

9:6-8.21

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2005 **CHAPTER:** 169

NJSA: 9:6-8.21 (Updates provisions in Titles 9 and 30 to conform with DYFS child welfare reform plan)

BILL NO: S2664 (Substituted for A4158)

SPONSOR(S): Allen and others

DATE INTRODUCED: June 16, 2005

COMMITTEE: **ASSEMBLY:**
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2005

SENATE: June 30, 2005

DATE OF APPROVAL: August 5, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S2664

[SPONSOR'S STATEMENT](#): (Begins on page 21 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

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

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A4158

[SPONSOR'S STATEMENT](#): (Begins on page 21 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [6-13-2005 \(F. W & CS\)](#)
[6-29 2005 \(Budget\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 8/30/07

P.L. 2005, CHAPTER 169, *approved August 5, 2005*

Senate, No. 2664

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

9 1. As used in this act, unless the specific context indicates
10 otherwise:

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

23 b. "Child" means any child alleged to have been abused or
24 neglected.

25 c. "Abused or neglected child" means a child less than 18 years of
26 age whose parent or guardian, as herein defined, (1) inflicts or allows
27 to be inflicted upon such child physical injury by other than accidental
28 means which causes or creates a substantial risk of death, or serious
29 or protracted disfigurement, or protracted impairment of physical or
30 emotional health or protracted loss or impairment of the function of
31 any bodily organ; (2) creates or allows to be created a substantial or
32 ongoing risk of physical injury to such child by other than accidental
33 means which would be likely to cause death or serious or protracted
34 disfigurement, or protracted loss or impairment of the function of any
35 bodily organ; (3) commits or allows to be committed an act of sexual
36 abuse against the child; (4) or a child whose physical, mental, or
37 emotional condition has been impaired or is in imminent danger of
38 becoming impaired as the result of the failure of his parent or
39 guardian, as herein defined, to exercise a minimum degree of care (a)
40 in supplying the child with adequate food, clothing, shelter, education,
41 medical or surgical care though financially able to do so or though

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 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
30 in 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
38 which provides children with out of home care, supervision or
39 maintenance. Institution includes, but is not limited to, a correctional
40 facility, detention facility, treatment facility, day care center,
41 residential school, 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

1 basis.

2 (cf: P.L.2004, c.130, s.27)

3

4 2. Section 26 of P.L.1974, c.119 (C.9:6-8.46) is amended to read
5 as follows:

6 26. a. In any hearing under this act, including an administrative
7 hearing held in accordance with the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.). (1) proof of the abuse or
9 neglect of one child shall be admissible evidence on the issue of the
10 abuse or neglect of any other child of, or the responsibility of, the
11 parent or guardian and (2) proof of injuries sustained by a child or of
12 the condition of a child of such a nature as would ordinarily not be
13 sustained or exist except by reason of the acts or omissions of the
14 parent or guardian shall be prima facie evidence that a child of, or who
15 is the responsibility of such person is an abused or neglected child, and
16 (3) any writing, record or photograph, whether in the form of an entry
17 in a book or otherwise, made as a memorandum or record of any
18 condition, act, transaction, occurrence or event relating to a child in
19 an abuse or neglect proceeding of any hospital or any other public or
20 private institution or agency shall be admissible in evidence in proof of
21 that condition, act, transaction, occurrence or event, if the judge finds
22 that it was made in the regular course of the business of any hospital
23 or any other public or private institution or agency, and that it was in
24 the regular course of such business to make it, at the time of the
25 condition, act, transaction, occurrence or event, or within a reasonable
26 time thereafter, shall be prima facie evidence of the facts contained in
27 such certification. A certification by someone other than the head of
28 the hospital or agency shall be accompanied by a photocopy of a
29 delegation of authority signed by both the head of the hospital or
30 agency and by such other employees. All other circumstances of the
31 making of the memorandum, record or photograph, including lack of
32 personal knowledge of the making, may be proved to affect its
33 weight, but they shall not affect its admissibility and (4) previous
34 statements made by the child relating to any allegations of abuse or
35 neglect shall be admissible in evidence; provided, however, that no
36 such statement, if uncorroborated, shall be sufficient to make a fact
37 finding of abuse or neglect.

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

42 c. In a dispositional hearing and during all other stages of a
43 proceeding under this act, only material and relevant evidence may be

1 admitted.
2 (cf: P. L.1977, c.209, s.22)

3
4 3. R.S.30:1-9 is amended to read as follows:

5 30:1-9. The commissioner may create within the department such
6 divisions as he may deem necessary. Each division shall be under the
7 supervision of a director or assistant commissioner, who shall be
8 qualified by training and experience, appointed by and receive the
9 compensation fixed by the commissioner, except where otherwise
10 provided by statute, and shall devote his entire time to the
11 performance of his duties.

12 The commissioner may in his discretion combine the duties of two
13 or more divisions under one head.

14 The division directors or assistant commissioners shall perform such
15 services and exercise such powers at such times and places as the
16 commissioner shall prescribe.

17 (cf: P.L.1974, c.44, s.2)

18

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

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

24 (a) The term "Division of Youth and Family Services," or
25 "division," successor to the "Bureau of Children's Services" means the
26 State agency for the care, custody, guardianship, maintenance and
27 protection of children, as more specifically described by the provisions
28 of this act, and succeeding the agency heretofore variously designated
29 by the laws of this State as the State Board of Child Welfare or the
30 State Board of Children's 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 "resource family parent" means any person other
19 than a natural or adoptive parent with whom a child in the care,
20 custody or guardianship of the Department of Human Services is
21 placed by the department, or with its approval, for [temporary or
22 long-term] care, and shall include any person with whom a child is
23 placed by the division for the purpose of adoption until the adoption
24 is finalized.

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

33 (j) The singular includes the plural form.

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

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

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

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

46 (o) The term "youth facility aid" means aid provided by the

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

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

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

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

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

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

19 (cf: P.L.2004, c.130, s.47)

20

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

23 1. As used in this act "resource family home" means and includes
24 private residences[, group homes and institutions] wherein any child
25 in the care, custody or guardianship of the [Division of Youth and
26 Family] Department of Human Services[,] may be placed by the
27 department, or with its approval, for [temporary or long-term] care,
28 and shall include any private residence maintained by persons with
29 whom any such child is placed by the [division] Division of Youth and
30 Family Services for the purpose of adoption until the adoption is
31 finalized.

32 (cf: P.L.2004, c.130, s.59)

33

34 6. Section 1 of P.L.1962, c.136 (C30:4C-26.4) is amended to read
35 as follows:

36 1. As used in this act "resource family parent" shall mean any
37 person with whom a child in the care, custody or guardianship of the
38 [Division of Youth and Family] Department of Human Services[,]
39 is placed by the department, or with its approval, for [temporary or
40 long-term] care and shall include any person with whom a child is
41 placed by the [division] Division of Youth and Family Services for the
42 purpose of adoption until the adoption is finalized.

43 (cf: P.L.2004, c.130, s.61)

44

45 7. Section 1 of P.L.1962, c.139 (C.30:4C-26.6) is amended to

1 read as follows:

2 1. As used in this act "resource family parent" shall mean any
3 person with whom a child in the care, custody or guardianship of the
4 ~~[Division of Youth and Family] Department of Human Services[,] is~~
5 ~~placed by the department, or with its approval,~~ for [temporary or
6 long-term] care and shall include any person with whom a child is
7 placed by the [division] Division of Youth and Family Services for the
8 purpose of adoption until the adoption is finalized.

9 (cf: P.L.2004, c.130, s.63)

10

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

13 1. a. A person, in addition to meeting other requirements as may
14 be established by the Department of Human Services, shall become a
15 resource family parent or eligible to adopt a child only upon the
16 completion of an investigation to ascertain if there is a State or federal
17 record of criminal history for the prospective adoptive or resource
18 family parent or any other adult residing in the prospective parent's
19 home. The investigation shall be conducted by the Division of State
20 Police in the Department of Law and Public Safety and shall include
21 an examination of its own files and the obtaining of a similar
22 examination by federal authorities.

23 b. If the prospective resource family parent or any adult residing
24 in the prospective parent's home has a record of criminal history, the
25 Department of Human Services shall review the record with respect to
26 the type and date of the criminal offense and make a determination as
27 to the suitability of the person to become a resource family parent or
28 the suitability of placing a child in that person's home, as the case may
29 be.

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

35 d. A person shall be disqualified from being a resource family
36 parent or shall not be eligible to adopt a child if that person or any
37 adult residing in that person's household ever committed a crime which
38 resulted in a conviction for:

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

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

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

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

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

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

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

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

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

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

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

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

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

22 e. A person shall be disqualified from being a resource family
23 parent if that person or any adult residing in that person's household
24 was convicted of one of the following crimes and the date of release
25 from confinement occurred during the preceding five years:

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

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

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

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

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

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

37 For the purposes of this subsection, the "date of release from
38 confinement" means the date of termination of court-ordered
39 supervision through probation, parole, or residence in a correctional
40 facility, whichever date occurs last.

41 For purposes of this section, "resource family parent" means any
42 person with whom a child in the care, custody or guardianship of the
43 [Division of Youth and] Department of Human Services is placed by
44 the department, or with its approval, for [temporary or long-term]
45 care and shall include any person with whom a child is placed by the
46 [division] Division of Youth and Family Services for the purpose of

1 adoption until the adoption is finalized.

2 (cf: P.L.2004, c.130, s.65)

3

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

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

21 For purposes of this section, "resource family parent" means any
22 person with whom a child in the care, custody or guardianship of the
23 [Division of Youth and] Department of Human Services is placed by
24 the department, or with its approval, for [temporary or long-term]
25 care and shall [not] include any person with whom a child is placed by
26 the [division] Division of Youth and Family Services for the purpose
27 of adoption until the adoption is finalized.

28 (cf: P.L.2004, c.130, s.66)

29

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

32 1. As used in this act "resource family parent" shall mean any
33 person with whom a child in the care, custody or guardianship of the
34 [Division of Youth and Family] Department of Human Services[,] is
35 placed by the department, or with its approval, for [temporary or
36 long-term] care and shall include any person with whom a child is
37 placed by the [division] Division of Youth and Family Services for the
38 purpose of adoption until the adoption is finalized.

39 (cf: P.L.2004, c.130, s.68)

40

41 11. 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
46 (C.9:17B-2); and is under the care or custody of the division or

1 another public or private agency authorized to place children in New
2 Jersey.

3 "Commissioner" means the Commissioner of Human Services.

4 "Department" means the Department of Human Services.

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

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

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

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

23 (cf: P.L.2004, c.130, s.72)

24

25 12. Section 3 of P.L.1973, c.81 (C.30:4C-47) is amended to read
26 as follows:

27 3. Payments in subsidization of adoption shall include but are not
28 limited to the maintenance costs, medical and surgical expenses, and
29 other costs incidental to the care, training and education of the child.
30 Such payments may not exceed the cost of providing comparable
31 assistance in [foster] resource family care and shall not be made after
32 the adoptive child becomes 18 years of age, except that payments [not
33 to exceed 80% of the costs] shall be made until the child becomes 21
34 years of age [when it is determined by the Division of Youth and
35 Family Services that the needs of the child cannot be adequately met
36 without the payments] if the child is enrolled as a student of a
37 secondary school or its equivalent.

38 (cf: P.L.1983, c.484, s.2)

39

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

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

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

44 b. "Child placed outside his home" means a child under the care,
45 custody or guardianship of the division[[], through voluntary agreement
46 or court order,[]] who resides in a resource family home, group home,

1 residential treatment facility, shelter for the care of abused or
2 neglected children or juveniles considered as juvenile-family crisis
3 cases, or independent living arrangement operated by or approved for
4 payment by the division, or a child who has been placed by the division
5 in the home of a person who is not related to the child and does not
6 receive any payment for the care of the child from the division, or a
7 child placed by the court in juvenile-family crisis cases pursuant to
8 P.L.1982, c.77 (C.2A:4A-20 et seq.), but does not include a child
9 placed by the court in the home of a person related to the child who
10 does not receive any payment from the division for the care of the
11 child;

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

14 d. "Division" means the Division of Youth and Family Services in
15 the Department of Human Services;

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

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

22 (cf: P.L.2004, c.130, s.83)

23

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

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

36 If the division has documented an exception to the requirement to
37 provide reasonable efforts towards family reunification, the court shall
38 make a finding of whether reasonable efforts are required in
39 accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). The
40 child's health, safety and need for permanency shall be of paramount
41 concern to the court when it makes its finding.

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

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

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

46 or

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

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

12 (cf: P.L.1999, c.53, s.43)

13

14 15. Section 7 of P.L.2001, c.250 (C.30:4C-84) is amended to read
15 as follows:

16 7. As used in sections 7 through 10 of P.L.2001, c.250
17 (C.30:4C-84 et seq.):

18 "Caregiver" means a person over 18 years of age, other than a
19 child's parent, who has a kinship relationship with the child and has
20 been providing care and support for the child, while the child has been
21 residing in the caregiver's home, for [at least] either the last 12
22 consecutive months or 15 of the last 22 months.

23 "Child" means a person under 18 years of age, except as otherwise
24 provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

25 "Commissioner" means the Commissioner of Human Services.

26 "Court" means the Superior Court, Chancery Division, Family Part.

27 "Division" means the Division of Youth and Family Services in the
28 Department of Human Services.

29 "Kinship caregiver assessment" means a written report prepared in
30 accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.)
31 and pursuant to regulations adopted by the commissioner.

32 "Kinship legal guardian" means a caregiver who is willing to assume
33 care of a child due to parental incapacity, with the intent to raise the
34 child to adulthood, and who is appointed the kinship legal guardian of
35 the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.).
36 A kinship legal guardian shall be responsible for the care and
37 protection of the child and for providing for the child's health,
38 education and maintenance.

39 "Kinship relationship" means a family friend or a person with a
40 biological or legal relationship with the child.

41 (cf: P.L.2001, c.250, s.7)

42

43 16. Section 8 of P.L.2001, c.250 (C.30:4C-85) is amended to read
44 as follow:

45 8. a. In the case of a child who has been removed from his home by
46 the division within the last 12 months, or for whom the division has an

1 open or currently active case and where legal representation is
2 currently being provided by the Office of the Public Defender either
3 through its Law Guardian Program or Parental Representation Unit:

4 (1) The kinship caregiver assessment required pursuant to section
5 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by the division,
6 at no cost to the caregiver.

7 (2) An indigent parent and child shall be afforded the same right to
8 legal counsel and representation as in actions under P.L.1974, c.119
9 (C.9:6-8.21 et seq.) and section 54 of P.L.1999, c.53 (C.30:4C-15.4).

10 (3) In cases where the child has been placed in the caregiver's home
11 by the division and the child has resided in the caregiver's home for [at
12 least] either the last 12 consecutive months or 15 of the last 22
13 months, the caregiver shall obtain the consent of the division in order
14 to petition the court for the appointment of the caregiver as kinship
15 legal guardian of the child. The appointment of a kinship legal
16 guardian for a child shall be considered by the court as the permanent
17 placement for the child.

18 b. In all cases other than those specified in subsection a. of this
19 section:

20 (1) The kinship caregiver assessment required pursuant to section
21 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by an agency
22 in accordance with regulations adopted by the commissioner.

