

30:4C:15.4

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LAWS OF: 1999 **CHAPTER:** 213

NJSA: 30:4C:15.4 (Public Defender—legal representation)

BILL NO: S1977 (Substituted for A3244)

SPONSOR(S): Gormley and O'Connor

DATE INTRODUCED: June 7, 1999

COMMITTEE: **ASSEMBLY:** -----

SENATE: Women's Issues, Children and Family Services

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 24, 1999

SENATE: June 24, 1999

DATE OF APPROVAL: September 17, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Corrected Copy
(Amendments during passage denoted by superscript numbers)

S1977

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A3244

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes
Bill and Sponsors Statement identical to S1977

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
Identical to Senate Statement for S1977

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 1999, CHAPTER 213, *approved September 17, 1999*

Senate, No. 1977 (*Corrected Copy*)

1 AN ACT concerning legal representation in certain proceedings under
2 Title 30 of the Revised Statutes and amending P.L.1999, c.53.

3

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

6

7 1. Section 54 of P.L.1999, c.53 (C.30:4C-15.4) is amended to read
8 as follows:

9 54. **When a petition is filed under** a. In any action concerning the
10 termination of parental rights filed pursuant to section 15 of P.L.1951,
11 c.138 (C.30:4C-15), the court shall provide the respondent parent
12 with notice of [his] the right to retain [counsel] and consult with
13 [him] legal counsel. [The court shall advise the parent that if he is
14 indigent, he may obtain an attorney] If the parent appears before the
15 court, is indigent and requests counsel, the court shall appoint
16 [through] the Office of the Public Defender [who] to represent the
17 parent. The Office of the Public Defender shall appoint counsel to
18 represent the parent in accordance with subsection c. of this section.

19 If the parent was previously represented by counsel from the Office
20 of the Public Defender in a child abuse or neglect action filed pursuant
21 to chapter 6 of Title 9 of the Revised Statutes on behalf of the same
22 child, the same counsel, to the extent practicable, shall continue to
23 represent the parent in the termination of parental rights action, unless
24 that counsel seeks to be relieved by the court upon application for
25 substitution of counsel or other just cause.

26 Nothing in this section shall be construed to preclude the parent
27 from retaining private counsel.

28 b. A child who is the subject of an application for the termination
29 of parental rights pursuant to P.L.1951, c.138 (C.30:4C-15) shall be
30 represented by a law guardian as defined in section 1 of P.L.1974,
31 c.119 (C.9:6-8.21).

32 If the child was represented by a law guardian in a child abuse and
33 neglect action filed pursuant to chapter 6 of Title 9 of the Revised
34 Statutes, the same law guardian, to the extent practicable, shall
35 continue to represent the child in the termination of parental rights
36 action, unless that law guardian seeks to be relieved by the court upon
37 application for substitution of counsel or other just cause.

38 c. The Office of the Public Defender is authorized to provide
39 [such] representation to children and indigent parents in termination
40 of parental rights proceedings under Title 30 of the Revised Statutes
41 pursuant to the provisions of this section.

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 **【**The court shall appoint legal representation for the child from the
2 Law Guardian Program in the Office of the Public Defender. The
3 attorney appointed by the court to represent the child shall represent
4 such child in all proceedings before the Superior Court, Chancery
5 Division, Family Part filed pursuant to chapter 6 of Title 9 of the
6 Revised Statutes and chapter 4C of Title 30 of the Revised Statutes
7 unless relieved by the court upon application for substitution counsel
8 or other just cause.**】**

9 (1) In selecting attorneys to serve as law guardians or counsel for
10 indigent parents, the Office of the Public Defender shall take into
11 consideration the nature, complexity and other characteristics of the
12 cases, the services to be performed, the status of the matters, the
13 attorney's pertinent trial and other legal experience and other relevant
14 factors. The Office of the Public Defender also shall take into
15 consideration an attorney's willingness to make a commitment to
16 represent a child or parent, as applicable, in any actions taken under
17 Titles 9 and 30 of the Revised Statutes related to child abuse and
18 neglect and termination of parental rights.

19 (2) The Office of the Public Defender shall ensure that an attorney
20 selected pursuant to this section has received training in representing
21 clients in child abuse and neglect and termination of parental rights
22 actions from the Office of the Public Defender or will receive such
23 equivalent training, as soon as practicable, from other sources.

24 (3) The Office of the Public Defender shall provide for an internal
25 administrative unit with the responsibility to supervise, evaluate and
26 select non-staff counsel who will represent indigent parents
27 independently from the Law Guardian Program staff in the Office of
28 the Public Defender. All decisions of the Office of the Public Defender
29 concerning the representation of indigent parents in particular cases
30 shall be made by staff who have no actual involvement with the day-
31 to-day legal representation being provided by the Law Guardian
32 Program in the Office of the Public Defender.

