

30:4C-2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 30:4C-2 et al

(Children-support-establish liability for children maintained by DYFS)

LAWS OF: 1985

CHAPTER: 8

Bill No: A683

Sponsor(s): Felice and Haytaian

Date Introduced: Pre-filed

Committee: Assembly: Corrections, Health and Human Services

Senate: Institutions, Health and Welfare

Amended during passage:

No

Substituted for S533 (not attached since identical to A683)

Date of Passage:

Assembly: June 25, 1984

Senate: Nov. 29, 1984

Date of Approval: January 18, 1985

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

See newspaper clipping, "state seeks kin payment to child care," Newark Star Ledger, 11-25-84 -- attached

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CHAPTER 8 LAWS OF N. J. 1985
APPROVED 1-16-85

ASSEMBLY, No. 683
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen FELICE and HAYTAIAN

AN ACT concerning the care, custody, guardianship, maintenance and supervision of children, and amending P. L. 1951, c. 138, the title of P. L. 1962, c. 142 as said title was amended by P. L. 1964, c. 102, and the body of said act.

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

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

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

6 (a) The title "Division of Youth and Family Services" successor
7 to the "Bureau of Children's Services" means the State agency for
8 the care, custody, guardianship, maintenance and protection of
9 children, as more specifically described by the provisions of this
10 act, and succeeding the agency heretofore variously designated by
11 the laws of this State as the State Board of Child Welfare or the
12 State Board of Children's Guardians.

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

15 (c) The term "care" means cognizance of a child for the pur-
16 pose of providing necessary welfare services, or maintenance, or
17 both.

18 (d) The term "custody" means continuing responsibility for
19 the person of a child, as established by a surrender and release of
20 custody or consent to adoption, for the purposes of providing
21 necessary welfare services, or maintenance, or both.

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 printed in italics *thus* is new matter.

22 (e) The term "guardianship" means control over the person
23 and property of a child as established by the order of a court of
24 competent jurisdiction, and as more specifically defined by the pro-
25 visions of this act. Guardianship by the Division of Youth and
26 Family Services shall be treated as guardianship by the Commis-
27 sioner of Human Services exercised on his behalf wholly by and
28 in the name of the Division of Youth and Family Services, acting
29 through the chief executive officer of the division or his authorized
30 representative. Such exercise of guardianship by the division shall
31 be at all times and in all respects subject to the supervision of the
32 commissioner.

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

42 (g) The term "welfare services" means consultation, counseling,
43 and referral to or utilization of available resources, for the purpose
44 of determining and correcting or adjusting matters and circum-
45 stances which are endangering the welfare of a child, and for the
46 purpose of promoting his proper development and adjustment in
47 the family and the community.

48 (h) The term "foster parent" means any person other than a
49 natural or adoptive parent with whom a child in the care, custody
50 or guardianship of the Division of Youth and Family Services is
51 placed by said division, or with its approval, for temporary or
52 long-term care, but shall not include any persons with whom a child
53 is placed for the purpose of adoption.

54 (i) The term "foster home" means and includes private resi-
55 dences, group homes, *residential facilities* and institutions wherein
56 any child in the care, custody or guardianship of the Division
57 of Youth and Family Services may be placed by the said division
58 or with its approval for temporary or long-term care, and shall
59 include any private residence maintained by persons with whom
60 any such child is placed for adoption.

61 (j) The singular includes the plural form.

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

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

64 (m) The term "group home" means and includes any single

65 family dwelling used in the placement of 12 children or less pur-
 66 suant to law recognized as a group home by the Department of
 67 Human Services in accordance with rules and regulations adopted
 68 by the Commissioner of Human Services; provided, however,
 69 that no group home shall contain more than 12 children.

70 (n) The term "youth facility" means a facility within this State
 71 used to house or provide services to children under this act, includ-
 72 ing but not limited to group homes, residential facilities, day care
 73 centers, and day treatment centers.