23 (2) The costs for the kinship caregiver assessment shall be borne
24 by the department in cases where a financially eligible individual is
25 applying for cash assistance under a kinship care program or pilot
26 program provided by the department, for which kinship legal
27 guardianship is a requirement for receiving such assistance. For all
28 other cases under this subsection, the caregiver shall be responsible for
29 all of the costs of the kinship caregiver assessment.

30 (cf: P.L.2001, c.250, s.8)

31

32 17. 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
45 Health Services.

46 f. "Medicaid" means the New Jersey Medical Assistance and

1 Health 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 [temporary assistance for needy families] aid to families with
18 dependent children program under the State Plan for Title IV-A of the
19 federal 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 [temporary assistance for needy
28 families] aid to families with dependent children program under the
29 State Plan for Title IV-A of the federal Social Security Act as of July
30 16, 1996, except for failure to meet an eligibility condition or
31 requirement imposed under such State program which is prohibited
32 under Title XIX of the federal Social Security Act such as a durational
33 residency requirement, relative responsibility, consent to imposition of
34 a lien;

35 (5) (Deleted by amendment, P.L.2000, c.71).

36 (6) Is an individual under 21 years of age who, without regard to
37 resources, would be, except for dependent child requirements, eligible
38 for the [temporary assistance for needy families] aid to families with
39 dependent children program under the State Plan for Title IV-A of the
40 federal Social Security Act as of July 16, 1996, or groups of such
41 individuals, including but not limited to, children in resource family
42 placement under supervision of the Division of Youth and Family
43 Services whose maintenance is being paid in whole or in part from
44 public funds, children placed in a resource family home or institution
45 by a private adoption agency in New Jersey or children in intermediate
46 care facilities, including developmental centers for the developmentally

- 1 disabled, or in psychiatric hospitals;
- 2 (7) Would be eligible for the Supplemental Security Income
3 program, but is not receiving such assistance and applies for medical
4 assistance only;
- 5 (8) Is determined to be medically needy and meets all the eligibility
6 requirements described below:
- 7 (a) The following individuals are eligible for services, if they are
8 determined to be medically needy:
- 9 (i) Pregnant women;
- 10 (ii) Dependent children under the age of 21;
- 11 (iii) Individuals who are 65 years of age and older; and
- 12 (iv) Individuals who are blind or disabled pursuant to either 42
13 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.
- 14 (b) The following income standard shall be used to determine
15 medically needy eligibility:
- 16 (i) For one person and two person households, the income
17 standard shall be the maximum allowable under federal law, but shall
18 not exceed 133 1/3% of the State's payment level to two person
19 households under the temporary assistance for needy families aid to
20 families with dependent children program under the State Plan for
21 Title IV-A of the federal Social Security Act in effect as of July 16,
22 1996; and
- 23 (ii) For households of three or more persons, the income standard
24 shall be set at 133 1/3% of the State's payment level to similar size
25 households under the temporary assistance for needy families aid to
26 families with dependent children program under the State Plan for
27 Title IV-A of the federal Social Security Act in effect as of July 16,
28 1996.
- 29 (c) The following resource standard shall be used to determine
30 medically needy eligibility:
- 31 (i) For one 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(1)(B);
- 34 (ii) For two person households, the resource standard shall be
35 200% of the resource standard for recipients of Supplemental Security
36 Income pursuant to 42 U.S.C. s.1382(2)(B);
- 37 (iii) For households of three or more persons, the resource
38 standard in subparagraph (c)(ii) above shall be increased by \$100.00
39 for each additional person; and
- 40 (iv) The resource standards established in (i), (ii), and (iii) are
41 subject to federal approval and the resource standard may be lower if
42 required by the federal Department of Health and Human Services.
- 43 (d) Individuals whose income exceeds those established in
44 subparagraph (b) of paragraph (8) of this subsection may become
45 medically needy by incurring medical expenses as defined in 42
46 C.F.R.435.831(c) which will reduce their income to the applicable

1 medically needy income established in subparagraph (b) of paragraph
2 (8) of this subsection.

3 (e) A six-month period shall be used to determine whether an
4 individual is medically needy.

5 (f) Eligibility determinations for the medically needy program shall
6 be administered as follows:

7 (i) County welfare agencies and other entities designated by the
8 commissioner are responsible for determining and certifying the
9 eligibility of pregnant women and dependent children. The division
10 shall reimburse county welfare agencies for 100% of the reasonable
11 costs of administration which are not reimbursed by the federal
12 government for the first 12 months of this program's operation.
13 Thereafter, 75% of the administrative costs incurred by county welfare
14 agencies which are not reimbursed by the federal government shall be
15 reimbursed by the division;

16 (ii) The division is responsible for certifying the eligibility of
17 individuals who are 65 years of age and older and individuals who are
18 blind or disabled. The division may enter into contracts with county
19 welfare agencies to determine certain aspects of eligibility. In such
20 instances the division shall provide county welfare agencies with all
21 information the division may have available on the individual.

22 The division shall notify all eligible recipients of the Pharmaceutical
23 Assistance to the Aged and Disabled program, P.L.1975, c.194
24 (C.30:4D-20 et seq.) on an annual basis of the medically needy
25 program and the program's general requirements. The division shall
26 take all reasonable administrative actions to ensure that
27 Pharmaceutical Assistance to the Aged and Disabled recipients, who
28 notify the division that they may be eligible for the program, have their
29 applications processed expeditiously, at times and locations convenient
30 to the recipients; and

31 (iii) The division is responsible for certifying incurred medical
32 expenses for all eligible persons who attempt to qualify for the
33 program pursuant to subparagraph (d) of paragraph (8) of this
34 subsection;

35 (9) (a) Is a child who is at least one year of age and under 19 years
36 of age and, if older than six years of age but under 19 years of age, is
37 uninsured; and

38 (b) Is a member of a family whose income does not exceed 133%
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);

42 (10) Is a pregnant woman who is determined by a provider to be
43 presumptively eligible for medical assistance based on criteria
44 established by the commissioner, pursuant to section 9407 of
45 Pub.L.99-509 (42 U.S.C. s.1396a(a));

46 (11) Is an individual 65 years of age and older, or an individual

1 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
2 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
3 level, adjusted for family size, and whose resources do not exceed
4 100% of the resource standard used to determine medically needy
5 eligibility pursuant to paragraph (8) of this subsection;

6 (12) Is a qualified disabled and working individual pursuant to
7 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
8 does not exceed 200% of the poverty level and whose resources do
9 not exceed 200% of the resource standard used to determine eligibility
10 under the Supplemental Security Income Program, P.L.1973, c.256
11 (C.44:7-85 et seq.);

12 (13) Is a pregnant woman or is a child who is under one year of
13 age and is a member of a family whose income does not exceed 185%
14 of the poverty level and who meets the federal Medicaid eligibility
15 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
16 s.1396a), except that a pregnant woman who is determined to be a
17 qualified applicant shall, notwithstanding any change in the income of
18 the family of which she is a member, continue to be deemed a qualified
19 applicant until the end of the 60-day period beginning on the last day
20 of her pregnancy;

21 (14) (Deleted by amendment, P.L.1997, c.272).

22 (15) (a) Is a specified low-income Medicare beneficiary pursuant to
23 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
24 1993 do not exceed 200% of the resource standard used to determine
25 eligibility under the Supplemental Security Income program, P.L.1973,
26 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
27 1993 does not exceed 110% of the poverty level, and beginning
28 January 1, 1995 does not exceed 120% of the poverty level.

29 (b) An individual who has, within 36 months, or within 60 months
30 in the case of funds transferred into a trust, of applying to be a
31 qualified applicant for Medicaid services in a nursing facility or a
32 medical institution, or for home or community-based services under
33 section 1915(c) of the federal Social Security Act (42 U.S.C.
34 s.1396n(c)), disposed of resources or income for less than fair market
35 value shall be ineligible for assistance for nursing facility services, an
36 equivalent level of services in a medical institution, or home or
37 community-based services under section 1915(c) of the federal Social
38 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
39 shall be the number of months resulting from dividing the
40 uncompensated value of the transferred resources or income by the
41 average monthly private payment rate for nursing facility services in
42 the State as determined annually by the commissioner. In the case of
43 multiple resource or income transfers, the resulting penalty periods
44 shall be imposed sequentially. Application of this requirement shall be
45 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
46 this provision is effective for all transfers of resources or income made

1 on or after August 11, 1993. Notwithstanding the provisions of this
2 subsection to the contrary, the State eligibility requirements
3 concerning resource or income transfers shall not be more restrictive
4 than those enacted pursuant to 42 U.S.C. s.1396p(c).

5 (c) An individual seeking nursing facility services or home or
6 community-based services and who has a community spouse shall be
7 required to expend those resources which are not protected for the
8 needs of the community spouse in accordance with section 1924(c) of
9 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
10 of long-term care, burial arrangements, and any other expense deemed
11 appropriate and authorized by the commissioner. An individual shall
12 be ineligible for Medicaid services in a nursing facility or for home or
13 community-based services under section 1915(c) of the federal Social
14 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
15 violation of this subparagraph. The period of ineligibility shall be the
16 number of months resulting from dividing the uncompensated value of
17 transferred resources and income by the average monthly private
18 payment rate for nursing facility services in the State as determined by
19 the commissioner. The period of ineligibility shall begin with the
20 month that the individual would otherwise be eligible for Medicaid
21 coverage for nursing facility services or home or community-based
22 services.

23 This subparagraph shall be operative only if all necessary approvals
24 are received from the federal government including, but not limited to,
25 approval of necessary State plan amendments and approval of any
26 waivers;

27 (16) Subject to federal approval under Title XIX of the federal
28 Social Security Act, is a dependent child, parent or specified caretaker
29 relative of a child who is a qualified applicant, who would be eligible,
30 without regard to resources, for the [temporary assistance for needy
31 families] aid to families with dependent children program under the
32 State Plan for Title IV-A of the federal Social Security Act as of July
33 16, 1996, except for the income eligibility requirements of that
34 program, and whose family earned income does not exceed 133% of
35 the poverty level plus such earned income disregards as shall be
36 determined according to a methodology to be established by regulation
37 of the commissioner;

38 (17) Is an individual from 18 through 20 years of age who is not
39 a dependent child and would be eligible for medical assistance
40 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
41 income or resources, who, on the individual's 18th birthday was in
42 resource family care under the care and custody of the Division of
43 Youth and Family Services and whose maintenance was being paid in
44 whole or in part from public funds;

45 (18) Is a person between the ages of 16 and 65 who is permanently
46 disabled and working, and:

- 1 (a) whose income is at or below 250% of the poverty level, plus
2 other established disregards;
- 3 (b) who pays the premium contribution and other cost sharing as
4 established by the commissioner, subject to the limits and conditions
5 of federal law; and
- 6 (c) whose assets, resources and unearned income do not exceed
7 limitations as established by the commissioner; or
- 8 (19) Is an uninsured individual under 65 years of age who:
- 9 (a) has been screened for breast or cervical cancer under the
10 federal Centers for Disease Control and Prevention breast and cervical
11 cancer early detection program;
- 12 (b) requires treatment for breast or cervical cancer based upon
13 criteria established by the commissioner;
- 14 (c) has an income that does not exceed the income standard
15 established by the commissioner pursuant to federal guidelines;
- 16 (d) meets all other Medicaid eligibility requirements; and
- 17 (e) in accordance with Pub.L.106-354, is determined by a qualified
18 entity to be presumptively eligible for medical assistance pursuant to
19 42 U.S.C. s.1396a(aa), based upon criteria established by the
20 commissioner pursuant to section 1920B of the federal Social Security
21 Act (42 U.S.C. s.1396r-1b).
- 22 j. "Recipient" means any qualified applicant receiving benefits
23 under this act.
- 24 k. "Resident" means a person who is living in the State voluntarily
25 with the intention of making his home here and not for a temporary
26 purpose. Temporary absences from the State, with subsequent returns
27 to the State or intent to return when the purposes of the absences have
28 been accomplished, do not interrupt continuity of residence.
- 29 l. "State Medicaid Commission" means the Governor, the
30 Commissioner of Human Services, the President of the Senate and the
31 Speaker of the General Assembly, hereby constituted a commission to
32 approve and direct the means and method for the payment of claims
33 pursuant to this act.
- 34 m. "Third party" means any person, institution, corporation,
35 insurance company, group health plan as defined in section 607(1) of
36 the federal "Employee Retirement and Income Security Act of 1974,"
37 29 U.S.C. s.1167(1), service benefit plan, health maintenance
38 organization, or other prepaid health plan, or public, private or
39 governmental entity who is or may be liable in contract, tort, or
40 otherwise by law or equity to pay all or part of the medical cost of
41 injury, disease or disability of an applicant for or recipient of medical
42 assistance payable under this act.
- 43 n. "Governmental peer grouping system" means a separate class
44 of skilled nursing and intermediate care facilities administered by the
45 State or county governments, established for the purpose of screening
46 their reported costs and setting reimbursement rates under the

- 1 Medicaid program that are reasonable and adequate to meet the costs
2 that must be incurred by efficiently and economically operated State
3 or county skilled nursing and intermediate care facilities.
- 4 o. "Comprehensive maternity or pediatric care provider" means
5 any person or public or private health care facility that is a provider
6 and that is approved by the commissioner to provide comprehensive
7 maternity care or comprehensive pediatric care as defined in
8 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
9 (C.30:4D-6).
- 10 p. "Poverty level" means the official poverty level based on family
11 size established and adjusted under Section 673(2) of Subtitle B, the
12 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
13 s.9902(2)).
- 14 q. "Eligible alien" means one of the following:
- 15 (1) an alien present in the United States prior to August 22, 1996,
16 who is:
- 17 (a) a lawful permanent resident;
- 18 (b) a refugee pursuant to section 207 of the federal "Immigration
19 and Nationality Act" (8 U.S.C. s.1157);
- 20 (c) an asylee pursuant to section 208 of the federal "Immigration
21 and Nationality Act" (8 U.S.C. s.1158);
- 22 (d) an alien who has had deportation withheld pursuant to section
23 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
24 s.1253 (h));
- 25 (e) an alien who has been granted parole for less than one year by
26 the U.S. Citizenship and Immigration Services pursuant to section
27 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C.
28 s.1182(d)(5));
- 29 (f) an alien granted conditional entry pursuant to section 203(a)(7)
30 of the federal "Immigration and Nationality Act" (8 U.S.C.
31 s.1153(a)(7)) in effect prior to April 1, 1980; or
- 32 (g) an alien who is honorably discharged from or on active duty in
33 the United States armed forces and the alien's spouse and unmarried
34 dependent child.
- 35 (2) An alien who entered the United States on or after August 22,
36 1996, who is:
- 37 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
38 subsection; or
- 39 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
40 subsection who entered the United States at least five years ago.
- 41 (3) A legal alien who is a victim of domestic violence in
42 accordance with criteria specified for eligibility for public benefits as
43 provided in Title V of the federal "Illegal Immigration Reform and
44 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).
45 (cf: P.L.2004, c.130, s.93)

1 18. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill seeks to improve the quality of services provided by the
7 State to children and families in the child welfare system by making
8 technical and substantive changes to various parts of statutory law
9 regarding the Division of Youth and Family Services (DYFS) in the
10 Department of Human Services.