33 Nothing in this paragraph shall be construed to limit the powers of
34 the Public Defender pursuant to P.L.1967, c.43 (C.2A:158A-7).

35 (cf: P.L.1999, c.53, s.54)

36

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

39 34. a. For the purpose of section 31 of P.L.1974, c.119 (C.9:6-
40 8.51), the court may place the child in the custody of a relative or
41 other suitable person or the division for the placement of a child after
42 a finding that the division has made reasonable efforts to prevent
43 placement or that reasonable efforts to prevent placement were not
44 required in accordance with section 24 of P.L.1999, c.53 (C.30:4C-
45 11.2).

46 b. (1) Placements under this section may be for an initial period of

1 12 months and the court, in its discretion, may at the expiration of
2 that period, upon a hearing make successive extensions for additional
3 periods of up to one year each. The court on its own motion may, at
4 the conclusion of any period of placement, hold a hearing concerning
5 the need for continuing the placement.

6 (2) The court shall conduct a permanency hearing for the child no
7 later than 30 days after placement in cases in which the court has
8 determined that reasonable efforts to ~~prevent placement~~ reunify the
9 child with the parent or guardian are not required pursuant to
10 ~~subsection a. of this~~ section 25 of P.L.1999, c.53 (C.30:4C-11.3),
11 or no later than 12 months after placement in cases in which the court
12 has determined that efforts to reunify the child with the parent or
13 guardian are required. The hearing shall include, but not necessarily
14 be limited to, consideration and evaluation of information provided by
15 the division and other interested parties regarding such matters as
16 those listed in subsection c. of section 50 of P.L.1999, c.53 (C.30:4C-
17 61.2).

18 (3) The court shall review the permanency plan for the child
19 periodically, as deemed appropriate by the court, to ensure that the
20 permanency plan is achieved.

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

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

30 (cf: P.L.1999, c.53, s.15)

31
32 3. This act shall take effect immediately.

33
34
35 STATEMENT

36
37 This bill provides for continuity of legal representation through the
38 Office of the Public Defender for children and indigent parents in child
39 abuse and neglect and termination of parental rights proceedings.

40 The bill amends section 54 of P.L.1999, c.53 to clarify that, in any
41 action concerning the termination of parental rights, the court shall
42 provide the respondent parent with notice of the right to retain and
43 consult with legal counsel and, if the parent appears before the court,
44 is indigent and requests counsel, that the court shall appoint the Office
45 of the Public Defender to represent the parent. The Office of the
46 Public Defender shall appoint counsel to represent the parent in

1 accordance with the requirements set forth in the bill.

2 In order to ensure continuity of legal representation for an indigent
3 parent, the bill provides that, if the parent was previously represented
4 by counsel from the Office of the Public Defender in a child abuse or
5 neglect action on behalf of the same child, the same counsel, to the
6 extent practicable, shall continue to represent the parent in the
7 termination of parental rights action, unless that counsel seeks to be
8 relieved by the court upon application for substitution of counsel or
9 other just cause.

10 Under the provisions of P.L.1999, c.53, a child who is the subject
11 of a termination of parental rights action shall be represented by a law
12 guardian and, to ensure continuity of legal representation, this bill
13 provides that, if the child was represented by a law guardian in a child
14 abuse and neglect action (under the provisions of Title 9 of the
15 Revised Statutes), the same law guardian, to the extent practicable,
16 shall continue to represent the child in the termination of parental
17 rights action, unless that law guardian seeks to be relieved by the court
18 upon application for substitution of counsel or other just cause.

19 The bill further provides that, in selecting attorneys to serve as law
20 guardians or counsel for indigent parents, the Office of the Public
21 Defender shall take into consideration the nature, complexity and other
22 characteristics of the cases, the services to be performed, the status of
23 the matters, the attorney's pertinent trial and other legal experience
24 and other relevant factors. The Office of the Public Defender also
25 shall take into consideration an attorney's willingness to make a
26 commitment to represent a child or parent, as applicable, in any
27 actions taken under Titles 9 and 30 of the Revised Statutes related to
28 child abuse and neglect and termination of parental rights. Also, the
29 Office of the Public Defender is directed to ensure that an attorney
30 selected to represent parents in termination of parental rights
31 proceedings has received training in representing clients in child abuse
32 and neglect and termination of parental rights actions from the Office
33 of the Public Defender or will receive such equivalent training, as soon
34 as practicable, from other sources.