74 (o) The term "youth facility aid" means aid provided by the
 75 Division of Youth and Family Services to public, private or volun-
 76 tary agencies to purchase, construct, renovate, repair, upgrade or
 77 otherwise improve a youth facility in consideration for an agree-
 78 ment for the agency to provide residential care, day treatment or
 79 other youth services for children in need of such services.

80 (p) The term "day treatment center" means a facility used to
 81 provide counseling, supplemental educational services, therapy,
 82 and other related services to children for whom it has been deter-
 83 mined that such services are necessary, but is not used to house
 84 these children in a residential setting.

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

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

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

3 22. The *care, custody or guardianship* of the [Bureau of Chil-
 4 drens Services] *Division of Youth and Family Services* shall be
 5 full and complete for all purposes and shall vest in [such bureau]
 6 *the division* the custody and control of both the person and property
 7 *of children in its custody or care, and of its wards, whether com-*
 8 *mitted prior or subsequent to the effective date of this act when*
 9 *the children are in foster homes, without the necessity of giving*
 10 *bond, and notwithstanding any previous appointment of a guardian*
 11 *for the children under its custody or care or such wards.*

12 Such *care, custody or guardianship* of the [Bureau of Childrens
 13 Services] *division* shall enable [such bureau] *the division*, acting
 14 through the chief executive officer of the [bureau] *division* or his
 15 authorized representative, to prosecute suits, claims and any and
 16 all manner of proceedings or actions in law or equity for and on

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

37 [The County Court of the county where the commitment was
 38 made shall have jurisdiction to hear and determine any and all
 39 proceedings affecting the guardianship of the Bureau of Childrens
 40 Services. The County Court of each county] *A court of competent*
 41 *jurisdiction shall [have jurisdiction to] hear and determine peti-*
 42 *tions by [such bureau] the division, on behalf of the children under*
 43 *its custody or care or its wards when the children are in foster*
 44 *homes, for the transfer of any or all assets being held by guardians*
 45 *previously appointed. The [County Court] court shall have juris-*
 46 *isdiction, in its discretion, to waive costs in any proceedings by the*
 47 *[Bureau of Childrens Services] division on behalf of the children*
 48 *under its custody or care or its wards when the children are in*
 49 *foster homes*.

1 3. The title of P. L. 1962, c. 142, as said title was amended by
 2 P. L. 1964, c. 102, is amended to read as follows: An act authorizing
 3 the [Bureau of Childrens Services] *Division of Youth and Family*
 4 *Services* in the Department of [Institutions and Agencies] *Human*
 5 *Services* to [contract with] *hold* certain persons *liable* for payment
 6 *or partial payment* for the provision of care and custody of children
 7 *when the children are in foster homes* by [said bureau] *the di-*
 8 *vision* and providing for liens upon the property of certain persons
 9 [so contracting] *who are held liable* and the enforcement thereof.

1 4. Section 1 of P. L. 1962, c. 142 (C. 30:4C-29.1) is amended to
2 read as follows:

3 1. *a.* In any case in which the Department of Human Services,
4 through the Division of Youth and Family Services, is providing
5 care [and] *or* custody for any child *when the child is in a*
6 *foster home*, [the division may, on behalf of the department,
7 accept an agreement in writing made by any person or persons
8 for the payment to the division for said services of such amount
9 or amounts as shall be prescribed therefor by schedule approved
10 by the department and of such person or persons are legally obli-
11 gated to provide support for any such child, the] *any legally re-*
12 *sponsible person of the child, if of sufficient financial ability, is*
13 *liable for the full costs of maintenance of the child incurred by the*
14 *division. If the legally responsible person is of insufficient financial*
15 *ability, the person is liable in an amount which a court of competent*
16 *jurisdiction directs according to a scheduled rate approved by the*
17 *division. Nothing contained herein shall prevent the legally re-*
18 *sponsible person from voluntarily executing an agreement for pay-*
19 *ment to the division for the costs of maintenance of the child re-*
20 *ceiving care or custody when the child is in a foster home.*

21 *b.* The division shall have a lien against the property of [any
22 person so contracting] *the legally responsible person* in an amount
23 equal to the amount [or amounts so contracted] to be paid, which
24 lien shall have priority over all unrecorded encumbrances.