11 Specifically the bill amends:

12 -- N.J.S.A.9:6-8.21 to specify that a parent's paramour shall be
13 defined as a "parent or guardian";

14 -- N.J.S.A.9:6-8.46 to clarify that administrative hearings held
15 before the Office of Administrative Law are subject to the rules of
16 evidence;

17 -- N.J.S.A.30:1-9 to provide that assistant commissioners, as well
18 as division directors, may supervise divisions within the Department
19 of Human Services;

20 --various sections of law that define "resource family home" and
21 "resource family parent," to make the definitions uniform, throughout
22 Title 30. Amendments also delete references to temporary or long-
23 term care, and clarify that these terms include a home or person with
24 whom DYFS places a child, under the care, custody or guardianship
25 of the Department of Human Services, for the purpose of adoption
26 until the adoption is finalized;

27 --N.J.S.A.30:4C-27.5, concerning the licensing of resource family
28 parents, to clarify that the definition of "resource family parent" shall
29 include a person licensed to provide resource family care to a child
30 who has been placed by DYFS with the person for the sole purpose of
31 adoption. Currently, only certain preadoptive parents are licensed as
32 resource family parents;

33 --N.J.S.A.30:4C-47 to stipulate that adoption subsidy payments
34 may not exceed the cost of providing comparable assistance in
35 resource family care and shall not be made after the adoptive child
36 reaches the age of 18, and to clarify that subsidy payments shall cover
37 the full costs of providing care for an adoptive child (rather than the
38 current 80% limit) until the child reaches the age of 21, if the child is
39 enrolled as a student of a secondary school or its equivalent;

40 --N.J.S.A.30:4C-52 to delete a reference to placement through
41 "voluntary agreement or court order" in the definition of "child placed
42 outside the home." This change reflects the elimination of the use of
43 voluntary out-of-home placements by DYFS as outlined in the
44 department's child welfare reform plan. However, under current law,
45 guardianship may still be secured through a voluntary surrender for the
46 purposes of adoption, and DYFS will continue to seek protective

1 custody of a child through a court order pursuant to the provisions of
2 Title 9 of the Revised Statutes (Children);

3 --N.J.S.A.30:4C-47 and 30:4C-54 to update a reference to "foster
4 family" with "resource family";

5 --N.J.S.A.30:4C-84 and 30:4C-85, regarding kinship relationships,
6 to clarify that the definition of "caregiver" includes a person with
7 whom a child has been residing for either the last 12 consecutive
8 months or 15 of the last 22 months; and

9 --N.J.S.A.30:4D-3, concerning the Medicaid program, to make a
10 technical correction to replace references to "temporary assistance for
11 needy families" with "aid to families with dependent children."

12

13

14

15

16 Updates provisions in Titles 9 and 30 of the Revised Statutes to
17 conform with DYFS child welfare reform plan.

SENATE, No. 2664

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 16, 2005

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Assemblywoman MARY T. PREVITE

District 6 (Camden)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Co-Sponsored by:

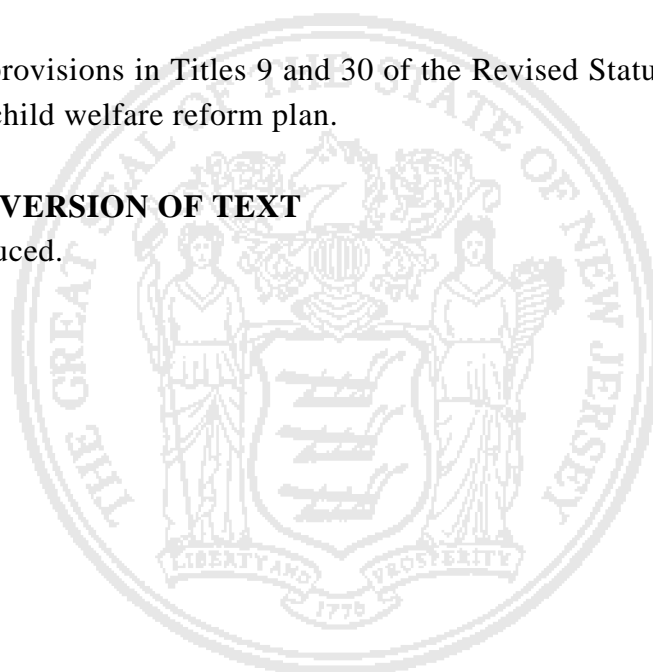
Senators Karcher, Rice, T.Kean, Assemblymen Conaway and Connors

SYNOPSIS

Updates provisions in Titles 9 and 30 of the Revised Statutes to conform with DYFS child welfare reform plan.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2005)

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

9 1. As used in this act, unless the specific context indicates
10 otherwise:

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

23 b. "Child" means any child alleged to have been abused or
24 neglected.

25 c. "Abused or neglected child" means a child less than 18 years of
26 age whose parent or guardian, as herein defined, (1) inflicts or allows
27 to be inflicted upon such child physical injury by other than accidental
28 means which causes or creates a substantial risk of death, or serious
29 or protracted disfigurement, or protracted impairment of physical or
30 emotional health or protracted loss or impairment of the function of
31 any bodily organ; (2) creates or allows to be created a substantial or
32 ongoing risk of physical injury to such child by other than accidental
33 means which would be likely to cause death or serious or protracted
34 disfigurement, or protracted loss or impairment of the function of any
35 bodily organ; (3) commits or allows to be committed an act of sexual
36 abuse against the child; (4) or a child whose physical, mental, or
37 emotional condition has been impaired or is in imminent danger of
38 becoming impaired as the result of the failure of his parent or
39 guardian, as herein defined, to exercise a minimum degree of care (a)
40 in supplying the child with adequate food, clothing, shelter, education,
41 medical or surgical care though financially able to do so or though
42 offered financial or other reasonable means to do so, or (b) in
43 providing the child with proper supervision or guardianship, by

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 unreasonably inflicting or allowing to be inflicted harm, or substantial
2 risk thereof, including the infliction of excessive corporal punishment;
3 or by any other acts of a similarly serious nature requiring the aid of
4 the court; (5) or a child who has been willfully abandoned by his
5 parent or guardian, as herein defined; (6) or a child upon whom
6 excessive physical restraint has been used under circumstances which
7 do not indicate that the child's behavior is harmful to himself, others
8 or property; (7) or a child who is in an institution and (a) has been
9 placed there inappropriately for a continued period of time with the
10 knowledge that the placement has resulted or may continue to result
11 in harm to the child's mental or physical well-being or (b) who has
12 been willfully isolated from ordinary social contact under
13 circumstances which indicate emotional or social deprivation.

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

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

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

27 e. "Attorney" means an attorney admitted to the practice of law
28 in this State who shall be privately retained; or, in the instance of an
29 indigent parent or guardian, an attorney from the Office of the Public
30 Defender or an attorney appointed by the court who shall be appointed
31 in order to avoid conflict between the interests of the child and the
32 parent or guardian in regard to representation.

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

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

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

45 (cf: P.L.2004, c.130, s.27)

1 2. Section 26 of P.L.1974, c.119 (C.9:6-8.46) is amended to read
2 as follows:

3 26. a. In any hearing under this act, including an administrative
4 hearing held in accordance with the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), (1) proof of the abuse or
6 neglect of one child shall be admissible evidence on the issue of the
7 abuse or neglect of any other child of, or the responsibility of, the
8 parent or guardian and (2) proof of injuries sustained by a child or of
9 the condition of a child of such a nature as would ordinarily not be
10 sustained or exist except by reason of the acts or omissions of the
11 parent or guardian shall be prima facie evidence that a child of, or who
12 is the responsibility of such person is an abused or neglected child, and
13 (3) any writing, record or photograph, whether in the form of an entry
14 in a book or otherwise, made as a memorandum or record of any
15 condition, act, transaction, occurrence or event relating to a child in
16 an abuse or neglect proceeding of any hospital or any other public or
17 private institution or agency shall be admissible in evidence in proof of
18 that condition, act, transaction, occurrence or event, if the judge finds
19 that it was made in the regular course of the business of any hospital
20 or any other public or private institution or agency, and that it was in
21 the regular course of such business to make it, at the time of the
22 condition, act, transaction, occurrence or event, or within a reasonable
23 time thereafter, shall be prima facie evidence of the facts contained in
24 such certification. A certification by someone other than the head of
25 the hospital or agency shall be accompanied by a photocopy of a
26 delegation of authority signed by both the head of the hospital or
27 agency and by such other employees. All other circumstances of the
28 making of the memorandum, record or photograph, including lack of
29 personal knowledge of the making, may be proved to affect its
30 weight, but they shall not affect its admissibility and (4) previous
31 statements made by the child relating to any allegations of abuse or
32 neglect shall be admissible in evidence; provided, however, that no
33 such statement, if uncorroborated, shall be sufficient to make a fact
34 finding of abuse or neglect.

35 b. In a fact-finding hearing (1) any determination that the child is
36 an abused or neglected child must be based on a preponderance of the
37 evidence and (2) only competent, material and relevant evidence may
38 be admitted.

39 c. In a dispositional hearing and during all other stages of a
40 proceeding under this act, only material and relevant evidence may be
41 admitted.

42 (cf: P. L.1977, c.209, s.22)

43

44 3. R.S.30:1-9 is amended to read as follows:

45 30:1-9. The commissioner may create within the department such
46 divisions as he may deem necessary. Each division shall be under the

1 supervision of a director or assistant commissioner, who shall be
2 qualified by training and experience, appointed by and receive the
3 compensation fixed by the commissioner, except where otherwise
4 provided by statute, and shall devote his entire time to the
5 performance of his duties.

6 The commissioner may in his discretion combine the duties of two
7 or more divisions under one head.

8 The division directors or assistant commissioners shall perform such
9 services and exercise such powers at such times and places as the
10 commissioner shall prescribe.

11 (cf: P.L.1974, c.44, s.2)

12

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

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

18 (a) The term "Division of Youth and Family Services," or
19 "division," successor to the "Bureau of Children's Services" means the
20 State agency for the care, custody, guardianship, maintenance and
21 protection of children, as more specifically described by the provisions
22 of this act, and succeeding the agency heretofore variously designated
23 by the laws of this State as the State Board of Child Welfare or the
24 State Board of Children's Guardians.

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

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

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

33 (e) The term "guardianship" means control over the person and
34 property of a child as established by the order of a court of competent
35 jurisdiction, and as more specifically defined by the provisions of this
36 act. Guardianship by the Division of Youth and Family Services shall
37 be treated as guardianship by the Commissioner of Human Services
38 exercised on his behalf wholly by and in the name of the Division of
39 Youth and Family Services, acting through the chief executive officer
40 of the division or his authorized representative. Such exercise of
41 guardianship by the division shall be at all times and in all respects
42 subject to the supervision of the commissioner.

43 (f) The term "maintenance" means moneys expended by the
44 Division of Youth and Family Services to procure board, lodging,
45 clothing, medical, dental, and hospital care, or any other similar or
46 specialized commodity or service furnished to, on behalf of, or for a

1 child pursuant to the provisions of this act; maintenance also includes
2 but is not limited to moneys expended for shelter, utilities, food,
3 repairs, essential household equipment, and other expenditures to
4 remedy situations of an emergent nature to permit, as far as
5 practicable, children to continue to live with their families.

6 (g) The term "welfare services" means consultation, counseling,
7 and referral to or utilization of available resources, for the purpose of
8 determining and correcting or adjusting matters and circumstances
9 which are endangering the welfare of a child, and for the purpose of
10 promoting his proper development and adjustment in the family and
11 the community.

12 (h) The term "resource family parent" means any person other
13 than a natural or adoptive parent with whom a child in the care,
14 custody or guardianship of the Department of Human Services is
15 placed by the department, or with its approval, for [temporary or
16 long-term] care, and shall include any person with whom a child is
17 placed by the division for the purpose of adoption until the adoption
18 is finalized.

19 (i) The term "resource family home" means and includes private
20 residences[, group homes, residential facilities and institutions]
21 wherein any child in the care, custody or guardianship of the
22 Department of Human Services may be placed by the department, or
23 with its approval, for [temporary or long-term] care, and shall include
24 any private residence maintained by persons with whom any such child
25 is placed by the division for the purpose of adoption until the adoption
26 is finalized.

27 (j) The singular includes the plural form.

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

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

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

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

40 (o) The term "youth facility aid" means aid provided by the
41 Division of Youth and Family Services to public, private or voluntary
42 agencies to purchase, construct, renovate, repair, upgrade or
43 otherwise improve a youth facility in consideration for an agreement
44 for the agency to provide residential care, day treatment or other
45 youth services for children in need of such services.

46 (p) The term "day treatment center" means a facility used to

1 provide counseling, supplemental educational services, therapy, and
2 other related services to children for whom it has been determined that
3 such services are necessary, but is not used to house these children in
4 a residential setting.

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

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

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

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

13 (cf: P.L.2004, c.130, s.47)

14

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

17 1. As used in this act "resource family home" means and includes
18 private residences[, group homes and institutions] wherein any child
19 in the care, custody or guardianship of the [Division of Youth and
20 Family] Department of Human Services[,] may be placed by the
21 department, or with its approval, for [temporary or long-term] care,
22 and shall include any private residence maintained by persons with
23 whom any such child is placed by the [division] Division of Youth and
24 Family Services for the purpose of adoption until the adoption is
25 finalized.

26 (cf: P.L.2004, c.130, s.59)

27

28 6. Section 1 of P.L.1962, c.136 (C30:4C-26.4) is amended to read
29 as follows:

30 1. As used in this act "resource family parent" shall mean any
31 person with whom a child in the care, custody or guardianship of the
32 [Division of Youth and Family] Department of Human Services[,]
33 is placed by the department, or with its approval, for [temporary or
34 long-term] care and shall include any person with whom a child is
35 placed by the [division] Division of Youth and Family Services for the
36 purpose of adoption until the adoption is finalized.

37 (cf: P.L.2004, c.130, s.61)

38

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

41 1. As used in this act "resource family parent" shall mean any
42 person with whom a child in the care, custody or guardianship of the
43 [Division of Youth and Family] Department of Human Services[,] is
44 placed by the department, or with its approval, for [temporary or
45 long-term] care and shall include any person with whom a child is

1 placed by the [division] Division of Youth and Family Services for the
2 purpose of adoption until the adoption is finalized.
3 (cf: P.L.2004, c.130, s.63)

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

7 1. a. A person, in addition to meeting other requirements as may
8 be established by the Department of Human Services, shall become a
9 resource family parent or eligible to adopt a child only upon the
10 completion of an investigation to ascertain if there is a State or federal
11 record of criminal history for the prospective adoptive or resource
12 family parent or any other adult residing in the prospective parent's
13 home. The investigation shall be conducted by the Division of State
14 Police in the Department of Law and Public Safety and shall include
15 an examination of its own files and the obtaining of a similar
16 examination by federal authorities.

17 b. If the prospective resource family parent or any adult residing
18 in the prospective parent's home has a record of criminal history, the
19 Department of Human Services shall review the record with respect to
20 the type and date of the criminal offense and make a determination as
21 to the suitability of the person to become a resource family parent or
22 the suitability of placing a child in that person's home, as the case may
23 be.

