

CHAPTER 130

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

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

C.30:4C-1.1 Findings, declarations relative to child protective services.

1. The Legislature finds and declares that:
 - a. New Jersey must improve the ability of its child welfare system to protect children from abuse and neglect, and to provide services to at-risk children and families in order to prevent harm to their children;
 - b. Recent data and assessments of the child welfare system in this State demonstrate the need for a new approach to delivering services to this vulnerable population, and the system must therefore be reformed;
 - c. Because the safety of children must always be paramount, allegations of child abuse and neglect must be investigated quickly and thoroughly and protective actions must be taken immediately if necessary;
 - d. Concerns about the safety, permanency and well-being of children require significant changes in: the organization of the child welfare system, the ability to implement best practices within the system; the development of effective services to meet the needs of children and families; and the elimination of impediments to the quick and efficient management of abuse and neglect cases;
 - e. Children need safe, stable and positive relationships with caring adults in order to thrive; and, if their parents are incapable of providing such a caring relationship, the State must look to other families to provide this kind of relationship;
 - f. To ensure the best outcomes for children and their families, these substitute families must be viewed and treated as "resource families" and provided with appropriate support, training and responsibilities, which will include: expedited licensure for this purpose, equalized payment rates for care among the various types of resource families, and enhanced access to necessary support services tailored to their respective needs;
 - g. Youths must be provided with supports and services in their communities that will enable them to grow into healthy and productive adults; and those youths who previously received child welfare services must continue to receive those services beyond the age of 18, up to age 21, as appropriate;
 - h. This act is necessary in order to make the initial statutory changes required under a comprehensive child welfare reform plan issued by the Department of Human Services as part of a federal class action settlement, which is designed to address the deficiencies identified in the child welfare system in this State over a five-year period;
 - i. The comprehensive child welfare reform plan calls for changes in the approach taken by the State to case practice, recruitment and support of resource families, partnering with the community, creating and delivering services to children and families, providing support and training to the child welfare system workforce, and ensuring accountability and continuous quality improvement within the system;
 - j. This act is designed to allow the Division of Youth and Family Services to focus its mission on abused and neglected children by creating the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships in order to build the capacity to meet the needs of children and families in those respective areas of the child welfare system, with all three divisions operating under a deputy commissioner who is responsible for the Office of Children's Services established under this act;
 - k. This act is also designed to enable the Division of Youth and Family Services to better focus on issues relating to abused and neglected children by transferring its responsibilities for licensure and investigating institutional abuse to the Department of Human Services, as well as transferring other responsibilities to the department that will be assigned to the new Division of Child Behavioral Health Services and the new Division of Prevention and Community Partnerships; and
 - l. This act will otherwise enhance the quality of the child welfare system in New Jersey by facilitating the transition to other needed long-term systemic changes with regard to out-of-home placements and permanency options for children who cannot live with their birth families.

C.30:4C-2.2 Office of Children's Services.

2. There is established the Office of Children's Services in the Department of Human Services, which shall be under the direction of the Deputy Commissioner for Children's Services. The office shall oversee such entities within the department as are designated by the Commissioner of Human Services, including, but not limited to, the Division of Youth and Family Services, the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships.

C.30:4C-2.3 Provision of services to certain individuals aged 18 to 21.

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

- a. The individual was receiving services from the Office of Children's Services, or otherwise from the department as designated by the commissioner, on or after the individual's 16th birthday;
- b. The individual, on or after the individual's 18th birthday, has not refused or requested that these services be terminated, as applicable; and
- c. The Office of Children's Services or another entity designated by the commissioner determines that a continuation of services would be in the individual's best interest and would assist the individual to become an independent and productive adult.

C.30:4C-2.4 New Jersey Child Welfare Training Academy.

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

- (1) pre-service and in-service training for public employees of the child welfare system;
 - (2) training opportunities for community-based entities and other child welfare system stakeholders as designated by the commissioner; and
 - (3) pre-service and in-service training for resource families.
- b. The academy shall be responsible for developing and managing the training activities provided under this program, for which purpose it shall:
- (1) administer, coordinate and evaluate all training activities under the program;
 - (2) seek to partner with social work and other professionals to ensure that the training provided under the program reflects best practices;
 - (3) develop training curricula, resources and products;
 - (4) schedule and provide notice of training events and provide training materials for those events;
 - (5) employ and compensate training event instructors as necessary;
 - (6) create mechanisms and processes to assess, identify and monitor training needs for public employees of the child welfare system, including competency-based training;
 - (7) create mechanisms and processes to evaluate the effectiveness of the training provided under the program;
 - (8) provide for the development of multimedia training tools to inform, educate and train public agency staff, resource families and others in the child welfare system;
 - (9) determine the minimum number of pre-service and in-service training hours required of, and ensure the availability of sufficient training opportunities for, public agency staff Statewide; and
 - (10) conduct any other activities necessary to develop, implement and manage the training program.

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

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

C.2A:4A-42 Predispositional evaluation.

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

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

c. The predisposition report ordered pursuant to the Rules of Court may include a statement by the victim of the offense for which the juvenile has been adjudicated delinquent or by the nearest relative of a homicide victim. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation division shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the predisposition report if the victim or relative so desires. Any statement shall be made within 20 days of notification by the probation division. The report shall further include information on the financial resources of the juvenile. This information shall be made available on request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment, restitution or fine. Any predisposition report prepared pursuant to this section shall include an analysis of the circumstances attending the commission of the act, the impact of the offense on the community, the offender's history of delinquency or criminality, family situation, financial resources, the financial resources of the juvenile's parent or guardian, and information concerning the parent or guardian's exercise of supervision and control relevant to commission of the act.

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

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

C.2A:4A-43 Disposition of delinquency cases.

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

- (1) The nature and circumstances of the offense;
- (2) The degree of injury to persons or damage to property caused by the juvenile's offense;
- (3) The juvenile's age, previous record, prior social service received and out-of-home placement history;
- (4) Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;
- (5) Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;
- (6) Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child;
- (7) Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has mental retardation or learning disabilities;
- (8) Any other circumstances related to the offense and the juvenile's social history as deemed

appropriate by the court;

- (9) The impact of the offense on the victim or victims;
- (10) The impact of the offense on the community; and
- (11) The threat to the safety of the public or any individual posed by the child.

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

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

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

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

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

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

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

(7) Commit the juvenile, pursuant to applicable laws and the Rules of Court governing civil commitment, to the Department of Human Services under the responsibility of the Division of Child Behavioral Health Services for the purpose of placement in a suitable public or private hospital or other residential facility for the treatment of persons who are mentally ill, on the ground that the juvenile is in need of involuntary commitment;

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

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

(10) Order that the juvenile perform community services under the supervision of a probation

division or other agency or individual deemed appropriate by the court. Such services shall be compulsory and reasonable in terms of nature and duration. Such services may be performed without compensation, provided that any money earned by the juvenile from the performance of community services may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

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

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

(13) Order that the juvenile participate in a program of academic or vocational education or counseling, such as a youth service bureau, requiring attendance at sessions designed to afford access to opportunities for normal growth and development. This may require attendance after school, evenings and weekends;

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

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

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

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

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

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

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

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

c. (1) Except as otherwise provided in subsections e. and f. of this section, if the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Juvenile Justice Commission, the court may, in addition to any of the dispositions not involving placement out of the home enumerated in this section, incarcerate the juvenile in the youth detention facility

in that county for a term not to exceed 60 consecutive days. Counties which do not operate their own juvenile detention facilities may contract for the use of approved commitment programs with counties with which they have established agreements for the use of pre-disposition juvenile detention facilities. The Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection.

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

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

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

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

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

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

d. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section other than subsection c., the duration of the juvenile's mandatory participation in such alternative programs shall extend for a period consistent with the program goal for the juvenile and shall in no event exceed one year beyond the maximum duration permissible for the delinquent if the juvenile had been committed to a term of incarceration.

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

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

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

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

(4) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 30 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated

delinquent for an act which, if committed by an adult, would constitute the crime of unlawful taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has previously been adjudicated delinquent for an act which, if committed by an adult, would constitute either theft of a motor vehicle, the unlawful taking of a motor vehicle or eluding.

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

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

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

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

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

C.2A:4A-88 Temporary placement.

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

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

C.2A:17-56.20 Late fees, interest.

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

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

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

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

e. The late payment fee or interest shall be uniformly applied in all cases administered under

the State IV-D program, including public assistance, nonpublic assistance, and resource family cases.

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

Effect of adoption; inheritance.

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

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

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

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

Except, however, that:

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

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

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

d. Where a parent who has procured a divorce, or a surviving parent, having lawful custody of a child, lawfully marries again, or where an adult unmarried person who has become a resource family parent and has lawful custody of a child, marries, and such parent or resource family parent consents that the person who thus becomes the stepfather or the stepmother of the person so adopted may adopt the person so adopted, the rights, privileges and obligations due from the parent or resource family parent, so consenting, to the person adopted and from the person adopted to such parent and the relations existing between them shall not be altered by the adoption.

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

C.2A:61B-1 Definitions; accrual of actions; proceedings.

1. a. As used in this act:

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

(2) "Sexual contact" means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of sexually arousing or sexually gratifying the actor. Sexual contact of the adult with himself must be in view of the victim whom the adult knows to be present.

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

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

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

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

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

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

(2) In the absence of clear and convincing proof to the contrary, evidence of the victim's sexual conduct occurring more than one year before the date of the offense charged is presumed to be inadmissible under this section.

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

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

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

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

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

(4) The defendant's counsel shall be present at the taking of testimony in camera. If the defendant is not present, he and his attorney shall be able to confer privately with each other

during the testimony by a separate audio system.

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

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

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

(3) The information described in this subsection shall remain confidential and unavailable to the public unless the victim consents to the disclosure or if the court, after a hearing, determines that good cause exists for the disclosure. The hearing shall be held after notice has been made to the victim and to the defendant and the defendant's counsel.

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

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

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

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

C.2A:61C-1 Shoplifting, retail thefts, civil action; provided.

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

(1) The value of the merchandise as damages, not to exceed \$500, if the merchandise cannot be restored to the merchant in its original condition;

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

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

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

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

d. Limitations on civil action:

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

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

(3) The provisions of this act do not apply in any case where the value of the merchandise exceeds \$500.

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

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

C.2C:7-13 Development, maintenance of system on the Internet registry.

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

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

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

d. The individual registration record of an offender whose risk of re-offense has been determined to be moderate and for whom the court has ordered notification in accordance with paragraph (2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be made available to the public on the Internet registry if the sole sex offense committed by the offender which renders him subject to the requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the following:

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

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

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

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

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

g. The information concerning a registered offender to be made publicly available on the Internet shall include: the offender's name and any aliases the offender has used or under which the offender may be or may have been known; any sex offense as defined in subsection b. of

section 2 of P.L.1994, c.133 (C.2C:7-2) for which the offender was convicted, adjudicated delinquent or acquitted by reason of insanity, as the case may be; the date and location of disposition; a brief description of any such offense, including the victim's gender and indication of whether the victim was less than 18 years old or less than 13 years old; a general description of the offender's modus operandi, if any; the determination of whether the risk of re-offense by the offender is moderate or high; the offender's age, race, sex, date of birth, height, weight, hair, eye color and any distinguishing scars or tattoos; a photograph of the offender and the date on which the photograph was entered into the registry; the make, model, color, year and license plate number of any vehicle operated by the offender; and the street address, zip code, municipality and county in which the offender resides.

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

Sexual assault.

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

- (1) The victim is less than 13 years old;
- (2) The victim is at least 13 but less than 16 years old; and
 - (a) The actor is related to the victim by blood or affinity to the third degree, or
 - (b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or
 - (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;
- (3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;
- (4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;
- (5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;
- (6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;
- (7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

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

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

- (1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;
- (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;
- (3) The victim is at least 16 but less than 18 years old and:
 - (a) The actor is related to the victim by blood or affinity to the third degree; or
 - (b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or
 - (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;
- (4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

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

C.2C:35-5.7 Issuance of order by court.

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

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

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

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

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

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

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

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

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

f. A restraining order issued pursuant to subsection a., b., c., d. or h. of this section shall describe the place from which the person has been barred and any conditions upon the person's entry into the place, with sufficient specificity to enable the person to guide his conduct accordingly and to enable a law enforcement officer to enforce the order. The order shall also prohibit the person from entering an area of up to 500 feet surrounding the place, unless the

court rules that a different buffer zone would better effectuate the purposes of this act. In the discretion of the court, the order may contain modifications to permit the person to enter the area during specified times for specified purposes, such as attending school during regular school hours. When appropriate, the court may append to the order a map depicting the place. The person shall be given a copy of the restraining order and any appended map and shall acknowledge in writing the receipt thereof.

g. (1) The court shall provide notice of the restraining order to the local law enforcement agency where the arrest occurred and to the county prosecutor.