25 *c.* *If the legally responsible person fails to reimburse the depart-*
26 *ment, through the Division of Youth and Family Services, for the*
27 *costs of maintenance of a child incurred by the division when the*
28 *child is in a foster home, a court of competent jurisdiction, upon*
29 *the complaint of the Commissioner of Human Services, may sum-*
30 *mon the legally responsible person and other witnesses, and may*
31 *order the legally responsible person to pay an amount to the de-*
32 *partment, according to a scheduled rate approved by the division.*

33 *d.* In any case in which the department, through the Division of
34 Youth and Family Services, has agreed to provide youth facilities
35 aid to a public, private or voluntary agency pursuant to this act,
36 the division shall have a lien against the property of any person,
37 persons or agency so contracting, in an amount equal to the amount
38 or amounts so contracted to be paid, which lien shall have priority
39 over all unrecorded encumbrances. Such lien shall be reduced for
40 each year of service provided by the agency at a rate to be nego-
41 tiated by the division and the agency, but in no case more than
42 20% a year; provided, however, that annual reductions shall not
43 exceed \$10,000.00.

1 5. Section 2 of P. L. 1962, c. 142 (C. 30:4C-29.2) is amended
2 to read as follows:

3 2. At any time during the period during which said child is within
4 the care and custody of the division and within two years after the
5 date upon which said care and custody is terminated, the division,
6 through any officer or employee authorized by it so to do, may
7 execute and file a certificate with the county clerk, or if there be
8 such an officer in the county, with the register of deeds and mort-
9 gages of the county, or with the clerk of the Superior Court, as the
10 case may be, which certificate shall state the name of the child,
11 the date when the child came under the care and custody of the
12 division and the date of the agreement, *if any*, the name of the
13 person or persons by whom the agreement was made, *if any*, and
14 the sum or sums which said person or persons agreed *or is liable*
15 to pay to the division for the support and maintenance of said
16 child, and the amount due the division for such service at the time
17 of the filing of the certificate, and the rate of accumulation, if any
18 shall occur thereafter, and the person or persons from whom such
19 sum or sums are or will become due, and upon the filing of said
20 certificate the lien shall immediately attach to and become binding
21 upon all real property in the ownership of the person or persons
22 against whom it is filed in the county if it is filed in the county, or
23 wherever situate in the State, if it is filed in the Superior Court,
24 and it shall have the force and effect of a judgment at law.

25 At any time after the signing of an agreement to provide youth
26 facilities aid under this act for the duration of both that agreement
27 and any service agreement, the division, through any officer or
28 employee authorized so to do, may execute and file a lien certificate
29 with the county clerk or with the clerk of the Superior Court, which
30 shall state the names and addresses of both parties, the date of the
31 signing of the contract, the sum or sums which were disbursed to
32 the agency in the expectation that the agency would provide con-
33 tract services to the division in the future, and the amount due the
34 division at the time of filing of said certificate.

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

3 30. Except as provided in section 27 hereof relating to hospital
4 care, the cost of maintenance provided under this act for or on
5 behalf of any child shall be shared 75% by the State and 25% by
6 that county where such child may be or may have been at the time
7 of the filing of an application seeking care or custody or at the
8 time of the filing of a petition seeking guardianship.

9 The Governor shall fix and determine and state in his annual

10 budget message a sum sufficient to pay the estimated amount re-
11 quired to carry into effect the provisions of this act, together
12 with the deficiencies, if any, incurred in the previous year. The
13 Legislature shall include the amount so determined and stated in
14 the annual appropriation bill.