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

29 d. A person shall be disqualified from being a resource family
30 parent or shall not be eligible to adopt a child if that person or any
31 adult residing in that person's household ever committed a crime which
32 resulted in a conviction for:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 e. A person shall be disqualified from being a resource family
17 parent if that person or any adult residing in that person's household
18 was convicted of one of the following crimes and the date of release
19 from confinement 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] Department of Human Services** is placed by
38 the department, or with its approval, for **[temporary or long-term]**
39 care and shall include any person with whom a child is placed by the
40 **[division] Division of Youth and Family Services** for the purpose of
41 adoption until the adoption is finalized.

42 (cf: P.L.2004, c.130, s.65)

43

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

46 1. The Department of Human Services may grant approval to a

1 prospective resource family parent for a period not to exceed six
2 months, upon completion of the State portion of the criminal history
3 record investigation required pursuant to P.L.1985, c.396
4 (C.30:4C-26.8), pending completion and review of the federal portion
5 of the criminal history record investigation required pursuant to that
6 act, if (1) the State portion of the criminal history record investigation
7 indicates no information which would disqualify the person, (2) the
8 prospective resource family parent and any adult residing in the
9 prospective resource family parent's home submit a sworn statement
10 to the Department of Human Services attesting that the person does
11 not have a record of criminal history which would disqualify the
12 person and (3) there is substantial compliance with department
13 standards for resource family homes indicating there is no risk to a
14 child's health or safety.

15 For purposes of this section, "resource family parent" means any
16 person with whom a child in the care, custody or guardianship of the
17 [Division of Youth and] Department of Human Services is placed by
18 the department, or with its approval, for [temporary or long-term]
19 care and shall [not] include any person with whom a child is placed by
20 the [division] Division of Youth and Family Services for the purpose
21 of adoption until the adoption is finalized.

22 (cf: P.L.2004, c.130, s.66)

23

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

26 1. As used in this act "resource family parent" shall mean any
27 person with whom a child in the care, custody or guardianship of the
28 [Division of Youth and Family] Department of Human Services[,] is
29 placed by the department, or with its approval, for [temporary or
30 long-term] care and shall include any person with whom a child is
31 placed by the [division] Division of Youth and Family Services for the
32 purpose of adoption until the adoption is finalized.

33 (cf: P.L.2004, c.130, s.68)

34

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

37 3. As used in this act:

38 "Child" means a person who: is either under the age of 18 or meets
39 the criteria set forth in subsection f. of section 2 of P.L.1972, c.81
40 (C.9:17B-2); and is under the care or custody of the division or
41 another public or private agency authorized to place children in New
42 Jersey.

43 "Commissioner" means the Commissioner of Human Services.

44 "Department" means the Department of Human Services.

45 "Division" means the Division of Youth and Family Services in the
46 Department of Human Services.

1 "Resource family home" or "home" means a private residence, other
2 than a children's group home or shelter home, in which board, lodging,
3 care and temporary out-of-home placement services are provided by
4 a resource family parent on a 24-hour basis to a child under the
5 auspices of the division or any public or private agency authorized to
6 place children in New Jersey.

7 "Resource family parent" means a person who has been licensed
8 pursuant to this act to provide resource family care to five or fewer
9 children, including a child who has been placed by the division with
10 the person for the purpose of adoption, except that the department
11 may license a resource family parent to provide care for more than five
12 children, if necessary, to keep sibling groups intact or to serve the best
13 interests of the children in the home.

14 "License" means a document issued by the department to a person
15 who meets the requirements of this act to provide resource family care
16 to children in the person's home.

17 (cf: P.L.2004, c.130, s.72)

18

19 12. Section 3 of P.L.1973, c.81 (C.30:4C-47) is amended to read
20 as follows:

21 3. Payments in subsidization of adoption shall include but are not
22 limited to the maintenance costs, medical and surgical expenses, and
23 other costs incidental to the care, training and education of the child.
24 Such payments may not exceed the cost of providing comparable
25 assistance in [foster] resource family care and shall not be made after
26 the adoptive child becomes 18 years of age, except that payments [not
27 to exceed 80% of the costs] shall be made until the child becomes 21
28 years of age [when it is determined by the Division of Youth and
29 Family Services that the needs of the child cannot be adequately met
30 without the payments] if the child is enrolled as a student of a
31 secondary school or its equivalent.

32 (cf: P.L.1983, c.484, s.2)

33

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

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

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

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

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

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

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

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

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

16 (cf: P.L.2004, c.130, s.83)

17

18 14. Section 5 of P.L.1977, 424 (C.30:4C-54) is amended to read
19 as follows:

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

30 If the division has documented an exception to the requirement to
31 provide reasonable efforts towards family reunification, the court shall
32 make a finding of whether reasonable efforts are required in
33 accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). The
34 child's health, safety and need for permanency shall be of paramount
35 concern to the court when it makes its finding.

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

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

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

40 or

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

42 The court shall provide written notice to the parties involved in the
43 hearing at least five days prior to the hearing. The court shall provide
44 written notice of the date, time and place of such hearing to the
45 parents or legal guardian of the child, the child or the child's counsel,
46 the child's temporary caretaker, the division, and any other party the

1 court deems appropriate. If the child's caretaker is a [foster] resource
2 family parent, preadoptive parent or relative, the caretaker shall
3 receive written notice of and an opportunity to be heard at the hearing,
4 but the caretaker shall not be made a party to the hearing solely on the
5 basis of the notice and opportunity to be heard.
6 (cf: P.L.1999, c.53, s.43)

7

8 15. Section 7 of P.L.2001, c.250 (C.30:4C-84) is amended to read
9 as follows:

10 7. As used in sections 7 through 10 of P.L.2001, c.250
11 (C.30:4C-84 et seq.):

12 "Caregiver" means a person over 18 years of age, other than a
13 child's parent, who has a kinship relationship with the child and has
14 been providing care and support for the child, while the child has been
15 residing in the caregiver's home, for [at least] either the last 12
16 consecutive months or 15 of the last 22 months.

17 "Child" means a person under 18 years of age, except as otherwise
18 provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

19 "Commissioner" means the Commissioner of Human Services.

20 "Court" means the Superior Court, Chancery Division, Family Part.

21 "Division" means the Division of Youth and Family Services in the
22 Department of Human Services.

23 "Kinship caregiver assessment" means a written report prepared in
24 accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.)
25 and pursuant to regulations adopted by the commissioner.

26 "Kinship legal guardian" means a caregiver who is willing to assume
27 care of a child due to parental incapacity, with the intent to raise the
28 child to adulthood, and who is appointed the kinship legal guardian of
29 the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.).
30 A kinship legal guardian shall be responsible for the care and
31 protection of the child and for providing for the child's health,
32 education and maintenance.

33 "Kinship relationship" means a family friend or a person with a
34 biological or legal relationship with the child.

35 (cf: P.L.2001, c.250, s.7)

36

37 16. Section 8 of P.L.2001, c.250 (C.30:4C-85) is amended to read
38 as follow:

39 8. a. In the case of a child who has been removed from his home by
40 the division within the last 12 months, or for whom the division has an
41 open or currently active case and where legal representation is
42 currently being provided by the Office of the Public Defender either
43 through its Law Guardian Program or Parental Representation Unit:

44 (1) The kinship caregiver assessment required pursuant to section
45 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by the division,
46 at no cost to the caregiver.

1 (2) An indigent parent and child shall be afforded the same right to
2 legal counsel and representation as in actions under P.L.1974, c.119
3 (C.9:6-8.21 et seq.) and section 54 of P.L.1999, c.53 (C.30:4C-15.4).

4 (3) In cases where the child has been placed in the caregiver's home
5 by the division and the child has resided in the caregiver's home for [at
6 least] either the last 12 consecutive months or 15 of the last 22
7 months, the caregiver shall obtain the consent of the division in order
8 to petition the court for the appointment of the caregiver as kinship
9 legal guardian of the child. The appointment of a kinship legal
10 guardian for a child shall be considered by the court as the permanent
11 placement for the child.

12 b. In all cases other than those specified in subsection a. of this
13 section:

14 (1) The kinship caregiver assessment required pursuant to section
15 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by an agency
16 in accordance with regulations adopted by the commissioner.

17 (2) The costs for the kinship caregiver assessment shall be borne
18 by the department in cases where a financially eligible individual is
19 applying for cash assistance under a kinship care program or pilot
20 program provided by the department, for which kinship legal
21 guardianship is a requirement for receiving such assistance. For all
22 other cases under this subsection, the caregiver shall be responsible for
23 all of the costs of the kinship caregiver assessment.

24 (cf: P.L.2001, c.250, s.8)

25
26 17. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
27 as follows:

28 3. Definitions. As used in this act, and unless the context
29 otherwise requires:

30 a. "Applicant" means any person who has made application for
31 purposes of becoming a "qualified applicant."

32 b. "Commissioner" means the Commissioner of Human Services.

33 c. "Department" means the Department of Human Services, which
34 is herein designated as the single State agency to administer the
35 provisions of this act.

36 d. "Director" means the Director of the Division of Medical
37 Assistance and Health Services.

38 e. "Division" means the Division of Medical Assistance and
39 Health Services.

40 f. "Medicaid" means the New Jersey Medical Assistance and
41 Health Services Program.

42 g. "Medical assistance" means payments on behalf of recipients to
43 providers for medical care and services authorized under this act.

44 h. "Provider" means any person, public or private institution,
45 agency or business concern approved by the division lawfully
46 providing medical care, services, goods and supplies authorized under

1 this act, holding, where applicable, a current valid license to provide
2 such services or to dispense such goods or supplies.

3 i. "Qualified applicant" means a person who is a resident of this
4 State, and either a citizen of the United States or an eligible alien, and
5 is determined to need medical care and services as provided under this
6 act, with respect to whom the period for which eligibility to be a
7 recipient is determined shall be the maximum period permitted under
8 federal law, and who:

9 (1) Is a dependent child or parent or caretaker relative of a
10 dependent child who would be, except for resources, eligible for the
11 [temporary assistance for needy families] aid to families with
12 dependent children program under the State Plan for Title IV-A of the
13 federal Social Security Act as of July 16, 1996;

14 (2) Is a recipient of Supplemental Security Income for the Aged,
15 Blind and Disabled under Title XVI of the Social Security Act;

16 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
17 Income for the Aged, Blind and Disabled under Title XVI of the Social
18 Security Act, as defined by the federal Social Security Administration;

19 (4) Would be eligible to receive Supplemental Security Income
20 under Title XVI of the federal Social Security Act or, without regard
21 to resources, would be eligible for the [temporary assistance for needy
22 families] aid to families with dependent children program under the
23 State Plan for Title IV-A of the federal Social Security Act as of July
24 16, 1996, except for failure to meet an eligibility condition or
25 requirement imposed under such State program which is prohibited
26 under Title XIX of the federal Social Security Act such as a durational
27 residency requirement, relative responsibility, consent to imposition of
28 a lien;

29 (5) (Deleted by amendment, P.L.2000, c.71).

30 (6) Is an individual under 21 years of age who, without regard to
31 resources, would be, except for dependent child requirements, eligible
32 for the [temporary assistance for needy families] aid to families with
33 dependent children program under the State Plan for Title IV-A of the
34 federal Social Security Act as of July 16, 1996, or groups of such
35 individuals, including but not limited to, children in resource family
36 placement under supervision of the Division of Youth and Family
37 Services whose maintenance is being paid in whole or in part from
38 public funds, children placed in a resource family home or institution
39 by a private adoption agency in New Jersey or children in intermediate
40 care facilities, including developmental centers for the developmentally
41 disabled, or in psychiatric hospitals;

42 (7) Would be eligible for the Supplemental Security Income
43 program, but is not receiving such assistance and applies for medical
44 assistance only;

45 (8) Is determined to be medically needy and meets all the eligibility
46 requirements described below:

1 (a) The following individuals are eligible for services, if they are
2 determined to be medically needy:

- 3 (i) Pregnant women;
4 (ii) Dependent children under the age of 21;
5 (iii) Individuals who are 65 years of age and older; and
6 (iv) Individuals who are blind or disabled pursuant to either 42
7 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

8 (b) The following income standard shall be used to determine
9 medically needy eligibility:

10 (i) For one person and two person households, the income
11 standard shall be the maximum allowable under federal law, but shall
12 not exceed 133 1/3% of the State's payment level to two person
13 households under the ~~temporary assistance for needy families~~ aid to
14 families with dependent children program under the State Plan for
15 Title IV-A of the federal Social Security Act in effect as of July 16,
16 1996; and

17 (ii) For households of three or more persons, the income standard
18 shall be set at 133 1/3% of the State's payment level to similar size
19 households under the ~~temporary assistance for needy families~~ aid to
20 families with dependent children program under the State Plan for
21 Title IV-A of the federal Social Security Act in effect as of July 16,
22 1996.

23 (c) The following resource standard shall be used to determine
24 medically needy eligibility:

25 (i) For one person households, the resource standard shall be
26 200% of the resource standard for recipients of Supplemental Security
27 Income pursuant to 42 U.S.C. s.1382(1)(B);

28 (ii) For two person households, the resource standard shall be
29 200% of the resource standard for recipients of Supplemental Security
30 Income pursuant to 42 U.S.C. s.1382(2)(B);

31 (iii) For households of three or more persons, the resource
32 standard in subparagraph (c)(ii) above shall be increased by \$100.00
33 for each additional person; and

34 (iv) The resource standards established in (i), (ii), and (iii) are
35 subject to federal approval and the resource standard may be lower if
36 required by the federal Department of Health and Human Services.

37 (d) Individuals whose income exceeds those established in
38 subparagraph (b) of paragraph (8) of this subsection may become
39 medically needy by incurring medical expenses as defined in 42
40 C.F.R.435.831(c) which will reduce their income to the applicable
41 medically needy income established in subparagraph (b) of paragraph
42 (8) of this subsection.

43 (e) A six-month period shall be used to determine whether an
44 individual is medically needy.

45 (f) Eligibility determinations for the medically needy program shall
46 be administered as follows:

1 (i) County welfare agencies and other entities designated by the
2 commissioner are responsible for determining and certifying the
3 eligibility of pregnant women and dependent children. The division
4 shall reimburse county welfare agencies for 100% of the reasonable
5 costs of administration which are not reimbursed by the federal
6 government for the first 12 months of this program's operation.
7 Thereafter, 75% of the administrative costs incurred by county welfare
8 agencies which are not reimbursed by the federal government shall be
9 reimbursed by the division;

10 (ii) The division is responsible for certifying the eligibility of
11 individuals who are 65 years of age and older and individuals who are
12 blind or disabled. The division may enter into contracts with county
13 welfare agencies to determine certain aspects of eligibility. In such
14 instances the division shall provide county welfare agencies with all
15 information the division may have available on the individual.