35 Further, to ensure that the representation by the legal counsel for
36 indigent parents functions independently from that of the law
37 guardians (for children) within the Office of the Public Defender, the
38 bill provides that:

39 (1) the Office of the Public Defender shall provide for an internal
40 administrative unit with the responsibility to supervise, evaluate and
41 select non-staff counsel who will represent indigent parents
42 independently from the Law Guardian Program staff in the Office of
43 the Public Defender; and

44 (2) all decisions of the Office of the Public Defender concerning
45 the representation of indigent parents in particular cases shall be made
46 by staff who have no actual involvement with the day-to-day legal

1 representation being provided by the Law Guardian Program in the
2 Office of the Public Defender.

3 The bill also makes technical amendments to new provisions in
4 N.J.S.A.9:6-8.54 that were adopted pursuant to P.L.1999, c.53, with
5 respect to permanency hearings for children subject to child abuse and
6 neglect proceedings. That statute is revised to provide that the court
7 shall conduct a permanency hearing no later than 30 days after
8 placement in cases in which the court has determined that reasonable
9 efforts to reunify the child with his parent or guardian (rather than to
10 prevent placement, as the law currently provides) are not required.

11

12

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14

15 Provides for continuity of legal representation through Office of the
16 Public Defender for children and indigent parents in child abuse and
17 termination of parental rights proceedings.

[Corrected Copy]

SENATE, No. 1977

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED JUNE 7, 1999

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator EDWARD T. O'CONNOR

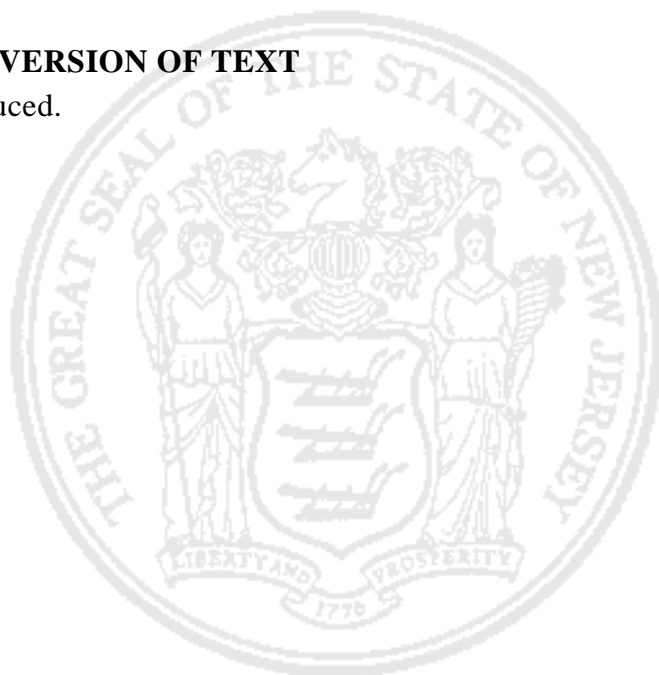
District 31 (Hudson)

SYNOPSIS

Provides for continuity of legal representation through Office of the Public Defender for children and indigent parents in child abuse and termination of parental rights proceedings.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning legal representation in certain proceedings under
2 Title 30 of the Revised Statutes and amending P.L.1999, c.53.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
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13 [him] legal counsel. [The court shall advise the parent that if he is
14 indigent, he may obtain an attorney] If the parent appears before the
15 court, is indigent and requests counsel, the court shall appoint
16 [through] the Office of the Public Defender [who] to represent the
17 parent. The Office of the Public Defender shall appoint counsel to
18 represent the parent in accordance with subsection c. of this section.

19 If the parent was previously represented by counsel from the Office
20 of the Public Defender in a child abuse or neglect action filed pursuant
21 to chapter 6 of Title 9 of the Revised Statutes on behalf of the same
22 child, the same counsel, to the extent practicable, shall continue to
23 represent the parent in the termination of parental rights action, unless
24 that counsel seeks to be relieved by the court upon application for
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27 from retaining private counsel.

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29 of parental rights pursuant to P.L.1951, c.138 (C.30:4C-15) shall be
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2 attorney appointed by the court to represent the child shall represent
3 such child in all proceedings before the Superior Court, Chancery
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23 (3) The Office of the Public Defender shall provide for an internal
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46 12 months and the court, in its discretion, may at the expiration of

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18 periodically, as deemed appropriate by the court, to ensure that the
19 permanency plan is achieved.

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

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

29 (cf: P.L.1999, c.53, s.15)

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34 STATEMENT

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39 The bill amends section 54 of P.L.1999, c.53 to clarify that, in any
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42 consult with legal counsel and, if the parent appears before the court,
43 is indigent and requests counsel, that the court shall appoint the Office
44 of the Public Defender to represent the parent. The Office of the
45 Public Defender shall appoint counsel to represent the parent in
46 accordance with the requirements set forth in the bill.

