objectives;

28 (5) Establish provider reimbursement rates for the comprehensive
29 maternity and pediatric care services;

30 v. The commissioner, jointly with the Commissioner of Health and
31 Senior Services, shall report to the Governor and the Legislature no
32 later than two years following the date of enactment of P.L.1987,
33 c.115 (C.30:4D-2.1 et al.) and annually thereafter on the status of the
34 comprehensive maternity and pediatric care services and their
35 effectiveness in meeting the objectives set forth in section 1 of
36 P.L.1987, c.115 (C.30:4D-2.1) accompanying the report with any
37 recommendations for changes in the law governing the services that
38 the commissioners deem necessary.

39 (cf: P.L.1988, c.6, s.1)

40

41 95. Section 2 of P.L.1997, c.254 (C.30:5B-6.2) is amended to read
42 as follows:

43 2. a. As a condition of securing a new or renewal license or
44 approval, the division shall conduct a check of the division's child
45 abuse records to determine if an incident of child abuse or neglect has
46 been substantiated pursuant to section 4 of P.L.1971, c.437

1 (C.9:6-8.11), against any staff member of a child care center.

2 b. The [division] department shall not issue a regular license or
3 approval to a center until the [division] department determines that no
4 staff member employed by or working at the center has a record of
5 substantiated child abuse or neglect.

6 c. The [division] department shall deny, revoke or refuse to renew
7 the center's license or approval, as appropriate, if the [division]
8 department determines that an incident of child abuse or neglect by an
9 owner or sponsor of a center has been substantiated.

10 (cf: P.L.1997, c.254, s.2)

11

12 96. Section 3 of P.L.1997, c.254 (C.30:5B-6.3) is amended to read
13 as follows:

14 3. a. The staff member shall provide prior written consent for the
15 division to conduct a check of its child abuse records.

16 b. If the owner or sponsor of the center refuses to consent to, or
17 cooperate in, the securing of a division child abuse record information
18 check, the [division] department shall suspend, deny, revoke or refuse
19 to renew the center's license or approval, as appropriate.

20 c. If a staff member of a center, other than the owner or sponsor,
21 refuses to consent to, or cooperate in, the securing of a division child
22 abuse record information check, the person shall be immediately
23 terminated from employment at the center.

24 (cf: P.L.1997, c.254, s.3)

25

26 97. Section 6 of P.L.1997, c.254 (C.30:5B-6.6) is amended to read
27 as follows:

28 6. The [division] department shall consider, for the purposes of
29 this act, any incidents of child abuse or neglect that were substantiated
30 on or after June 29, 1995, to ensure that perpetrators have had an
31 opportunity to appeal a substantiated finding of abuse or neglect;
32 except that the [division] department may consider substantiated
33 incidents prior to that date if the [division] department, in its
34 judgment, determines that the individual poses a risk of harm to
35 children in a child care center. In cases involving incidents
36 substantiated prior to June 29, 1995, the [division] department shall
37 offer the individual an opportunity for a hearing to contest its action
38 restricting the individual from employment in a child care center.

39 (cf: P.L.1997, c.254, s.6)

40

41 98. Section 3 of P.L.2000, c.77 (C.30:5B-6.12) is amended to read
42 as follows:

43 3. a. If the owner or sponsor of the child care center refuses to
44 consent to, or cooperate in, the securing of a criminal history record
45 background check, the [division] department shall suspend, deny,

1 revoke or refuse to renew the center's license or life-safety approval,
2 as appropriate.

3 b. If a staff member of a child care center, other than the owner or
4 sponsor, refuses to consent to, or cooperate in, the securing of a
5 criminal history record background check, the person shall be
6 immediately terminated from employment at the center.

7 (cf: P.L.2000, c.77, s.3)

8

9 99. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to read
10 as follows:

11 4. a. In the case of a child care center established after the
12 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or
13 sponsor of the center, prior to the center's opening, shall ensure that
14 a request for a criminal history record background check on each staff
15 member is sent to the Department of Human Services for processing
16 by the Division of State Police in the Department of Law and Public
17 Safety and the Federal Bureau of Investigation.

18 A staff member shall not be left alone as the only adult caring for
19 a child at the center until the criminal history record background has
20 been reviewed by the [division] department pursuant to P.L.2000,
21 c.77 (C.30:5B-6.10 et al.).

22 b. In the case of a child care center licensed or granted life-safety
23 approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10
24 et al.), the owner or sponsor of the center, at the time of the center's
25 first renewal of license or life-safety approval next following that
26 effective date, shall ensure that a request for a criminal history record
27 background check for each staff member is sent to the department for
28 processing by the Division of State Police and the Federal Bureau of
29 Investigation.

30 c. Within two weeks after a new staff member begins employment
31 at a child care center, the owner or sponsor of the center shall ensure
32 that a request for a criminal history record background check is sent
33 to the department for processing by the Division of State Police and
34 the Federal Bureau of Investigation.

35 A new staff member shall not be left alone as the only adult caring
36 for a child at the center until the criminal history record background
37 has been reviewed by the [division] department pursuant to P.L.2000,
38 c.77 (C.30:5B-6.10 et al.).

39 d. In the case of child care centers under contract to implement
40 early childhood education programs in the Abbott districts as defined
41 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
42 [division] department shall ensure that a criminal history record
43 background check is conducted on all current staff members as soon
44 as practicable, but no later than six months after the effective date of
45 P.L.2000, c.77 (C.30:5B-6.10 et al.).

46 (cf: P.L.2000, c.77, s.4)

1 100. Section 6 of P.L.2000, c.77 (C.30:5B-6.15) is amended to
2 read as follows:

3 6. a. If a staff member of a child care center is convicted of a
4 crime specified in section 5 of P.L.2000, c.77 (C.30:5B-6.14) after the
5 effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the staff
6 member shall be terminated from employment at, or ownership or
7 sponsorship of, a child care center.

8 b. For crimes and offenses other than those cited in section 5 of
9 P.L.2000, c.77 (C.30:5B-6.14), an applicant or staff member may be
10 eligible for employment at, or ownership or sponsorship of, a child
11 care center if the [division] department determines that the person has
12 affirmatively demonstrated to the [division] department clear and
13 convincing evidence of the person's rehabilitation pursuant to
14 subsection c. of this section.

15 c. In determining whether a person has affirmatively demonstrated
16 rehabilitation, the following factors shall be considered:

17 (1) the nature and responsibility of the position at the child care
18 center which the convicted person would hold, has held or currently
19 holds, as the case may be;

20 (2) the nature and seriousness of the offense;

21 (3) the circumstances under which the offense occurred;

22 (4) the date of the offense;

23 (5) the age of the person when the offense was committed;

24 (6) whether the offense was an isolated or repeated incident;

25 (7) any social conditions which may have contributed to the
26 offense; and

27 (8) any evidence of rehabilitation, including good conduct in prison
28 or in the community, counseling or psychiatric treatment received,
29 acquisition of additional academic or vocational schooling, successful
30 participation in correctional work-release programs, or the
31 recommendation of those who have had the person under their
32 supervision.

33 d. The [division] department shall make the final determination
34 regarding the employment of an applicant or staff member with a
35 criminal conviction.

36 (cf: P.L.2000, c.77, s.6)

37

38 101. Section 7 of P.L.2000, c.77 (C.30:5B-6.16) is amended to
39 read as follows:

40 7. If a child care center owner or sponsor has knowledge that a
41 staff member has criminal charges pending against the staff member,
42 the owner or sponsor shall promptly notify the [division] department
43 to determine whether any action concerning the staff member is
44 necessary in order to ensure the safety of the children who attend the
45 center.

46 (cf: P.L.2000, c.77, s.7)

1 102. Section 9 of P.L.2000, c.77 (C.30:5B-6.17) is amended to
2 read as follows:

3 9. a. A child care center that has received an employment
4 application from an individual or currently employs a staff member
5 shall be immune from liability for acting upon or disclosing information
6 about the disqualification or termination to another center seeking to
7 employ that person if the center has:

8 (1) received notice from the [division] department that the
9 applicant or staff member, as applicable, has been determined by the
10 [division] department to be disqualified from employment in a child
11 care center pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14
12 or C.30:5B-6.15); or

13 (2) terminated the employment of a staff member because the
14 person was disqualified from employment at the center on the basis of
15 a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c.77
16 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the
17 center.

18 b. A child care center which acts upon or discloses information
19 pursuant to subsection a. of this section shall be presumed to be acting
20 in good faith unless it is shown by clear and convincing evidence that
21 the center acted with actual malice toward the person who is the
22 subject of the information.

23 (cf: P.L.2000, c.77, s.9)

24

25 103. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read
26 as follows:

27 3. As used in this act:

28 a. "Certificate of registration" means a certificate issued by the
29 [division] department to a family day care provider, acknowledging
30 that the provider is registered pursuant to the provisions of this act.

31 b. ["Division" means the Division of Youth and Family Services in
32 the State] "Department" means the Department of Human Services.

33 c. "Family day care home" means a private residence in which child
34 care services are provided for a fee to no less than three and no more
35 than five children at any one time for no less than 15 hours per week;
36 except that the [division] department shall not exclude a family day
37 care home with less than three children from voluntary registration.

38 A child being cared for under the following circumstances is not
39 included in the total number of children receiving child care services:

40 (1) The child being cared for is legally related to the provider; or

41 (2) Care is being provided as part of an employment agreement
42 between the family day care provider and an assistant or substitute
43 provider where no payment for the care is being provided.

44 d. "Family day care provider" means a person at least 18 years of
45 age who is responsible for the operation and management of a family
46 day care home.

1 e. "Family day care sponsoring organization" means an agency or
2 organization which contracts with the [division] department to assist
3 in the registration of family day care providers in a specific
4 geographical area.

5 f. "Monitor" means to visit a family day care provider to review the
6 provider's compliance with the standards established pursuant to this
7 act.

8 (cf: P.L.1992, c.13, s.2)

9
10 104. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read
11 as follows:

12 4. a. The [division] department has the responsibility and
13 authority to contract with family day care sponsoring organizations for
14 the voluntary registration of family day care providers and shall adopt
15 regulations for the operation and maintenance of family day care
16 sponsoring organizations.

17 b. The [division] department shall contract in writing with an
18 agency or organization authorizing the agency or organization to
19 operate as a family day care sponsoring organization to assist in the
20 voluntary registration of family day care providers in a specific
21 geographical area and to perform other functions with regard to family
22 day care providers in accordance with the provisions of this act and
23 the regulations adopted thereunder for which purposes the
24 organization shall receive funds from the [division] department based
25 upon a fee for the service. The [division] department shall contract
26 with a family day care sponsoring organization for a period of one
27 year.

28 c. The [division] department shall contract with one family day
29 care sponsoring organization to serve each county; however, the
30 [division] department may, as it deems appropriate, contract with
31 additional family day care sponsoring organizations in a county, except
32 that the [division] department shall make all necessary arrangements
33 to avoid duplication of effort and to promote a cooperative working
34 relationship among the sponsoring organizations. Within one year
35 following the effective date of this act there shall be a family day care
36 sponsoring organization serving each county in this State.

37 (cf: P.L.1987, c.27, s.4)

38
39 105. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read
40 as follows:

41 5. a. A family day care sponsoring organization with which the
42 [division] department contracts is authorized to register family day
43 care providers within its designated geographical area and is
44 responsible for providing administrative services, including, but not
45 limited to, training, technical assistance, and consultation to family day

1 care providers and inspection, supervision, monitoring and evaluation
2 of family day care providers.