16 The division shall notify all eligible recipients of the Pharmaceutical
17 Assistance to the Aged and Disabled program, P.L.1975, c.194
18 (C.30:4D-20 et seq.) on an annual basis of the medically needy
19 program and the program's general requirements. The division shall
20 take all reasonable administrative actions to ensure that
21 Pharmaceutical Assistance to the Aged and Disabled recipients, who
22 notify the division that they may be eligible for the program, have their
23 applications processed expeditiously, at times and locations convenient
24 to the recipients; and

25 (iii) The division is responsible for certifying incurred medical
26 expenses for all eligible persons who attempt to qualify for the
27 program pursuant to subparagraph (d) of paragraph (8) of this
28 subsection;

29 (9) (a) Is a child who is at least one year of age and under 19 years
30 of age and, if older than six years of age but under 19 years of age, is
31 uninsured; and

32 (b) Is a member of a family whose income does not exceed 133%
33 of the poverty level and who meets the federal Medicaid eligibility
34 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
35 s.1396a);

36 (10) Is a pregnant woman who is determined by a provider to be
37 presumptively eligible for medical assistance based on criteria
38 established by the commissioner, pursuant to section 9407 of
39 Pub.L.99-509 (42 U.S.C. s.1396a(a));

40 (11) Is an individual 65 years of age and older, or an individual
41 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
42 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
43 level, adjusted for family size, and whose resources do not exceed
44 100% of the resource standard used to determine medically needy
45 eligibility pursuant to paragraph (8) of this subsection;

46 (12) Is a qualified disabled and working individual pursuant to

1 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
2 does not exceed 200% of the poverty level and whose resources do
3 not exceed 200% of the resource standard used to determine eligibility
4 under the Supplemental Security Income Program, P.L.1973, c.256
5 (C.44:7-85 et seq.);

6 (13) Is a pregnant woman or is a child who is under one year of
7 age and is a member of a family whose income does not exceed 185%
8 of the poverty level and who meets the federal Medicaid eligibility
9 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
10 s.1396a), except that a pregnant woman who is determined to be a
11 qualified applicant shall, notwithstanding any change in the income of
12 the family of which she is a member, continue to be deemed a qualified
13 applicant until the end of the 60-day period beginning on the last day
14 of her pregnancy;

15 (14) (Deleted by amendment, P.L.1997, c.272).

16 (15) (a) Is a specified low-income Medicare beneficiary pursuant to
17 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
18 1993 do not exceed 200% of the resource standard used to determine
19 eligibility under the Supplemental Security Income program, P.L.1973,
20 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
21 1993 does not exceed 110% of the poverty level, and beginning
22 January 1, 1995 does not exceed 120% of the poverty level.

23 (b) An individual who has, within 36 months, or within 60 months
24 in the case of funds transferred into a trust, of applying to be a
25 qualified applicant for Medicaid services in a nursing facility or a
26 medical institution, or for home or community-based services under
27 section 1915(c) of the federal Social Security Act (42 U.S.C.
28 s.1396n(c)), disposed of resources or income for less than fair market
29 value shall be ineligible for assistance for nursing facility services, an
30 equivalent level of services in a medical institution, or home or
31 community-based services under section 1915(c) of the federal Social
32 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
33 shall be the number of months resulting from dividing the
34 uncompensated value of the transferred resources or income by the
35 average monthly private payment rate for nursing facility services in
36 the State as determined annually by the commissioner. In the case of
37 multiple resource or income transfers, the resulting penalty periods
38 shall be imposed sequentially. Application of this requirement shall be
39 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
40 this provision is effective for all transfers of resources or income made
41 on or after August 11, 1993. Notwithstanding the provisions of this
42 subsection to the contrary, the State eligibility requirements
43 concerning resource or income transfers shall not be more restrictive
44 than those enacted pursuant to 42 U.S.C. s.1396p(c).

45 (c) An individual seeking nursing facility services or home or
46 community-based services and who has a community spouse shall be

1 required to expend those resources which are not protected for the
2 needs of the community spouse in accordance with section 1924(c) of
3 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
4 of long-term care, burial arrangements, and any other expense deemed
5 appropriate and authorized by the commissioner. An individual shall
6 be ineligible for Medicaid services in a nursing facility or for home or
7 community-based services under section 1915(c) of the federal Social
8 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
9 violation of this subparagraph. The period of ineligibility shall be the
10 number of months resulting from dividing the uncompensated value of
11 transferred resources and income by the average monthly private
12 payment rate for nursing facility services in the State as determined by
13 the commissioner. The period of ineligibility shall begin with the
14 month that the individual would otherwise be eligible for Medicaid
15 coverage for nursing facility services or home or community-based
16 services.

17 This subparagraph shall be operative only if all necessary approvals
18 are received from the federal government including, but not limited to,
19 approval of necessary State plan amendments and approval of any
20 waivers;

21 (16) Subject to federal approval under Title XIX of the federal
22 Social Security Act, is a dependent child, parent or specified caretaker
23 relative of a child who is a qualified applicant, who would be eligible,
24 without regard to resources, for the [temporary assistance for needy
25 families] aid to families with dependent children program under the
26 State Plan for Title IV-A of the federal Social Security Act as of July
27 16, 1996, except for the income eligibility requirements of that
28 program, and whose family earned income does not exceed 133% of
29 the poverty level plus such earned income disregards as shall be
30 determined according to a methodology to be established by regulation
31 of the commissioner;

32 (17) Is an individual from 18 through 20 years of age who is not
33 a dependent child and would be eligible for medical assistance
34 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
35 income or resources, who, on the individual's 18th birthday was in
36 resource family care under the care and custody of the Division of
37 Youth and Family Services and whose maintenance was being paid in
38 whole or in part from public funds;

39 (18) Is a person between the ages of 16 and 65 who is permanently
40 disabled and working, and:

41 (a) whose income is at or below 250% of the poverty level, plus
42 other established disregards;

43 (b) who pays the premium contribution and other cost sharing as
44 established by the commissioner, subject to the limits and conditions
45 of federal law; and

46 (c) whose assets, resources and unearned income do not exceed

- 1 limitations as established by the commissioner; or
- 2 (19) Is an uninsured individual under 65 years of age who:
- 3 (a) has been screened for breast or cervical cancer under the
- 4 federal Centers for Disease Control and Prevention breast and cervical
- 5 cancer early detection program;
- 6 (b) requires treatment for breast or cervical cancer based upon
- 7 criteria established by the commissioner;
- 8 (c) has an income that does not exceed the income standard
- 9 established by the commissioner pursuant to federal guidelines;
- 10 (d) meets all other Medicaid eligibility requirements; and
- 11 (e) in accordance with Pub.L.106-354, is determined by a qualified
- 12 entity to be presumptively eligible for medical assistance pursuant to
- 13 42 U.S.C. s.1396a(aa), based upon criteria established by the
- 14 commissioner pursuant to section 1920B of the federal Social Security
- 15 Act (42 U.S.C. s.1396r-1b).
- 16 j. "Recipient" means any qualified applicant receiving benefits
- 17 under this act.
- 18 k. "Resident" means a person who is living in the State voluntarily
- 19 with the intention of making his home here and not for a temporary
- 20 purpose. Temporary absences from the State, with subsequent returns
- 21 to the State or intent to return when the purposes of the absences have
- 22 been accomplished, do not interrupt continuity of residence.
- 23 l. "State Medicaid Commission" means the Governor, the
- 24 Commissioner of Human Services, the President of the Senate and the
- 25 Speaker of the General Assembly, hereby constituted a commission to
- 26 approve and direct the means and method for the payment of claims
- 27 pursuant to this act.
- 28 m. "Third party" means any person, institution, corporation,
- 29 insurance company, group health plan as defined in section 607(1) of
- 30 the federal "Employee Retirement and Income Security Act of 1974,"
- 31 29 U.S.C. s.1167(1), service benefit plan, health maintenance
- 32 organization, or other prepaid health plan, or public, private or
- 33 governmental entity who is or may be liable in contract, tort, or
- 34 otherwise by law or equity to pay all or part of the medical cost of
- 35 injury, disease or disability of an applicant for or recipient of medical
- 36 assistance payable under this act.
- 37 n. "Governmental peer grouping system" means a separate class
- 38 of skilled nursing and intermediate care facilities administered by the
- 39 State or county governments, established for the purpose of screening
- 40 their reported costs and setting reimbursement rates under the
- 41 Medicaid program that are reasonable and adequate to meet the costs
- 42 that must be incurred by efficiently and economically operated State
- 43 or county skilled nursing and intermediate care facilities.
- 44 o. "Comprehensive maternity or pediatric care provider" means
- 45 any person or public or private health care facility that is a provider
- 46 and that is approved by the commissioner to provide comprehensive

1 maternity care or comprehensive pediatric care as defined in
2 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
3 (C.30:4D-6).

4 p. "Poverty level" means the official poverty level based on family
5 size established and adjusted under Section 673(2) of Subtitle B, the
6 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
7 s.9902(2)).

8 q. "Eligible alien" means one of the following:

9 (1) an alien present in the United States prior to August 22, 1996,
10 who is:

11 (a) a lawful permanent resident;

12 (b) a refugee pursuant to section 207 of the federal "Immigration
13 and Nationality Act" (8 U.S.C. s.1157);

14 (c) an asylee pursuant to section 208 of the federal "Immigration
15 and Nationality Act" (8 U.S.C. s.1158);

16 (d) an alien who has had deportation withheld pursuant to section
17 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
18 s.1253 (h));

19 (e) an alien who has been granted parole for less than one year by
20 the U.S. Citizenship and Immigration Services pursuant to section
21 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C.
22 s.1182(d)(5));

23 (f) an alien granted conditional entry pursuant to section 203(a)(7)
24 of the federal "Immigration and Nationality Act" (8 U.S.C.
25 s.1153(a)(7)) in effect prior to April 1, 1980; or

26 (g) an alien who is honorably discharged from or on active duty in
27 the United States armed forces and the alien's spouse and unmarried
28 dependent child.

29 (2) An alien who entered the United States on or after August 22,
30 1996, who is:

31 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
32 subsection; or

33 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
34 subsection who entered the United States at least five years ago.

35 (3) A legal alien who is a victim of domestic violence in
36 accordance with criteria specified for eligibility for public benefits as
37 provided in Title V of the federal "Illegal Immigration Reform and
38 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

39 (cf: P.L.2004, c.130, s.93)

40

41 18. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill seeks to improve the quality of services provided by the

1 State to children and families in the child welfare system by making
2 technical and substantive changes to various parts of statutory law
3 regarding the Division of Youth and Family Services (DYFS) in the
4 Department of Human Services.

5 Specifically the bill amends:

6 -- N.J.S.A.9:6-8.21 to specify that a parent's paramour shall be
7 defined as a "parent or guardian";

8 -- N.J.S.A.9:6-8.46 to clarify that administrative hearings held
9 before the Office of Administrative Law are subject to the rules of
10 evidence;

11 -- N.J.S.A.30:1-9 to provide that assistant commissioners, as well
12 as division directors, may supervise divisions within the Department
13 of Human Services;

14 --various sections of law that define "resource family home" and
15 "resource family parent," to make the definitions uniform, throughout
16 Title 30. Amendments also delete references to temporary or long-
17 term care, and clarify that these terms include a home or person with
18 whom DYFS places a child, under the care, custody or guardianship
19 of the Department of Human Services, for the purpose of adoption
20 until the adoption is finalized;

21 --N.J.S.A.30:4C-27.5, concerning the licensing of resource family
22 parents, to clarify that the definition of "resource family parent" shall
23 include a person licensed to provide resource family care to a child
24 who has been placed by DYFS with the person for the sole purpose of
25 adoption. Currently, only certain preadoptive parents are licensed as
26 resource family parents;

27 --N.J.S.A.30:4C-47 to stipulate that adoption subsidy payments
28 may not exceed the cost of providing comparable assistance in
29 resource family care and shall not be made after the adoptive child
30 reaches the age of 18, and to clarify that subsidy payments shall cover
31 the full costs of providing care for an adoptive child (rather than the
32 current 80% limit) until the child reaches the age of 21, if the child is
33 enrolled as a student of a secondary school or its equivalent;

34 --N.J.S.A.30:4C-52 to delete a reference to placement through
35 "voluntary agreement or court order" in the definition of "child placed
36 outside the home." This change reflects the elimination of the use of
37 voluntary out-of-home placements by DYFS as outlined in the
38 department's child welfare reform plan. However, under current law,
39 guardianship may still be secured through a voluntary surrender for the
40 purposes of adoption, and DYFS will continue to seek protective
41 custody of a child through a court order pursuant to the provisions of
42 Title 9 of the Revised Statutes (Children);

43 --N.J.S.A.30:4C-47 and 30:4C-54 to update a reference to "foster
44 family" with "resource family";

45 --N.J.S.A.30:4C-84 and 30:4C-85, regarding kinship relationships,
46 to clarify that the definition of "caregiver" includes a person with

S2664 ALLEN, VITALE

23

1 whom a child has been residing for either the last 12 consecutive
2 months or 15 of the last 22 months; and
3 --N.J.S.A.30:4D-3, concerning the Medicaid program, to make a
4 technical correction to replace references to "temporary assistance for
5 needy families" with "aid to families with dependent children."

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2664

STATE OF NEW JERSEY

DATED: JUNE 27, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2664.

This bill seeks to improve the quality of services provided by the State to children and families in the child welfare system by making technical and substantive changes to various parts of statutory law regarding the Division of Youth and Family Services (DYFS) in the Department of Human Services.

Specifically the bill amends:

- ! N.J.S.A.9:6-8.21a to indicate that the paramour of a parent may also be treated as a "parent or guardian," for the sole purpose of determining whether an individual has committed child abuse and neglect, as defined under N.J.S.A.9:6-8.21c, and is not intended to change the definition of parent or guardian in any other circumstance except for the definition of abuse and neglect. Further, in order to be found to have committed the abuse or neglect of a child, it must be determined that the paramour was responsible for the care, custody, or control of the child when the incident occurred;
- ! N.J.S.A.9:6-8.46 to clarify that administrative hearings held before the Office of Administrative Law are subject to the rules of evidence;
- ! N.J.S.A.30:1-9 to provide that assistant commissioners, as well as division directors, may supervise divisions within the Department of Human Services;
- ! Various sections of law that define "resource family home" and "resource family parent," to make the definitions uniform, throughout Title 30. Amendments also delete references to temporary or long-term care, and clarify that these terms include a home or person with whom DYFS places a child, under the care, custody or guardianship of the Department of Human Services, for the purpose of adoption until the adoption is finalized;
- ! N.J.S.A.30:4C-27.5, concerning the licensing of resource family parents, to clarify that the definition of "resource family parent" shall include a person licensed to provide resource family care to a child who has been placed by DYFS with the person for the sole purpose of adoption. Currently, only certain preadoptive parents are licensed as resource family parents;

- ! N.J.S.A.30:4C-47 to stipulate that adoption subsidy payments may not exceed the cost of providing comparable assistance in resource family care and shall not be made after the adoptive child reaches the age of 18, and to clarify that subsidy payments shall cover the full costs of providing care for an adoptive child (rather than the current 80% limit) until the child reaches the age of 21, if the child is enrolled as a student of a secondary school or its equivalent;
- ! N.J.S.A.30:4C-52 to delete a reference to placement through "voluntary agreement or court order" in the definition of "child placed outside the home." This change reflects the elimination of the use of voluntary out-of-home placements by DYFS as outlined in the department's child welfare reform plan. However, under current law, guardianship may still be secured through a voluntary surrender for the purposes of adoption, and DYFS will continue to seek protective custody of a child through a court order pursuant to the provisions of Title 9 of the Revised Statutes (Children);
- ! N.J.S.A.30:4C-47 and 30:4C-54 to update a reference to "foster family" with "resource family";
- ! N.J.S.A.30:4C-84 and 30:4C-85, regarding kinship relationships, to clarify that the definition of "caregiver" includes a person with whom a child has been residing for either the last 12 consecutive months or 15 of the last 22 months; and
- ! N.J.S.A.30:4D-3, concerning the Medicaid program, to make a technical correction to replace references to "temporary assistance for needy families" with "aid to families with dependent children."