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2 parent, the bill provides that, if the parent was previously represented
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4 neglect action on behalf of the same child, the same counsel, to the
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18 The bill further provides that, in selecting attorneys to serve as law
19 guardians or counsel for indigent parents, the Office of the Public
20 Defender shall take into consideration the nature, complexity and other
21 characteristics of the cases, the services to be performed, the status of
22 the matters, the attorney's pertinent trial and other legal experience
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39 administrative unit with the responsibility to supervise, evaluate and
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43 (2) all decisions of the Office of the Public Defender concerning
44 the representation of indigent parents in particular cases shall be made
45 by staff who have no actual involvement with the day-to-day legal
46 representation being provided by the Law Guardian Program in the

1 Office of the Public Defender.

2 The bill also makes technical amendments to new provisions in
3 N.J.S.A.9:6-8.54 that were adopted pursuant to P.L.1999, c.53, with
4 respect to permanency hearings for children subject to child abuse and
5 neglect proceedings. That statute is revised to provide that the court
6 shall conduct a permanency hearing no later than 30 days after
7 placement in cases in which the court has determined that reasonable
8 efforts to reunify the child with his parent or guardian (rather than to
9 prevent placement, as the law currently provides) are not required.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1977

STATE OF NEW JERSEY

DATED: JUNE 14, 1999

The Senate Women's Issues, Children and Family Services Committee reports favorably Senate Bill No.1977.

This bill provides for continuity of legal representation through the Office of the Public Defender for children and indigent parents in child abuse and neglect and termination of parental rights proceedings.

The bill amends section 54 of P.L.1999, c.53 to clarify that in any action concerning the termination of parental rights, the court shall provide the respondent parent with notice of the right to retain and consult with legal counsel, and if the parent appears before the court, is indigent and requests counsel, the court shall appoint the Office of the Public Defender to represent the parent. The Office of the Public Defender shall appoint counsel to represent the parent in accordance with the requirements set forth in the bill.

In order to ensure continuity of legal representation for an indigent parent, the bill provides that if the parent was previously represented by counsel from the Office of the Public Defender in a child abuse or neglect action on behalf of the same child, the same counsel, to the extent practicable, shall continue to represent the parent in the termination of parental rights action, unless that counsel seeks to be relieved by the court upon application for substitution of counsel or other just cause.

Under the provisions of P.L.1999, c.53, a child who is the subject of a termination of parental rights action shall be represented by a law guardian and, to ensure continuity of legal representation, this bill provides that if the child was represented by a law guardian in a child abuse and neglect action (under the provisions of Title 9 of the Revised Statutes), the same law guardian, to the extent practicable, shall continue to represent the child in the termination of parental rights action, unless that law guardian seeks to be relieved by the court upon application for substitution of counsel or other just cause.

The bill further provides that in selecting attorneys to serve as law guardians or counsel for indigent parents, the Office of the Public Defender shall take into consideration the nature, complexity and other characteristics of the cases, the services to be performed, the status of the matters, the attorney's pertinent trial and other legal experience

and other relevant factors. The Office of the Public Defender also shall take into consideration an attorney's willingness to make a commitment to represent a child or parent, as applicable, in any actions taken under Titles 9 and 30 of the Revised Statutes related to child abuse and neglect and termination of parental rights. Also, the Office of the Public Defender is directed to ensure that an attorney selected to represent parents in termination of parental rights proceedings has received training in representing clients in child abuse and neglect and termination of parental rights actions from the Office of the Public Defender or will receive such equivalent training, as soon as practicable, from other sources.

Further, to ensure that the representation by the legal counsel for indigent parents functions independently from that of the law guardians (for children) within the Office of the Public Defender, the bill provides that:

(1) the Office of the Public Defender shall provide for an internal administrative unit with the responsibility to supervise, evaluate and select non-staff counsel who will represent indigent parents independently from the Law Guardian Program staff in the Office of the Public Defender; and

(2) all decisions of the Office of the Public Defender concerning the representation of indigent parents in particular cases shall be made by staff who have no actual involvement with the day-to-day legal representation being provided by the Law Guardian Program in the Office of the Public Defender.

The bill also makes technical amendments to new provisions in N.J.S.A.9:6-8.54 that were adopted pursuant to P.L.1999, c.53, with respect to permanency hearings for children subject to child abuse and neglect proceedings. That statute is revised to provide that the court shall conduct a permanency hearing no later than 30 days after placement in cases in which the court has determined that reasonable efforts to reunify the child with his parent or guardian (rather than to prevent placement, as the law currently provides) are not required.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 1977

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JULY 22, 1999

Senate Bill No. 1977 of 1999 provides for continuity of legal representation through the Office of the Public Defender for children and indigent parents in child abuse and neglect and termination of parental rights proceedings.