3 b. The family day care sponsoring organization shall maintain
4 permanent records for each family day care provider it registers. The
5 sponsoring organization shall also maintain its own staff and
6 administrative and financial records. All records are open to
7 inspection by an authorized representative of the [division]
8 department for the purpose of determining compliance with this act.

9 c. The family day care sponsoring organization shall provide a
10 program of outreach and public relations to inform providers of the
11 provisions of this act.

12 (cf: P.L.1987, c.27, s.5)

13

14 106. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read
15 as follows:

16 8. a. The [division] department shall also establish standards for
17 the issuance, renewal, denial, suspension and revocation of a
18 certificate of registration which the family day care sponsoring
19 organization shall apply. In developing the standards, the [division]
20 department shall consult with the Advisory Council on Child Care
21 established pursuant to the "Child Care Center Licensing Act,"
22 P.L.1983, c.492 (C.30:5B-1 et seq.).

23 b. A person operating as a registered family day care provider who
24 violates the provisions of this act by failing to adhere to the standards
25 established by the [division] department pursuant to this act shall be
26 notified in writing of the violation of the provisions of this act and
27 provided with an opportunity to comply with those provisions. For a
28 subsequent violation, the person's certificate of registration may be
29 revoked, or the person may be fined in an amount determined by the
30 Commissioner of Human Services, or both. The receipt of excessive
31 complaints by the municipal police or other local or State authorities
32 concerning neglect of children, excessive noise, or property damage
33 resulting from the operation of a family day care home may be
34 considered by the [division] department when renewing, suspending
35 or revoking a certificate of registration.

36 c. The [division] department, before denying, suspending,
37 revoking or refusing to renew a certificate of registration, shall give
38 notice thereof to the provider personally, or by certified or registered
39 mail to the last known address of the family day care home with return
40 receipt requested. The notice shall afford the provider the opportunity
41 to be heard. The hearing shall take place within 60 days from the
42 receipt of the notice and shall be conducted in accordance with the
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.).

45 d. If the certificate of registration is suspended or revoked or not
46 renewed, the provider shall so notify the parent of each child attending

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- 1 the family day care home in writing within 10 days of the action.
- 2 e. (Deleted by amendment, P.L.1993, c.350).
- 3 (cf: P.L.1993, c.350, s.6)

1 107. Section 2 of P.L.1993, c.350 (C.30:5B-25.2) is amended to
2 read as follows:

3 2. As used in sections 1 through 4 of P.L.1993, c.350
4 (C.30:5B-25.1 through C.30:5B-25.4):

5 ["Central] "Child abuse registry" means the [central] child abuse
6 registry of the Division of Youth and Family Services in the
7 Department of Human Services established pursuant to section 4 of
8 P.L.1971, c.437 (C.9:6-8.11).

9 "Provider" means a family day care provider as defined by section
10 3 of P.L.1987, c.27 (C.30:5B-18) and includes, but is not limited to,
11 a family day care provider's assistant and a substitute family day care
12 provider.

13 "Family day care sponsoring organization" means an agency or
14 organization which contracts with the [Division of Youth and Family]
15 Department of Human Services to assist in the registration of family
16 day care providers in a specific geographic area pursuant to P.L.1987,
17 c.27 (C.30:5B-16 et seq.).

18 "Household member" means an individual over 14 years of age who
19 resides in a family day care provider's home.
20 (cf: P.L.1993, c.350, s.2)

21
22 108. Section 3 of P.L.1993, c.350 (C.30:5B-25.3) is amended to
23 read as follows

24 3. a. The Division of Youth and Family Services in the Department
25 of Human Services shall conduct a search of its [central] child abuse
26 registry to determine if a report of child abuse or neglect has been
27 filed, pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), involving
28 a person registering as a prospective provider or a household member
29 of the prospective provider or as a current provider or household
30 member of the current provider.

31 b. The division shall conduct the search only upon receipt of the
32 prospective or current provider or household member's written consent
33 to the search. If the person refuses to provide his consent, the family
34 day care sponsoring organization shall deny the prospective or current
35 provider's application for a certificate or renewal of registration.

36 c. The division shall advise the sponsoring organization of the
37 results of the [central] child abuse registry search within a time period
38 to be determined by the Department of Human Services.

39 d. The [division] department shall not issue a certificate or
40 renewal of registration to a prospective or current provider unless the
41 [division] department has first determined that no substantiated
42 charge of child abuse or neglect against the prospective or current
43 provider or household member is found during the [central] child
44 abuse registry search.

45 (cf: P.L.1993, c.350, s.3)

1 109. Section 4 of P.L.1993, c.350 (C.30:5B-25.4) is amended to
2 read as follows:

3 4. In accordance with the "Administrative Procedure Act,"
4 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of Human
5 Services shall adopt rules and regulations necessary to implement the
6 provisions of sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1
7 through C.30:5B-25.4) including, but not limited to:

8 a. Implementation of an appeals process to be used in the case of
9 the denial of an application for a certificate or for renewal of
10 registration based upon information obtained during a [central] child
11 abuse registry search; and

12 b. Establishment of time limits for conducting a [central] child
13 abuse registry search and providing a family day care sponsoring
14 organization with the results of the search.

15 (cf: P.L.1993, c.350, s.4)

16

17 110. Section 3 of P.L.1993, c.98 (C.30:6D-35) is amended to read
18 as follows:

19 3. For the purposes of this act:

20 "Department" means the Department of Human Services.

21 "Family member with a developmental disability" means a person
22 who has a developmental disability as defined pursuant to section 3 of
23 the "Division of Developmental Disabilities Act," P.L.1985, c.145
24 (C.30:6D-25).

25 "Family" means the family member with a developmental disability
26 and his parents and siblings, or spouse and children.

27 "Family support services" means a coordinated system of ongoing
28 public and private support services which are designed to maintain and
29 enhance the quality of life of a family member with a developmental
30 disability and his family as set forth in section 4 of this act.

31 "Parent" means the biological or adoptive parent or uncompensated
32 [foster] resource family parent or legal guardian who cares for the
33 family member with a developmental disability and with whom the
34 family member with a developmental disability resides.

35 "System" means the Family Support System established pursuant to
36 section 4 of this act.

37 (cf: P.L.1993, c.98, s.3)

38

39 111. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
40 read as follows:

41 3. As used in this act:

42 a. "Child" means a biological, adopted, or [foster] resource family
43 child, stepchild, legal ward, or child of a parent who is

44 (1) under 18 years of age; or

45 (2) 18 years of age or older but incapable of self-care because of
46 a mental or physical impairment.

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1 b. "Director" means the Director of the Division on Civil Rights.

2 c. "Division" means the Division on Civil Rights in the Department
3 of Law and Public Safety.

4 d. "Employ" means to suffer or permit to work for compensation,
5 and includes ongoing, contractual relationships in which the employer
6 retains substantial direct or indirect control over the employee's
7 employment opportunities or terms and conditions of employment.

8 e. "Employee" means a person who is employed for at least 12
9 months by an employer, with respect to whom benefits are sought
10 under this act, for not less than 1,000 base hours during the
11 immediately preceding 12-month period.

12 f. "Employer" means a person or corporation, partnership,
13 individual proprietorship, joint venture, firm or company or other
14 similar legal entity which engages the services of an employee and
15 which:

16 (1) With respect to the period of time from the effective date of
17 this act until the 365th day following the effective date of this act,
18 employs 100 or more employees for each working day during each of
19 20 or more calendar workweeks in the then current or immediately
20 preceding calendar year;

21 (2) With respect to the period of time from the 366th day following
22 the effective date of this act until the 1,095th day following the
23 effective date of this act, employs 75 or more employees for each
24 working day during each of 20 or more calendar workweeks in the
25 then current or immediately preceding calendar year; and

26 (3) With respect to any time after the 1,095th day following the
27 effective date of this act, employs 50 or more employees for each
28 working day during each of 20 or more calendar workweeks in the
29 then current or immediately preceding calendar year. "Employer"
30 includes the State, any political subdivision thereof, and all public
31 offices, agencies, boards or bodies.

32 g. "Employment benefits" means all benefits and policies provided
33 or made available to employees by an employer, and includes group
34 life insurance, health insurance, disability insurance, sick leave, annual
35 leave, pensions, or other similar benefits.

36 h. "Parent" means a person who is the biological parent, adoptive
37 parent, [foster] resource family parent, step-parent, parent-in-law or
38 legal guardian, having a "parent-child relationship" with a child as
39 defined by law, or having sole or joint legal or physical custody, care,
40 guardianship, or visitation with a child.

41 i. "Family leave" means leave from employment so that the
42 employee may provide care made necessary by reason of:

43 (1) the birth of a child of the employee;

44 (2) the placement of a child with the employee in connection with
45 adoption of such child by the employee; or

46 (3) the serious health condition of a family member of the

1 employee.

2 j. "Family member" means a child, parent, or spouse.

3 k. "Reduced leave schedule" means leave scheduled for fewer than
4 an employee's usual number of hours worked per workweek but not
5 for fewer than an employee's usual number of hours worked per
6 workday, unless agreed to by the employee and the employer.

7 l. "Serious health condition" means an illness, injury, impairment,
8 or physical or mental condition which requires:

9 (1) inpatient care in a hospital, hospice, or residential medical care
10 facility; or

11 (2) continuing medical treatment or continuing supervision by a
12 health care provider.

13 (cf: P.L.1989, c.261, s.3)

14

15 112. Section 1 of P.L.1999, c.410 (C.39:4-50.15) is amended to
16 read as follows:

17 1. a. As used in this act:

18 "Minor" means a person who is 17 years of age or younger.

19 "Parent or guardian" means any natural parent, adoptive parent,
20 [foster] resource family parent, stepparent, or any person temporarily
21 responsible for the care, custody or control of a minor or upon whom
22 there is a legal duty for such care, custody or control.

23 b. A parent or guardian who is convicted of a violation of
24 R.S.39:4-50 and who, at the time of the violation, has a minor as a
25 passenger in the motor vehicle is guilty of a disorderly persons offense.

26 c. In addition to the penalties otherwise prescribed by law, a
27 person who is convicted under subsection b. of this section shall forfeit
28 the right to operate a motor vehicle over the highways of this State for
29 a period of not more than six months and shall be ordered to perform
30 community service for a period of not more than five days.

31 (cf: P.L.1999, c.410, s.1)

32

33 113. Section 53 of P.L.1975, c.291 (C.40:55D-66) is amended to
34 read as follows:

35 53. a. For purposes of this act, model homes or sales offices
36 within a subdivision and only during the period necessary for the sale
37 of new homes within such subdivision shall not be considered a
38 business use.

39 b. No zoning ordinance governing the use of land by or for schools
40 shall, by any of its provisions or by any regulation adopted in
41 accordance therewith, discriminate between public and private
42 nonprofit day schools of elementary or high school grade accredited
43 by the State Department of Education.