As reported, this bill is identical to Assembly Bill No. 4158.

FISCAL IMPACT:

Pursuant to a provision of the bill amending N.J.S.A.30:4C-47 (Section 12 of the bill), adoption subsidy payments shall cover the full costs of providing care for an adoptive child (rather than the current 80% limit) until the child reaches the age of 21, provided the child is enrolled as a student of a secondary school or its equivalent. According to DYFS, the cost to cover the 488 children who are eligible for the 20% increase in the subsidy payment will be \$600,000. Currently, the adoption subsidy program costs DYFS \$2.4 million.

ASSEMBLY, No. 4158

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 13, 2005

Sponsored by:

Assemblywoman MARY T. PREVITE

District 6 (Camden)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Assemblymen Conaway and Connors

SYNOPSIS

Updates provisions in Titles 9 and 30 of the Revised Statutes to conform with DYFS child welfare reform plan.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2005)

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

9 1. As used in this act, unless the specific context indicates
10 otherwise:

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

23 b. "Child" means any child alleged to have been abused or
24 neglected.

25 c. "Abused or neglected child" means a child less than 18 years of
26 age whose parent or guardian, as herein defined, (1) inflicts or allows
27 to be inflicted upon such child physical injury by other than accidental
28 means which causes or creates a substantial risk of death, or serious
29 or protracted disfigurement, or protracted impairment of physical or
30 emotional health or protracted loss or impairment of the function of
31 any bodily organ; (2) creates or allows to be created a substantial or
32 ongoing risk of physical injury to such child by other than accidental
33 means which would be likely to cause death or serious or protracted
34 disfigurement, or protracted loss or impairment of the function of any
35 bodily organ; (3) commits or allows to be committed an act of sexual
36 abuse against the child; (4) or a child whose physical, mental, or
37 emotional condition has been impaired or is in imminent danger of
38 becoming impaired as the result of the failure of his parent or
39 guardian, as herein defined, to exercise a minimum degree of care (a)
40 in supplying the child with adequate food, clothing, shelter, education,
41 medical or surgical care though financially able to do so or though
42 offered financial or other reasonable means to do so, or (b) in
43 providing the child with proper supervision or guardianship, by

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 unreasonably inflicting or allowing to be inflicted harm, or substantial
2 risk thereof, including the infliction of excessive corporal punishment;
3 or by any other acts of a similarly serious nature requiring the aid of
4 the court; (5) or a child who has been willfully abandoned by his
5 parent or guardian, as herein defined; (6) or a child upon whom
6 excessive physical restraint has been used under circumstances which
7 do not indicate that the child's behavior is harmful to himself, others
8 or property; (7) or a child who is in an institution and (a) has been
9 placed there inappropriately for a continued period of time with the
10 knowledge that the placement has resulted or may continue to result
11 in harm to the child's mental or physical well-being or (b) who has
12 been willfully isolated from ordinary social contact under
13 circumstances which indicate emotional or social deprivation.

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

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

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

27 e. "Attorney" means an attorney admitted to the practice of law in
28 this State who shall be privately retained; or, in the instance of an
29 indigent parent or guardian, an attorney from the Office of the Public
30 Defender or an attorney appointed by the court who shall be appointed
31 in order to avoid conflict between the interests of the child and the
32 parent or guardian in regard to representation.

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

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

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

45 (cf: P.L.2004, c.130, s.27)

1 2. Section 26 of P.L.1974, c.119 (C.9:6-8.46) is amended to read
2 as follows:

3 26. a. In any hearing under this act, including an administrative
4 hearing held in accordance with the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), (1) proof of the abuse or
6 neglect of one child shall be admissible evidence on the issue of the
7 abuse or neglect of any other child of, or the responsibility of, the
8 parent or guardian and (2) proof of injuries sustained by a child or of
9 the condition of a child of such a nature as would ordinarily not be
10 sustained or exist except by reason of the acts or omissions of the
11 parent or guardian shall be prima facie evidence that a child of, or who
12 is the responsibility of such person is an abused or neglected child, and
13 (3) any writing, record or photograph, whether in the form of an entry
14 in a book or otherwise, made as a memorandum or record of any
15 condition, act, transaction, occurrence or event relating to a child in
16 an abuse or neglect proceeding of any hospital or any other public or
17 private institution or agency shall be admissible in evidence in proof of
18 that condition, act, transaction, occurrence or event, if the judge finds
19 that it was made in the regular course of the business of any hospital
20 or any other public or private institution or agency, and that it was in
21 the regular course of such business to make it, at the time of the
22 condition, act, transaction, occurrence or event, or within a reasonable
23 time thereafter, shall be prima facie evidence of the facts contained in
24 such certification. A certification by someone other than the head of
25 the hospital or agency shall be accompanied by a photocopy of a
26 delegation of authority signed by both the head of the hospital or
27 agency and by such other employees. All other circumstances of the
28 making of the memorandum, record or photograph, including lack of
29 personal knowledge of the making, may be proved to affect its
30 weight, but they shall not affect its admissibility and (4) previous
31 statements made by the child relating to any allegations of abuse or
32 neglect shall be admissible in evidence; provided, however, that no
33 such statement, if uncorroborated, shall be sufficient to make a fact
34 finding of abuse or neglect.

35 b. In a fact-finding hearing (1) any determination that the child is
36 an abused or neglected child must be based on a preponderance of the
37 evidence and (2) only competent, material and relevant evidence may
38 be admitted.

39 c. In a dispositional hearing and during all other stages of a
40 proceeding under this act, only material and relevant evidence may be
41 admitted.

42 (cf: P. L.1977, c.209, s.22)

43

44 3. R.S.30:1-9 is amended to read as follows:

45 30:1-9. The commissioner may create within the department such
46 divisions as he may deem necessary. Each division shall be under the

1 supervision of a director or assistant commissioner, who shall be
2 qualified by training and experience, appointed by and receive the
3 compensation fixed by the commissioner, except where otherwise
4 provided by statute, and shall devote his entire time to the
5 performance of his duties.

6 The commissioner may in his discretion combine the duties of two
7 or more divisions under one head.

8 The division directors or assistant commissioners shall perform such
9 services and exercise such powers at such times and places as the
10 commissioner shall prescribe.

11 (cf: P.L.1974, c.44, s.2)

12

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

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

18 (a) The term "Division of Youth and Family Services," or
19 "division," successor to the "Bureau of Children's Services" means the
20 State agency for the care, custody, guardianship, maintenance and
21 protection of children, as more specifically described by the provisions
22 of this act, and succeeding the agency heretofore variously designated
23 by the laws of this State as the State Board of Child Welfare or the
24 State Board of Children's Guardians.

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

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

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

33 (e) The term "guardianship" means control over the person and
34 property of a child as established by the order of a court of competent
35 jurisdiction, and as more specifically defined by the provisions of this
36 act. Guardianship by the Division of Youth and Family Services shall
37 be treated as guardianship by the Commissioner of Human Services
38 exercised on his behalf wholly by and in the name of the Division of
39 Youth and Family Services, acting through the chief executive officer
40 of the division or his authorized representative. Such exercise of
41 guardianship by the division shall be at all times and in all respects
42 subject to the supervision of the commissioner.

43 (f) The term "maintenance" means moneys expended by the
44 Division of Youth and Family Services to procure board, lodging,
45 clothing, medical, dental, and hospital care, or any other similar or
46 specialized commodity or service furnished to, on behalf of, or for a

1 child pursuant to the provisions of this act; maintenance also includes
2 but is not limited to moneys expended for shelter, utilities, food,
3 repairs, essential household equipment, and other expenditures to
4 remedy situations of an emergent nature to permit, as far as
5 practicable, children to continue to live with their families.

6 (g) The term "welfare services" means consultation, counseling,
7 and referral to or utilization of available resources, for the purpose of
8 determining and correcting or adjusting matters and circumstances
9 which are endangering the welfare of a child, and for the purpose of
10 promoting his proper development and adjustment in the family and
11 the community.

12 (h) The term "resource family parent" means any person other than
13 a natural or adoptive parent with whom a child in the care, custody or
14 guardianship of the Department of Human Services is placed by the
15 department, or with its approval, for [temporary or long-term] care,
16 and shall include any person with whom a child is placed by the
17 division for the purpose of adoption until the adoption is finalized.

18 (i) The term "resource family home" means and includes private
19 residences[, group homes, residential facilities and institutions]
20 wherein any child in the care, custody or guardianship of the
21 Department of Human Services may be placed by the department, or
22 with its approval, for [temporary or long-term] care, and shall include
23 any private residence maintained by persons with whom any such child
24 is placed by the division for the purpose of adoption until the adoption
25 is finalized.

26 (j) The singular includes the plural form.

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

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

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

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

39 (o) The term "youth facility aid" means aid provided by the
40 Division of Youth and Family Services to public, private or voluntary
41 agencies to purchase, construct, renovate, repair, upgrade or
42 otherwise improve a youth facility in consideration for an agreement
43 for the agency to provide residential care, day treatment or other
44 youth services for children in need of such services.

45 (p) The term "day treatment center" means a facility used to

1 provide counseling, supplemental educational services, therapy, and
2 other related services to children for whom it has been determined that
3 such services are necessary, but is not used to house these children in
4 a residential setting.

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

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

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

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

13 (cf: P.L.2004, c.130, s.47)

14

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

17 1. As used in this act "resource family home" means and includes
18 private residences[, group homes and institutions] wherein any child
19 in the care, custody or guardianship of the [Division of Youth and
20 Family] Department of Human Services[,] may be placed by the
21 department, or with its approval, for [temporary or long-term] care,
22 and shall include any private residence maintained by persons with
23 whom any such child is placed by the [division] Division of Youth and
24 Family Services for the purpose of adoption until the adoption is
25 finalized.

26 (cf: P.L.2004, c.130, s.59)

27

28 6. Section 1 of P.L.1962, c.136 (C30:4C-26.4) is amended to read
29 as follows:

30 1. As used in this act "resource family parent" shall mean any
31 person with whom a child in the care, custody or guardianship of the
32 [Division of Youth and Family] Department of Human Services[,]
33 is placed by the department, or with its approval, for [temporary or
34 long-term] care and shall include any person with whom a child is
35 placed by the [division] Division of Youth and Family Services for the
36 purpose of adoption until the adoption is finalized.

37 (cf: P.L.2004, c.130, s.61)

38

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

41 1. As used in this act "resource family parent" shall mean any
42 person with whom a child in the care, custody or guardianship of the
43 [Division of Youth and Family] Department of Human Services[,] is
44 placed by the department, or with its approval, for [temporary or
45 long-term] care and shall include any person with whom a child is

1 placed by the [division] Division of Youth and Family Services for the
2 purpose of adoption until the adoption is finalized.
3 (cf: P.L.2004, c.130, s.63)

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

7 1. a. A person, in addition to meeting other requirements as may
8 be established by the Department of Human Services, shall become a
9 resource family parent or eligible to adopt a child only upon the
10 completion of an investigation to ascertain if there is a State or federal
11 record of criminal history for the prospective adoptive or resource
12 family parent or any other adult residing in the prospective parent's
13 home. The investigation shall be conducted by the Division of State
14 Police in the Department of Law and Public Safety and shall include
15 an examination of its own files and the obtaining of a similar
16 examination by federal authorities.

17 b. If the prospective resource family parent or any adult residing
18 in the prospective parent's home has a record of criminal history, the
19 Department of Human Services shall review the record with respect to
20 the type and date of the criminal offense and make a determination as
21 to the suitability of the person to become a resource family parent or
22 the suitability of placing a child in that person's home, as the case may
23 be.

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

29 d. A person shall be disqualified from being a resource family
30 parent or shall not be eligible to adopt a child if that person or any
31 adult residing in that person's household ever committed a crime which
32 resulted in a conviction for:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 e. A person shall be disqualified from being a resource family
17 parent if that person or any adult residing in that person's household
18 was convicted of one of the following crimes and the date of release
19 from confinement 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] Department of Human Services** is placed by
38 the department, or with its approval, for **[temporary or long-term]**
39 care and shall include any person with whom a child is placed by the
40 **[division] Division of Youth and Family Services** for the purpose of
41 adoption until the adoption is finalized.

42 (cf: P.L.2004, c.130, s.65)

43

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

46 1. The Department of Human Services may grant approval to a

1 prospective resource family parent for a period not to exceed six
2 months, upon completion of the State portion of the criminal history
3 record investigation required pursuant to P.L.1985, c.396
4 (C.30:4C-26.8), pending completion and review of the federal portion
5 of the criminal history record investigation required pursuant to that
6 act, if (1) the State portion of the criminal history record investigation
7 indicates no information which would disqualify the person, (2) the
8 prospective resource family parent and any adult residing in the
9 prospective resource family parent's home submit a sworn statement
10 to the Department of Human Services attesting that the person does
11 not have a record of criminal history which would disqualify the
12 person and (3) there is substantial compliance with department
13 standards for resource family homes indicating there is no risk to a
14 child's health or safety.

15 For purposes of this section, "resource family parent" means any
16 person with whom a child in the care, custody or guardianship of the
17 [Division of Youth and] Department of Human Services is placed by
18 the department, or with its approval, for [temporary or long-term]
19 care and shall [not] include any person with whom a child is placed by
20 the [division] Division of Youth and Family Services for the purpose
21 of adoption until the adoption is finalized.

22 (cf: P.L.2004, c.130, s.66)

23

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

26 1. As used in this act "resource family parent" shall mean any
27 person with whom a child in the care, custody or guardianship of the
28 [Division of Youth and Family] Department of Human Services[,] is
29 placed by the department, or with its approval, for [temporary or
30 long-term] care and shall include any person with whom a child is
31 placed by the [division] Division of Youth and Family Services for the
32 purpose of adoption until the adoption is finalized.

33 (cf: P.L.2004, c.130, s.68)

34

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

37 3. As used in this act:

38 "Child" means a person who: is either under the age of 18 or meets
39 the criteria set forth in subsection f. of section 2 of P.L.1972, c.81
40 (C.9:17B-2); and is under the care or custody of the division or
41 another public or private agency authorized to place children in New
42 Jersey.

43 "Commissioner" means the Commissioner of Human Services.

44 "Department" means the Department of Human Services.

45 "Division" means the Division of Youth and Family Services in the
46 Department of Human Services.

1 "Resource family home" or "home" means a private residence, other
2 than a children's group home or shelter home, in which board, lodging,
3 care and temporary out-of-home placement services are provided by
4 a resource family parent on a 24-hour basis to a child under the
5 auspices of the division or any public or private agency authorized to
6 place children in New Jersey.