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

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

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

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

i. When a juvenile has been adjudicated delinquent for an act which, if committed by an adult, would be a criminal offense, in addition to an order required by subsection h. of this section or any other disposition authorized by law, the court may order the juvenile and any parent, guardian or any family member over whom the court has jurisdiction to take such actions or obey such restraints as may be necessary to facilitate the rehabilitation of the juvenile or to protect public safety or to safeguard or enforce the rights of residents of the place. The court may commit the juvenile to the care and responsibility of the Department of Human Services until such time as the juvenile reaches the age of 18 or until the order of removal and restraint expires, whichever first occurs, or to such alternative residential placement as is practicable.

j. An order issued pursuant to subsection a., b., c. or d. of this section shall remain in effect until the case has been adjudicated or dismissed, or for not less than two years, whichever is less. An order issued pursuant to subsection h. of this section shall remain in effect for such period of time as shall be fixed by the court but not longer than the maximum term of imprisonment or incarceration allowed by law for the underlying offense or offenses. When the court issues a restraining order pursuant to subsection h. of this section and the person is also sentenced to any form of probationary supervision or participation in the Intensive Supervision Program, the court

shall make continuing compliance with the order an express condition of probation or the Intensive Supervision Program. When the person has been sentenced to a term of incarceration, continuing compliance with the terms and conditions of the order shall be made an express condition of the person's release from confinement or incarceration on parole. At the time of sentencing or, in the case of a juvenile, at the time of disposition of the juvenile case, the court shall advise the defendant that the restraining order shall include a fixed time period in accordance with this subsection and shall include that provision in the judgment of conviction, dispositional order, separate order or order vacating an existing restraining order, to the law enforcement agency that made the arrest and to the county prosecutor.

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

l. Nothing in this section shall be construed in any way to limit the authority of the court to take such other actions or to issue such orders as may be necessary to protect the public safety or to safeguard or enforce the rights of others with respect to the place.

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

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

Definitions A to H.

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

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

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

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

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

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

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

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

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

"Domiciliary foreign fiduciary" means any fiduciary who has received letters, or has been appointed, or is authorized to act as a fiduciary, in the jurisdiction in which the decedent was domiciled at the time of his death, in which the ward is domiciled or in which is located the

principal place of the administration of a trust.

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

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

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

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

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

Definitions I to Z.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Testamentary trustee" means a trustee designated by will or appointed to exercise a trust

created by will.

"Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created by judgment under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, personal representatives, trust accounts created under the "Multiple-party Deposit Account Act," P.L.1979, c.491(C.17:16I-1 et seq.), gifts to minors under the "New Jersey Uniform Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.), business trusts providing for certificates to be issued to beneficiaries, common trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

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

"Will" means the last will and testament of a testator or testatrix and includes any codicil.

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

C.9:3-45.2 Resource family parent notice, opportunity to be heard.

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

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

C.9:3-48 Action on complaint for adoption of child not received from approved agency.

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

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

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

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

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

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

The agency conducting the investigation shall, if it is able to, contact the birth parent and confirm that counseling, if required by section 18 of P.L.1993, c.345 (C.9:3-39.1), has either been provided or waived by the birth parent. If not previously provided, the agency shall advise the parent of the availability of such counseling through the agency and shall provide such counseling if requested by the birth parent or if the birth parent resides out of State or out of the country, such counseling should be made available by or through an agency approved to provide such counseling in the birth parent's state or country of domicile. The agency shall further confirm that the birth parent has been advised that the decision of the birth parent not to place the child for adoption or the return of the child to the birth parent can not be conditioned upon the repayment of expenses by the birth parent to the adoptive parent.

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

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

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

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

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

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

- (a) had a domestic violence restraining order entered against them; or
- (b) been charged with a violation of a court order involving domestic violence.

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

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

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

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

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

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

(3) The child is fit for adoption; and

(4) The plaintiff is fit to adopt the child, the court shall: (a) issue an order stating its findings, declaring that no parent or guardian of the child has a right to custody or guardianship of the child; (b) terminate the parental rights of that person, which order shall be a final order; (c) fix a date for final hearing not less than six nor more than nine months from the date of the preliminary hearing; and (d) appoint an approved agency to supervise and evaluate the continuing placement in accordance with subsection d. of this section. If the plaintiff is a brother, sister, grandparent, aunt, uncle, birth father, stepparent or resource family parent of the child, or if the child has been in the home of the plaintiff for at least two years immediately

preceding the commencement of the adoption action, and if the court is satisfied that the best interests of the child would be promoted by the adoption, the court may dispense with this evaluation and final hearing and enter a judgment of adoption immediately upon completion of the preliminary hearing.

d. The approved agency appointed pursuant to subsection c. of this section shall from time to time visit the home of the plaintiff and make such further inquiry as may be necessary to observe and evaluate the care being received by the child and the adjustment of the child and the plaintiff as members of a family. At least 15 days prior to the final hearing the approved agency shall file with the court a written report of its findings, including a recommendation concerning the adoption, and shall mail a copy of the report to the plaintiff.

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

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

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

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

19. Section 19 of P.L.1977, c.367 (C.9:3-55) is amended to read as follows:

C.9:3-55 Report of prospective parents.

19. a. A prospective parent who is not a brother, sister, aunt, uncle, grandparent, resource family parent, birth father or stepparent of the child to be adopted shall file before the complaint is heard, in accordance with court rules, a detailed report which shall be signed and verified by each prospective parent and shall disclose all sums of money or other valuable consideration paid, given or agreed to be given to any person, firm, partnership, corporation, association or agency by or on behalf of the prospective parent in connection with the adoption, and the names and addresses of each person, firm, partnership, corporation, association or agency to whom the consideration was given or promised. The report, a copy of which shall be provided to the approved agency pursuant to section 11 or 12 of P.L.1977, c.367 (C.9:3-47 or C.9:3-48), shall include but not be limited to expenses incurred or to be incurred by or on behalf of a prospective parent in connection with:

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

b. Whenever based upon a report filed pursuant to this section it appears to the court that

any person may have violated section 18 of P.L.1993, c.345 (C.9:3-39.1) the court or the division may refer the matter to the appropriate county prosecutor.

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

"Parent" and "custodian" defined.

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

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

C.9:6-3.1 Suspension; due process rights; remedial plan.

7. a. A teacher, employee, volunteer or staff person of an institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is alleged to have committed an act of child abuse or neglect as defined in R.S. 9:6-1, section 2 of P.L.1971, c.437 (C.9:6-8.9) and section 1 of P.L.1974, c.119 (C.9:6-8.21) shall be temporarily suspended by the appointing authority from his position at the institution with pay, or reassigned to other duties which would remove the risk of harm to the child under the person's custody or control, if there is reasonable cause for the appointing authority to believe that the life or health of the alleged victim or other children at the institution is in imminent danger due to continued contact between the alleged perpetrator and a child at the institution.

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

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

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

d. If a chief administrator of an institution does not formulate or implement a remedial plan

or make the changes requested by the department, the department may impose appropriate sanctions or actions if the department licenses, oversees, approves or authorizes the operation of the institution. If the department does not license, oversee, approve or authorize the operation of the institution, the department may recommend to the authority which licenses, oversees, approves or authorizes the operation of the institution that appropriate sanctions or actions be imposed against the institution.

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

C.9:6-8.10a Records of child abuse reports; confidentiality; disclosure.

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

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

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

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

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

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

(4) A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

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

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

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

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

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

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

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

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

(13) Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;

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

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

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

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

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

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

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

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

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

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

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the department the records and reports referred to in subsection a., shall keep such

records and reports, or parts thereof, confidential and shall not disclose such records and reports or parts thereof except as authorized by law.

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

d. The department may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Human Services or his designee shall first have been obtained.

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

f. The department may disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the department shall not be released to the public.

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

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

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

C.9:6-8.11 Actions to ensure safety of child; investigation; report.

4. Upon receipt of any such report, the Division of Youth and Family Services, or such another entity in the Department of Human Services as may be designated by the Commissioner of Human Services to investigate child abuse or neglect, shall immediately take such action as shall be necessary to insure the safety of the child and to that end may request and shall receive appropriate assistance from local and State law enforcement officials. A representative of the division or other designated entity shall initiate an investigation within 24 hours of receipt of the report, unless the division or other entity authorizes a delay based upon the request of a law enforcement official. The division or other entity shall also, within 72 hours, forward a report of such matter to the child abuse registry operated by the division in Trenton.

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

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

C.9:6-8.12 Emergency telephone services for child abuse or neglect calls.

5. The Division of Youth and Family Services shall maintain, at all times, an emergency telephone service for the receipt of calls involving a report, complaint or allegation of child abuse or neglect.

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

C.9:6-8.17 Report of action of taking protective custody of child.

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

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

C.9:6-8.19a Resource family parent notice, opportunity to be heard.

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

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

C.9:6-8.21 Definitions.

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

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

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

c. "Abused or neglected child" means a child less than 18 years of age whose parent or guardian, as herein defined, (1) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; (2) creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; (3) commits or allows to be committed an act of sexual abuse against the child; (4) or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, as herein defined, to exercise a minimum degree of care (a) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court; (5) or a child who has been willfully abandoned by his parent or guardian, as herein defined; (6) or a child upon whom excessive physical restraint has been used under circumstances

which do not indicate that the child's behavior is harmful to himself, others or property; (7) or a child who is in an institution and (a) has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or (b) who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

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

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

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

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

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

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

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

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

C.9:6-8.28 Preliminary order of court before preliminary hearing held.

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

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

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

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

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

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

C.9:6-8.30 Action by the division upon emergency removal.

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

b. The division shall cause a complaint to be filed under this act within two court days after such removal takes place.

c. Whenever a child has been removed pursuant to section 7 or 9 of this act, the division shall arrange for immediate medical examination of the child and shall have legal authority to consent to such examination. If necessary to safeguard the child's health or life, the division also is authorized to arrange for and consent to medical care or treatment of the child. Consent by the division pursuant to this subsection shall be deemed legal and valid for all purposes with respect to any person, hospital, or other health care facility examining or providing care or treatment to a child in accordance with and in reliance upon such consent. Medical reports resulting from such examination or care or treatment shall be released to the division for the purpose of aiding in the determination of whether the child has been abused or neglected. Any person or health care facility acting in good faith in the examination of or provision of care and treatment to a child or in the release of medical records shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

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

C.9:6-8.36a Report to prosecutor of all instances of suspected child abuse, neglect.

1. The Department of Human Services shall immediately report all instances of suspected child abuse and neglect, as defined by regulations, to the county prosecutor of the county in which the child resides. The regulations shall be developed jointly by the department and the county prosecutors, approved by the Attorney General, and promulgated by the Commissioner of Human Services.

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

C.9:6-8.40 Records involving abuse or neglect.

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

any liability, civil or criminal.

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

C.9:6-8.40a Expungement of unfounded allegations.

1. a. The Division of Youth and Family Services in the Department of Human Services shall expunge from its records all information relating to a report, complaint or allegation of an incident of child abuse or neglect with respect to which the division or other entity designated by the Commissioner of Human Services to investigate allegations of child abuse or neglect has determined, based upon its investigation thereof, that the report, complaint or allegation of the incident was unfounded.

b. (Deleted by amendment, P.L.2004, c.130).

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

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

C.9:6-8.43 Notice of rights.

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

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

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

C.9:6-8.72a Rules, regulations.

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

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

C.9:6-8.102 Services provided by staff of center.

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

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

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

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

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

e. Receiving referrals from the Department of Human Services and the county prosecutor's office and assisting them in any investigation of child abuse or neglect;

f. Providing educational material and seminars on child abuse and neglect and the services

the center provides to children, parents, teachers, law enforcement officials, the judiciary, attorneys and other citizens.

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

C.9:6-8.104 Establishment, maintenance of county-based multidisciplinary teams; "child advocacy center" defined.

6. Regional centers shall act as a resource in the establishment and maintenance of county-based multidisciplinary teams which work in conjunction with the county prosecutor and the Department of Human Services in the investigation of child abuse and neglect in the county in which the child who is undergoing evaluation and treatment resides. The Commissioner of Human Services, in consultation with the New Jersey Task Force on Child Abuse and Neglect, shall establish standards for a county team. The county team shall consist of representatives of the following disciplines: law enforcement; child protective services; mental health; substance abuse identification and treatment; and medicine; and, in those counties where a child advocacy center has been established, shall include a staff representative of a child advocacy center, all of whom have been trained to recognize child abuse and neglect. The county team shall provide: facilitation of the investigation, management and disposition of cases of criminal child abuse and neglect; referral services to the regional diagnostic center; appropriate referrals to medical and social service agencies; information regarding the identification and treatment of child abuse and neglect; and appropriate follow-up care for abused children and their families.

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

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

C.10:5-5 Definitions relative to discrimination.

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

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

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

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

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

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

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

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

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

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

j. "Commission" means the Commission on Civil Rights created by this act.

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

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

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private

competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

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

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

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

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

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

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

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons subject to epilepsy or other seizure disorders.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the resource family parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State program); or provided under any federal program that the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

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

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

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

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

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

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

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

C.18A:6-7a Alleged child abuse, neglect by school employee; no use if unfounded.

1. When a complaint made against a school employee alleging child abuse or neglect is investigated by the Department of Human Services, the department shall notify the school district and the employee of its findings. Upon receipt of a finding by the department that such a complaint is unfounded, the school district shall remove any references to the complaint and investigation by the department from the employee's personnel records. A complaint made against a school employee that has been classified as unfounded by the department shall not be used against the employee for any purpose relating to employment, including but not limited to, discipline, salary, promotion, transfer, demotion, retention or continuance of employment, termination of employment or any right or privilege relating to employment.

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

C.18A:7B-12 Determination of district of residence.

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

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

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

If this cannot be determined, the district of residence shall be the district in which the child

resided prior to such admission or placement.

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

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

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

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

C.18A:7F-19 Calculation of special education categorical aid.

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

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

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

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

Tier III is the number of classified pupils resident in the district in categories other than speech correction services, perceptually impaired, neurologically impaired, educable mentally

retarded, socially maladjusted, preschool handicapped, and who do not meet the criteria of Tier IV, intensive services; and nonclassified pupils in juvenile community programs. Aid shall equal 0.8847 of the T&E amount for each pupil meeting the Tier III criteria.