44 c. No zoning ordinance shall, by any of its provisions or by any
45 regulation adopted in accordance therewith, discriminate between
46 children who are members of families by reason of their relationship

1 by blood, marriage or adoption, and [foster] resource family children
2 placed with such families in a dwelling by the Division of Youth and
3 Family Services in the Department of [Institutions and Agencies]
4 Human Services or a duly incorporated child care agency and children
5 placed pursuant to law in single family dwellings known as group
6 homes. As used in this section, the term "group home" means and
7 includes any single family dwelling used in the placement of children
8 pursuant to law recognized as a group home by the Department of
9 [Institutions and Agencies] Human Services in accordance with rules
10 and regulations adopted by the Commissioner of [Institutions and
11 Agencies] Human Services provided, however, that no group home
12 shall contain more than 12 children.
13 (cf: P.L.1975, c.291, s.53)

14

15 114. N.J.S.40A:10-16 is amended to read as follows:

16 40A:10-16. As used in this subarticle:

17 a. "Dependents" means an employee's spouse and the employee's
18 unmarried children, including stepchildren, legally adopted children,
19 and, at the option of the employer and the carrier, [foster] children
20 placed by the Division of Youth and Family Services, under the age of
21 19 who live with the employee in a regular parent-child relationship,
22 and may also include, at the option of the employer and the carrier,
23 other unmarried children of the employee under the age of 23 who are
24 dependent upon the employee for support and maintenance, but shall
25 not include a spouse or child while serving in the military service;

26 b. "Employees" may, at the option of the employer, include elected
27 officials, but shall not include persons employed on a short-term,
28 seasonal, intermittent or emergency basis, persons compensated on a
29 fee basis, or persons whose compensation from the employer is limited
30 to reimbursement of necessary expenses actually incurred in the
31 discharge of their duties;

32 c. "Federal Medicare Program" means the coverage provided
33 under Title XVIII of the Social Security Act as amended in 1965, or
34 its successor plan or plans.

35 (cf: N.J.S.40A:10-16)

36

37 115. Section 1 of P.L.1983, c.191 (C.40A:10-34.1) is amended to
38 read as follows:

39 1. Any municipality or county, or agency thereof, hereinafter
40 referred to as employers, may enter into contracts of group legal
41 insurance with any insurer authorized, pursuant to P.L.1981, c.160
42 (C.17:46C-1 et seq.), to engage in the business of legal insurance in
43 this State or may contract with a duly recognized prepaid legal
44 services plan with respect to the benefits which they are authorized to
45 provide. Such contract or contracts shall provide such coverage for
46 the employees of such employer and may include their dependents.

1 "Dependents" shall include an employee's spouse and the employee's
2 unmarried children, including stepchildren and legally adopted
3 children, and, at the option of the employer and the carrier, [foster]
4 children placed by the Division of Youth and Family Services in the
5 Department of Human Services, under the age of 19 who live with the
6 employee in a regular parent-child relationship, and may also include,
7 at the option of the employer and the carrier, other unmarried children
8 of the employee under the age of 23 who are dependent upon the
9 employee for support and maintenance. A spouse or child enlisting or
10 inducted into military service shall not be considered a dependent
11 during such military service.

12 Elected officials may be considered, at the option of the employer,
13 to be "employees" for the purposes hereof, but "employees" shall not
14 otherwise include persons employed on a short-term, seasonal,
15 intermittent or emergency basis, persons compensated on a fee basis,
16 or persons whose compensation from the public employer is limited to
17 reimbursement of necessary expenses actually incurred in the discharge
18 of their duties.

19 The contract shall include provisions to prevent duplication of
20 benefits and shall condition the eligibility of any employee for
21 coverage upon satisfying a waiting period stated in the contract.

22 The coverage of any employee, and of his dependents, if any, shall
23 cease upon the discontinuance of his employment or upon cessation of
24 active full-time employment in the classes eligible for coverage, subject
25 to such provision as may be made in any contract by his employer for
26 limited continuance of coverage during disability, part-time
27 employment, leave of absence other than leave for military service or
28 layoff, or for continuance of coverage after retirement.

29 (cf: P.L.1983, c.191, s.1)

30

31 116. R.S.43:21-4 is amended to read as follows:

32 43:21-4. Benefit eligibility conditions. An unemployed individual
33 shall be eligible to receive benefits with respect to any week only if:

34 (a) The individual has filed a claim at an unemployment insurance
35 claims office and thereafter continues to report at an employment
36 service office or unemployment insurance claims office, as directed by
37 the division in accordance with such regulations as the division may
38 prescribe, except that the division may, by regulation, waive or alter
39 either or both of the requirements of this subsection as to individuals
40 attached to regular jobs, and as to such other types of cases or
41 situations with respect to which the division finds that compliance with
42 such requirements would be oppressive, or would be inconsistent with
43 the purpose of this act; provided that no such regulation shall conflict
44 with subsection (a) of R.S.43:21-3.

45 (b) The individual has made a claim for benefits in accordance with
46 the provisions of subsection (a) of R.S.43:21-6.

1 (c) (1) The individual is able to work, and is available for work,
2 and has demonstrated to be actively seeking work, except as
3 hereinafter provided in this subsection or in subsection (f) of this
4 section.

5 (2) The director may modify the requirement of actively seeking
6 work if such modification of this requirement is warranted by
7 economic conditions.

8 (3) No individual, who is otherwise eligible, shall be deemed
9 ineligible, or unavailable for work, because the individual is on
10 vacation, without pay, during said week, if said vacation is not the
11 result of the individual's own action as distinguished from any
12 collective action of a collective bargaining agent or other action
13 beyond the individual's control.

14 (4) (A) Subject to such limitations and conditions as the division
15 may prescribe, an individual, who is otherwise eligible, shall not be
16 deemed unavailable for work or ineligible because the individual is
17 attending a training program approved for the individual by the
18 division to enhance the individual's employment opportunities or
19 because the individual failed or refused to accept work while attending
20 such program.

21 (B) For the purpose of this paragraph (4), any training program
22 shall be regarded as approved by the division for the individual if the
23 program and the individual meet the following requirements:

24 (i) The training is for a labor demand occupation and is likely to
25 enhance the individual's marketable skills and earning power;

26 (ii) The training is provided by a competent and reliable private or
27 public entity approved by the Commissioner of Labor pursuant to the
28 provisions of section 8 of the "1992 New Jersey Employment and
29 Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

30 (iii) The individual can reasonably be expected to complete the
31 program, either during or after the period of benefits;

32 (iv) The training does not include on the job training or other
33 training under which the individual is paid by an employer for work
34 performed by the individual during the time that the individual receives
35 benefits; and

36 (v) The individual enrolls in vocational training, remedial education
37 or a combination of both on a full-time basis.

38 (C) If the requirements of subparagraph (B) of this paragraph (4)
39 are met, the division shall not withhold approval of the training
40 program for the individual for any of the following reasons:

41 (i) The training includes remedial basic skills education necessary
42 for the individual to successfully complete the vocational component
43 of the training;

44 (ii) The training is provided in connection with a program under
45 which the individual may obtain a college degree, including a
46 post-graduate degree;

1 (iii) The length of the training period under the program; or
2 (iv) The lack of a prior guarantee of employment upon completion
3 of the training.

4 (D) For the purpose of this paragraph (4), "labor demand
5 occupation" means an occupation for which there is or is likely to be
6 an excess of demand over supply for adequately trained workers,
7 including, but not limited to, an occupation designated as a labor
8 demand occupation by the New Jersey Occupational Information
9 Coordinating Committee pursuant to the provisions of subsection h.
10 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
11 P.L.1992, c.43 (C.34:1A-78).

12 (5) An unemployed individual, who is otherwise eligible, shall not
13 be deemed unavailable for work or ineligible solely by reason of the
14 individual's attendance before a court in response to a summons for
15 service on a jury.

16 (6) An unemployed individual, who is otherwise eligible, shall not
17 be deemed unavailable for work or ineligible solely by reason of the
18 individual's attendance at the funeral of an immediate family member,
19 provided that the duration of the attendance does not extend beyond
20 a two-day period.

21 For purposes of this paragraph, "immediate family member"
22 includes any of the following individuals: father, mother,
23 mother-in-law, father-in-law, grandmother, grandfather, grandchild,
24 spouse, child, [foster] child placed by the Division of Youth and
25 Family Services in the Department of Human Services, sister or
26 brother of the unemployed individual and any relatives of the
27 unemployed individual residing in the unemployed individual's
28 household.

29 (7) No individual, who is otherwise eligible, shall be deemed
30 ineligible or unavailable for work with respect to any week because,
31 during that week, the individual fails or refuses to accept work while
32 the individual is participating on a full-time basis in self-employment
33 assistance activities authorized by the division, whether or not the
34 individual is receiving a self-employment allowance during that week.

35 (8) Any individual who is determined to be likely to exhaust
36 regular benefits and need reemployment services based on information
37 obtained by the worker profiling system shall not be eligible to receive
38 benefits if the individual fails to participate in available reemployment
39 services to which the individual is referred by the division or in similar
40 services, unless the division determines that:

41 (A) The individual has completed the reemployment services; or

42 (B) There is justifiable cause for the failure to participate, which
43 shall include participation in employment and training,
44 self-employment assistance activities or other activities authorized by
45 the division to assist reemployment or enhance the marketable skills
46 and earning power of the individual and which shall include any other

1 circumstance indicated pursuant to this section in which an individual
2 is not required to be available for and actively seeking work to receive
3 benefits.

4 (9) An unemployed individual, who is otherwise eligible, shall not
5 be deemed unavailable for work or ineligible solely by reason of the
6 individual's work as a board worker for a county board of elections on
7 an election day.

8 (d) With respect to any benefit year commencing before January 1,
9 2002, the individual has been totally or partially unemployed for a
10 waiting period of one week in the benefit year which includes that
11 week. When benefits become payable with respect to the third
12 consecutive week next following the waiting period, the individual
13 shall be eligible to receive benefits as appropriate with respect to the
14 waiting period. No week shall be counted as a week of unemployment
15 for the purposes of this subsection:

16 (1) If benefits have been paid, or are payable with respect thereto;
17 provided that the requirements of this paragraph shall be waived with
18 respect to any benefits paid or payable for a waiting period as provided
19 in this subsection;

20 (2) If it has constituted a waiting period week under the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
22 seq.);

23 (3) Unless the individual fulfills the requirements of subsections (a)
24 and of this section;

25 (4) If with respect thereto, claimant was disqualified for benefits
26 in accordance with the provisions of subsection (d) of R.S.43:21-5.

27 The waiting period provided by this subsection shall not apply to
28 benefit years commencing on or after January 1, 2002. An individual
29 whose total benefit amount was reduced by the application of the
30 waiting period to a claim which occurred on or after January 1, 2002
31 and before the effective date of P.L.2002, c.13, shall be permitted to
32 file a claim for the additional benefits attributable to the waiting period
33 in the form and manner prescribed by the division, but not later than
34 the 180th day following the effective date of P.L.2002, c.13 unless the
35 division determines that there is good cause for a later filing.

36 (e) (1) (Deleted by amendment, P.L.2001, c.17).