7 "Resource family parent" means a person who has been licensed
8 pursuant to this act to provide resource family care to five or fewer
9 children, including a child who has been placed by the division with
10 the person for the purpose of adoption, except that the department
11 may license a resource family parent to provide care for more than five
12 children, if necessary, to keep sibling groups intact or to serve the best
13 interests of the children in the home.

14 "License" means a document issued by the department to a person
15 who meets the requirements of this act to provide resource family care
16 to children in the person's home.

17 (cf: P.L.2004, c.130, s.72)

18

19 12. Section 3 of P.L.1973, c.81 (C.30:4C-47) is amended to read
20 as follows:

21 3. Payments in subsidization of adoption shall include but are not
22 limited to the maintenance costs, medical and surgical expenses, and
23 other costs incidental to the care, training and education of the child.
24 Such payments may not exceed the cost of providing comparable
25 assistance in [foster] resource family care and shall not be made after
26 the adoptive child becomes 18 years of age, except that payments [not
27 to exceed 80% of the costs] shall be made until the child becomes 21
28 years of age [when it is determined by the Division of Youth and
29 Family Services that the needs of the child cannot be adequately met
30 without the payments] if the child is enrolled as a student of a
31 secondary school or its equivalent.

32 (cf: P.L.1983, c.484, s.2)

33

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

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

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

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

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

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

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

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

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

16 (cf: P.L.2004, c.130, s.83)

17

18 14. Section 5 of P.L.1977, 424 (C.30:4C-54) is amended to read
19 as follows:

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

30 If the division has documented an exception to the requirement to
31 provide reasonable efforts towards family reunification, the court shall
32 make a finding of whether reasonable efforts are required in
33 accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). The
34 child's health, safety and need for permanency shall be of paramount
35 concern to the court when it makes its finding.

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

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

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

40 or

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

42 The court shall provide written notice to the parties involved in the
43 hearing at least five days prior to the hearing. The court shall provide
44 written notice of the date, time and place of such hearing to the
45 parents or legal guardian of the child, the child or the child's counsel,
46 the child's temporary caretaker, the division, and any other party the

1 court deems appropriate. If the child's caretaker is a [foster] resource
2 family parent, preadoptive parent or relative, the caretaker shall
3 receive written notice of and an opportunity to be heard at the hearing,
4 but the caretaker shall not be made a party to the hearing solely on the
5 basis of the notice and opportunity to be heard.
6 (cf: P.L.1999, c.53, s.43)

7

8 15. Section 7 of P.L.2001, c.250 (C.30:4C-84) is amended to read
9 as follows:

10 7. As used in sections 7 through 10 of P.L.2001, c.250
11 (C.30:4C-84 et seq.):

12 "Caregiver" means a person over 18 years of age, other than a
13 child's parent, who has a kinship relationship with the child and has
14 been providing care and support for the child, while the child has been
15 residing in the caregiver's home, for [at least] either the last 12
16 consecutive months or 15 of the last 22 months.

17 "Child" means a person under 18 years of age, except as otherwise
18 provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

19 "Commissioner" means the Commissioner of Human Services.

20 "Court" means the Superior Court, Chancery Division, Family Part.

21 "Division" means the Division of Youth and Family Services in the
22 Department of Human Services.

23 "Kinship caregiver assessment" means a written report prepared in
24 accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.)
25 and pursuant to regulations adopted by the commissioner.

26 "Kinship legal guardian" means a caregiver who is willing to assume
27 care of a child due to parental incapacity, with the intent to raise the
28 child to adulthood, and who is appointed the kinship legal guardian of
29 the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.).
30 A kinship legal guardian shall be responsible for the care and
31 protection of the child and for providing for the child's health,
32 education and maintenance.

33 "Kinship relationship" means a family friend or a person with a
34 biological or legal relationship with the child.

35 (cf: P.L.2001, c.250, s.7)

36

37 16. Section 8 of P.L.2001, c.250 (C.30:4C-85) is amended to read
38 as follow:

39 8. a. In the case of a child who has been removed from his home
40 by the division within the last 12 months, or for whom the division has
41 an open or currently active case and where legal representation is
42 currently being provided by the Office of the Public Defender either
43 through its Law Guardian Program or Parental Representation Unit:

44 (1) The kinship caregiver assessment required pursuant to section
45 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by the division,
46 at no cost to the caregiver.

1 (2) An indigent parent and child shall be afforded the same right to
2 legal counsel and representation as in actions under P.L.1974, c.119
3 (C.9:6-8.21 et seq.) and section 54 of P.L.1999, c.53 (C.30:4C-15.4).

4 (3) In cases where the child has been placed in the caregiver's home
5 by the division and the child has resided in the caregiver's home for [at
6 least] either the last 12 consecutive months or 15 of the last 22
7 months, the caregiver shall obtain the consent of the division in order
8 to petition the court for the appointment of the caregiver as kinship
9 legal guardian of the child. The appointment of a kinship legal
10 guardian for a child shall be considered by the court as the permanent
11 placement for the child.

12 b. In all cases other than those specified in subsection a. of this
13 section:

14 (1) The kinship caregiver assessment required pursuant to section
15 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by an agency
16 in accordance with regulations adopted by the commissioner.

17 (2) The costs for the kinship caregiver assessment shall be borne
18 by the department in cases where a financially eligible individual is
19 applying for cash assistance under a kinship care program or pilot
20 program provided by the department, for which kinship legal
21 guardianship is a requirement for receiving such assistance. For all
22 other cases under this subsection, the caregiver shall be responsible for
23 all of the costs of the kinship caregiver assessment.

24 (cf: P.L.2001, c.250, s.8)

25
26 17. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
27 as follows:

28 3. Definitions. As used in this act, and unless the context
29 otherwise requires:

30 a. "Applicant" means any person who has made application for
31 purposes of becoming a "qualified applicant."

32 b. "Commissioner" means the Commissioner of Human Services.

33 c. "Department" means the Department of Human Services, which
34 is herein designated as the single State agency to administer the
35 provisions of this act.

36 d. "Director" means the Director of the Division of Medical
37 Assistance and Health Services.

38 e. "Division" means the Division of Medical Assistance and Health
39 Services.

40 f. "Medicaid" means the New Jersey Medical Assistance and Health
41 Services Program.

42 g. "Medical assistance" means payments on behalf of recipients to
43 providers for medical care and services authorized under this act.

44 h. "Provider" means any person, public or private institution,
45 agency or business concern approved by the division lawfully
46 providing medical care, services, goods and supplies authorized under

1 this act, holding, where applicable, a current valid license to provide
2 such services or to dispense such goods or supplies.

3 i. "Qualified applicant" means a person who is a resident of this
4 State, and either a citizen of the United States or an eligible alien, and
5 is determined to need medical care and services as provided under this
6 act, with respect to whom the period for which eligibility to be a
7 recipient is determined shall be the maximum period permitted under
8 federal law, and who:

9 (1) Is a dependent child or parent or caretaker relative of a
10 dependent child who would be, except for resources, eligible for the
11 [temporary assistance for needy families] aid to families with
12 dependent children program under the State Plan for Title IV-A of the
13 federal Social Security Act as of July 16, 1996;

14 (2) Is a recipient of Supplemental Security Income for the Aged,
15 Blind and Disabled under Title XVI of the Social Security Act;

16 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
17 Income for the Aged, Blind and Disabled under Title XVI of the Social
18 Security Act, as defined by the federal Social Security Administration;

19 (4) Would be eligible to receive Supplemental Security Income
20 under Title XVI of the federal Social Security Act or, without regard
21 to resources, would be eligible for the [temporary assistance for needy
22 families] aid to families with dependent children program under the
23 State Plan for Title IV-A of the federal Social Security Act as of July
24 16, 1996, except for failure to meet an eligibility condition or
25 requirement imposed under such State program which is prohibited
26 under Title XIX of the federal Social Security Act such as a durational
27 residency requirement, relative responsibility, consent to imposition of
28 a lien;

29 (5) (Deleted by amendment, P.L.2000, c.71).

30 (6) Is an individual under 21 years of age who, without regard to
31 resources, would be, except for dependent child requirements, eligible
32 for the [temporary assistance for needy families] aid to families with
33 dependent children program under the State Plan for Title IV-A of the
34 federal Social Security Act as of July 16, 1996, or groups of such
35 individuals, including but not limited to, children in resource family
36 placement under supervision of the Division of Youth and Family
37 Services whose maintenance is being paid in whole or in part from
38 public funds, children placed in a resource family home or institution
39 by a private adoption agency in New Jersey or children in intermediate
40 care facilities, including developmental centers for the developmentally
41 disabled, or in psychiatric hospitals;

42 (7) Would be eligible for the Supplemental Security Income
43 program, but is not receiving such assistance and applies for medical
44 assistance only;

45 (8) Is determined to be medically needy and meets all the eligibility
46 requirements described below:

1 (a) The following individuals are eligible for services, if they are
2 determined to be medically needy:

- 3 (i) Pregnant women;
4 (ii) Dependent children under the age of 21;
5 (iii) Individuals who are 65 years of age and older; and
6 (iv) Individuals who are blind or disabled pursuant to either 42
7 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

8 (b) The following income standard shall be used to determine
9 medically needy eligibility:

10 (i) For one person and two person households, the income standard
11 shall be the maximum allowable under federal law, but shall not exceed
12 133 1/3% of the State's payment level to two person households under
13 the [temporary assistance for needy families] aid to families with
14 dependent children program under the State Plan for Title IV-A of the
15 federal Social Security Act in effect as of July 16, 1996; and

16 (ii) For households of three or more persons, the income standard
17 shall be set at 133 1/3% of the State's payment level to similar size
18 households under the [temporary assistance for needy families] aid to
19 families with dependent children program under the State Plan for
20 Title IV-A of the federal Social Security Act in effect as of July 16,
21 1996.

22 (c) The following resource standard shall be used to determine
23 medically needy eligibility:

24 (i) For one person households, the resource standard shall be 200%
25 of the resource standard for recipients of Supplemental Security
26 Income pursuant to 42 U.S.C. s.1382(1)(B);

27 (ii) For two person households, the resource standard shall be
28 200% of the resource standard for recipients of Supplemental Security
29 Income pursuant to 42 U.S.C. s.1382(2)(B);

30 (iii) For households of three or more persons, the resource
31 standard in subparagraph (c)(ii) above shall be increased by \$100.00
32 for each additional person; and

33 (iv) The resource standards established in (i), (ii), and (iii) are
34 subject to federal approval and the resource standard may be lower if
35 required by the federal Department of Health and Human Services.

36 (d) Individuals whose income exceeds those established in
37 subparagraph (b) of paragraph (8) of this subsection may become
38 medically needy by incurring medical expenses as defined in 42
39 C.F.R.435.831(c) which will reduce their income to the applicable
40 medically needy income established in subparagraph (b) of paragraph
41 (8) of this subsection.

42 (e) A six-month period shall be used to determine whether an
43 individual is medically needy.

44 (f) Eligibility determinations for the medically needy program shall
45 be administered as follows:

46 (i) County welfare agencies and other entities designated by the

1 commissioner are responsible for determining and certifying the
2 eligibility of pregnant women and dependent children. The division
3 shall reimburse county welfare agencies for 100% of the reasonable
4 costs of administration which are not reimbursed by the federal
5 government for the first 12 months of this program's operation.
6 Thereafter, 75% of the administrative costs incurred by county welfare
7 agencies which are not reimbursed by the federal government shall be
8 reimbursed by the division;

9 (ii) The division is responsible for certifying the eligibility of
10 individuals who are 65 years of age and older and individuals who are
11 blind or disabled. The division may enter into contracts with county
12 welfare agencies to determine certain aspects of eligibility. In such
13 instances the division shall provide county welfare agencies with all
14 information the division may have available on the individual.

15 The division shall notify all eligible recipients of the Pharmaceutical
16 Assistance to the Aged and Disabled program, P.L.1975, c.194
17 (C.30:4D-20 et seq.) on an annual basis of the medically needy
18 program and the program's general requirements. The division shall
19 take all reasonable administrative actions to ensure that
20 Pharmaceutical Assistance to the Aged and Disabled recipients, who
21 notify the division that they may be eligible for the program, have their
22 applications processed expeditiously, at times and locations convenient
23 to the recipients; and

24 (iii) The division is responsible for certifying incurred medical
25 expenses for all eligible persons who attempt to qualify for the
26 program pursuant to subparagraph (d) of paragraph (8) of this
27 subsection;

28 (9) (a) Is a child who is at least one year of age and under 19 years
29 of age and, if older than six years of age but under 19 years of age, is
30 uninsured; and

31 (b) Is a member of a family whose income does not exceed 133%
32 of the poverty level and who meets the federal Medicaid eligibility
33 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
34 s.1396a);

35 (10) Is a pregnant woman who is determined by a provider to be
36 presumptively eligible for medical assistance based on criteria
37 established by the commissioner, pursuant to section 9407 of
38 Pub.L.99-509 (42 U.S.C. s.1396a(a));

39 (11) Is an individual 65 years of age and older, or an individual
40 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
41 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
42 level, adjusted for family size, and whose resources do not exceed
43 100% of the resource standard used to determine medically needy
44 eligibility pursuant to paragraph (8) of this subsection;

45 (12) Is a qualified disabled and working individual pursuant to
46 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income

1 does not exceed 200% of the poverty level and whose resources do
2 not exceed 200% of the resource standard used to determine eligibility
3 under the Supplemental Security Income Program, P.L.1973, c.256
4 (C.44:7-85 et seq.);

5 (13) Is a pregnant woman or is a child who is under one year of
6 age and is a member of a family whose income does not exceed 185%
7 of the poverty level and who meets the federal Medicaid eligibility
8 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
9 s.1396a), except that a pregnant woman who is determined to be a
10 qualified applicant shall, notwithstanding any change in the income of
11 the family of which she is a member, continue to be deemed a qualified
12 applicant until the end of the 60-day period beginning on the last day
13 of her pregnancy;

14 (14) (Deleted by amendment, P.L.1997, c.272).

15 (15) (a) Is a specified low-income Medicare beneficiary pursuant
16 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
17 1993 do not exceed 200% of the resource standard used to determine
18 eligibility under the Supplemental Security Income program, P.L.1973,
19 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
20 1993 does not exceed 110% of the poverty level, and beginning
21 January 1, 1995 does not exceed 120% of the poverty level.

22 (b) An individual who has, within 36 months, or within 60 months
23 in the case of funds transferred into a trust, of applying to be a
24 qualified applicant for Medicaid services in a nursing facility or a
25 medical institution, or for home or community-based services under
26 section 1915(c) of the federal Social Security Act (42 U.S.C.
27 s.1396n(c)), disposed of resources or income for less than fair market
28 value shall be ineligible for assistance for nursing facility services, an
29 equivalent level of services in a medical institution, or home or
30 community-based services under section 1915(c) of the federal Social
31 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
32 shall be the number of months resulting from dividing the
33 uncompensated value of the transferred resources or income by the
34 average monthly private payment rate for nursing facility services in
35 the State as determined annually by the commissioner. In the case of
36 multiple resource or income transfers, the resulting penalty periods
37 shall be imposed sequentially. Application of this requirement shall be
38 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
39 this provision is effective for all transfers of resources or income made
40 on or after August 11, 1993. Notwithstanding the provisions of this
41 subsection to the contrary, the State eligibility requirements
42 concerning resource or income transfers shall not be more restrictive
43 than those enacted pursuant to 42 U.S.C. s.1396p(c).