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

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

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

For the purposes of this section, classified pupil counts shall include pupils attending State developmental centers, Department of Human Services Regional Day Schools, Department of Human Services residential centers, State residential mental health centers, and institutions operated by or under contract with the Department of Human Services. Classified pupils of elementary equivalent age shall include classified preschool handicapped and kindergarten pupils.

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

(1) For costs in excess of \$40,000 incurred in the 2002-2003 through 2004-2005 school years, the district of residence shall, in addition to any special education State aid to which the district is entitled on behalf of the pupil pursuant to subsection a. of this section, receive additional special education State aid as follows: (a) with respect to the amount of any costs in excess of \$40,000 but less than or equal to \$60,000, the additional State aid for the classified pupil shall equal 60% of that amount; (b) with respect to the amount of any costs in excess of \$60,000 but less than or equal to \$80,000, the additional State aid for the classified pupil shall equal 70% of that amount; and (c) with respect to the amount of any costs in excess of \$80,000, the additional State aid for the classified pupil shall equal 80% of that amount; provided that in the case of an individual classified pupil for whom additional special education State aid was awarded to a district for the 2001-2002 school year, the amount of such aid awarded annually to the district for that pupil for the 2002-2003, 2003-2004 or 2004-2005 school year shall not be less than the amount for the 2001-2002 school year, except that if the district's actual special education costs incurred for the pupil in the 2002-2003, 2003-2004 or 2004-2005 school year are reduced below the amount of such costs for the pupil in the 2001-2002 school year, the amount of aid shall be decreased by the amount of that reduction; and

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

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

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

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

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

C.18A:16-12 Definitions relative to group insurance.

1. As used in this act:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and, at the option of the local board of education and the carrier, children placed by the Department of Human Services with a resource family, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the local board of education and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service;

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

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

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

C.18A:18A-3.2 Group legal insurance.

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

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

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

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

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

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

Public health regulations.

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

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

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

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

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

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

d. To compel any owner of property along the line of any sewer to connect his house or other building therewith. This paragraph shall be enforced by the local board within its jurisdiction and it shall by ordinance provide a fine of \$25 to be imposed upon any person who shall not comply with any order issued under the authority of this paragraph, within 30 days after notice by the proper officer of the board to make the required connections. An additional fine of \$10 shall be provided for each day of delay, after the expiration of the 30 days, in which the provisions of the order or notice are not complied with. Such notice may be served upon the owner personally or by leaving it at his usual place of abode with a member of his family above the age of 18 years.

e. (Deleted by amendment, P.L.1987, c.442.)

f. To regulate, control, and prohibit the accumulation of offal and any decaying or vegetable substance.

g. (1) To regulate the location, construction, maintenance, method of emptying or cleaning, and the frequency of cleaning of any privy or other place used for the reception or storage of human excrement, and to prohibit the construction or maintenance of any privy or other such place until a license therefor shall have been issued by the board, which license shall continue in force for one year from the date of issue.

(2) To fix the fee, not exceeding \$5, for such license, and to use the fees so collected in supervising and maintaining said privies or other places and in removing and disposing of the excrement therefrom.

(3) To revoke such license at any time if the owner or tenant of the property on which any privy or other such place is located, maintains the same in violation of law, or of the State sanitary code, or any ordinance or rule of the board.

h. To regulate, control, or prohibit the cleaning of any sewer, the dumping of garbage, the filling of any sunken lot or marsh land, and to provide for the filling up of any such lot or land, which has become filled with stagnant water and is located in any built-up area.

i. (1) To license and regulate the business of cleaning cesspools and privies, which license shall continue for the term of one year from the date of granting, and to fix the fee that shall be charged for such license, not exceeding \$20 for each vehicle or conveyance.

(2) To prohibit unlicensed persons from engaging in such business.

(3) To require any vehicle or conveyance used in such business within its jurisdiction to be approved by it.

(4) To revoke such license if any licensee or his employee or agent shall violate any ordinance or rule of the board in cleaning any cesspool or privy, or in removing the contents thereof.

j. To aid in the enforcement of laws as to the adulteration of all kinds of food and drink, and to prevent the sale or exposure for sale of any meat or vegetable that is unwholesome or unfit for food.

k. To regulate, control, or prohibit the keeping or slaughtering of animals.

l. To license and regulate the keeping of boarding houses for infants and children and to fix a license fee for the same and to prevent unlicensed persons from keeping such boarding houses. This paragraph shall not apply to:

(1) The Department of Human Services.

(2) Any children's home, orphan asylum, or children's aid society incorporated under the laws of this State.

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

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

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

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

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

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

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

Any person who supplies material or services in accordance with this section shall bill the landlord directly and by filing a notice approved by the local board of health, with the county clerk, shall have a lien on the premises where the materials were used or services supplied.

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

C.30:1-8.1 Deputy commissioners; appointment, powers and duties; compensation; acting commissioner.

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

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

Unless otherwise provided by law, each deputy commissioner shall receive such salary as may be established by the commissioner with the approval of the Commissioner of Personnel and the Director of the Division of Budget and Accounting.

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

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

C.30:4-107.1 Release of mentally retarded person; provision of functional services.

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

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

C.30:4-177.45 Definitions relative to family support services for persons with a serious mental illness.

3. For the purposes of this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Division" means the Division of Mental Health Services in the Department of Human Services.

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

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

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

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

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

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

C.30:4C-2 Definitions.

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

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

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

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

(d) The term "custody" means continuing responsibility for the person of a child, as

established by a surrender and release of custody or consent to adoption, for the purpose of providing necessary welfare services, or maintenance, or both.

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

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

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

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

(i) The term "resource family home" means and includes private residences, group homes, residential facilities and institutions wherein any child in the care, custody or guardianship of the Department of Human Services may be placed by the department or with its approval for temporary or long-term care, and shall include any private residence maintained by persons with whom any such child is placed for adoption.

(j) The singular includes the plural form.

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

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

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

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

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

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

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

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

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

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

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

C.30:4C-3.2 Membership of review panel.

2. The Review Panel shall consist of nineteen (19) members as follows:
 - a. The Commissioner of Human Services, or a designee, shall serve ex-officio.
 - b. The Commissioner of Personnel, or a designee, shall serve ex-officio.
 - c. The State Treasurer, or a designee, shall serve ex-officio.
 - d. The Attorney General, or a designee, shall serve ex-officio.
 - e. The Public Defender, or a designee, shall serve ex-officio.
 - f. The Director of the Administrative Office of the Courts, or a designee, shall serve ex-officio.
 - g. A representative of the Office of the Governor.
 - h. Two members of the Senate to be appointed by the President of the Senate who shall each be of different political parties and who shall serve during the legislative session in which the appointment is made, one of whom shall be the Chairman of the Senate Health, Human Services and Senior Citizens Committee, or its successor. A member may be appointed for any number of successive terms.
 - i. Two members of the General Assembly to be appointed by the Speaker of the General Assembly who shall each be of different political parties and who shall serve during the legislative session in which the appointment is made, one of whom shall be the Chairman of the Assembly Family, Women and Children's Services Committee, or its successor. A member may be appointed for any number of successive terms.
 - j. Eight public members shall be directly appointed by the Governor as follows:
 - (1) three public members who are representatives from employee organizations, two of whom are representatives of the Communications Workers of America;
 - (2) a public member who is a representative of the Association for Children of New Jersey;
 - (3) a public member who is a representative of Legal Services of New Jersey;
 - (4) a public member who is a representative of a contracted service provider to the Division of Youth and Family Services; and
 - (5) two public members, one of whom is a resource family parent and one of whom is an adoptive parent.

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

C.30:4C-4 Powers of Office of Children's Services, other designated entity.

4. The Office of Children's Services or other entity designated by the commissioner shall have the requisite powers to:
 - (a) Exercise general supervision over children for whom care, custody or guardianship is provided in accordance with Article II of this act;
 - (b) Administer for the Department of Human Services the powers and duties provided in chapter 3 of Title 9 of the Revised Statutes (Adoption), as amended and supplemented, as the same may be delegated and assigned by the department;
 - (c) Administer for the Commissioner of Human Services the powers and duties as provided in chapter 7 of Title 9 of the Revised Statutes (dependent children; bringing into State), as amended and supplemented, as the same may be delegated and assigned by the commissioner;
 - (d) Administer for the State Board of Institutional Trustees the powers and duties provided in R.S.30:1-14 through 30:1-17 of chapter 1 of Title 30 of the Revised Statutes (visitation and inspection), as amended and supplemented, so far as the same may be delegated and assigned by the State Board of Institutional Trustees with respect to institutions, organizations and noninstitutional agencies for the care, custody and welfare of children;
 - (e) Provide care and exercise supervision over children paroled or released from State correctional institutions for juveniles in accordance with rules and regulations established by the State Board of Control;
 - (f) Make investigations or provide supervision of any child in this State at the request and

on behalf of a public or private agency or institution of any other State;

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

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

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

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

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

C.30:4C-11.2 Exceptions to requirement to make reasonable efforts to prevent placement of child.

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

a. One of the following actions has occurred:

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

(2) the parent has been convicted of murder, aggravated manslaughter or manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit murder, aggravated manslaughter or manslaughter of the child or another child of the parent; committing or attempting to commit an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent; or committing a similarly serious criminal act which resulted, or could have resulted, in the death or significant bodily injury to the child or another child of the parent,

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

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

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

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

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

C.30:4C-11.3 Exceptions to requirement to provide reasonable efforts to reunify child with parent.

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

- a. The parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty or abandonment;
- b. The parent has been convicted of murder, aggravated manslaughter or manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit murder, aggravated manslaughter or manslaughter of the child or another child of the parent; committing or attempting to commit an assault that resulted, or could have resulted, in significant bodily injury to the child or another child of the parent; or committing a similarly serious criminal act which resulted, or could have resulted, in the death of or significant bodily injury to the child or another child of the parent; or
- c. The rights of the parent to another of the parent's children have been involuntarily terminated.

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

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

A permanency plan for the child may be established at the same hearing at which the court determines that reasonable efforts are not required to reunify the child with the parent, if the hearing meets all of the requirements of a permanency hearing pursuant to section 50 of P.L.1999, c.53 (C.30:4C-61.2).

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

C.30:4C-12 Filing complaint; investigation; application for court order; hearing.

12. Whenever it shall appear that the parent or parents, guardian, or person having custody and control of any child within this State is unfit to be entrusted with the care and education of such child, or shall fail to provide such child with proper protection, maintenance and education, or shall fail to ensure the health and safety of the child, or is endangering the welfare of such child, a written or oral complaint may be filed with the division, or other entity designated by the commissioner, by any person or by any public or private agency or institution interested in such child. When such a complaint is filed by a public or private agency or institution, it shall be accompanied by a summary setting forth the reason for such complaint and other social history of the child and his family's situation which justifies such complaint; or, if this is not feasible, such summary shall be made available to the division, or other entity within the department that is investigating the complaint, as soon thereafter as possible. Upon receipt of a complaint as provided in this section, the division, or other entity designated by the commissioner, shall investigate, or shall cause to be investigated, the statements set forth in such complaint. If the circumstances so warrant, the parent, parents, guardian, or person having custody and control of the child may be afforded an opportunity to file an application for care, as provided in section 11 of P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or person having custody and control of the child refuses to permit or in any way impedes an investigation, and the department determines that further investigation is necessary in the best interests of the child, the division may thereupon apply to the Family Part of the Chancery Division of the Superior Court in the county where the child resides, for an order directing the parent, parents, guardian, or person having custody and control of the child to permit immediate investigation. The court, upon such application, may proceed to hear the matter in a summary manner and if satisfied that the best interests of the child so require may issue an order as requested.

If, after such investigation has been completed, it appears that the child requires care and supervision by the division or other action to ensure the health and safety of the child, the division may apply to the Family Part of the Chancery Division of the Superior Court in the county where the child resides for an order making the child a ward of the court and placing the child under the care and supervision of the division.

The court, at a summary hearing held upon notice to the division, and to the parent, parents,

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

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

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

C.30:4C-12.1 Search for relatives; assessment of abilities.

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

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

- (1) the reasons for the division's determination;
- (2) the responsibility of the relative to inform the division if there is a change in the circumstances upon which the determination was made;
- (3) the possibility that termination of parental rights may occur if the child remains in resource family care for more than six months; and
- (4) the right to seek review by the division of such determination.

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

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

C.30:4C-12.2 Resource family parent notice; opportunity to be heard.

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

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

C.30:4C-15 Petition to terminate parental rights, conditions.

15. Whenever

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

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

(c) it appears that the best interests of any child under the care or custody of the division require that he be placed under guardianship; or

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

(e) the parent has abandoned the child; or

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

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

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

C.30:4C-15.1 Termination of parental rights, standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) facilitating appropriate visitation.

d. The division shall not be required to provide "reasonable efforts" as defined in subsection c. of this section prior to filing a petition for the termination of parental rights if an exception to the requirement to provide reasonable efforts to reunify the family has been established pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

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

C.30:4C-22 Full guardianship.

22. The care, custody or guardianship of the division shall be full and complete for all purposes and shall vest in the division the custody and control of both the person and property of children in its custody or care, and of its wards, whether committed prior or subsequent to the effective date of this act, when the children are in resource family homes, without the necessity of giving bond, and notwithstanding any previous appointment of a guardian for the children under its custody or care or such wards.