37 (2) With respect to benefit years commencing on or after January
38 1, 1996 and before January 7, 2001, except as otherwise provided in
39 paragraph (3) of this subsection, the individual has, during his base
40 year as defined in subsection of R.S.43:21-19:

41 (A) Established at least 20 base weeks as defined in paragraph (2)
42 of subsection (t) of R.S.43:21-19; or

43 (B) **[f]** If the individual has not met the requirements of
44 subparagraph (A) of this paragraph (2), earned remuneration not less
45 than an amount 12 times the Statewide average weekly remuneration
46 paid to workers, as determined under R.S.43:21-3(c), which amount

1 shall be adjusted to the next higher multiple of ~~[\$100.00]~~\$100 if not
2 already a multiple thereof; or

3 If the individual has not met the requirements of subparagraph (A)
4 or (B) of this paragraph (2), earned remuneration not less than an
5 amount 1,000 times the minimum wage in effect pursuant to section
6 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
7 year preceding the calendar year in which the benefit year commences,
8 which amount shall be adjusted to the next higher multiple of
9 ~~[\$100.00]~~\$100 if not already a multiple thereof.

10 (3) With respect to benefit years commencing before January 7,
11 2001, notwithstanding the provisions of paragraph (2) of this
12 subsection, an unemployed individual claiming benefits on the basis of
13 service performed in the production and harvesting of agricultural
14 crops shall, subject to the limitations of subsection (i) of
15 R.S.43:21-19, be eligible to receive benefits if during his base year, as
16 defined in subsection of R.S.43:21-19, the individual:

17 (A) Has established at least 20 base weeks as defined in paragraph
18 (2) of subsection (t) of R.S.43:21-19; or

19 (B) Has earned 12 times the Statewide average weekly
20 remuneration paid to workers, as determined under R.S.43:21-3(c),
21 raised to the next higher multiple of \$100.00 if not already a multiple
22 thereof, or more; or

23 (C) Has performed at least 770 hours of service in the production
24 and harvesting of agricultural crops.

25 (4) With respect to benefit years commencing on or after January
26 7, 2001, except as otherwise provided in paragraph (5) of this
27 subsection, the individual has, during his base year as defined in
28 subsection of R.S.43:21-19:

29 (A) Established at least 20 base weeks as defined in paragraphs (2)
30 and (3) of subsection (t) of R.S.43:21-19; or

31 (B) If the individual has not met the requirements of subparagraph
32 (A) of this paragraph (4), earned remuneration not less than an amount
33 1,000 times the minimum wage in effect pursuant to section 5 of
34 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
35 preceding the calendar year in which the benefit year commences,
36 which amount shall be adjusted to the next higher multiple of \$100 if
37 not already a multiple thereof.

38 (5) With respect to benefit years commencing on or after January
39 7, 2001, notwithstanding the provisions of paragraph (4) of this
40 subsection, an unemployed individual claiming benefits on the basis of
41 service performed in the production and harvesting of agricultural
42 crops shall, subject to the limitations of subsection (i) of
43 R.S.43:21-19, be eligible to receive benefits if during his base year, as
44 defined in subsection of R.S.43:21-19, the individual:

45 (A) Has established at least 20 base weeks as defined in paragraphs
46 (2) and (3) of subsection (t) of R.S.43:21-19; or

1 (B) Has earned remuneration not less than an amount 1,000 times
2 the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
3 (C.34:11-56a4) on October 1 of the calendar year preceding the
4 calendar year in which the benefit year commences, which amount
5 shall be adjusted to the next higher multiple of \$100 if not already a
6 multiple thereof; or

7 (C) Has performed at least 770 hours of service in the production
8 and harvesting of agricultural crops.

9 (6) The individual applying for benefits in any successive benefit
10 year has earned at least six times his previous weekly benefit amount
11 and has had four weeks of employment since the beginning of the
12 immediately preceding benefit year. This provision shall be in addition
13 to the earnings requirements specified in paragraph (2), (3), (4) or (5)
14 of this subsection, as applicable.

15 (f) (1) The individual has suffered any accident or sickness not
16 compensable under the workers' compensation law, R.S.34:15-1 et
17 seq. and resulting in the individual's total disability to perform any
18 work for remuneration, and would be eligible to receive benefits under
19 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
20 amount of benefits payable during any benefit year) except for the
21 inability to work and has furnished notice and proof of claim to the
22 division, in accordance with its rules and regulations, and payment is
23 not precluded by the provisions of R.S.43:21-3(d); provided, however,
24 that benefits paid under this subsection (f) shall be computed on the
25 basis of only those base year wages earned by the claimant as a
26 "covered individual," as defined in R.S.43:21-27(b); provided further
27 that no benefits shall be payable under this subsection to any
28 individual:

29 (A) For any period during which such individual is not under the
30 care of a legally licensed physician, dentist, optometrist, podiatrist,
31 practicing psychologist or chiropractor;

32 (B) (Deleted by amendment, P.L.1980, c.90.)

33 (C) For any period of disability due to willfully or intentionally
34 self-inflicted injury, or to injuries sustained in the perpetration by the
35 individual of a crime of the first, second or third degree;

36 (D) For any week with respect to which or a part of which the
37 individual has received or is seeking benefits under any unemployment
38 compensation or disability benefits law of any other state or of the
39 United States; provided that if the appropriate agency of such other
40 state or the United States finally determines that the individual is not
41 entitled to such benefits, this disqualification shall not apply;

42 (E) For any week with respect to which or part of which the
43 individual has received or is seeking disability benefits under the
44 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
45 seq.);

46 (F) For any period of disability commencing while such individual

1 is a "covered individual," as defined in subsection (b) of section 3 of
2 the "Temporary Disability Benefits Law," P.L.1948, c.110
3 (C.43:21-27).

4 (2) Benefit payments under this subsection (f) shall be charged to
5 and paid from the State disability benefits fund established by the
6 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
7 seq.), and shall not be charged to any employer account in computing
8 any employer's experience rate for contributions payable under this
9 chapter.

10 (g) Benefits based on service in employment defined in
11 subparagraphs (B) and of R.S.43:21-19 (i)(1) shall be payable in the
12 same amount and on the terms and subject to the same conditions as
13 benefits payable on the basis of other service subject to the
14 "unemployment compensation law"; except that, notwithstanding any
15 other provisions of the "unemployment compensation law":

16 (1) With respect to service performed after December 31, 1977, in
17 an instructional research, or principal administrative capacity for an
18 educational institution, benefits shall not be paid based on such
19 services for any week of unemployment commencing during the period
20 between two successive academic years, or during a similar period
21 between two regular terms, whether or not successive, or during a
22 period of paid sabbatical leave provided for in the individual's contract,
23 to any individual if such individual performs such services in the first
24 of such academic years (or terms) and if there is a contract or a
25 reasonable assurance that such individual will perform services in any
26 such capacity for any educational institution in the second of such
27 academic years or terms;

28 (2) With respect to weeks of unemployment beginning after
29 September 3, 1982, on the basis of service performed in any other
30 capacity for an educational institution, benefits shall not be paid on the
31 basis of such services to any individual for any week which commences
32 during a period between two successive academic years or terms if
33 such individual performs such services in the first of such academic
34 years or terms and there is a reasonable assurance that such individual
35 will perform such services in the second of such academic years or
36 terms, except that if benefits are denied to any individual under this
37 paragraph (2) and the individual was not offered an opportunity to
38 perform these services for the educational institution for the second of
39 any academic years or terms, the individual shall be entitled to a
40 retroactive payment of benefits for each week for which the individual
41 filed a timely claim for benefits and for which benefits were denied
42 solely by reason of this clause;

43 (3) With respect to those services described in paragraphs (1) and
44 (2) above, benefits shall not be paid on the basis of such services to
45 any individual for any week which commences during an established
46 and customary vacation period or holiday recess if such individual

1 performs such services in the period immediately before such vacation
2 period or holiday recess, and there is a reasonable assurance that such
3 individual will perform such services in the period immediately
4 following such period or holiday recess;

5 (4) With respect to any services described in paragraphs (1) and
6 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
7 and (3) above to any individual who performed those services in an
8 educational institution while in the employ of an educational service
9 agency, and for this purpose the term "educational service agency"
10 means a governmental agency or governmental entity which is
11 established and operated exclusively for the purpose of providing
12 those services to one or more educational institutions.

13 (h) Benefits shall not be paid to any individual on the basis of any
14 services, substantially all of which consist of participating in sports or
15 athletic events or training or preparing to so participate, for any week
16 which commences during the period between two successive sports
17 seasons (or similar periods) if such individual performed such services
18 in the first of such seasons (or similar periods) and there is a
19 reasonable assurance that such individual will perform such services in
20 the later of such seasons (or similar periods).

21 (i) (1) Benefits shall not be paid on the basis of services performed
22 by an alien unless such alien is an individual who was lawfully admitted
23 for permanent residence at the time the services were performed and
24 was lawfully present for the purpose of performing the services or
25 otherwise was permanently residing in the United States under color
26 of law at the time the services were performed (including an alien who
27 is lawfully present in the United States as a result of the application of
28 the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the
29 Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided
30 that any modifications of the provisions of section 3304(a)(14) of the
31 Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as
32 provided by Pub.L.94-566, which specify other conditions or other
33 effective dates than stated herein for the denial of benefits based on
34 services performed by aliens and which modifications are required to
35 be implemented under State law as a condition for full tax credit
36 against the tax imposed by the Federal Unemployment Tax Act, shall
37 be deemed applicable under the provisions of this section.

38 (2) Any data or information required of individuals applying for
39 benefits to determine whether benefits are not payable to them because
40 of their alien status shall be uniformly required from all applicants for
41 benefits.

42 (3) In the case of an individual whose application for benefits
43 would otherwise be approved, no determination that benefits to such
44 individual are not payable because of alien status shall be made except
45 upon a preponderance of the evidence.

46 (j) Notwithstanding any other provision of this chapter, the

1 director may, to the extent that it may be deemed efficient and
2 economical, provide for consolidated administration by one or more
3 representatives or deputies of claims made pursuant to subsection (f)
4 of this section with those made pursuant to Article III (State plan) of
5 the "Temporary Disability Benefits Law," P.L.1948, c.110
6 (C.43:21-25 et seq.).
7 (cf: P.L.2002, c.94, s.1.)
8

9 117. Section 2 of P.L.1997, c.38 (C.44:10-56) is amended to read
10 as follows:

11 2. The Legislature finds and declares that:

12 a. The federal "Personal Responsibility and Work Opportunity
13 Reconciliation Act of 1996," Pub.L.104-193, establishes the federal
14 block grant for temporary assistance for needy families and provides
15 the opportunity for a state to establish and design its own welfare
16 program;

17 b. Work and the earning of income promote the best interests of
18 families and children;

19 c. Working individuals and families needing temporary assistance
20 should have the transitional support necessary to obtain and keep a
21 job in order to be able to avoid cycling back onto public assistance;

22 d. Teenage pregnancy is counter to the best interests of children;

23 e. Successful welfare reform requires the active involvement of the
24 private sector as well as all departments of State government;

25 f. Personal and family security and stability, including the
26 protection of children and vulnerable adults, are important to the
27 establishment and maintenance of successful family life and childhood
28 development and a family's inability or failure to qualify for benefits
29 under the Work First New Jersey program established pursuant to this
30 act shall not in and of itself be the basis for the separation of a
31 dependent child from his family or the justification for the [foster]
32 resource family care placement of a dependent child;

33 g. Children and teenagers need the benefits of the support and
34 guidance which a family structure provides; the welfare system has
35 provided a vehicle for breaking up families by giving teenage mothers
36 the means to shift their financial dependence from their parents to the
37 State; in the process, these youths deprive themselves of the education
38 and family structure necessary to support themselves and their babies;
39 and the support and structure provided by families are important to the
40 development of a child's maximum potential; and

41 h. The Work First New Jersey program established pursuant to this
42 act incorporates and builds upon the fundamental concepts of the
43 Family Development Initiative established pursuant to P.L.1991, c.523
44 (C.44:10-19 et seq.) in a manner that is consistent with the federal
45 program of temporary assistance for needy families, by establishing
46 requirements for: time limits on cash assistance; the participation of

1 recipients in work activities; enhanced efforts to establish paternity and
2 establish and enforce child support obligations; sanctions for failure to
3 comply with program requirements; a cap on the use of funds for
4 administrative costs; the maintenance of State and county financial
5 support of the program; teenage parent recipients to live at home and
6 finish high school; and restrictions on eligibility for benefits for aliens.
7 (cf: P.L.1997, c.38, s.2)

8

9 118. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
10 read as follows:

11 2. As used in this act:

12 (a) The term "State" means the State of New Jersey.