15 Payments from State funds appropriated for the provision of
16 maintenance as authorized by this act shall be made monthly in
17 advance by the State Treasurer, on the warrant of the Director of
18 the Division of Budget and Accounting to the [Bureau of Children's
19 Services] *Division of Youth and Family Services*, upon statements
20 furnished by the [Bureau of Children's Services] *division*, ap-
21 proved by the Department of [Institutions and Agencies] *Human*
22 *Services*.

23 *The division may fix the rate of per capita payment for the main-*
24 *tenance of children in each State program and subprogram, includ-*
25 *ing the allowance for clothing.*

26 The [Bureau of Children's Services] *division* shall annually fix
27 and determine and report to the board of chosen freeholders of each
28 county a sum sufficient to pay the estimated amount of the county's
29 proportionate share of maintenance. Each board of chosen free-
30 holders shall appropriate and make available such amount to the
31 order of the [Bureau of Children's Services] *division*. Should the
32 amount so appropriated, however, be expended or exhausted during
33 the year and for the purpose for which it was appropriated, addi-
34 tional sums shall be appropriated by such board of chosen free-
35 holders as occasion demands to carry out the provisions of this act,
36 from funds in the county treasury available therefor. Where such
37 county funds are not available or adequate, or should there be no
38 such county funds, such additional sums shall be raised by tem-
39 porary loans or notes, certificates of indebtedness or temporary
40 loan bonds, to be issued as otherwise provided and limited by law
41 for counties of this State, and the amounts necessary to pay such
42 obligations shall be placed in the budget for the next ensuing
43 fiscal year.

44 Payments from county funds appropriated for the provision of
45 maintenance as authorized by this act shall be made monthly in
46 advance by the treasurer of the county to the [Bureau of Chil-
47 dren's Services] *division* on the basis of commitments for such
48 county upon bills furnished by the [Bureau of Children's Services]
49 *division*.

1 7. This act shall take effect 90 days after enactment.

STATEMENT

This bill imposes a liability for maintenance upon a legally responsible person of a child maintained by the Division of Youth and Family Services. The bill defines legally responsible person as a natural or adoptive parent of a child or the spouse of the child.

The bill establishes a procedure by which the division may collect reimbursement or partial reimbursement of the amounts spent for maintenance on the child in its custody and care and authorizes the division to have a lien against the property of a legally responsible person and to apply for a court order to enforce collection of amounts due for maintenance of the child.

A683(1985)

ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE

STATEMENT TO
ASSEMBLY, No. 683

STATE OF NEW JERSEY

DATED: MARCH 15, 1984

This bill defines a legally responsible person of a child maintained by the Division of Youth and Family Services (DYFS) and imposes a liability upon the person for that child. The bill provides a procedure by which DYFS may collect total or partial reimbursement of the monies spent for maintenance of the child.

The bill would give DYFS a lien against the property of a legally responsible person and authorizes the division to apply to a court of competent jurisdiction for an order to enforce collection of the amounts spent to maintain the child. DYFS may not use for reimbursement of maintenance earned income, the corpus of any trust, devise or interstate share, or the proceeds of an insurance contract or of a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 683

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 1984

This bill imposes a liability for the cost of maintenance upon a legally responsible person of a child who is in a foster home and is under the care or custody of the Division of Youth and Family Services. The bill defines legally responsible person as a natural or adoptive parent of a child or the spouse of the child.

The bill establishes a procedure by which the division may collect reimbursement or partial reimbursement of the amounts spent for maintenance on the child in its custody and care who is in a foster home, and authorizes the division to hold a lien against the property of a legally responsible person and to apply for a court order to enforce collection of amounts due for maintenance of the child.

The bill also limits the Division of Youth and Family Services' authority to exercise custody and control of both the person and property of a child to only those cases when the child is in a foster home. Finally, the bill amends the definition of "foster home" to explicitly include residential facilities as well as private residences, group homes and institutions wherein a child under the care, custody or guardianship of the division is placed for temporary or long-term care.

This bill is identical to Senate Bill No. 533 of 1984.