The bill amends section 54 of P.L.1999,c.53 to clarify that in any action concerning the termination of parental rights, the court shall provide the respondent parent with notice of the right to retain and consult with legal counsel, and if the parent appears before the court, is indigent and requests counsel, the court shall appoint in the Office of the Public Defender to represent the parent.

In order to ensure continuity of legal representation for an indigent parent, the bill provides that if the parent was previously represented by counsel from the Office of the Public Defender in a child abuse or neglect action on behalf of the same child, the same counsel, to the extent practicable, shall continue to represent the parent in the termination of parental rights action, unless that counsel seeks to be relieved by the court upon application for substitution of counsel or other just cause.

P.L.1999, c.53 appropriated \$600,000 for FY 1999 to the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings under a Title 30. The State has been in compliance with the federal "Adoption and Safe Families Act of 1999" since its enactment in November 1997. This bill enacts a continuation of that program. The FY 2000 appropriation bill (S-3000/A-3300) contains an appropriation of \$3.218 million to the Office of the Public Defender to cover the responsibilities associated with this bill.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 3244

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JUNE 10, 1999

Sponsored by:

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

SYNOPSIS

Provides for continuity of legal representation through Office of the Public Defender for children and indigent parents in child abuse and termination of parental rights proceedings.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/1999)

A3244 BAGGER, HECK

2

1 AN ACT concerning legal representation in certain proceedings under
2 Title 30 of the Revised Statutes and amending P.L.1999, c.53.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 54 of P.L.1999, c.53 (C.30:4C-15.4) is amended to read
8 as follows:

9 54. **【When a petition is filed under】** a. In any action concerning the
10 termination of parental rights filed pursuant to section 15 of P.L.1951,
11 c.138 (C.30:4C-15), the court shall provide the respondent parent
12 with notice of **【his】** the right to retain **【counsel】** and consult with
13 **【him】** legal counsel. **【The court shall advise the parent that if he is**
14 indigent, he may obtain an attorney】 If the parent appears before the
15 court, is indigent and requests counsel, the court shall appoint
16 **【through】** the Office of the Public Defender **【who】** to represent the
17 parent. The Office of the Public Defender shall appoint counsel to
18 represent the parent in accordance with subsection c. of this section.

19 If the parent was previously represented by counsel from the Office
20 of the Public Defender in a child abuse or neglect action filed pursuant
21 to chapter 6 of Title 9 of the Revised Statutes on behalf of the same
22 child, the same counsel, to the extent practicable, shall continue to
23 represent the parent in the termination of parental rights action, unless
24 that counsel seeks to be relieved by the court upon application for
25 substitution of counsel or other just cause.

26 Nothing in this section shall be construed to preclude the parent
27 from retaining private counsel.

28 b. A child who is the subject of an application for the termination
29 of parental rights pursuant to P.L.1951, c.138 (C.30:4C-15) shall be
30 represented by a law guardian as defined in section 1 of P.L.1974,
31 c.119 (C.9:6-8.21).

32 If the child was represented by a law guardian in a child abuse and
33 neglect action filed pursuant to chapter 6 of Title 9 of the Revised
34 Statutes, the same law guardian, to the extent practicable, shall
35 continue to represent the child in the termination of parental rights
36 action, unless that law guardian seeks to be relieved by the court upon
37 application for substitution of counsel or other just cause.

38 c. The Office of the Public Defender is authorized to provide
39 **【such】** representation to children and indigent parents in termination
40 of parental rights proceedings under Title 30 of the Revised Statutes
41 pursuant to the provisions of this section.

42 **【The court shall appoint legal representation for the child from the**

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 Law Guardian Program in the Office of the Public Defender. The
2 attorney appointed by the court to represent the child shall represent
3 such child in all proceedings before the Superior Court, Chancery
4 Division, Family Part filed pursuant to chapter 6 of Title 9 of the
5 Revised Statutes and chapter 4C of Title 30 of the Revised Statutes
6 unless relieved by the court upon application for substitution counsel
7 or other just cause.】

8 (1) In selecting attorneys to serve as law guardians or counsel for
9 indigent parents, the Office of the Public Defender shall take into
10 consideration the nature, complexity and other characteristics of the
11 cases, the services to be performed, the status of the matters, the
12 attorney's pertinent trial and other legal experience and other relevant
13 factors. The Office of the Public Defender also shall take into
14 consideration an attorney's willingness to make a commitment to
15 represent a child or parent, as applicable, in any actions taken under
16 Titles 9 and 30 of the Revised Statutes related to child abuse and
17 neglect and termination of parental rights.

18 (2) The Office of the Public Defender shall ensure that an attorney
19 selected pursuant to this section has received training in representing
20 clients in child abuse and neglect and termination of parental rights
21 actions from the Office of the Public Defender or will receive such
22 equivalent training, as soon as practicable, from other sources.