13 (b) The term "commission" means the State Health Benefits
14 Commission, created by section 3 of this act.

15 (c) The term "employee" means an appointive or elective officer or
16 full-time employee of the State of New Jersey. For the purposes of
17 this act an employee of Rutgers, The State University of New Jersey,
18 shall be deemed to be an employee of the State, and an employee of
19 the New Jersey Institute of Technology shall be considered to be an
20 employee of the State during such time as the Trustees of the Institute
21 are party to a contractual agreement with the State Treasurer for the
22 provision of educational services. The term "employee" shall further
23 mean, for purposes of this act, a former employee of the South Jersey
24 Port Corporation, who is employed by a subsidiary corporation or
25 other corporation, which has been established by the Delaware River
26 Port Authority pursuant to subdivision (m) of Article I of the compact
27 creating the Delaware River Port Authority (R.S.32:3-2), as defined
28 in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for
29 continued membership in the Public Employees' Retirement System
30 pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

31 For the purposes of this act the term "employee" shall not include
32 persons employed on a short-term, seasonal, intermittent or emergency
33 basis, persons compensated on a fee basis, persons having less than
34 two months of continuous service or persons whose compensation
35 from the State is limited to reimbursement of necessary expenses
36 actually incurred in the discharge of their official duties. An employee
37 paid on a 10-month basis, pursuant to an annual contract, will be
38 deemed to have satisfied the two-month waiting period if the employee
39 begins employment at the beginning of the contract year. The term
40 "employee" shall also not include retired persons who are otherwise
41 eligible for benefits under this act but who, although they meet the age
42 eligibility requirement of Medicare, are not covered by the complete
43 federal program. A determination by the commission that a person is
44 an eligible employee within the meaning of this act shall be final and
45 shall be binding on all parties.

46 (d) (1) The term "dependents" means an employee's spouse, or an

1 employee's domestic partner as defined in section 3 of P.L.2003, c.246
2 (C.26:8A-3), and the employee's unmarried children under the age of
3 23 years who live with the employee in a regular parent-child
4 relationship. "Children" shall include stepchildren, legally adopted
5 children and [foster] children placed by the Division of Youth and
6 Family Services, provided they are reported for coverage and are
7 wholly dependent upon the employee for support and maintenance. A
8 spouse, domestic partner or child enlisting or inducted into military
9 service shall not be considered a dependent during the military service.
10 The term "dependents" shall not include spouses or domestic partners
11 of retired persons who are otherwise eligible for the benefits under this
12 act but who, although they meet the age eligibility requirement of
13 Medicare, are not covered by the complete federal program.

14 (2) Notwithstanding the provisions of paragraph (1) of this
15 subsection to the contrary and subject to the provisions of paragraph
16 (3) of this subsection, for the purposes of an employer other than the
17 State that is participating in the State Health Benefits Program
18 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
19 "dependents" means an employee's spouse and the employee's
20 unmarried children under the age of 23 years who live with the
21 employee in a regular parent-child relationship. "Children" shall
22 include stepchildren, legally adopted children and [foster] children
23 placed by the Division of Youth and Family Services in the
24 Department of Human Services provided they are reported for
25 coverage and are wholly dependent upon the employee for support and
26 maintenance. A spouse or child enlisting or inducted into military
27 service shall not be considered a dependent during the military service.
28 The term "dependents" shall not include spouses of retired persons
29 who are otherwise eligible for benefits under P.L.1961, c.49
30 (C.52:14-17.25 et seq.) but who, although they meet the age eligibility
31 requirement of Medicare, are not covered by the complete federal
32 program.

33 (3) An employer other than the State that is participating in the
34 State Health Benefits Program pursuant to section 3 of P.L.1964,
35 c.125 (C.52:14-17.34) may adopt a resolution providing that the term
36 "dependents" as defined in paragraph (2) of this subsection shall
37 include domestic partners as provided in paragraph (1) of this
38 subsection.

39 (e) The term "carrier" means a voluntary association, corporation
40 or other organization, including a health maintenance organization as
41 defined in section 2 of the "Health Maintenance Organizations Act,"
42 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
43 or paying for or reimbursing the cost of, personal health services,
44 including hospitalization, medical and surgical services, under
45 insurance policies or contracts, membership or subscription contracts,
46 or the like, in consideration of premiums or other periodic charges

1 payable to the carrier.

2 (f) The term "hospital" means (1) an institution operated pursuant
3 to law which is primarily engaged in providing on its own premises,
4 for compensation from its patients, medical diagnostic and major
5 surgical facilities for the care and treatment of sick and injured persons
6 on an inpatient basis, and which provides such facilities under the
7 supervision of a staff of physicians and with 24 hour a day nursing
8 service by registered graduate nurses, or (2) an institution not meeting
9 all of the requirements of (1) but which is accredited as a hospital by
10 the Joint Commission on Accreditation of Hospitals. In no event shall
11 the term "hospital" include a convalescent nursing home or any
12 institution or part thereof which is used principally as a convalescent
13 facility, residential center for the treatment and education of children
14 with mental disorders, rest facility, nursing facility or facility for the
15 aged or for the care of drug addicts or alcoholics.

16 (g) The term "State managed care plan" means a health care plan
17 under which comprehensive health care services and supplies are
18 provided to eligible employees, retirees, and dependents: (1) through
19 a group of doctors and other providers employed by the plan; or (2)
20 through an individual practice association, preferred provider
21 organization, or point of service plan under which services and
22 supplies are furnished to plan participants through a network of
23 doctors and other providers under contracts or agreements with the
24 plan on a prepayment or reimbursement basis and which may provide
25 for payment or reimbursement for services and supplies obtained
26 outside the network. The plan may be provided on an insured basis
27 through contracts with carriers or on a self-insured basis, and may be
28 operated and administered by the State or by carriers under contracts
29 with the State.

30 (h) The term "Medicare" means the program established by the
31 "Health Insurance for the Aged Act," Title XVIII of the "Social
32 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
33 or its successor plan or plans.

34 (i) The term "traditional plan" means a health care plan which
35 provides basic benefits, extended basic benefits and major medical
36 expense benefits as set forth in section 5 of P.L.1961, c.49
37 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
38 dependents for expenses for covered health care services and supplies
39 through payments to providers or reimbursements to participants.
40 (cf: P.L.2003, c.246, s.41)

41

42 119. Section 5 of P.L.2003, c.187 (C.52:17D-5) is amended to
43 read as follows:

44 5. The child advocate may:

45 a. Investigate, review, monitor or evaluate any State agency
46 response to, or disposition of, an allegation of child abuse or neglect

1 in this State;

2 b. Inspect and review the operations, policies and procedures of:

3 (1) juvenile detention centers operated by the counties or the
4 Juvenile Justice Commission;

5 (2) [foster] resource family homes, group homes, residential
6 treatment facilities, shelters for the care of abused or neglected
7 children, shelters for the care of juveniles considered as juvenile-family
8 crisis cases, shelters for the care of homeless youth, or independent
9 living arrangements operated by or approved for payment by the
10 Department of Human Services; and

11 (3) any other public or private residential setting in which a child
12 has been placed by a State or county agency or department.

13 c. Review, evaluate, report on and make recommendations
14 concerning the procedures established by any State agency providing
15 services to children who are at risk of abuse or neglect, children in
16 State or institutional custody, or children who receive child protective
17 or permanency services;

18 d. Review, monitor and report on the performance of State-funded
19 private entities charged with the care and supervision of children due
20 to abuse or neglect by conducting research audits or other studies of
21 case records, policies, procedures and protocols, as deemed necessary
22 by the child advocate to assess the performance of the entities;

23 e. Receive, investigate and make referrals to other agencies or take
24 other appropriate actions with respect to a complaint received by the
25 office regarding the actions of a State, county or municipal agency or
26 a State-funded private entity providing services to children who are at
27 risk of abuse or neglect;

28 f. Hold a public hearing on the subject of an investigation or study
29 underway by the office, and receive testimony from agency and
30 program representatives, the public and other interested parties, as the
31 child advocate deems appropriate; and

32 g. Establish and maintain a 24-hour toll-free telephone hotline to
33 receive and respond to calls from citizens referring problems to the
34 child advocate, both individual and systemic, in how the State, through
35 its agencies or contract services, protects children.

36 (cf: P.L.2003, c.187, s.5)

37

38 120. Section 9 of P.L.2003, c.187 (C.52:17D-9) is amended to
39 read as follows:

40 9. The child advocate shall seek to ensure the protection of
41 children who are in an institution or [foster] resource family care by
42 reviewing, evaluating and monitoring the operation and activities of
43 the Institutional Abuse Investigation Unit in the Department of Human
44 Services.

45 a. In order to enable the child advocate to carry out its
46 responsibilities under this section, the Institutional Abuse Investigation

1 Unit shall:

2 (1) promptly notify the child advocate of any allegations of abuse
3 or neglect made against an institution or [foster] resource family
4 home serving children in this State;

5 (2) promptly provide the child advocate with a copy of the unit's
6 response to the complaint and the actions taken by the unit to address
7 the complaint;

8 (3) provide the child advocate with monthly updates of the status
9 of actions proposed by the unit regarding an existing complaint that
10 has not been resolved; and

11 (4) provide the child advocate with such other information as the
12 child advocate may deem necessary to carry out his responsibilities to
13 review, evaluate and monitor the operation and activities of the unit.

14 b. As used in this section, "institution" means a public or private
15 facility, in this State or out-of-State, that provides children with
16 out-of-home care, supervision or maintenance. Institution includes,
17 but is not limited to: a correctional facility, detention facility,
18 treatment facility, child care center, group home, residential school,
19 shelter, psychiatric hospital and developmental center.

20 (cf: P.L.2003, c.187, s.9)

21

22 121. Section 2 of P.L.1985, c.69 (C.53:1-20.6) is amended to read
23 as follows:

24 2. a. The Superintendent of State Police, with the approval of the
25 Attorney General, shall, pursuant to the "Administrative Procedure
26 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
27 regulations authorizing the dissemination, by the State Bureau of
28 Identification, of criminal history record background information
29 requested by State, county and local government agencies, including
30 the Division of State Police, in noncriminal matters, or requested by
31 individuals, nongovernmental entities or other governmental entities
32 whose access to such criminal history record background information
33 is not prohibited by law. A fee not to exceed \$30 shall be imposed for
34 processing fingerprint identification checks; a fee not to exceed \$18
35 shall be imposed for processing criminal history name search
36 identification checks. These fees shall be in addition to any other fees
37 required by law. In addition to any fee specified herein, a
38 nonrefundable fee, the amount of which shall be determined by the
39 Superintendent of State Police, with the approval of the Attorney
40 General, shall be collected to cover the cost of securing and processing
41 a federal criminal records check for each applicant.