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

A court of competent jurisdiction shall hear and determine petitions by the division, on behalf

of the children under its custody or care or its wards when the children are in resource family homes, for the transfer of any or all assets being held by guardians previously appointed. The court shall have jurisdiction, in its discretion, to waive costs in any proceedings by the division on behalf of the children under its custody or care or its wards when the children are in resource family homes.

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

C.30:4C-26 Placing child in resource family home, group home or institution.

26. a. Whenever the circumstances of a child are such that his needs cannot be adequately met in his own home, the division may effect his placement in a resource family home, with or without payment of board, in a group home, or in an appropriate institution if such care is deemed essential for him. The division shall make every reasonable effort to select a resource family home, a group home or an institution of the same religious faith as the parent or parents of such child.

b. Whenever the division shall place any child, as provided by this section, in any municipality and county of this State, the child shall be deemed a resident of such municipality and county for all purposes except school funding, and he shall be entitled to the use and benefit of all health, recreational, vocational and other facilities of such municipality and county in the same manner and extent as any other child living in such municipality and county.

c. Whenever the division shall place any child, as provided by this section, in any school district, the child shall be entitled to the educational benefits of such district; provided, however, that the district of residence, as determined by the Commissioner of Education pursuant to law, shall be responsible for paying tuition for such child to the district in which he is placed.

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

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

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

C.30:4C-26.1 "Resource family home" defined.

1. As used in this act "resource family home" means and includes private residences, group homes and institutions wherein any child in the care, custody or guardianship of the Division of Youth and Family Services, may be placed for temporary or long-term care, and shall include any private residence maintained by persons with whom any such child is placed by the division for adoption.

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

C.30:4C-26.3 Shelters for temporary care, supervision of children.

3. Such shelters shall be equipped and used for the temporary care and supervision of children who are placed in the care, custody or guardianship of the Division of Youth and Family Services, during the interim between such placement and placement in a suitable resource family home. Such shelters shall be properly staffed to provide for child care and supervision and shall contain the necessary facilities for both physical and psychological examinations of such children.

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

C.30:4C-26.4 "Resource family parent" defined.

1. As used in this act "resource family parent" shall mean any person with whom a child in the care, custody or guardianship of the Division of Youth and Family Services, is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

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

C.30:4C-26.5 Adoption of child by resource family parent.

2. Notwithstanding the provisions of any other law or any rule or regulation of the Division of Youth and Family Services, no agreement entered into between the division and any resource family parent for the care of any child in the care, custody or guardianship of the division shall contain any provision prohibiting the adoption of any child by the resource family parent.

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

C.30:4C-26.6 "Resource family parent" defined.

1. As used in this act "resource family parent" shall mean any person with whom a child in the care, custody or guardianship of the Division of Youth and Family Services, is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

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

C.30:4C-26.7 Application for adoption of child by resource family parent.

2. Any person, who, as a resource family parent, has cared for a child continuously for a period of 15 months or more, may apply to the Division of Youth and Family Services, for the placement of the child with them for the purpose of adoption and if the child is eligible for adoption, the division shall give preference and first consideration to their application over all other applications for adoption placements.

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

C.30:4C-26.8 Adoptive, resource family parent; investigation.

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

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

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

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

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

- (2) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;
- (3) aggravated assault which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;
- (4) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);
- (5) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.2C:13-1 through 2C:13-6;
- (6) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;
- (7) robbery which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;
- (8) burglary which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;
- (9) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.);
- (10) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.2C:24-8;
- (11) terrorist threats pursuant to N.J.S.2C:12-3;
- (12) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2; or
- (13) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (12) of this subsection.

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

- (1) simple assault pursuant to subsection a. of N.J.S.2C:12-1;
 - (2) aggravated assault which would constitute a crime of the fourth degree pursuant to subsection b. of N.J.S.2C:12-1;
 - (3) a drug-related crime pursuant to P.L.1987, c.106 (C.2C:35-1 et seq.);
 - (4) robbery which would constitute a crime of the second degree pursuant to N.J.S.2C:15-1;
 - (5) burglary which would constitute a crime of the third degree pursuant to N.J.S.2C:18-2;
- or
- (6) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (5) of this subsection.

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

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

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

C.30:4C-26.9 Provisional approval for resource family parent.

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

For purposes of this section, "resource family parent" means any person with whom a child in the care, custody or guardianship of the Division of Youth and Services is placed for

temporary or long-term care and shall not include any person with whom a child is placed by the division for the purpose of adoption.

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

C.30:4C-27 Expenses of maintenance chargeable against State funds.

27. Pursuant to the providing of care, custody or guardianship for any child, in accordance with the provisions of this act, the division may expend such sums as may be necessary for the reasonable and proper cost of maintenance, including board, lodging, clothing, medical, dental, and hospital care, or any other similar or specialized commodity or service as the needs of any such child may require, except that the division shall not maintain a clothing warehouse for the distribution of clothing to children under its jurisdiction. In lieu thereof, the division may pay resource family parents caring for children under their supervision a sufficient amount to enable them to purchase necessary clothing items required by the children from the local merchants of the locality in which they reside. Such maintenance costs and the total cost of hospital care for children as provided for herein shall be borne by the State. However, no costs shall be chargeable if incurred earlier than the date of the child's acceptance in care as provided in section 12 hereof, or earlier than the date of an order of commitment to guardianship as provided in section 20 hereof.

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

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

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

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

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

C.30:4C-27.1 "Resource family parent" defined.

1. As used in this act "resource family parent" shall mean any person with whom a child in the care, custody or guardianship of the Division of Youth and Family Services, is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

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

C.30:4C-27.2 Discontinuance of clothing distribution centers; clothing allowance.

2. Notwithstanding the provision of any other law, the maintenance of a clothing warehouse and distribution center for the distribution of clothing to children in the care, custody or guardianship of the Division of Youth and Family Services, shall be discontinued and in lieu thereof the division shall increase the monthly allowance payable to any resource family parent

caring for any of the children in a sufficient amount to enable the resource family parent to purchase the necessary clothing items required by the children from the local merchants of the locality wherein the resource family parent resides.

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

C.30:4C-27.3 Short title.

1. This act shall be known and may be cited as the "Resource Family Parent Licensing Act."

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

C.30:4C-27.4 Findings, declarations relative to resource family care.

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

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

C.30:4C-27.5 Definitions relative to resource family care.

3. As used in this act:

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

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

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

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

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

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

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

C.30:4C-27.6 Licensure required for resource family parents.

4. a. A person shall not provide resource family care to a child unless the person is licensed by the department pursuant to this act. The license shall be issued to a specific person for a specific residence and shall not be transferable to another person or residence. The resource family parent shall maintain the license on file at the resource family home.

b. A person desiring to provide resource family care to a child shall apply to the department for a license in a manner and form prescribed by the commissioner.

c. A resource family parent applicant or resource family parent shall be of good moral character.

d. A resource family parent applicant or resource family parent, as applicable, shall:

- (1) Complete the license application form provided by the department;
- (2) Provide written consent for the division to conduct a check of its child abuse records pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);
- (3) Provide written consent from each adult member of the resource family parent applicant's household for the division to conduct a child abuse record information check on that person; and
- (4) Immediately notify the department when a new adult becomes a resident of the resource family parent applicant's or resource family parent's household in order to ensure that the department can conduct a criminal history record background check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the division can conduct a child abuse record information check on the new adult household member.
 - e. As a condition of securing a license, the applicant shall participate in pre-service training in accordance with standards adopted by the commissioner pursuant to this act.
 - f. A resource family parent licensed pursuant to this act shall participate in pre-service and in-service training in accordance with standards adopted by the commissioner pursuant to this act.

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

C.30:4C-27.7 Child abuse record information check.

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

The department shall consider, for the purposes of this act, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that a resource family parent applicant or adult member of the resource family parent applicant's household has had an opportunity to appeal a substantiated finding of child abuse or neglect pursuant to department regulations, except that the department may consider substantiated incidents prior to that date if the department, in its judgment, determines that the resource family parent applicant or adult household member poses a risk of harm in a resource family home. In cases involving incidents substantiated prior to June 29, 1995, the department shall offer the resource family parent applicant or adult member of the resource family parent applicant's household an opportunity for a hearing to contest its action restricting the resource family parent applicant from providing resource family care to a child.

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

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

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

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

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

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

C.30:4C-27.8 Criminal history record background check required for licensure.

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

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

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

C.30:4C-27.9 Denial, suspension, revocation of license.

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

a. Failure of a resource family parent applicant or resource family parent to comply with the provisions of this act;

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

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

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

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

f. Use of fraud or misrepresentation by a resource family parent applicant or resource family parent in obtaining a license;

g. Refusal by a resource family parent applicant or resource family parent to furnish the department with information, files, reports or records required for compliance with the provisions of this act;

h. Refusal by a resource family parent applicant or resource family parent to permit an inspection of a resource family home by an authorized representative of the department; and

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

77. Section 8 of P.L.2001, c.419 (C.30:4C-27.10) is amended to read as follows:

C.30:4C-27.10 Notice before denial, suspension, revocation of license, hearing.

8. Before denying, suspending or revoking a license, the department shall give notice to a resource family parent applicant or resource family parent personally or by mail to the last known address of the resource family parent applicant or resource family parent with return receipt requested. The notice shall afford the resource family parent applicant or resource family parent the opportunity to be heard and to contest the department's action. The hearing shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

78. Section 9 of P.L.2001, c.419 (C.30:4C-27.11) is amended to read as follows:

C.30:4C-27.11 Judicial review.

9. A person aggrieved by a final decision of the department is entitled to seek judicial review in the Appellate Division of the Superior Court. All petitions for review shall be filed in accordance with the Rules of Court.

79. Section 13 of P.L.2001, c.419 (C.30:4C-27.15) is amended to read as follows:

C.30:4C-27.15 Rules, regulations.

13. a. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

The regulations shall include standards governing: the safety and adequacy of the physical premises of a resource family home; the health, safety, general well-being and physical, emotional, social and educational needs of a child in resource family care; the training of a resource family parent; the responsibility of a resource family parent to participate in the case plan of a child in resource family care and to allow access by the department to the child; the maintenance and confidentiality of records and furnishing of required information to the department; the transportation of a child in resource family care; and the provision of other needed services on behalf of a child in resource family care. The commissioner shall also adopt rules and regulations for license application, issuance, denial, suspension and revocation.

b. Nothing in this act shall be construed to permit the department to adopt any code or standard that exceeds the standards established pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.).

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

C.30:4C-29.1 Liability for maintenance costs.

1. a. In any case in which the Department of Human Services, through the Division of Youth and Family Services, is providing care or custody for any child when the child is in a resource family home, any legally responsible person of the child, if of sufficient financial ability, is liable for the full costs of maintenance of the child incurred by the division. If the legally responsible person is of insufficient financial ability, the person is liable in an amount which a court of competent jurisdiction directs according to a scheduled rate approved by the division. Nothing contained herein shall prevent the legally responsible person from voluntarily executing an agreement for payment to the division for the costs of maintenance of the child receiving care or custody when the child is in a resource family home.

b. The division shall have a lien against the property of the legally responsible person in an amount equal to the amount to be paid, which lien shall have priority over all unrecorded encumbrances.

c. If the legally responsible person fails to reimburse the department, through the division, for the costs of maintenance of a child incurred by the division when the child is in a resource family home, a court of competent jurisdiction, upon the complaint of the Commissioner of Human Services, may summon the legally responsible person and other witnesses, and may order the legally responsible person to pay an amount to the department, according to a scheduled rate approved by the division.

d. In any case in which the department, through the division, has agreed to provide youth facilities aid to a public, private or voluntary agency pursuant to this act, the division shall have a lien against the property of any person, persons or agency so contracting, in an amount equal to the amount or amounts so contracted to be paid, which lien shall have priority over all unrecorded encumbrances. Such lien shall be reduced for each year of service provided by the agency at a rate to be negotiated by the division and the agency, but in no case more than 20% a year; provided, however, that annual reductions shall not exceed \$10,000.

81. Section 1 of P.L.1973, c.81 (C.30:4C-45) is amended to read as follows:

C.30:4C-45 Legislative intent.

1. It is the intent of the Legislature in enacting this act to benefit hard-to-place children in resource family care at State expense by providing the stability and security of permanent homes.

82. Section 2 of P.L.1973, c.81 (C.30:4C-46) is amended to read as follows:

C.30:4C-46 Payments in subsidation of adoption; qualifications.

2. The Division of Youth and Family Services shall make payments to adoptive parents on behalf of a child placed for adoption by the division whenever:

a. The child because of physical or mental condition, race, age, or membership in a sibling group, or for any other reason falls into the category of a child hard to place for adoption;

b. The adoptive family is capable of providing the permanent family relationships needed by the child; and

c. Except in situations involving adoption by a child's resource family parent, there has been a reasonable effort to place the child in an adoptive setting without providing a subsidy.

Payments shall be made on behalf of a child placed for adoption by the division except that whenever a child who would otherwise be eligible for subsidy payment is in the care of an approved New Jersey adoption agency pursuant to P.L.1977, c.367 (C.9:3-37 et seq.) a child shall, upon application by the agency and satisfaction of the regular requirements of the adoption subsidy program, be approved for participation in the adoption subsidy program. In any case the division may approve payment in subsidization of adoption for a child without legal transfer of care or custody of the child to the division. The division shall adopt regulations for administration of this program with respect to these children, except that all children are evaluated for eligibility in the same manner as children already under the care, custody or guardianship of the division.

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

C.30:4C-52 Definitions.