23 (3) The Office of the Public Defender shall provide for an internal
24 administrative unit with the responsibility to supervise, evaluate and
25 select non-staff counsel who will represent indigent parents
26 independently from the Law Guardian Program staff in the Office of
27 the Public Defender. All decisions of the Office of the Public Defender
28 concerning the representation of indigent parents in particular cases
29 shall be made by staff who have no actual involvement with the day-
30 to-day legal representation being provided by the Law Guardian
31 Program in the Office of the Public Defender.

32 Nothing in this paragraph shall be construed to limit the powers of
33 the Public Defender pursuant to P.L.1967, c.43 (C.2A:158A-7).

34 (cf: P.L.1999, c.53, s.54)

35

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

38 34. a. For the purpose of section 31 of P.L.1974, c.119 (C.9:6-
39 8.51), the court may place the child in the custody of a relative or
40 other suitable person or the division for the placement of a child after
41 a finding that the division has made reasonable efforts to prevent
42 placement or that reasonable efforts to prevent placement were not
43 required in accordance with section 24 of P.L.1999, c.53 (C.30:4C-
44 11.2).

45 b. (1) Placements under this section may be for an initial period of
46 12 months and the court, in its discretion, may at the expiration of

1 that period, upon a hearing make successive extensions for additional
2 periods of up to one year each. The court on its own motion may, at
3 the conclusion of any period of placement, hold a hearing concerning
4 the need for continuing the placement.

5 (2) The court shall conduct a permanency hearing for the child no
6 later than 30 days after placement in cases in which the court has
7 determined that reasonable efforts to ~~prevent placement~~ reunify the
8 child with the parent or guardian are not required pursuant to
9 ~~subsection a. of this~~ section 25 of P.L.1999, c.53 (C.30:4C-11.3),
10 or no later than 12 months after placement in cases in which the court
11 has determined that efforts to reunify the child with the parent or
12 guardian are required. The hearing shall include, but not necessarily
13 be limited to, consideration and evaluation of information provided by
14 the division and other interested parties regarding such matters as
15 those listed in subsection c. of section 50 of P.L.1999, c.53 (C.30:4C-
16 61.2).

17 (3) The court shall review the permanency plan for the child
18 periodically, as deemed appropriate by the court, to ensure that the
19 permanency plan is achieved.

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

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

29 (cf: P.L.1999, c.53, s.15)

30
31 3. This act shall take effect immediately.

32
33
34 STATEMENT

35
36 This bill provides for continuity of legal representation through the
37 Office of the Public Defender for children and indigent parents in child
38 abuse and neglect and termination of parental rights proceedings.

39 The bill amends section 54 of P.L.1999, c.53 to clarify that, in any
40 action concerning the termination of parental rights, the court shall
41 provide the respondent parent with notice of the right to retain and
42 consult with legal counsel and, if the parent appears before the court,
43 is indigent and requests counsel, that the court shall appoint the Office
44 of the Public Defender to represent the parent. The Office of the
45 Public Defender shall appoint counsel to represent the parent in
46 accordance with the requirements set forth in the bill.

1 In order to ensure continuity of legal representation for an indigent
2 parent, the bill provides that, if the parent was previously represented
3 by counsel from the Office of the Public Defender in a child abuse or
4 neglect action on behalf of the same child, the same counsel, to the
5 extent practicable, shall continue to represent the parent in the
6 termination of parental rights action, unless that counsel seeks to be
7 relieved by the court upon application for substitution of counsel or
8 other just cause.

9 Under the provisions of P.L.1999, c.53, a child who is the subject
10 of a termination of parental rights action shall be represented by a law
11 guardian and, to ensure continuity of legal representation, this bill
12 provides that, if the child was represented by a law guardian in a child
13 abuse and neglect action (under the provisions of Title 9 of the
14 Revised Statutes), the same law guardian, to the extent practicable,
15 shall continue to represent the child in the termination of parental
16 rights action, unless that law guardian seeks to be relieved by the court
17 upon application for substitution of counsel or other just cause.

18 The bill further provides that, in selecting attorneys to serve as law
19 guardians or counsel for indigent parents, the Office of the Public
20 Defender shall take into consideration the nature, complexity and other
21 characteristics of the cases, the services to be performed, the status of
22 the matters, the attorney's pertinent trial and other legal experience
23 and other relevant factors. The Office of the Public Defender also
24 shall take into consideration an attorney's willingness to make a
25 commitment to represent a child or parent, as applicable, in any
26 actions taken under Titles 9 and 30 of the Revised Statutes related to
27 child abuse and neglect and termination of parental rights. Also, the
28 Office of the Public Defender is directed to ensure that an attorney
29 selected to represent parents in termination of parental rights
30 proceedings has received training in representing clients in child abuse
31 and neglect and termination of parental rights actions from the Office
32 of the Public Defender or will receive such equivalent training, as soon
33 as practicable, from other sources.