42 b. State, county and local government agencies, including the
43 Division of State Police, and nongovernmental entities are authorized
44 to impose and collect the processing fee established pursuant to
45 subsection a. of this section from the person for whom the criminal
46 history record background check is being processed or from the party

1 requesting the criminal history record background check. The
2 Superintendent of State Police shall provide this processing service
3 without the collection of fees from the applicants in processing
4 background checks of prospective [foster] resource family parents or
5 members of their immediate families. In such cases, the Department of
6 Human Services shall be responsible for paying the fees imposed
7 pursuant to subsection a. of this section. Nothing in this section shall
8 prohibit the Superintendent of State Police, with the approval of the
9 Attorney General, from providing this processing service without the
10 collection of fees from the applicant in other circumstances which in
11 his sole discretion he deems appropriate, if the applicants would not
12 receive a wage or salary for the time and services they provide to an
13 organization or who are considered volunteers. In those circumstances
14 where the Superintendent of State Police, with the approval of the
15 Attorney General, determines to provide this processing service
16 without the collection of fees to the individual applicants, the
17 superintendent may assess the fees for providing this service on behalf
18 of the applicants to any department of State, county or municipal
19 government which is responsible for operating or overseeing that
20 volunteer program. The agencies shall transfer all moneys collected
21 for the processing fee to the Division of State Police.

22 (cf: P.L.2003, c.117, s.17)

23

24 122. Section 8 of P.L.2000, c.77 (C.53:1-20.9b) is amended to
25 read as follows:

26 8. a. The Commissioner of Human Services is authorized to
27 exchange fingerprint data with, and to receive information from, the
28 Division of State Police in the Department of Law and Public Safety
29 and the Federal Bureau of Investigation.

30 Upon receipt of the criminal history record information for an
31 applicant or staff member of a child care center from the Federal
32 Bureau of Investigation and the Division of State Police, the [Division
33 of Youth and Family] Department of Human Services shall notify the
34 applicant or staff member, as applicable, and the child care center, in
35 writing, of the applicant's or staff member's qualification or
36 disqualification for employment or service under P.L.2000, c.77
37 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified,
38 the convictions that constitute the basis for the disqualification shall
39 be identified in the written notice to the applicant or staff member.
40 The applicant or staff member shall have 14 days from the date of the
41 written notice of disqualification to challenge the accuracy of the
42 criminal history record information. If no challenge is filed or if the
43 determination of the accuracy of the criminal history record
44 information upholds the disqualification, the [Division of Youth and
45 Family] Department of Human Services shall notify the center that the
46 applicant or staff member has been disqualified from employment.

1 b. The Division of State Police shall promptly notify the [Division
2 of Youth and Family] Department of Human Services in the event an
3 applicant or staff member who was the subject of a criminal history
4 record background check conducted pursuant to subsection a. of this
5 section, is convicted of a crime or offense in this State after the date
6 the background check was performed. Upon receipt of such
7 notification, the [Division of Youth and Family] Department of
8 Human Services shall make a determination regarding the employment
9 of the applicant or staff member.

10 (cf: P.L.2000, c.77, s.8)

11

12 123. Section 3 of P.L.1979, c.496 (C.55:13B-3) is amended to
13 read as follows:

14 3. As used in this act:

15 a. "Boarding house" means any building, together with any related
16 structure, accessory building, any land appurtenant thereto, and any
17 part thereof, which contains two or more units of dwelling space
18 arranged or intended for single room occupancy, exclusive of any such
19 unit occupied by an owner or operator, and wherein personal or
20 financial services are provided to the residents, including any
21 residential hotel or congregate living arrangement, but excluding any
22 hotel, motel or established guest house wherein a minimum of 85% of
23 the units of dwelling space are offered for limited tenure only, any
24 [foster] resource family home as defined in section 1 of P.L.1962,
25 c.137 (C.30:4C-26.1), any community residence for the
26 developmentally disabled and any community residence for the
27 mentally ill as defined in section 2 of P.L.1977, c.448 (C.30:11B-2),
28 any adult family care home as defined in section 3 of P.L.2001, c.304
29 (C.26:2Y-3), any dormitory owned or operated on behalf of any
30 nonprofit institution of primary, secondary or higher education for the
31 use of its students, any building arranged for single room occupancy
32 wherein the units of dwelling space are occupied exclusively by
33 students enrolled in a full-time course of study at an institution of
34 higher education approved by the New Jersey Commission on Higher
35 Education, any facility or living arrangement operated by, or under
36 contract with, any State department or agency, upon the written
37 authorization of the commissioner, and any owner-occupied,
38 one-family residential dwelling made available for occupancy by not
39 more than six guests, where the primary purpose of the occupancy is
40 to provide charitable assistance to the guests and where the owner
41 derives no income from the occupancy. A dwelling shall be deemed
42 "owner-occupied" within the meaning of this section if it is owned or
43 operated by a nonprofit religious or charitable association or
44 corporation and is used as the principal residence of a minister or
45 employee of that corporation or association. For any such dwelling,
46 however, fire detectors shall be required as determined by the

- 1 Department of Community Affairs.
- 2 b. "Commissioner" means the Commissioner of the Department of
3 Community Affairs.
- 4 c. "Financial services" means any assistance permitted or required
5 by the commissioner to be furnished by an owner or operator to a
6 resident in the management of personal financial matters, including,
7 but not limited to, the cashing of checks, holding of personal funds for
8 safekeeping in any manner or assistance in the purchase of goods or
9 services with a resident's personal funds.
- 10 d. "Limited tenure" means residence at a rooming or boarding
11 house on a temporary basis, for a period lasting no more than 90 days,
12 when a resident either maintains a primary residence at a location other
13 than the rooming or boarding house or intends to establish a primary
14 residence at such a location and does so within 90 days after taking up
15 original residence at the rooming or boarding house.
- 16 e. "Operator" means any individual who is responsible for the daily
17 operation of a rooming or boarding house.
- 18 f. "Owner" means any person who owns, purports to own, or
19 exercises control of any rooming or boarding house.
- 20 g. "Personal services" means any services permitted or required to
21 be furnished by an owner or operator to a resident, other than shelter,
22 including, but not limited to, meals or other food services, and
23 assistance in dressing, bathing or attending to other personal needs.
- 24 h. "Rooming house" means a boarding house wherein no personal
25 or financial services are provided to the residents.
- 26 i. "Single room occupancy" means an arrangement of dwelling
27 space which does not provide a private, secure dwelling space
28 arranged for independent living, which contains both the sanitary and
29 cooking facilities required in dwelling spaces pursuant to the "Hotel
30 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and
31 which is not used for limited tenure occupancy in a hotel, motel or
32 established guest house, regardless of the number of individuals
33 occupying any room or rooms.
- 34 j. "Unit of dwelling space" means any room, rooms, suite, or
35 portion thereof, whether furnished or unfurnished, which is occupied
36 or intended, arranged or designed to be occupied for sleeping or
37 dwelling purposes by one or more persons.
- 38 k. "Alzheimer's disease and related disorders" means a form of
39 dementia characterized by a general loss of intellectual abilities of
40 sufficient severity to interfere with social or occupational functioning.
- 41 l. "Dementia" means a chronic or persistent disorder of the mental
42 processes due to organic brain disease, for which no curative treatment
43 is available, and marked by memory disorders, changes in personality,
44 deterioration in personal care, impaired reasoning ability and
45 disorientation.
- 46 (cf: P.L.2001, c.304, s.12)

1 124. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to
2 read as follows:

3 3. As used in this act:

4 a. "Agency" means the New Jersey Housing and Mortgage Finance
5 Agency as consolidated by section 4 of P.L.1983, c.530 (C.55:14K-4),
6 or, if that agency shall be abolished by law, the person, board, body or
7 commission succeeding to the powers and duties thereof or to whom
8 its powers and duties shall be given by law.

9 b. "Boarding house" means any building, together with any related
10 structure, accessory building, any land appurtenant thereto, and any
11 part thereof, which contains two or more units of dwelling space
12 arranged or intended for single room occupancy, exclusive of any such
13 unit occupied by an owner or operator, including:

14 (1) any residential hotel or congregate living arrangement, but
15 excluding any hotel, motel or established guesthouse wherein a
16 minimum of 85% of the units of dwelling space are offered for limited
17 tenure only; (2) a residential health care facility as defined in section
18 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971,
19 c.136 (C.26:2H-1 et seq.); (3) any [foster] resource family home as
20 defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any
21 community residence for the developmentally disabled as defined in
22 section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory owned
23 or operated on behalf of any nonprofit institution of primary,
24 secondary or higher education for the use of its students; (6) any
25 building arranged for single room occupancy wherein the units of
26 dwelling space are occupied exclusively by students enrolled in a
27 full-time course of study at an institution of higher education approved
28 by the Department of Higher Education; and (7) any facility or living
29 arrangement operated by, or under contract with, any State
30 department or agency.

31 c. "Bonds" mean any bonds, notes, bond anticipation notes,
32 debentures or other evidences of financial indebtedness issued by the
33 agency pursuant to this act.

34 d. "Continuing-care retirement community" means any work or
35 undertaking, whether new construction, improvement or rehabilitation,
36 which may be financed in part or in whole by the agency and which is
37 designed to complement fully independent residential units with social
38 and health care services (usually including nursing and medical
39 services) for retirement families and which is intended to provide
40 continuing care for the term of a contract in return for an entrance fee
41 or periodic payments, or both, and which may include such
42 appurtenances and facilities as the agency deems to be necessary,
43 convenient or desirable.

44 e. "Eligible loan" means a loan, secured or unsecured, made for the
45 purpose of financing the operation, maintenance, construction,
46 acquisition, rehabilitation or improvement of property, or the

1 acquisition of a direct or indirect interest in property, located in the
2 State, which is or shall be: (1) primarily residential in character or (2)
3 used or to be used to provide services to the residents of an area or
4 project which is primarily residential in character. The agency shall
5 adopt regulations defining the term "primarily residential in character,"
6 which may include single-family, multi-family and congregate or other
7 single room occupancy housing, continuing-care retirement
8 communities, mobile homes and nonhousing properties and facilities
9 which enhance the livability of the residential property or area; and
10 specifying the types of residential services and facilities for which
11 eligible loans may be made, which may include, but shall not be limited
12 to, parking facilities, streets, sewers, utilities, and administrative,
13 community, educational, welfare and recreational facilities, food,
14 laundry, health and other services and commercial establishments and
15 professional offices providing supplies and services enhancing the area.
16 The term "loan" includes an obligation the return on which may vary
17 with any appreciation in value of the property or interest in property
18 financed with the proceeds of the loan, or a co-ventured instrument by
19 which an institutional lender or the agency assumes an equity position
20 in the property. Any undivided interest in an eligible loan shall qualify
21 as an eligible loan.