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

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

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

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

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

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

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

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

C.30:4C-53.1 Findings, declarations.

1. The Legislature finds and declares that it is in the public interest, whereby the safety of children shall be of paramount concern, to afford every child placed outside his home by the Division of Youth and Family Services in the Department of Human Services with permanency through return to his own home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative permanent placement, if termination of parental rights is not appropriate:

a. Due to the severity of health and social problems such as AIDS, drug abuse and homelessness, the division often works with families over a period of many years, and the children of these families often spend a majority of their young lives in resource family care; and

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

c. (Deleted by amendment, P.L.2004, c.130).

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

85. Section 2 of P.L.1991, c.448 (C.30:4C-53.2) is amended to read as follows:

C.30:4C-53.2 Definition of "repeated placement", "placed again."

2. For purposes of this act, the terms "repeated placement into resource family care" and "placed again into resource family care" shall apply to a child who has been placed in the custody of the Division of Youth and Family Services for placement in resource family care by the Family Part of the Chancery Division of the Superior Court or as a result of a voluntary placement agreement pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.), released into the custody of his parents or legally responsible guardian at the conclusion of the placement and is once again temporarily removed from his place of residence and placed under the division's care and supervision.

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

C.30:4C-53.3 Revised, repeated placement plans, requisites.

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

b. Whenever a child is placed again into resource family care, the division shall prepare a repeated placement plan which shall ensure the goals of safety and permanency through the safe return of the child to his parents or, if this is not possible, through the State's assumption of guardianship for the purpose of finding the child an adoptive home or, if termination of parental rights is not appropriate, through an alternative permanent placement. The plan shall be prepared within 30 days after the child's repeated placement and submitted to the court. The plan shall be valid for 12 months after the date the child was placed again into resource family care.

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

(1) The specific reasons for the repeated placement of the child, including a description of the problems or conditions in the home of the parents or guardian which necessitated the child's removal, and a summary of the efforts made by the division to prevent the child's repeated placement or the exception to the requirement to make reasonable efforts to prevent placement

in accordance with section 24 of P.L.1999, c.53 (C.30:4C-11.2);

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

(3) The social services to be provided to the child and the resource family parents during the period the child is in resource family care and the social services to be provided to the child's parent or guardian, or the exception to the requirement to make reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3), and the goal for the child and anticipated date for achieving the goal. The purpose of the supportive services shall be to promote the child's best interest and to facilitate his safe return to his home, placement for adoption or an alternative permanent placement. Services to facilitate adoption or an alternative permanent placement may be provided concurrently with services to reunify the child with the parent or guardian;

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

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

(6) A permanency plan for the child and the reasonable efforts of the division to achieve that plan, if: the division has established an exception to the requirement to provide reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or the child has, in any period of 22 consecutive months, been in any placement or placements for a total of 12 months.

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

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

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

(c) the division has determined that termination of parental rights is not appropriate in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3), and the child shall be placed in an alternative permanent placement.

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

C.30:4C-59 Written notice in advance of review.

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

- a. The division or agency;
- b. The child;
- c. The parents including a non-custodial parent or legal guardian;
- d. The temporary caretaker;
- e. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child;
- f. The counsel for a parent, child or other interested party who has provided or is providing representation in the case before the board; and

If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of and an opportunity to be heard at the review, but the caretaker shall not be made a party to the review solely on the basis of the notice and opportunity to be heard.

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

The written notice shall inform the person of his right to attend the review and to submit

written information and shall be prepared in a manner which will encourage the person's attendance at the review.

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

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

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

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

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

C.30:4C-60 Submission of report.

11. Within 10 days after the completion of such review, the board shall submit a written report to the Family Part of the Chancery Division of the Superior Court and the division. Such report shall offer one of the following findings, stating the specific reasons therefor:

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

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

- (1) Return to the child's parents or legal guardian,
- (2) Adoption,
- (3) Permanent placement with a relative,
- (4) Kinship legal guardianship,
- (5) Independent living,
- (6) Institutionalization, or
- (7) An alternative permanent placement;

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

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

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

When making its finding pursuant to this section, the child's health, safety and need for permanency shall be of paramount concern to the board. The board shall give priority to the goal of return to the child's parents or legal guardian unless that goal is not in the best interest of the child. If the return has not been achieved within one year, and after considering the family's efforts; the division's or designated agency's provision of reasonable and available services, if reasonable efforts are required; or other relevant factors; the board shall recommend another permanent plan for the child.

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

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

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

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

C.30:4C-61 Issuance of order by court.

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

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

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

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

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

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

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

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

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

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

(3) The court concludes that the interests of justice require that a hearing be held; or

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

(5) The division has documented an exception to the requirement to provide reasonable efforts toward family reunification pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

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

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

- (1) The division;
- (2) The child;
- (3) The child's parents including a non-custodial parent or legal guardian;
- (4) The review board;
- (5) The temporary caretaker;
- (6) The counsel for any parent, child or other interested party who has provided or is providing representation in the case before the board; and

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

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

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

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

e. Any person who receives a copy of the court order shall comply with the confidentiality requirements established by the Supreme Court for the purposes of this act.

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

C.30:4C-61.1 Proposal to return child home.

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

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

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

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

e. Notwithstanding the provisions of this section to the contrary, in an emergency situation, the court may waive the special review provisions of this section and approve the return home, upon the request of the division to do so. The request of the division for a court waiver of the special review provisions shall be accompanied by a written statement from the division declaring and finding that the out-of-home placement has been disrupted, that no appropriate alternative placement for the child can be found in the home of a relative, a resource family home, group home, shelter, residential care facility or other setting following the change in placement, and that the return home will not endanger the health, safety or welfare of the child. The written statement submitted with a request shall also outline the specific reasons for the findings made. The division shall conduct an on-site visit of the home of a child when in an emergency situation

the division plans to request of the court a waiver of the special review provisions. A report of the on-site visit shall be included with the request.

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

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

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

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

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

91. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to read as follows:

C.30:4C-61.2 Permanency hearing.

50. a. A permanency hearing shall be held that provides review and approval by the court of the placement plan:

(1) within 30 days after the determination of an exception to the reasonable effort requirement to reunify the child with the parent in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

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

b. Written notice of the date, time and place of the permanency hearing shall be provided at least 15 days in advance to the following, each of whom shall be entitled to attend the hearing and to submit written information to the court:

(1) the division or agency;

(2) the child;

(3) the parents, including a non-custodial parent or legal guardian;

(4) the temporary caretaker;

(5) any other person or agency whom the court determines has an interest in or information relating to the welfare of the child;

(6) the counsel for a parent, child or other interested party who has provided or is providing representation in the case before the court; and

(7) the child's resource family parent or relative providing care for the child shall also receive written notice of and an opportunity to be heard at the hearing, but the resource family parent or relative shall not be made a party to the hearing solely on the basis of the notice and opportunity to be heard.

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

(1) a statement of the goal for the permanent placement or return home of the child and the anticipated date that the goal will be achieved;

(2) the intermediate objectives relating to the attainment of the goal;

(3) a statement of the duties and responsibilities of the division, the parents or legal guardian and the temporary caretaker, including the services to be provided by the division to the child and to the temporary caretaker;

(4) a statement of the services to be provided to the parent or legal guardian or an exception to the requirement to provide reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an alternative permanent placement may be provided concurrently with services to reunify the child with the parent or guardian;

(5) a permanency plan which includes whether and, if applicable, when:

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

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

(c) the division has determined that termination of parental rights is not appropriate in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3) and the child shall be placed in an alternative permanent placement.

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

92. Section 8 of P.L.1993, c.157 (C.30:4C-81) is amended to read as follows:

C.30:4C-81 Annual report to Governor, Legislature.

8. The Commissioner of Human Services shall report to the Governor and the Legislature by December 31 of each year, on the family preservation services program. The annual report shall contain, but not be limited to:

- a. The number of families receiving services through the program;
- b. The number of children placed in resource family care, group homes and residential treatment facilities, both in-State and out-of-State;
- c. The average cost of providing services to a family through the program;
- d. The number of children who remain with their families for one year after receiving services through the program; and
- e. Any recommendations needed to improve the delivery of family preservation services in the State.

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

C.30:4D-3 Definitions.

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

- a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant."
- b. "Commissioner" means the Commissioner of Human Services.
- c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.
- d. "Director" means the Director of the Division of Medical Assistance and Health Services.
- e. "Division" means the Division of Medical Assistance and Health Services.
- f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.
- g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.
- h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.
- i. "Qualified applicant" means a person who is a resident of this State, and either a citizen

of the United States or an eligible alien, and is determined to need medical care and services as provided under this act, with respect to whom the period for which eligibility to be a recipient is determined shall be the maximum period permitted under federal law, and who:

(1) Is a dependent child or parent or caretaker relative of a dependent child who would be, except for resources, eligible for the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996;

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

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

(4) Would be eligible to receive Supplemental Security Income under Title XVI of the federal Social Security Act or, without regard to resources, would be eligible for the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the federal Social Security Act such as a durational residency requirement, relative responsibility, consent to imposition of a lien;

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

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

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

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

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

(i) Pregnant women;

(ii) Dependent children under the age of 21;

(iii) Individuals who are 65 years of age and older; and

(iv) Individuals who are blind or disabled pursuant to either 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

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

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

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

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

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

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

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

(iv) The resource standards established in (i), (ii), and (iii) are subject to federal approval and

the resource standard may be lower if required by the federal Department of Health and Human Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) (a) Is a specified low-income Medicare beneficiary pursuant to 42 U.S.C.

s.1396a(a)10(E)iii whose resources beginning January 1, 1993 do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning January 1, 1993 does not exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

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

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

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

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

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

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

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

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

(c) whose assets, resources and unearned income do not exceed limitations as established by

the commissioner; or

(19) Is an uninsured individual under 65 years of age who:

(a) has been screened for breast or cervical cancer under the federal Centers for Disease Control and Prevention breast and cervical cancer early detection program;

(b) requires treatment for breast or cervical cancer based upon criteria established by the commissioner;

(c) has an income that does not exceed the income standard established by the commissioner pursuant to federal guidelines;

(d) meets all other Medicaid eligibility requirements; and

(e) in accordance with Pub.L.106-354, is determined by a qualified entity to be presumptively eligible for medical assistance pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established by the commissioner pursuant to section 1920B of the federal Social Security Act (42 U.S.C. s.1396r-1b).

j. "Recipient" means any qualified applicant receiving benefits under this act.

k. "Resident" means a person who is living in the State voluntarily with the intention of making his home here and not for a temporary purpose. Temporary absences from the State, with subsequent returns to the State or intent to return when the purposes of the absences have been accomplished, do not interrupt continuity of residence.

l. "State Medicaid Commission" means the Governor, the Commissioner of Human Services, the President of the Senate and the Speaker of the General Assembly, hereby constituted a commission to approve and direct the means and method for the payment of claims pursuant to this act.

m. "Third party" means any person, institution, corporation, insurance company, group health plan as defined in section 607(1) of the federal "Employee Retirement and Income Security Act of 1974," 29 U.S.C. s.1167(1), service benefit plan, health maintenance organization, or other prepaid health plan, or public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L.1968, c.413 (C.30:4D-6).

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

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

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

(a) a lawful permanent resident;

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

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

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

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

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

(g) an alien who is honorably discharged from or on active duty in the United States armed

forces and the alien's spouse and unmarried dependent child.

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

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

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

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

94. Section 7 of P.L.1968, c.413 (C.30:4D-7) is amended to read as follows:

C.30:4D-7 Duties of commissioner.

7. Duties of commissioner. The commissioner is authorized and empowered to issue, or to cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules and regulations and administrative orders, and to do or cause to be done all other acts and things necessary to secure for the State of New Jersey the maximum federal participation that is available with respect to a program of medical assistance, consistent with fiscal responsibility and within the limits of funds available for any fiscal year, and to the extent authorized by the medical assistance program plan; to adopt fee schedules with regard to medical assistance benefits and otherwise to accomplish the purposes of this act, including specifically the following:

a. Subject to the limits imposed by this act, to submit a plan for medical assistance, as required by Title XIX of the federal Social Security Act, to the federal Department of Health and Human Services for approval pursuant to the provisions of such law; to act for the State in making negotiations relative to the submission and approval of such plan, to make such arrangements, not inconsistent with the law, as may be required by or pursuant to federal law to obtain and retain such approval and to secure for the State the benefits of the provisions of such law;

b. Subject to the limits imposed by this act, to determine the amount and scope of services to be covered, that the amounts to be paid are reasonable, and the duration of medical assistance to be furnished; provided, however, that the department shall provide medical assistance on behalf of all recipients of categorical assistance and such other related groups as are mandatory under federal laws and rules and regulations, as they now are or as they may be hereafter amended, in order to obtain federal matching funds for such purposes and, in addition, provide medical assistance for the resource family children specified in subsection i.(7) of section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance provided for these groups shall not be less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under federal laws and rules and regulations to obtain federal matching funds for such purposes.

The commissioner is authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to extend the scope, duration, and amount of medical assistance on behalf of these groups of categorical assistance recipients, related groups as are mandatory, and resource family children authorized pursuant to section 3i.(7) of this act, so as to include, in whole or in part, the optional medical services authorized under federal laws and rules and regulations, and the commissioner shall have the authority to establish and maintain the priorities given such optional medical services; provided, however, that medical assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain federal matching funds.