44 (c) An individual seeking nursing facility services or home or
45 community-based services and who has a community spouse shall be
46 required to expend those resources which are not protected for the

1 needs of the community spouse in accordance with section 1924(c) of
2 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
3 of long-term care, burial arrangements, and any other expense deemed
4 appropriate and authorized by the commissioner. An individual shall
5 be ineligible for Medicaid services in a nursing facility or for home or
6 community-based services under section 1915(c) of the federal Social
7 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
8 violation of this subparagraph. The period of ineligibility shall be the
9 number of months resulting from dividing the uncompensated value of
10 transferred resources and income by the average monthly private
11 payment rate for nursing facility services in the State as determined by
12 the commissioner. The period of ineligibility shall begin with the
13 month that the individual would otherwise be eligible for Medicaid
14 coverage for nursing facility services or home or community-based
15 services.

16 This subparagraph shall be operative only if all necessary approvals
17 are received from the federal government including, but not limited to,
18 approval of necessary State plan amendments and approval of any
19 waivers;

20 (16) Subject to federal approval under Title XIX of the federal
21 Social Security Act, is a dependent child, parent or specified caretaker
22 relative of a child who is a qualified applicant, who would be eligible,
23 without regard to resources, for the [temporary assistance for needy
24 families] aid to families with dependent children program under the
25 State Plan for Title IV-A of the federal Social Security Act as of July
26 16, 1996, except for the income eligibility requirements of that
27 program, and whose family earned income does not exceed 133% of
28 the poverty level plus such earned income disregards as shall be
29 determined according to a methodology to be established by regulation
30 of the commissioner;

31 (17) Is an individual from 18 through 20 years of age who is not
32 a dependent child and would be eligible for medical assistance
33 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
34 income or resources, who, on the individual's 18th birthday was in
35 resource family care under the care and custody of the Division of
36 Youth and Family Services and whose maintenance was being paid in
37 whole or in part from public funds;

38 (18) Is a person between the ages of 16 and 65 who is permanently
39 disabled and working, and:

40 (a) whose income is at or below 250% of the poverty level, plus
41 other established disregards;

42 (b) who pays the premium contribution and other cost sharing as
43 established by the commissioner, subject to the limits and conditions
44 of federal law; and

45 (c) whose assets, resources and unearned income do not exceed
46 limitations as established by the commissioner; or

- 1 (19) Is an uninsured individual under 65 years of age who:
- 2 (a) has been screened for breast or cervical cancer under the
3 federal Centers for Disease Control and Prevention breast and cervical
4 cancer early detection program;
- 5 (b) requires treatment for breast or cervical cancer based upon
6 criteria established by the commissioner;
- 7 (c) has an income that does not exceed the income standard
8 established by the commissioner pursuant to federal guidelines;
- 9 (d) meets all other Medicaid eligibility requirements; and
- 10 (e) in accordance with Pub.L.106-354, is determined by a qualified
11 entity to be presumptively eligible for medical assistance pursuant to
12 42 U.S.C. s.1396a(aa), based upon criteria established by the
13 commissioner pursuant to section 1920B of the federal Social Security
14 Act (42 U.S.C. s.1396r-1b).
- 15 j. "Recipient" means any qualified applicant receiving benefits
16 under this act.
- 17 k. "Resident" means a person who is living in the State voluntarily
18 with the intention of making his home here and not for a temporary
19 purpose. Temporary absences from the State, with subsequent returns
20 to the State or intent to return when the purposes of the absences have
21 been accomplished, do not interrupt continuity of residence.
- 22 l. "State Medicaid Commission" means the Governor, the
23 Commissioner of Human Services, the President of the Senate and the
24 Speaker of the General Assembly, hereby constituted a commission to
25 approve and direct the means and method for the payment of claims
26 pursuant to this act.
- 27 m. "Third party" means any person, institution, corporation,
28 insurance company, group health plan as defined in section 607(1) of
29 the federal "Employee Retirement and Income Security Act of 1974,"
30 29 U.S.C. s.1167(1), service benefit plan, health maintenance
31 organization, or other prepaid health plan, or public, private or
32 governmental entity who is or may be liable in contract, tort, or
33 otherwise by law or equity to pay all or part of the medical cost of
34 injury, disease or disability of an applicant for or recipient of medical
35 assistance payable under this act.
- 36 n. "Governmental peer grouping system" means a separate class of
37 skilled nursing and intermediate care facilities administered by the
38 State or county governments, established for the purpose of screening
39 their reported costs and setting reimbursement rates under the
40 Medicaid program that are reasonable and adequate to meet the costs
41 that must be incurred by efficiently and economically operated State
42 or county skilled nursing and intermediate care facilities.
- 43 o. "Comprehensive maternity or pediatric care provider" means any
44 person or public or private health care facility that is a provider and
45 that is approved by the commissioner to provide comprehensive
46 maternity care or comprehensive pediatric care as defined in

1 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
2 (C.30:4D-6).

3 p. "Poverty level" means the official poverty level based on family
4 size established and adjusted under Section 673(2) of Subtitle B, the
5 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
6 s.9902(2)).

7 q. "Eligible alien" means one of the following:

8 (1) an alien present in the United States prior to August 22, 1996,
9 who is:

10 (a) a lawful permanent resident;

11 (b) a refugee pursuant to section 207 of the federal "Immigration
12 and Nationality Act" (8 U.S.C. s.1157);

13 (c) an asylee pursuant to section 208 of the federal "Immigration
14 and Nationality Act" (8 U.S.C. s.1158);

15 (d) an alien who has had deportation withheld pursuant to section
16 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
17 s.1253 (h));

18 (e) an alien who has been granted parole for less than one year by
19 the U.S. Citizenship and Immigration Services pursuant to section
20 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C.
21 s.1182(d)(5));

22 (f) an alien granted conditional entry pursuant to section 203(a)(7)
23 of the federal "Immigration and Nationality Act" (8 U.S.C.
24 s.1153(a)(7)) in effect prior to April 1, 1980; or

25 (g) an alien who is honorably discharged from or on active duty in
26 the United States armed forces and the alien's spouse and unmarried
27 dependent child.

28 (2) An alien who entered the United States on or after August 22,
29 1996, who is:

30 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
31 subsection; or

32 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
33 subsection who entered the United States at least five years ago.

34 (3) A legal alien who is a victim of domestic violence in
35 accordance with criteria specified for eligibility for public benefits as
36 provided in Title V of the federal "Illegal Immigration Reform and
37 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

38 (cf: P.L.2004, c.130, s.93)

39

40 18. This act shall take effect immediately.

41

42

STATEMENT

43

44 This bill seeks to improve the quality of services provided by the
45 State to children and families in the child welfare system by making
46 technical and substantive changes to various parts of statutory law

1 regarding the Division of Youth and Family Services (DYFS) in the
2 Department of Human Services.

3 Specifically the bill amends:

4 -- N.J.S.A.9:6-8.21 to specify that a parent's paramour shall be
5 defined as a "parent or guardian";

6 -- N.J.S.A.9:6-8.46 to clarify that administrative hearings held
7 before the Office of Administrative Law are subject to the rules of
8 evidence;

9 --N.J.S.A.30:1-9 to provide that assistant commissioners, as well
10 as division directors, may supervise divisions within the Department
11 of Human Services;

12 --various sections of law that define "resource family home" and
13 "resource family parent," to make the definitions uniform, throughout
14 Title 30. Amendments also delete references to temporary or long-
15 term care, and clarify that these terms include a home or person with
16 whom DYFS places a child, under the care, custody or guardianship
17 of the Department of Human Services, for the purpose of adoption
18 until the adoption is finalized;

19 --N.J.S.A.30:4C-27.5, concerning the licensing of resource family
20 parents, to clarify that the definition of "resource family parent" shall
21 include a person licensed to provide resource family care to a child
22 who has been placed by DYFS with the person for the sole purpose of
23 adoption. Currently, only certain preadoptive parents are licensed as
24 resource family parents;

25 --N.J.S.A.30:4C-47 to stipulate that adoption subsidy payments
26 may not exceed the cost of providing comparable assistance in
27 resource family care and shall not be made after the adoptive child
28 reaches the age of 18, and to clarify that subsidy payments shall cover
29 the full costs of providing care for an adoptive child (rather than the
30 current 80% limit) until the child reaches the age of 21, if the child is
31 enrolled as a student of a secondary school or its equivalent;

32 --N.J.S.A.30:4C-52 to delete a reference to placement through
33 "voluntary agreement or court order" in the definition of "child placed
34 outside the home." This change reflects the elimination of the use of
35 voluntary out-of-home placements by DYFS as outlined in the
36 department's child welfare reform plan. However, under current law,
37 guardianship may still be secured through a voluntary surrender for the
38 purposes of adoption, and DYFS will continue to seek protective
39 custody of a child through a court order pursuant to the provisions of
40 Title 9 of the Revised Statutes (Children);

41 --N.J.S.A.30:4C-47 and 30:4C-54 to update a reference to "foster
42 family" with "resource family";

43 --N.J.S.A.30:4C-84 and 30:4C-85, regarding kinship relationships,
44 to clarify that the definition of "caregiver" includes a person with
45 whom a child has been residing for either the last 12 consecutive
46 months or 15 of the last 22 months; and

A4158 PREVITE, CHIVUKULA

23

1 --N.J.S.A.30:4D-3, concerning the Medicaid program, to make a
2 technical correction to replace references to "temporary assistance for
3 needy families" with "aid to families with dependent children."

ASSEMBLY FAMILY, WOMEN AND CHILDREN'S SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4158

STATE OF NEW JERSEY

DATED: JUNE 13, 2005

The Assembly Family, Women and Children's Services Committee reports favorably Assembly Bill No. 4158.

This bill seeks to improve the quality of services provided by the State to children and families in the child welfare system by making technical and substantive changes to various parts of statutory law regarding the Division of Youth and Family Services (DYFS) in the Department of Human Services.

Specifically the bill amends:

-- N.J.S.A.9:6-8.21 to specify that a parent's paramour shall be defined as a "parent or guardian";

-- N.J.S.A.9:6-8.46 to clarify that administrative hearings held before the Office of Administrative Law are subject to the rules of evidence;

--N.J.S.A.30:1-9 to provide that assistant commissioners, as well as division directors, may supervise divisions within the Department of Human Services;

--various sections of law that define "resource family home" and "resource family parent," to make the definitions uniform throughout Title 30 of the Revised Statutes. Amendments also delete references to temporary or long-term care, and clarify that these terms include a home or person with whom DYFS places a child, under the care, custody or guardianship of the Department of Human Services, for the purpose of adoption until the adoption is finalized;

--N.J.S.A.30:4C-27.5, concerning the licensing of resource family parents, to clarify that the definition of "resource family parent" shall include a person licensed to provide resource family care to a child who has been placed by DYFS with the person for the sole purpose of adoption. Currently, only certain preadoptive parents are licensed as resource family parents;

--N.J.S.A.30:4C-47 to stipulate that adoption subsidy payments may not exceed the cost of providing comparable assistance in resource family care and shall not be made after the adoptive child reaches the age of 18, and to clarify that subsidy payments shall cover the full costs of providing care for an adoptive child (rather than the current 80% limit) until the child reaches the age of 21, if the child is

enrolled as a student in a secondary school or its equivalent;

--N.J.S.A.30:4C-52 to delete a reference to placement through "voluntary agreement or court order" in the definition of "child placed outside the home." This change reflects the elimination of the use of voluntary out-of-home placements by DYFS as outlined in the department's child welfare reform plan. However, under current law, guardianship may still be secured through a voluntary surrender for the purposes of adoption, and DYFS will continue to seek protective custody of a child through a court order pursuant to the provisions of Title 9 of the Revised Statutes (Children);

--N.J.S.A.30:4C-47 and 30:4C-54 to update a reference to "foster family" with "resource family";

--N.J.S.A.30:4C-84 and 30:4C-85, regarding kinship relationships, to clarify that the definition of "caregiver" includes a person with whom a child has been residing for either the last 12 consecutive months or 15 of the last 22 months; and

--N.J.S.A.30:4D-3, concerning the Medicaid program, to make a technical correction to replace references to "temporary assistance for needy families" with "aid to families with dependent children."

This bill is identical to Senate Bill No. 2664 (Allen/Vitale).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4158

STATE OF NEW JERSEY

DATED: JUNE 29, 2005

The Assembly Budget Committee reports favorably Assembly Bill No. 4158.

Assembly Bill No. 4158 seeks to improve the quality of services provided by the State to children and families in the child welfare system by making technical and substantive changes to various parts of statutory law regarding the Division of Youth and Family Services (DYFS) in the Department of Human Services.

Specifically the bill amends:

-- N.J.S.A.9:6-8.21 to specify that a parent's paramour shall be defined as a "parent or guardian";

-- N.J.S.A.9:6-8.46 to clarify that administrative hearings held before the Office of Administrative Law are subject to the rules of evidence;

--N.J.S.A.30:1-9 to provide that assistant commissioners, as well as division directors, may supervise divisions within the Department of Human Services;

--various sections of law that define "resource family home" and "resource family parent," to make the definitions uniform throughout Title 30 of the Revised Statutes. Amendments also delete references to temporary or long-term care, and clarify that these terms include a home or person with whom DYFS places a child, under the care, custody or guardianship of the Department of Human Services, for the purpose of adoption until the adoption is finalized;

--N.J.S.A.30:4C-27.5, concerning the licensing of resource family parents, to clarify that the definition of "resource family parent" shall include a person licensed to provide resource family care to a child who has been placed by DYFS with the person for the sole purpose of adoption. Currently, only certain preadoptive parents are licensed as resource family parents;

--N.J.S.A.30:4C-47 to stipulate that adoption subsidy payments may not exceed the cost of providing comparable assistance in resource family care and shall not be made after the adoptive child reaches the age of 18, and to clarify that subsidy payments shall cover the full costs of providing care for an adoptive child (rather than the current 80% limit) until the child reaches the age of 21, if the child is enrolled as a student in a secondary school or its equivalent;

--N.J.S.A.30:4C-52 to delete a reference to placement through

"voluntary agreement or court order" in the definition of "child placed outside the home." This change reflects the elimination of the use of voluntary out-of-home placements by DYFS as outlined in the department's child welfare reform plan. However, under current law, guardianship may still be secured through a voluntary surrender for the purposes of adoption, and DYFS will continue to seek protective custody of a child through a court order pursuant to the provisions of Title 9 of the Revised Statutes (Children);

--N.J.S.A.30:4C-47 and 30:4C-54 to update a reference to "foster family" with "resource family";

--N.J.S.A.30:4C-84 and 30:4C-85, regarding kinship relationships, to clarify that the definition of "caregiver" includes a person with whom a child has been residing for either the last 12 consecutive months or 15 of the last 22 months; and

--N.J.S.A.30:4D-3, concerning the Medicaid program, to make a technical correction to replace references to "temporary assistance for needy families" with "aid to families with dependent children."

As reported, this bill is identical to Senate Bill No. 2664.

FISCAL IMPACT:

The changes provided for under this bill will have minimal costs involved.