22 f. "Family" means two or more persons who live or expect to live
23 together as a single household in the same dwelling unit; but any
24 individual who (1) has attained retirement age as defined in section
25 216a of the federal Social Security Act, or (2) is under a disability as
26 defined in section 223 of that act, or (3) such other individuals as the
27 agency by rule or regulation shall include, shall be considered as a
28 family for the purpose of this act; and the surviving member of a family
29 whose other members died during occupancy of a housing project shall
30 be considered as a family for the purposes of permitting continued
31 occupancy of the dwelling unit occupied by such family.

32 g. "Gross aggregate family income" means the total annual income
33 of all members of a family, from whatever source derived, including
34 but not limited to, pension, annuity, retirement and social security
35 benefits; except that there may be excluded from income (1) such
36 reasonable allowances for dependents, (2) such reasonable allowances
37 for medical expenses, (3) all or any proportionate part of the earnings
38 of gainfully employed minors, or (4) such income as is not received
39 regularly, as the agency by rule or regulation may determine.

40 h. "Housing project" or "project" means any work or undertaking,
41 other than a continuing-care community, whether new construction,
42 improvement, rehabilitation, or acquisition of existing buildings or
43 units which is designed for the primary purpose of providing
44 multi-family rental housing or acquisition of sites for future
45 multi-family rental housing.

46 i. "Housing sponsor" means any person, partnership, corporation

1 or association , whether organized as for profit or not for profit, to
2 which the agency has made or proposes to make a loan, either directly
3 or through an institutional lender, for a housing project.

4 j. "Institutional lender" means any bank or trust company, savings
5 bank, national banking association, savings and loan association, or
6 building and loan association maintaining an office in the State, or any
7 insurance company or any mortgage banking firm or mortgage banking
8 corporation authorized to transact business in the State.

9 k. "Life safety improvement" means any addition, modification or
10 repair to a boarding house which is necessary to improve the life safety
11 of the residents of the boarding house, as certified by the Department
12 of Community Affairs, including, but not limited to, the correction of
13 a violation of the " State Uniform Construction Code Act," P.L.1975,
14 c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act
15 of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire
16 Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the
17 administrative regulations promulgated in accordance with these acts.

18 l. "Life safety improvement loan" means an eligible loan the
19 proceeds of which are to be used to finance, in whole or in part, the
20 construction, acquisition or rendering of life safety improvements at
21 or to boarding houses.

22 m. "Loan originator" means any bank or trust company, savings
23 bank, national banking association, savings and loan association, or
24 building and loan association maintaining an office in the State, or any
25 insurance company or any mortgage banking firm or mortgage banking
26 corporation authorized to transact business in the State, or any agency
27 or instrumentality of the United States or the State or a political
28 subdivision of the State, which is authorized to make eligible loans.

29 n. "Municipality" means any city of any class or any town,
30 township, village or borough.

31 o. "Mutual housing" means a housing project operated or to be
32 operated upon completion of construction, improvement or
33 rehabilitation exclusively for the benefit of the families who are
34 entitled to occupancy by reason of ownership of stock in the housing
35 sponsor, or by reason of co-ownership of premises in a horizontal
36 property regime pursuant to P.L.1963, c.168; but the agency may
37 adopt rules and regulations permitting a reasonable percentage of
38 space in such project to be rented for residential or for commercial
39 use.

40 p. "Persons and families of low and moderate income" mean
41 persons and families, irrespective of race, creed, national origin or sex,
42 determined by the agency to require assistance on account of personal
43 or family income being not sufficient to afford adequate housing. In
44 making such determination the agency shall take into account the
45 following:

46 (1) the amount of the total income of such persons and families

1 available for housing needs, (2) the size of the family, (3) the cost and
2 condition of housing facilities available and (4) the eligibility of such
3 persons and families to compete successfully in the normal housing
4 market and to pay the amounts at which private enterprise is providing
5 sanitary, decent and safe housing. In the case of projects with respect
6 to which income limits have been established by any agency of the
7 federal government having jurisdiction thereover for the purpose of
8 defining eligibility of low and moderate income families, the agency
9 may determine that the limits so established shall govern. In all other
10 cases income limits for the purpose of defining low or moderate
11 income persons shall be established by the agency in its rules and
12 regulations.

13 q. "Project cost" means the sum total of all costs incurred in the
14 acquisition, development, construction, improvement or rehabilitation
15 of a housing project, which are approved by the agency as reasonable
16 or necessary, which costs shall include, but are not necessarily limited
17 to, (1) cost of land acquisition and any buildings thereon, (2) cost of
18 site preparation, demolition and development, (3) architect, engineer,
19 legal, agency and other fees paid or payable in connection with the
20 planning, execution and financing of the project, (4) cost of necessary
21 studies, surveys, plans and permits, (5) insurance, interest, financing,
22 tax and assessment costs and other operating and carrying costs during
23 construction, (6) cost of construction, reconstruction, fixtures, and
24 equipment related to the real property, (7) cost of land improvements,
25 (8) necessary expenses in connection with initial occupancy of the
26 project, (9) a reasonable profit or fee to the builder and developer,
27 (10) an allowance established by the agency for working capital and
28 contingency reserves, and reserves for any operating deficits, (11)
29 costs of guarantees, insurance or other additional financial security for
30 the project and (12) the cost of such other items, including tenant
31 relocation, as the agency shall determine to be reasonable and
32 necessary for the development of the project, less any and all net rents
33 and other net revenues received from the operation of the real and
34 personal property on the project site during construction, improvement
35 or rehabilitation.

36 All costs shall be subject to approval and audit by the agency. The
37 agency may adopt rules and regulations specifying in detail the types
38 and categories of cost which shall be allowable if actually incurred in
39 the development, acquisition, construction, improvement or
40 rehabilitation of a housing project.

41 r. "Retirement family" means one or more persons related by
42 blood, marriage or adoption who live or expect to live together as a
43 single household in the same dwelling unit, provided that at least one
44 of the persons is an individual who (1) has attained retirement age as
45 defined in section 216a of the Federal Social Security Act, or (2) is
46 under a disability as defined in section 223 of that act, or (3) such

1 individuals as the agency by rule or regulation shall include; and
2 provided further, that the surviving member of a retirement family
3 whose other members died during occupancy of a continuing-care
4 retirement community shall be considered as a retirement family for
5 purposes of permitting continued occupancy of the dwelling unit
6 occupied by such retirement family.

7 (cf: P.L.1997, c.31, s.1)

8

9 125. 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 necessary to carry out the
12 provisions of this act.

13

14 126. The following are repealed:

15 Section 5 of P.L.1951, c.138 (C.30:4C-5); and

16 Section 11 of P.L.2001, c.419 (C.30:4C-27.13).

17

18 127. P.L.1992, c.139 (C.30:4C-26.10 et seq.) is repealed.

19

20 128. This act shall take effect immediately, except that sections 88
21 and 127 shall take effect on September 1, 2005.

22

23

24

STATEMENT

25

26 The purpose of this bill is to better protect abused and neglected
27 children, and children at risk of abuse or neglect, throughout New
28 Jersey, and more generally to improve the quality of services provided
29 by the State to children and families in the child welfare system.

30 The bill restructures child protection services within the Department
31 of Human Services, establishes the Office of Children's Services (OCS)
32 in the department, and provides for a third deputy commissioner within
33 the department to assume responsibility for the operation of OCS.
34 The new deputy commissioner will oversee the Division of Youth and
35 Family Services (DYFS) and two new divisions created under the bill.

36 Specifically:

37 -- The bill establishes OCS in order to oversee such entities within
38 the department as are designated by the Commissioner of Human
39 Services, including, but not limited to, DYFS, the Division of Child
40 Behavioral Health Services and the Division of Prevention and
41 Community Development. The Division of Child Behavioral Health
42 Services and the Division of Prevention and Community Development
43 are created under the bill and will, along with DYFS, operate under
44 the umbrella of OCS.

45 -- The bill provides that different entities within the State child
46 welfare system may provide similar categories of services but for

1 different reasons; for example, DYFS and the new Division of Child
2 Behavioral Health Services will both provide out-of-home placements,
3 but the primary reason for the former will be protection of the child
4 and for the latter will be treatment of the child.

5 -- The bill transfers responsibility for the following activities from
6 DYFS to the Department of Human Services:

7 * the conduct of criminal history record background checks on
8 resource family parents (defined below), child care center employees
9 and family day care providers;

10 * the licensure of resource family homes (defined below) and child
11 care centers and registration of family day care providers; and

12 * the investigation of institutional abuse or neglect of children and
13 imposition of appropriate sanctions on an institution for failure to take
14 required remedial action.

15 -- The bill establishes the New Jersey Child Welfare Training
16 Academy in the department for the purpose of providing a training
17 program to meet the needs of the child welfare system Statewide. The
18 training program is to provide:

19 * pre-service and in-service training for public employees of the
20 child welfare system;

21 * training opportunities for community-based entities and other
22 child welfare system stakeholders as designated by the commissioner;
23 and

24 * pre-service and in-service training for resource families.

25 -- The academy will be responsible for developing and managing
26 the training activities provided under this program, for which purpose
27 it will:

28 * administer, coordinate and evaluate all training activities under
29 the program;

30 * seek to partner with social work and other professionals to
31 ensure that the training provided under the program reflects best
32 practices;

33 * develop training curricula, resources and products;

34 * schedule and provide notice of training events and provide
35 training materials for those events;

36 * employ and compensate training event instructors as necessary;

37 * create mechanisms and processes to assess, identify and monitor
38 training needs for public employees of the child welfare system,
39 including competency-based training;

40 * create mechanisms and processes to evaluate the effectiveness of
41 the training provided under the program;

42 * provide for the development of multimedia training tools to
43 inform, educate and train public agency staff, resource families and
44 others in the child welfare system;

45 * determine the minimum number of pre-service and in-service
46 training hours required of, and ensure the availability of sufficient

1 training opportunities for, public agency staff Statewide; and
2 * conduct any other activities necessary to develop, implement and
3 manage the training program.
4 -- The training provided to resource families under the bill is to
5 include courses in the role of caregivers as part of the care and
6 treatment of children requiring out-of-home placement, and a resource
7 family parent will be required to complete the number of hours of pre-
8 service and in-service training prescribed under the training program
9 as a condition of licensure under the "Resource Family Parent
10 Licensing Act" (N.J.S.A.30:4C-27.3 et seq.), formerly the "Foster
11 Parent Licensing Act."
12 -- The bill directs the department, through OCS or as otherwise
13 designated by the Commissioner of Human Services, to provide
14 services to individuals who are between 18 and 21 years of age and
15 meet the following conditions:
16 * The individual was receiving services from OCS, or otherwise
17 from the department as designated by the commissioner, on or after
18 the individual's 16th birthday;
19 * The individual, on or after the individual's 18th birthday, has not
20 requested that these services be terminated; and
21 * OCS or another entity designated by the commissioner
22 determines that a continuation of services is in the individual's best
23 interest and would assist the individual to become an independent and
24 productive adult.
25 -- The bill requires that a representative of DYFS, or such other
26 entity in the Department of Human Services as may be designated by
27 the commissioner to investigate child abuse or neglect, initiate an
28 investigation of a report of child abuse or neglect made pursuant to
29 N.J.S.A.9:6-8.10 within 24 hours of receipt of the report, unless
30 DYFS or the other entity authorizes a delay based upon the request of
31 a law enforcement official.
32 -- The bill requires DYFS to maintain a centralized emergency
33 telephone hotline for the receipt of calls involving a report, complaint
34 or allegation of child abuse or neglect.
35 -- The bill renames the central registry operated by DYFS as the
36 child abuse registry and designates it as the repository of all
37 information regarding child abuse or neglect that is accessible to the
38 public pursuant to State and federal law.
39 -- The bill expands the list of persons or entities to whom the
40 Department of Human Services is authorized to release records of
41 child abuse reports to include members of a family team or other case
42 planning group formed by DYFS and established in accordance with
43 regulations adopted by the commissioner for the purpose of addressing
44 the child's safety, permanency or well-being, when the provision of
45 such information is in the best interests of the child as determined by
46 DYFS.