The commissioner is further authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to issue, or cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules, regulations and administrative orders, and to do or cause to be done all other acts and things necessary to implement and administer demonstration projects pursuant to Title XI, section 1115 of the federal Social Security Act, including, but not limited to waiving compliance with specific provisions of this act, to the extent and for the period of time the commissioner deems necessary,

as well as contracting with any legal entity, including but not limited to corporations organized pursuant to Title 14A, New Jersey Statutes (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes (R.S.15:1-1 et seq.) and Title 15A, New Jersey Statutes (N.J.S.15A:1-1 et seq.) as well as boards, groups, agencies, persons and other public or private entities;

c. To administer the provisions of this act;

d. To make reports to the federal Department of Health and Human Services as from time to time may be required by such federal department and to the New Jersey Legislature as hereinafter provided;

e. To assure that any applicant, qualified applicant or recipient shall be afforded the opportunity for a hearing should his claim for medical assistance be denied, reduced, terminated or not acted upon within a reasonable time;

f. To assure that providers shall be afforded the opportunity for an administrative hearing within a reasonable time on any valid complaint arising out of the claim payment process;

g. To provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of this act;

h. To take all necessary action to recover any and all payments incorrectly made to or illegally received by a provider from such provider or his estate or from any other person, firm, corporation, partnership or entity responsible for or receiving the benefit or possession of the incorrect or illegal payments or their estates, successors or assigns, and to assess and collect such penalties as are provided for herein;

i. To take all necessary action to recover the cost of benefits incorrectly provided to or illegally obtained by a recipient, including those made after a voluntary divestiture of real or personal property or any interest or estate in property for less than adequate consideration made for the purpose of qualifying for assistance. The division shall take action to recover the cost of benefits from a recipient, legally responsible relative, representative payee, or any other party or parties whose action or inaction resulted in the incorrect or illegal payments or who received the benefit of the divestiture, or from their respective estates, as the case may be and to assess and collect the penalties as are provided for herein, except that no lien shall be imposed against property of the recipient prior to his death except in accordance with section 17 of P.L.1968, c.413 (C.30:4D-17). No recovery action shall be initiated more than five years after an incorrect payment has been made to a recipient when the incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof;

j. To take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient in accordance with sections 6 through 12 of this amendatory and supplementary act;

k. To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability; where it is known that a third party has a liability, to treat such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability;

l. To compromise, waive or settle and execute a release of any claim arising under this act including interest or other penalties, or designate another to compromise, waive or settle and execute a release of any claim arising under this act. The commissioner or his designee whose title shall be specified by regulation may compromise, settle or waive any such claim in whole or in part, either in the interest of the Medicaid program or for any other reason which the commissioner by regulation shall establish;

m. To pay or credit to a provider any net amount found by final audit as defined by regulation to be owing to the provider. Such payment, if it is not made within 45 days of the final audit, shall include interest on the amount due at the maximum legal rate in effect on the date the payment became due, except that such interest shall not be paid on any obligation for the period preceding September 15, 1976. This subsection shall not apply until federal financial participation is available for such interest payments;

n. To issue, or designate another to issue, subpoenas to compel the attendance of witnesses

and the production of books, records, accounts, papers and documents of any party, whether or not that party is a provider, which directly or indirectly relate to goods or services provided under this act, for the purpose of assisting in any investigation, examination, or inspection, or in any suspension, debarment, disqualification, recovery, or other proceeding arising under this act;

o. To solicit, receive and review bids pursuant to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments and supplements thereto, by any corporation doing business in the State of New Jersey, including nonprofit hospital service corporations, medical service corporations, health service corporations or dental service corporations incorporated in New Jersey and authorized to do business pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), or P.L.1968, c.305 (C.17:48C-1 et seq.), and to make recommendations in connection therewith to the State Medicaid Commission;

p. To contract, or otherwise provide as in this act provided, for the payment of claims in the manner approved by the State Medicaid Commission;

q. Where necessary, to advance funds to the underwriter or fiscal agent to enable such underwriter or fiscal agent, in accordance with terms of its contract, to make payments to providers;

r. To enter into contracts with federal, State, or local governmental agencies, or other appropriate parties, when necessary to carry out the provisions of this act;

s. To assure that the nature and quality of the medical assistance provided for under this act shall be uniform and equitable to all recipients;

t. To provide for the reimbursement of State and county-administered skilled nursing and intermediate care facilities through the use of a governmental peer grouping system, subject to federal approval and the availability of federal reimbursement.

(1) In establishing a governmental peer grouping system, the State's financial participation is limited to an amount equal to the nonfederal share of the reimbursement which would be due each facility if the governmental peer grouping system was not established, and each county's financial participation in this reimbursement system is equal to the nonfederal share of the increase in reimbursement for its facility or facilities which results from the establishment of the governmental peer grouping system.

(2) On or before December 1 of each year, the commissioner shall estimate and certify to the Director of the Division of Local Government Services in the Department of Community Affairs the amount of increased federal reimbursement a county may receive under the governmental peer grouping system. On or before December 15 of each year, the Director of the Division of Local Government Services shall certify the increased federal reimbursement to the chief financial officer of each county. If the amount of increased federal reimbursement to a county exceeds or is less than the amount certified, the certification for the next year shall account for the actual amount of federal reimbursement that the county received during the prior calendar year.

(3) The governing body of each county entitled to receive increased federal reimbursement under the provisions of this amendatory act shall, by March 31 of each year, submit a report to the commissioner on the intended use of the savings in county expenditures which result from the increased federal reimbursement. The governing body of each county, with the advice of agencies providing social and health related services, shall use not less than 10% and no more than 50% of the savings in county expenditures which result from the increased federal reimbursement for community-based social and health related programs for elderly and disabled persons who may otherwise require nursing home care. This percentage shall be negotiated annually between the governing body and the commissioner and shall take into account a county's social, demographic and fiscal conditions, a county's social and health related expenditures and needs, and estimates of federal revenues to support county operations in the upcoming year, particularly in the areas of social and health related services.

(4) The commissioner, subject to approval by law, may terminate the governmental peer grouping system if federal reimbursement is significantly reduced or if the Medicaid program is significantly altered or changed by the federal government subsequent to the enactment of this

amendatory act. The commissioner, prior to terminating the governmental peer grouping system, shall submit to the Legislature and to the governing body of each county a report as to the reasons for terminating the governmental peer grouping system;

u. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall:

(1) Develop criteria and standards for comprehensive maternity or pediatric care providers and determine whether a provider who requests to become a comprehensive maternity or pediatric care provider meets the department's criteria and standards;

(2) Develop a program of comprehensive maternity care services which defines the type of services to be provided, the level of services to be provided, and the frequency with which qualified applicants are to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(3) Develop a program of comprehensive pediatric care services which defines the type of services to be provided, the level of services to be provided, and the frequency with which qualified applicants are to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(4) Develop and implement a system for monitoring the quality and delivery of comprehensive maternity and pediatric care services and a system for evaluating the effectiveness of the services programs in meeting their objectives;

(5) Establish provider reimbursement rates for the comprehensive maternity and pediatric care services;

v. The commissioner, jointly with the Commissioner of Health and Senior Services, shall report to the Governor and the Legislature no later than two years following the date of enactment of P.L.1987, c.115 (C.30:4D-2.1 et al.) and annually thereafter on the status of the comprehensive maternity and pediatric care services and their effectiveness in meeting the objectives set forth in section 1 of P.L.1987, c.115 (C.30:4D-2.1) accompanying the report with any recommendations for changes in the law governing the services that the commissioners deem necessary.

95. Section 2 of P.L.1997, c.254 (C.30:5B-6.2) is amended to read as follows:

C.30:5B-6.2 License conditional upon check of child abuse records.

2. a. As a condition of securing a new or renewal license or approval, the division shall conduct a check of the division's child abuse records to determine if an incident of child abuse or neglect has been substantiated pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any staff member of a child care center.

b. The department shall not issue a regular license or approval to a center until the department determines that no staff member employed by or working at the center has a record of substantiated child abuse or neglect.

c. The department shall deny, revoke or refuse to renew the center's license or approval, as appropriate, if the department determines that an incident of child abuse or neglect by an owner or sponsor of a center has been substantiated.

96. Section 3 of P.L.1997, c.254 (C.30:5B-6.3) is amended to read as follows:

C.30:5B-6.3 Written consent for check of records.

3. a. The staff member shall provide prior written consent for the division to conduct a check of its child abuse records.

b. If the owner or sponsor of the center refuses to consent to, or cooperate in, the securing of a division child abuse record information check, the department shall suspend, deny, revoke or refuse to renew the center's license or approval, as appropriate.

c. If a staff member of a center, other than the owner or sponsor, refuses to consent to, or cooperate in, the securing of a division child abuse record information check, the person shall be immediately terminated from employment at the center.

97. Section 6 of P.L.1997, c.254 (C.30:5B-6.6) is amended to read as follows:

C.30:5B-6.6 Incidents considered.

6. The department shall consider, for the purposes of this act, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that perpetrators have had an opportunity to appeal a substantiated finding of abuse or neglect; except that the department may consider substantiated incidents prior to that date if the department, in its judgment, determines that the individual poses a risk of harm to children in a child care center. In cases involving incidents substantiated prior to June 29, 1995, the department shall offer the individual an opportunity for a hearing to contest its action restricting the individual from employment in a child care center.

98. Section 3 of P.L.2000, c.77 (C.30:5B-6.12) is amended to read as follows:

C.30:5B-6.12 Noncompliance; penalties.

3. a. If the owner or sponsor of the child care center refuses to consent to, or cooperate in, the securing of a criminal history record background check, the department shall suspend, deny, revoke or refuse to renew the center's license or life-safety approval, as appropriate.

b. If a staff member of a child care center, other than the owner or sponsor, refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately terminated from employment at the center.

99. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to read as follows:

C.30:5B-6.13 Request for criminal history record background check, time limits, restrictions upon employees.

4. a. In the case of a child care center established after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, prior to the center's opening, shall ensure that a request for a criminal history record background check on each staff member is sent to the Department of Human Services for processing by the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

A staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.).

b. In the case of a child care center licensed or granted life-safety approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, at the time of the center's first renewal of license or life-safety approval next following that effective date, shall ensure that a request for a criminal history record background check for each staff member is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

c. Within two weeks after a new staff member begins employment at a child care center, the owner or sponsor of the center shall ensure that a request for a criminal history record background check is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

A new staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.).

d. In the case of child care centers under contract to implement early childhood education programs in the Abbott districts as defined in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the department shall ensure that a criminal history record background check is conducted on all current staff members as soon as practicable, but no later than six months after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.).

100. Section 6 of P.L.2000, c.77 (C.30:5B-6.15) is amended to read as follows:

C.30:5B-6.15 Termination of current staff member; exceptions.

6. a. If a staff member of a child care center is convicted of a crime specified in section 5 of

P.L.2000, c.77 (C.30:5B-6.14) after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the staff member shall be terminated from employment at, or ownership or sponsorship of, a child care center.

b. For crimes and offenses other than those cited in section 5 of P.L.2000, c.77 (C.30:5B-6.14), an applicant or staff member may be eligible for employment at, or ownership or sponsorship of, a child care center if the department determines that the person has affirmatively demonstrated to the department clear and convincing evidence of the person's rehabilitation pursuant to subsection c. of this section.

c. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the person when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

(8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

d. The department shall make the final determination regarding the employment of an applicant or staff member with a criminal conviction.

101. Section 7 of P.L.2000, c.77 (C.30:5B-6.16) is amended to read as follows:

C.30:5B-6.16 Pending criminal charges notification.

7. If a child care center owner or sponsor has knowledge that a staff member has criminal charges pending against the staff member, the owner or sponsor shall promptly notify the department to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

102. Section 9 of P.L.2000, c.77 (C.30:5B-6.17) is amended to read as follows:

C.30:5B-6.17 Immunity from liability for child care center.

9. a. A child care center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the disqualification or termination to another center seeking to employ that person if the center has:

(1) received notice from the department that the applicant or staff member, as applicable, has been determined by the department to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14 or C.30:5B-6.15); or

(2) terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the center.

b. A child care center which acts upon or discloses information pursuant to subsection a. of this section shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the center acted with actual malice toward the person who is the subject of the information.

103. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read as follows:

C.30:5B-18 Definitions.

3. As used in this act:

- a. "Certificate of registration" means a certificate issued by the department to a family day care provider, acknowledging that the provider is registered pursuant to the provisions of this act.
- b. "Department" means the Department of Human Services.
- c. "Family day care home" means a private residence in which child care services are provided for a fee to no less than three and no more than five children at any one time for no less than 15 hours per week; except that the department shall not exclude a family day care home with less than three children from voluntary registration. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:
 - (1) The child being cared for is legally related to the provider; or
 - (2) Care is being provided as part of an employment agreement between the family day care provider and an assistant or substitute provider where no payment for the care is being provided.
- d. "Family day care provider" means a person at least 18 years of age who is responsible for the operation and management of a family day care home.
- e. "Family day care sponsoring organization" means an agency or organization which contracts with the department to assist in the registration of family day care providers in a specific geographical area.
- f. "Monitor" means to visit a family day care provider to review the provider's compliance with the standards established pursuant to this act.

104. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read as follows:

C.30:5B-19 Responsibility; authority; contractual terms.