34 Further, to ensure that the representation by the legal counsel for
35 indigent parents functions independently from that of the law
36 guardians (for children) within the Office of the Public Defender, the
37 bill provides that:

38 (1) the Office of the Public Defender shall provide for an internal
39 administrative unit with the responsibility to supervise, evaluate and
40 select non-staff counsel who will represent indigent parents
41 independently from the Law Guardian Program staff in the Office of
42 the Public Defender; and

43 (2) all decisions of the Office of the Public Defender concerning
44 the representation of indigent parents in particular cases shall be made
45 by staff who have no actual involvement with the day-to-day legal
46 representation being provided by the Law Guardian Program in the

1 Office of the Public Defender.

2 The bill also makes technical amendments to new provisions in
3 N.J.S.A.9:6-8.54 that were adopted pursuant to P.L.1999, c.53, with
4 respect to permanency hearings for children subject to child abuse and
5 neglect proceedings. That statute is revised to provide that the court
6 shall conduct a permanency hearing no later that 30 days after
7 placement in cases in which the court has determined that reasonable
8 efforts to reunify the child with his parent or guardian (rather than to
9 prevent placement, as the law currently provides) are not required.

ASSEMBLY SENIOR ISSUES AND COMMUNITY SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3244

STATE OF NEW JERSEY

DATED: JUNE 21, 1999

The Assembly Senior Issues and Community Services Committee reports favorably Assembly Bill No. 3244.

This bill provides for continuity of legal representation through the Office of the Public Defender for children and indigent parents in child abuse and neglect and termination of parental rights proceedings.

The bill amends section 54 of P.L.1999, c.53 to clarify that, in any action concerning the termination of parental rights, the court would provide the respondent parent with notice of the right to retain and consult with legal counsel and, if the parent who appears before the court, is indigent and requests counsel, that the court would appoint the Office of the Public Defender to represent the parent. The Office of the Public Defender would appoint counsel to represent the parent in accordance with the requirements set forth in the bill.

In order to ensure continuity of legal representation for an indigent parent, the bill provides that, if the parent was previously represented by counsel from the Office of the Public Defender in a child abuse or neglect action on behalf of the same child, the same counsel, to the extent practicable, would continue to represent the parent in the termination of parental rights action, unless that counsel seeks to be relieved by the court upon application for substitution of counsel or other just cause.

Under the provisions of P.L.1999, c.53, a child who is the subject of a termination of parental rights action would be represented by a law guardian and, to ensure continuity of legal representation, this bill provides that, if the child was represented by a law guardian in a child abuse and neglect action (under the provisions of Title 9 of the Revised Statutes), the same law guardian, to the extent practicable, would continue to represent the child in the termination of parental rights action, unless that law guardian seeks to be relieved by the court upon application for substitution of counsel or other just cause.

The bill further provides that, in selecting attorneys to serve as law guardians or counsel for indigent parents, the Office of the Public Defender would take into consideration the nature, complexity and other characteristics of the cases, the services to be performed, the status of the matters, the attorney's pertinent trial and other legal

experience and other relevant factors. The Office of the Public Defender would also take into consideration an attorney's willingness to make a commitment to represent a child or parent, as applicable, in any actions taken under Titles 9 and 30 of the Revised Statutes related to child abuse and neglect and termination of parental rights. Also, the Office of the Public Defender is directed to ensure that an attorney selected to represent parents in termination of parental rights proceedings has received training in representing clients in child abuse and neglect and termination of parental rights actions from the Office of the Public Defender or will receive such equivalent training, as soon as practicable, from other sources.

Further, to ensure that the representation by the legal counsel for indigent parents functions independently from that of the law guardians (for children) within the Office of the Public Defender, the bill provides that:

(1) the Office of the Public Defender would provide for an internal administrative unit with the responsibility to supervise, evaluate and select non-staff counsel who will represent indigent parents independently from the Law Guardian Program staff in the Office of the Public Defender; and

(2) all decisions of the Office of the Public Defender concerning the representation of indigent parents in particular cases would be made by staff who have no actual involvement with the day-to-day legal representation being provided by the Law Guardian Program in the Office of the Public Defender.

The bill would also make technical amendments to new provisions in N.J.S.A.9:6-8.54 that were adopted pursuant to P.L.1999, c.53, with respect to permanency hearings for children subject to child abuse and neglect proceedings. That statute is revised to provide that the court shall conduct a permanency hearing no later than 30 days after placement in cases in which the court has determined that reasonable efforts to reunify the child with his parent or guardian (rather than to prevent placement, as the law currently provides) are not required.