1 -- The bill adopts the following terms:

2 * "resource family parent" to mean any person with whom a child
3 in the care, custody or guardianship of DYFS is placed for temporary
4 or long-term care and includes any person with whom a child is placed
5 by DYFS for the purpose of adoption; and

6 * "resource family home" to mean a private residence, other than
7 a children's group home or shelter home, in which board, lodging, care
8 and temporary out-of-home placement services are provided by a
9 resource family parent on a 24-hour basis to a child under the auspices
10 of DYFS or any public or private agency authorized to place children
11 in New Jersey.

12 -- The bill makes placement by informed consent an option, rather
13 than mandating that informed consent for an out-of-home placement
14 be sought prior to seeking a court order for placement. This change
15 anticipates the future elimination of voluntary out-of-home placements
16 as envisioned in the comprehensive child welfare reform plan issued by
17 the Department of Human Services.

18 -- The bill provides for the gradual elimination of long-term foster
19 care with custody as a permanency option for children, in the belief
20 that other permanency options (such as adoption or kinship legal
21 guardianship) are preferable alternatives for children who cannot live
22 with their birth families; and, to that end, the bill repeals
23 N.J.S.A.30:4C-26.10 through 26.19 (the "Long-Term Foster Care
24 Custody Act") effective September 1, 2005.

25 -- Finally, the bill also repeals the following provisions of statutory
26 law, which are obviated by the bill:

27 * N.J.S.A.30:4C-5 (concerning authorization of the Bureau of
28 Childrens Services to accept the care or custody of, or provide welfare
29 services for, any child); and

30 * N.J.S.A.30:4C-27.13 (concerning the provision of care by a
31 certified foster parent until DYFS conducts an on-site inspection and
32 reevaluation of the foster parent's home for the purpose of licensure).

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1648

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE, 10, 2004

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1648.

As amended by committee, the purpose of this bill is to better protect abused and neglected children, and children at risk of abuse or neglect, throughout New Jersey, and more generally to improve the quality of services provided by the State to children and families in the child welfare system.

The bill restructures child protection services within the Department of Human Services, establishes the Office of Children's Services (OCS) in the department, and provides for a third deputy commissioner within the department to assume responsibility for the operation of OCS. The new deputy commissioner will oversee the Division of Youth and Family Services (DYFS) and two new divisions created under the bill.

Specifically:

-- The bill establishes OCS in order to oversee such entities within the department as are designated by the Commissioner of Human Services, including, but not limited to, DYFS, the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships. The Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships are created under the bill and will, along with DYFS, operate under the umbrella of OCS.

-- The bill provides that different entities within the State child welfare system may provide similar categories of services but for different reasons; for example, DYFS and the new Division of Child Behavioral Health Services will both provide out-of-home placements, but the primary reason for the former will be protection of the child and for the latter will be treatment of the child.

-- The bill transfers responsibility for the following activities from DYFS to the Department of Human Services:

* the conduct of criminal history record background checks on

resource family parents (defined below), child care center employees and family day care providers;

- * the licensure of resource family homes (defined below) and child care centers and registration of family day care providers; and

- * the investigation of institutional abuse or neglect of children and imposition of appropriate sanctions on an institution for failure to take required remedial action.

-- The bill establishes the New Jersey Child Welfare Training Academy in the department for the purpose of providing a training program to meet the needs of the child welfare system Statewide. The training program is to provide:

- * pre-service and in-service training for public employees of the child welfare system;

- * training opportunities for community-based entities and other child welfare system stakeholders as designated by the commissioner; and

- * pre-service and in-service training for resource families.

-- The academy will be responsible for developing and managing the training activities provided under this program, for which purpose it will:

- * administer, coordinate and evaluate all training activities under the program;

- * seek to partner with social work and other professionals to ensure that the training provided under the program reflects best practices;

- * develop training curricula, resources and products;

- * schedule and provide notice of training events and provide training materials for those events;

- * employ and compensate training event instructors as necessary;

- * create mechanisms and processes to assess, identify and monitor training needs for public employees of the child welfare system, including competency-based training;

- * create mechanisms and processes to evaluate the effectiveness of the training provided under the program;

- * provide for the development of multimedia training tools to inform, educate and train public agency staff, resource families and others in the child welfare system;

- * determine the minimum number of pre-service and in-service training hours required of, and ensure the availability of sufficient training opportunities for, public agency staff Statewide; and

- * conduct any other activities necessary to develop, implement and manage the training program.

-- The training provided to resource families under the bill is to include courses in the role of caregivers as part of the care and treatment of children requiring out-of-home placement, and a resource family parent will be required to complete the number of hours of pre-service and in-service training prescribed under the training program as a condition of licensure under the "Resource Family Parent

Licensing Act" (N.J.S.A.30:4C-27.3 et seq.), formerly the "Foster Parent Licensing Act."

-- The bill directs the department, through OCS or as otherwise designated by the Commissioner of Human Services, to provide services to individuals who are between 18 and 21 years of age and meet the following conditions:

* The individual was receiving services from OCS, or otherwise from the department as designated by the commissioner, on or after the individual's 16th birthday;

* The individual, on or after the individual's 18th birthday, has not requested that these services be terminated; and

* OCS or another entity designated by the commissioner determines that a continuation of services is in the individual's best interest and would assist the individual to become an independent and productive adult.

-- The bill requires that a representative of DYFS, or such other entity in the Department of Human Services as may be designated by the commissioner to investigate child abuse or neglect, initiate an investigation of a report of child abuse or neglect made pursuant to N.J.S.A.9:6-8.10 within 24 hours of receipt of the report, unless DYFS or the other entity authorizes a delay based upon the request of a law enforcement official.

-- The bill requires DYFS to maintain a centralized emergency telephone hotline for the receipt of calls involving a report, complaint or allegation of child abuse or neglect.

-- The bill renames the central registry operated by DYFS as the child abuse registry and designates it as the repository of all information regarding child abuse or neglect that is accessible to the public pursuant to State and federal law.

-- The bill expands the list of persons or entities to whom the Department of Human Services is authorized to release records of child abuse reports to include members of a family team or other case planning group formed by DYFS and established in accordance with regulations adopted by the commissioner for the purpose of addressing the child's safety, permanency or well-being, when the provision of such information is in the best interests of the child as determined by DYFS.

-- The bill adopts the following terms:

* "resource family parent" to mean any person with whom a child in the care, custody or guardianship of DYFS is placed for temporary or long-term care and includes any person with whom a child is placed by DYFS for the purpose of adoption; and

* "resource family home" to mean a private residence, other than a children's group home or shelter home, in which board, lodging, care and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of DYFS or any public or private agency authorized to place children in New Jersey.

-- The bill makes placement by informed consent an option, rather than mandating that informed consent for an out-of-home placement be sought prior to seeking a court order for placement. This change anticipates the future elimination of voluntary out-of-home placements as envisioned in the comprehensive child welfare reform plan issued by the Department of Human Services.

-- The bill provides for the gradual elimination of long-term foster care with custody as a permanency option for children, in the belief that other permanency options (such as adoption or kinship legal guardianship) are preferable alternatives for children who cannot live with their birth families; and, to that end, the bill repeals N.J.S.A.30:4C-26.10 through 26.19 (the "Long-Term Foster Care Custody Act") effective September 1, 2005.

-- The bill amends N.J.S.A.30:4C-27.16 to stipulate that staff members of State-operated children's psychiatric facilities providing inpatient treatment shall be required to undergo criminal history record and child abuse information background checks.

-- Finally, the bill also repeals the following provisions of statutory law, which are obviated by the bill:

* N.J.S.A.30:4C-5 (concerning authorization of the Bureau of Children's Services to accept the care or custody of, or provide welfare services for, any child); and

* N.J.S.A.30:4C-27.13 (concerning the provision of care by a certified foster parent until DYFS conducts an on-site inspection and reevaluation of the foster parent's home for the purpose of licensure).

The committee amendments:

--replace references to "Division of Prevention and Community Development" with "Division of Prevention and Community Partnerships;" and

--amend N.J.S.A.30:4C-27.16 to stipulate that staff members of State-operated children's psychiatric facilities providing inpatient treatment shall be required to undergo criminal history record background and child abuse record information checks.

As amended, this bill is identical to Assembly Bill No. 2985 (1R) (Previte), which is pending before the General Assembly.

Office of the Governor

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Contact: Micah Rasmussen
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RELEASE: August 27, 2004

Governor McGreevey Enacts Sweeping Child Welfare Reforms

Legislation Provides Better Protection to New Jersey's Most Vulnerable Children

(TRENTON) – Governor James E. McGreevey today enacted child welfare reforms that will afford children better protection, provide families greater support and reduce bureaucracy within the Division of Youth and Family Services.

“Today is a day to be proud,” McGreevey said. “These reforms will fundamentally change the culture at DYFS and the way we help and protect our children. We now have a plan that reforms the child welfare system from top to bottom – a plan that shows the death of Faheem Williams and the tragedy of Bruce Jackson did not go unnoticed.”

The Governor signed A2985 during a ceremony at St. Matthew AME Church in Orange. He was joined by Department of Human Services Commissioner James Davy and Assemblyman William Payne, one of the bill's primary sponsors along with Assemblywomen Mary T. Previte, Joan M. Voss and Nilsa Cruz-Perez.

“For the better part of a decade, New Jersey failed to protect its most vulnerable children.” Davy said. “With the support of Governor McGreevey and the Legislature, we have corrected this injustice by implementing an unprecedented reform effort. We must learn from our past mistakes and remain diligent in our efforts to fulfill our noble purpose – protecting our children and strengthening our families.”

The legislation provides the statutory changes necessary for the state to fully implement the five-year reform plan entitled “A New Beginning: The Future of Child Welfare in New Jersey.”

Under the plan, DYFS will add 1,000 new caseworkers and supervisors to bring caseload ratios in New Jersey to among the lowest in the nation. In addition, DYFS will recruit 1,000 new resource – formerly known as foster – families to serve those most in need, including adolescents.

The plan also creates a clear chain of command within DYFS adding a deputy commissioner to oversee the new Office of Children's Services. It also establishes one, centralized child abuse hotline that will screen child abuse and neglect calls 24 hours, seven days a week.

The hotline number – 1-877 NJ ABUSE – has received at least 18,500 calls were taken in July, the first month of operation.

The plan also places a renewed emphasis on prevention, creating a new Division of Prevention & Community Partnerships and calling for the expansion of much needed intervention programs addressing substance abuse, domestic violence and housing.

Under Governor McGreevey's leadership, New Jersey settled the Children's Right's litigation, created the position of Child Advocate and increased state funding for DYFS to a record \$452.3 million.

State of New Jersey Governor's Office

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