- 4. a. The department has the responsibility and authority to contract with family day care sponsoring organizations for the voluntary registration of family day care providers and shall adopt regulations for the operation and maintenance of family day care sponsoring organizations.
- b. The department shall contract in writing with an agency or organization authorizing the agency or organization to operate as a family day care sponsoring organization to assist in the voluntary registration of family day care providers in a specific geographical area and to perform other functions with regard to family day care providers in accordance with the provisions of this act and the regulations adopted thereunder for which purposes the organization shall receive funds from the department based upon a fee for the service. The department shall contract with a family day care sponsoring organization for a period of one year.
- c. The department shall contract with one family day care sponsoring organization to serve each county; however, the department may, as it deems appropriate, contract with additional family day care sponsoring organizations in a county, except that the department shall make all necessary arrangements to avoid duplication of effort and to promote a cooperative working relationship among the sponsoring organizations. Within one year following the effective date of this act there shall be a family day care sponsoring organization serving each county in this State.

105. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read as follows:

C.30:5B-20 Contracting organizations; responsibilities, duties.

- 5. a. A family day care sponsoring organization with which the department contracts is authorized to register family day care providers within its designated geographical area and is responsible for providing administrative services, including, but not limited to, training, technical assistance, and consultation to family day care providers and inspection, supervision, monitoring and evaluation of family day care providers.
- b. The family day care sponsoring organization shall maintain permanent records for each family day care provider it registers. The sponsoring organization shall also maintain its own staff and administrative and financial records. All records are open to inspection by an authorized representative of the department for the purpose of determining compliance with this act.

c. The family day care sponsoring organization shall provide a program of outreach and public relations to inform providers of the provisions of this act.

106. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read as follows:

C.30:5B-23 Certificate of registration, standards, violations.

8. a. The department shall also establish standards for the issuance, renewal, denial, suspension and revocation of a certificate of registration which the family day care sponsoring organization shall apply. In developing the standards, the department shall consult with the Advisory Council on Child Care established pursuant to the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.).

b. A person operating as a registered family day care provider who violates the provisions of this act by failing to adhere to the standards established by the department pursuant to this act shall be notified in writing of the violation of the provisions of this act and provided with an opportunity to comply with those provisions. For a subsequent violation, the person's certificate of registration may be revoked, or the person may be fined in an amount determined by the Commissioner of Human Services, or both. The receipt of excessive complaints by the municipal police or other local or State authorities concerning neglect of children, excessive noise, or property damage resulting from the operation of a family day care home may be considered by the department when renewing, suspending or revoking a certificate of registration.

c. The department, before denying, suspending, revoking or refusing to renew a certificate of registration, shall give notice thereof to the provider personally, or by certified or registered mail to the last known address of the family day care home with return receipt requested. The notice shall afford the provider the opportunity to be heard. The hearing shall take place within 60 days from the receipt of the notice and shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. If the certificate of registration is suspended or revoked or not renewed, the provider shall so notify the parent of each child attending the family day care home in writing within 10 days of the action.

e. (Deleted by amendment, P.L.1993, c.350).

107. Section 2 of P.L.1993, c.350 (C.30:5B-25.2) is amended to read as follows:

C.30:5B-25.2 Definitions.

2. As used in sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1 through C.30:5B-25.4):

"Child abuse registry" means the child abuse registry of the Division of Youth and Family Services in the Department of Human Services established pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11).

"Provider" means a family day care provider as defined by section 3 of P.L.1987, c.27 (C.30:5B-18) and includes, but is not limited to, a family day care provider's assistant and a substitute family day care provider.

"Family day care sponsoring organization" means an agency or organization which contracts with the Department of Human Services to assist in the registration of family day care providers in a specific geographic area pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.).

"Household member" means an individual over 14 years of age who resides in a family day care provider's home.

108. Section 3 of P.L.1993, c.350 (C.30:5B-25.3) is amended to read as follows:

C.30:5B-25.3 Child abuse registry search.

3. a. The Division of Youth and Family Services in the Department of Human Services shall conduct a search of its child abuse registry to determine if a report of child abuse or neglect has been filed, pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), involving a person registering as a prospective provider or a household member of the prospective provider or as a current

provider or household member of the current provider.

b. The division shall conduct the search only upon receipt of the prospective or current provider or household member's written consent to the search. If the person refuses to provide his consent, the family day care sponsoring organization shall deny the prospective or current provider's application for a certificate or renewal of registration.

c. The division shall advise the sponsoring organization of the results of the child abuse registry search within a time period to be determined by the Department of Human Services.

d. The department shall not issue a certificate or renewal of registration to a prospective or current provider unless the department has first determined that no substantiated charge of child abuse or neglect against the prospective or current provider or household member is found during the child abuse registry search.

109. Section 4 of P.L.1993, c.350 (C.30:5B-25.4) is amended to read as follows:

C.30:5B-25.4 Rules, regulations.

4. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of Human Services shall adopt rules and regulations necessary to implement the provisions of sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1 through C.30:5B-25.4) including, but not limited to:

a. Implementation of an appeals process to be used in the case of the denial of an application for a certificate or for renewal of registration based upon information obtained during a child abuse registry search; and

b. Establishment of time limits for conducting a child abuse registry search and providing a family day care sponsoring organization with the results of the search.

110. Section 3 of P.L.1993, c.98 (C.30:6D-35) is amended to read as follows:

C.30:6D-35 Definitions.

3. For the purposes of this act:

"Department" means the Department of Human Services.

"Family member with a developmental disability" means a person who has a developmental disability as defined pursuant to section 3 of the "Division of Developmental Disabilities Act," P.L.1985, c.145 (C.30:6D-25).

"Family" means the family member with a developmental disability and his parents and siblings, or spouse and children.

"Family support services" means a coordinated system of ongoing public and private support services which are designed to maintain and enhance the quality of life of a family member with a developmental disability and his family as set forth in section 4 of this act.

"Parent" means the biological or adoptive parent or uncompensated resource family parent or legal guardian who cares for the family member with a developmental disability and with whom the family member with a developmental disability resides.

"System" means the Family Support System established pursuant to section 4 of this act.

111. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to read as follows:

C.34:11B-3 Definitions.

3. As used in this act:

a. "Child" means a biological, adopted, or resource family child, stepchild, legal ward, or child of a parent who is

(1) under 18 years of age; or

(2) 18 years of age or older but incapable of self-care because of a mental or physical impairment.

b. "Director" means the Director of the Division on Civil Rights.

c. "Division" means the Division on Civil Rights in the Department of Law and Public Safety.

d. "Employ" means to suffer or permit to work for compensation, and includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment opportunities or terms and conditions of employment.

e. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under this act, for not less than 1,000 base hours during the immediately preceding 12-month period.

f. "Employer" means a person or corporation, partnership, individual proprietorship, joint venture, firm or company or other similar legal entity which engages the services of an employee and which:

(1) With respect to the period of time from the effective date of this act until the 365th day following the effective date of this act, employs 100 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year;

(2) With respect to the period of time from the 366th day following the effective date of this act until the 1,095th day following the effective date of this act, employs 75 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year; and

(3) With respect to any time after the 1,095th day following the effective date of this act, employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year. "Employer" includes the State, any political subdivision thereof, and all public offices, agencies, boards or bodies.

g. "Employment benefits" means all benefits and policies provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, pensions, or other similar benefits.

h. "Parent" means a person who is the biological parent, adoptive parent, resource family parent, step-parent, parent-in-law or legal guardian, having a "parent-child relationship" with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child.

i. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

(1) the birth of a child of the employee;

(2) the placement of a child with the employee in connection with adoption of such child by the employee; or

(3) the serious health condition of a family member of the employee.

j. "Family member" means a child, parent, or spouse.

k. "Reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours worked per workweek but not for fewer than an employee's usual number of hours worked per workday, unless agreed to by the employee and the employer.

l. "Serious health condition" means an illness, injury, impairment, or physical or mental condition which requires:

(1) inpatient care in a hospital, hospice, or residential medical care facility; or

(2) continuing medical treatment or continuing supervision by a health care provider.

112. Section 1 of P.L.1999, c.410 (C.39:4-50.15) is amended to read as follows:

C.39:4-50.15 Additional penalty for driving under the influence with a minor as a passenger.

1. a. As used in this act:

"Minor" means a person who is 17 years of age or younger.

"Parent or guardian" means any natural parent, adoptive parent, resource family parent, stepparent, or any person temporarily responsible for the care, custody or control of a minor or upon whom there is a legal duty for such care, custody or control.

b. A parent or guardian who is convicted of a violation of R.S.39:4-50 and who, at the time of the violation, has a minor as a passenger in the motor vehicle is guilty of a disorderly persons offense.

c. In addition to the penalties otherwise prescribed by law, a person who is convicted under

subsection b. of this section shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not more than six months and shall be ordered to perform community service for a period of not more than five days.

113. Section 53 of P.L.1975, c.291 (C.40:55D-66) is amended to read as follows:

C.40:55D-66 Miscellaneous provisions relative to zoning.

53. a. For purposes of this act, model homes or sales offices within a subdivision and only during the period necessary for the sale of new homes within such subdivision shall not be considered a business use.

b. No zoning ordinance governing the use of land by or for schools shall, by any of its provisions or by any regulation adopted in accordance therewith, discriminate between public and private nonprofit day schools of elementary or high school grade accredited by the State Department of Education.

c. No zoning ordinance shall, by any of its provisions or by any regulation adopted in accordance therewith, discriminate between children who are members of families by reason of their relationship by blood, marriage or adoption, and resource family children placed with such families in a dwelling by the Division of Youth and Family Services in the Department of Human Services or a duly incorporated child care agency and children placed pursuant to law in single family dwellings known as group homes. As used in this section, the term "group home" means and includes any single family dwelling used in the placement of children pursuant to law recognized as a group home by the Department of Human Services in accordance with rules and regulations adopted by the Commissioner of Human Services provided, however, that no group home shall contain more than 12 children.

114. N.J.S.40A:10-16 is amended to read as follows:

Definitions.

40A:10-16. As used in this subarticle:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and, at the option of the employer and the carrier, children placed by the Division of Youth and Family Services, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service;

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

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

115. Section 1 of P.L.1983, c.191 (C.40A:10-34.1) is amended to read as follows:

C.40A:10-34.1 Contract; coverage.

1. Any municipality or county, or agency thereof, hereinafter referred to as employers, may enter into contracts of group legal insurance with any insurer authorized, pursuant to P.L.1981, c.160 (C.17:46C-1 et seq.), to engage in the business of legal insurance in this State or may contract with a duly recognized prepaid legal services plan with respect to the benefits which they are authorized to provide. Such contract or contracts shall provide such coverage for the employees of such employer and may include their dependents. "Dependents" shall include an employee's spouse and the employee's unmarried children, including stepchildren and legally adopted children, and, at the option of the employer and the carrier, children placed by the Division of Youth and Family Services in the Department of Human Services, under the age of

19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during such military service.

Elected officials may be considered, at the option of the employer, to be "employees" for the purposes hereof, but "employees" shall not otherwise include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the public employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties.

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

The coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage, subject to such provision as may be made in any contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service or layoff, or for continuance of coverage after retirement.

116. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) (A) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(B) For the purpose of this paragraph (4), any training program shall be regarded as approved by the division for the individual if the program and the individual meet the following requirements:

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power;

(ii) The training is provided by a competent and reliable private or public entity approved by the Commissioner of Labor and Workforce Development pursuant to the provisions of section 8 of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43

(C.34:15D-8);

(iii) The individual can reasonably be expected to complete the program, either during or after the period of benefits;

(iv) The training does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives benefits; and

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis.

(C) If the requirements of subparagraph (B) of this paragraph (4) are met, the division shall not withhold approval of the training program for the individual for any of the following reasons:

(i) The training includes remedial basic skills education necessary for the individual to successfully complete the vocational component of the training;

(ii) The training is provided in connection with a program under which the individual may obtain a college degree, including a post-graduate degree;

(iii) The length of the training period under the program; or

(iv) The lack of a prior guarantee of employment upon completion of the training.

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to the provisions of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78).

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two-day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, child placed by the Division of Youth and Family Services in the Department of Human Services, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(7) No individual, who is otherwise eligible, shall be deemed ineligible or unavailable for work with respect to any week because, during that week, the individual fails or refuses to accept work while the individual is participating on a full-time basis in self-employment assistance activities authorized by the division, whether or not the individual is receiving a self-employment allowance during that week.

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment services to which the individual is referred by the division or in similar services, unless the division determines that:

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

(9) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's work as a board worker for a county board of elections on an election day.

(d) With respect to any benefit year commencing before January 1, 2002, the individual has

been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(3) Unless the individual fulfills the requirements of subsections (a) and of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

The waiting period provided by this subsection shall not apply to benefit years commencing on or after January 1, 2002. An individual whose total benefit amount was reduced by the application of the waiting period to a claim which occurred on or after January 1, 2002 and before the effective date of P.L.2002, c.13, shall be permitted to file a claim for the additional benefits attributable to the waiting period in the form and manner prescribed by the division, but not later than the 180th day following the effective date of P.L.2002, c.13 unless the division determines that there is good cause for a later filing.

(e) (1) (Deleted by amendment, P.L.2001, c.17).

(2) With respect to benefit years commencing on or after January 1, 1996 and before January 7, 2001, except as otherwise provided in paragraph (3) of this subsection, the individual has, during his base year as defined in subsection of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (2), earned remuneration not less than an amount 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof; or

If the individual has not met the requirements of subparagraph (A) or (B) of this paragraph (2), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof.

(3) With respect to benefit years commencing before January 7, 2001, notwithstanding the provisions of paragraph (2) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(4) With respect to benefit years commencing on or after January 7, 2001, except as otherwise provided in paragraph (5) of this subsection, the individual has, during his base year as defined in subsection of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the

calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof.