Office of the Governor
NEWS RELEASE

CONTACT: Gene Herman
609-777-2600

RELEASE: September 17, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-947, sponsored by Senators William L. Gormley (R-Atlantic) and Wayne R. Bryant (D-Camden/Gloucester) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Tom Smith (R-Monmouth), adds the violation of a domestic violence restraining order to the list of aggravating factors for a jury to consider in the penalty phase of a murder case. The state's murder statute sets forth a list of aggravating factors, including that the murder was committed in an outrageously or wantonly vile manner, involved an aggravated assault, or was committed in the course of a robbery, burglary, sexual assault or other specified serious offense. A murder charge only may be tried as a death penalty case if the prosecutor gives notice to the defense near to the time of indictment that one or more of the statutory aggravating factors are present. Before a jury in such a case can consider imposing the death penalty, it must find that the state proved beyond a reasonable doubt at least one of the aggravating factors.

S-1388, sponsored by Senator Martha W. Bark (R-Atlantic/Burlington/Camden) and Assembly Member Francis L. Bodine (R-Atlantic/Burlington/Camden), amends the Long Term Tax Exemption Law to permit the assignment of long term tax abatements from urban renewal entities to owners in fee simple. Owners in fee simple own their housing units, which are not a part of a condominium. The law allows urban renewal entities, which are non-profit corporations established to rehabilitate urban housing for resale to qualified individuals, to receive such abatements for improvements made to urban housing developments. Previous law expressly permitted owners of condominium units to sell their property along with tax abatements.

S-1959, sponsored by Senator Robert E. Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Guy R. Gregg (R-Sussex/Hunterdon/Morris) and E. Scott Garrett (R-Sussex/Hunterdon/Morris), appropriates \$5 million to the Department of Environmental Protection from the Natural Resources Bond Act of 1980 for a grant to Hopatcong Borough for a clean water project. The grant will be used to install sewers for residents that reside near Lake Hopatcong. The \$5 million grant is the state's share of the project, which is projected to cost \$20 million. The appropriation will leverage \$8.7 million in federal funds.

S-1515, sponsored by Senator Robert J. Martin (R-Essex/Morris/Passaic) and Assembly Members Carol J. Murphy (R-Essex/Morris/Passaic) and Neil M. Cohen (D-Union), authorizes the regulation of viatical agreements by the Commissioner of Banking and Insurance. A viatical agreement is an agreement to sell a life insurance policy by a person who typically is ill and in immediate need of money. The bill is intended to protect particularly vulnerable persons from aggressive or fraudulent business tactics. The bill requires licensure as a viatical settlement provider for any person who is involved in three or more agreements in the period of one year.

The regulatory aspects of the bill include permitting alterations to viatical agreements, tax implications, rights of rescission, and Medicaid issues. The viatical agreement must contain several consumer protection provisions as set forth in the bill. Among other things, the viatical settlement provider must disclose to consumers possible alternatives to the contract, the need for professional tax advice, the effect of receiving a lump sum of money on pending claims by creditors, and the person's eligibility for government benefits.

The Commissioner of Banking and Insurance is given broad discretion to suspend, revoke or refuse to review licenses. Licensees are required to file annual statements containing information that the Commissioner may require by regulation. The Commissioner has the right to examine the business activities of any licensee.

S-673, sponsored by Senator Peter A. Inverso (R-Mercer/Middlesex), implements a series of recommendations made by the Supreme Court Committee on the Tax Court to amend the laws dealing with property tax appeals and certain Tax Court matters. The amendments are primarily procedural in nature and are designed to increase uniformity, efficiency and flexibility in key areas of the administration of property tax appeals, such as filing deadlines, the Freeze Act and tax payment requirement. The Freeze Act freezes the property assessment for three years when a taxpayer is successful in a tax appeal. The bill also contains several technical amendments, such as incorporating gender neutral language and updating references to judicial bodies and governmental entities.

S-1977 provides for continuity of legal representation through the Office of the Public Defender (OPD) for children and indigent parents in child abuse and termination of parental proceedings. The bill specifically directs that, where practicable, the same attorney will represent a parent or child in each of these types of matters. The continuity is intended to increase the overall effectiveness and efficiency of the legal system in its handling of termination of parental rights cases. The state's recently enacted Adoption and Safe Families Act (AFSA) provided the framework for continuity of legal representation by granting the OPD the authority to represent parents and children in termination of parental rights matters. Prior to AFSA, the OPD was statutorily authorized to provide legal counsel in abuse and neglect matters, but not termination matters. In such termination matters, the courts appointed pro-bono counsel to represent indigent parents and children. The bill was sponsored by Senators William L. Gormley (R-Atlantic) and Edward T. O'Connor, Jr. (D-Hudson) and Assembly Members Richard H. Bagger (R-Middlesex/Morris/Somerset/Union) and Rose Marie Heck (R-Bergen).