(5) With respect to benefit years commencing on or after January 7, 2001, notwithstanding the provisions of paragraph (4) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) Has earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(6) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (2), (3), (4) or (5) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R.S.43:21-27(b); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist or chiropractor;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).

(2) Benefit payments under this subsection (f) shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and of R.S.43:21-19 (i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved,

no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

117. Section 2 of P.L.1997, c.38 (C.44:10-56) is amended to read as follows:

C.44:10-56 Findings, declarations relative to Work First New Jersey Program.

2. The Legislature finds and declares that:

a. The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, establishes the federal block grant for temporary assistance for needy families and provides the opportunity for a state to establish and design its own welfare program;

b. Work and the earning of income promote the best interests of families and children;

c. Working individuals and families needing temporary assistance should have the transitional support necessary to obtain and keep a job in order to be able to avoid cycling back onto public assistance;

d. Teenage pregnancy is counter to the best interests of children;

e. Successful welfare reform requires the active involvement of the private sector as well as all departments of State government;

f. Personal and family security and stability, including the protection of children and vulnerable adults, are important to the establishment and maintenance of successful family life and childhood development and a family's inability or failure to qualify for benefits under the Work First New Jersey program established pursuant to this act shall not in and of itself be the basis for the separation of a dependent child from his family or the justification for the resource family care placement of a dependent child;

g. Children and teenagers need the benefits of the support and guidance which a family structure provides; the welfare system has provided a vehicle for breaking up families by giving teenage mothers the means to shift their financial dependence from their parents to the State; in the process, these youths deprive themselves of the education and family structure necessary to support themselves and their babies; and the support and structure provided by families are important to the development of a child's maximum potential; and

h. The Work First New Jersey program established pursuant to this act incorporates and builds upon the fundamental concepts of the Family Development Initiative established pursuant to P.L.1991, c.523 (C.44:10-19 et seq.) in a manner that is consistent with the federal program of temporary assistance for needy families, by establishing requirements for: time limits on cash assistance; the participation of recipients in work activities; enhanced efforts to establish paternity and establish and enforce child support obligations; sanctions for failure to comply with program requirements; a cap on the use of funds for administrative costs; the maintenance of State and county financial support of the program; teenage parent recipients to live at home and finish high school; and restrictions on eligibility for benefits for aliens.

118. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in this act:

(a) The term "State" means the State of New Jersey.

(b) The term "commission" means the State Health Benefits Commission, created by section 3 of this act.

(c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such

time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) (1) The term "dependents" means an employee's spouse, or an employee's domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Youth and Family Services, provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, domestic partner or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses or domestic partners of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary and subject to the provisions of paragraph (3) of this subsection, for the purposes of an employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term "dependents" means an employee's spouse and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Youth and Family Services in the Department of Human Services provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses of retired persons who are otherwise eligible for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(3) An employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34) may adopt a resolution providing that the term "dependents" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic

and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

119. Section 5 of P.L.2003, c.187 (C.52:17D-5) is amended to read as follows:

C.52:17D-5 Powers of the Child Advocate.

5. The child advocate may:

a. Investigate, review, monitor or evaluate any State agency response to, or disposition of, an allegation of child abuse or neglect in this State;

b. Inspect and review the operations, policies and procedures of:

(1) juvenile detention centers operated by the counties or the Juvenile Justice Commission;

(2) resource family homes, group homes, residential treatment facilities, shelters for the care of abused or neglected children, shelters for the care of juveniles considered as juvenile-family crisis cases, shelters for the care of homeless youth, or independent living arrangements operated by or approved for payment by the Department of Human Services; and

(3) any other public or private residential setting in which a child has been placed by a State or county agency or department.

c. Review, evaluate, report on and make recommendations concerning the procedures established by any State agency providing services to children who are at risk of abuse or neglect, children in State or institutional custody, or children who receive child protective or permanency services;

d. Review, monitor and report on the performance of State-funded private entities charged with the care and supervision of children due to abuse or neglect by conducting research audits or other studies of case records, policies, procedures and protocols, as deemed necessary by the child advocate to assess the performance of the entities;

e. Receive, investigate and make referrals to other agencies or take other appropriate actions with respect to a complaint received by the office regarding the actions of a State, county or municipal agency or a State-funded private entity providing services to children who are at risk of abuse or neglect;

f. Hold a public hearing on the subject of an investigation or study underway by the office, and receive testimony from agency and program representatives, the public and other interested

parties, as the child advocate deems appropriate; and

g. Establish and maintain a 24-hour toll-free telephone hotline to receive and respond to calls from citizens referring problems to the child advocate, both individual and systemic, in how the State, through its agencies or contract services, protects children.

120. Section 9 of P.L.2003, c.187 (C.52:17D-9) is amended to read as follows:

C.52:17D-9 Protection of children institutionalized or in resource family care.

9. The child advocate shall seek to ensure the protection of children who are in an institution or resource family care by reviewing, evaluating and monitoring the operation and activities of the Institutional Abuse Investigation Unit in the Department of Human Services.

a. In order to enable the child advocate to carry out its responsibilities under this section, the Institutional Abuse Investigation Unit shall:

(1) promptly notify the child advocate of any allegations of abuse or neglect made against an institution or resource family home serving children in this State;

(2) promptly provide the child advocate with a copy of the unit's response to the complaint and the actions taken by the unit to address the complaint;

(3) provide the child advocate with monthly updates of the status of actions proposed by the unit regarding an existing complaint that has not been resolved; and

(4) provide the child advocate with such other information as the child advocate may deem necessary to carry out his responsibilities to review, evaluate and monitor the operation and activities of the unit.

b. As used in this section, "institution" means a public or private facility, in this State or out-of-State, that provides children with out-of-home care, supervision or maintenance. Institution includes, but is not limited to: a correctional facility, detention facility, treatment facility, child care center, group home, residential school, shelter, psychiatric hospital and developmental center.

121. Section 2 of P.L.1985, c.69 (C.53:1-20.6) is amended to read as follows:

C.53:1-20.6 Rules, regulations concerning dissemination of information; fees.

2. a. The Superintendent of State Police, with the approval of the Attorney General, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations authorizing the dissemination, by the State Bureau of Identification, of criminal history record background information requested by State, county and local government agencies, including the Division of State Police, in noncriminal matters, or requested by individuals, nongovernmental entities or other governmental entities whose access to such criminal history record background information is not prohibited by law. A fee not to exceed \$30 shall be imposed for processing fingerprint identification checks; a fee not to exceed \$18 shall be imposed for processing criminal history name search identification checks. These fees shall be in addition to any other fees required by law. In addition to any fee specified herein, a nonrefundable fee, the amount of which shall be determined by the Superintendent of State Police, with the approval of the Attorney General, shall be collected to cover the cost of securing and processing a federal criminal records check for each applicant.

b. State, county and local government agencies, including the Division of State Police, and nongovernmental entities are authorized to impose and collect the processing fee established pursuant to subsection a. of this section from the person for whom the criminal history record background check is being processed or from the party requesting the criminal history record background check. The Superintendent of State Police shall provide this processing service without the collection of fees from the applicants in processing background checks of prospective resource family parents or members of their immediate families. In such cases, the Department of Human Services shall be responsible for paying the fees imposed pursuant to subsection a. of this section. Nothing in this section shall prohibit the Superintendent of State Police, with the approval of the Attorney General, from providing this processing service without the collection of fees from the applicant in other circumstances which in his sole discretion he

deems appropriate, if the applicants would not receive a wage or salary for the time and services they provide to an organization or who are considered volunteers. In those circumstances where the Superintendent of State Police, with the approval of the Attorney General, determines to provide this processing service without the collection of fees to the individual applicants, the superintendent may assess the fees for providing this service on behalf of the applicants to any department of State, county or municipal government which is responsible for operating or overseeing that volunteer program. The agencies shall transfer all moneys collected for the processing fee to the Division of State Police.

122. Section 8 of P.L.2000, c.77 (C.53:1-20.9b) is amended to read as follows:

C.53:1-20.9b Exchange of fingerprint data, information; determination; challenge.

8. a. The Commissioner of Human Services is authorized to exchange fingerprint data with, and to receive information from, the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

Upon receipt of the criminal history record information for an applicant or staff member of a child care center from the Federal Bureau of Investigation and the Division of State Police, the Department of Human Services shall notify the applicant or staff member, as applicable, and the child care center, in writing, of the applicant's or staff member's qualification or disqualification for employment or service under P.L.2000, c.77 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the applicant or staff member. The applicant or staff member shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the Department of Human Services shall notify the center that the applicant or staff member has been disqualified from employment.

b. The Division of State Police shall promptly notify the Department of Human Services in the event an applicant or staff member who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the Department of Human Services shall make a determination regarding the employment of the applicant or staff member.

123. Section 3 of P.L.1979, c.496 (C.55:13B-3) is amended to read as follows:

C.55:13B-3 Terms defined.

3. As used in this act:

a. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any resource family home as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1), any community residence for the developmentally disabled and any community residence for the mentally ill as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), any adult family care home as defined in section 3 of P.L.2001, c.304 (C.26:2Y-3), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the New Jersey Commission on Higher Education, any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner, and any owner-occupied, one-family residential dwelling made available for occupancy by not more than

six guests, where the primary purpose of the occupancy is to provide charitable assistance to the guests and where the owner derives no income from the occupancy. A dwelling shall be deemed "owner-occupied" within the meaning of this section if it is owned or operated by a nonprofit religious or charitable association or corporation and is used as the principal residence of a minister or employee of that corporation or association. For any such dwelling, however, fire detectors shall be required as determined by the Department of Community Affairs.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Financial services" means any assistance permitted or required by the commissioner to be furnished by an owner or operator to a resident in the management of personal financial matters, including, but not limited to, the cashing of checks, holding of personal funds for safekeeping in any manner or assistance in the purchase of goods or services with a resident's personal funds.

d. "Limited tenure" means residence at a rooming or boarding house on a temporary basis, for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

e. "Operator" means any individual who is responsible for the daily operation of a rooming or boarding house.

f. "Owner" means any person who owns, purports to own, or exercises control of any rooming or boarding house.

g. "Personal services" means any services permitted or required to be furnished by an owner or operator to a resident, other than shelter, including, but not limited to, meals or other food services, and assistance in dressing, bathing or attending to other personal needs.

h. "Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

i. "Single room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and which is not used for limited tenure occupancy in a hotel, motel or established guest house, regardless of the number of individuals occupying any room or rooms.

j. "Unit of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied for sleeping or dwelling purposes by one or more persons.

k. "Alzheimer's disease and related disorders" means a form of dementia characterized by a general loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

l. "Dementia" means a chronic or persistent disorder of the mental processes due to organic brain disease, for which no curative treatment is available, and marked by memory disorders, changes in personality, deterioration in personal care, impaired reasoning ability and disorientation.

124. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to read as follows:

C.55:14K-3 Definitions.

3. As used in this act:

a. "Agency" means the New Jersey Housing and Mortgage Finance Agency as consolidated by section 4 of P.L.1983, c.530 (C.55:14K-4), or, if that agency shall be abolished by law, the person, board, body or commission succeeding to the powers and duties thereof or to whom its powers and duties shall be given by law.

b. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, including:

(1) any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guesthouse wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only; (2) a residential health care facility as defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); (3) any resource family home as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any community residence for the developmentally disabled as defined in section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students; (6) any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education; and (7) any facility or living arrangement operated by, or under contract with, any State department or agency.

c. "Bonds" mean any bonds, notes, bond anticipation notes, debentures or other evidences of financial indebtedness issued by the agency pursuant to this act.

d. "Continuing-care retirement community" means any work or undertaking, whether new construction, improvement or rehabilitation, which may be financed in part or in whole by the agency and which is designed to complement fully independent residential units with social and health care services (usually including nursing and medical services) for retirement families and which is intended to provide continuing care for the term of a contract in return for an entrance fee or periodic payments, or both, and which may include such appurtenances and facilities as the agency deems to be necessary, convenient or desirable.

e. "Eligible loan" means a loan, secured or unsecured, made for the purpose of financing the operation, maintenance, construction, acquisition, rehabilitation or improvement of property, or the acquisition of a direct or indirect interest in property, located in the State, which is or shall be: (1) primarily residential in character or (2) used or to be used to provide services to the residents of an area or project which is primarily residential in character. The agency shall adopt regulations defining the term "primarily residential in character," which may include single-family, multi-family and congregate or other single room occupancy housing, continuing-care retirement communities, mobile homes and nonhousing properties and facilities which enhance the livability of the residential property or area; and specifying the types of residential services and facilities for which eligible loans may be made, which may include, but shall not be limited to, parking facilities, streets, sewers, utilities, and administrative, community, educational, welfare and recreational facilities, food, laundry, health and other services and commercial establishments and professional offices providing supplies and services enhancing the area. The term "loan" includes an obligation the return on which may vary with any appreciation in value of the property or interest in property financed with the proceeds of the loan, or a co-ventured instrument by which an institutional lender or the agency assumes an equity position in the property. Any undivided interest in an eligible loan shall qualify as an eligible loan.

f. "Family" means two or more persons who live or expect to live together as a single household in the same dwelling unit; but any individual who (1) has attained retirement age as defined in section 216a of the federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) such other individuals as the agency by rule or regulation shall include, shall be considered as a family for the purpose of this act; and the surviving member of a family whose other members died during occupancy of a housing project shall be considered as a family for the purposes of permitting continued occupancy of the dwelling unit occupied by such family.

g. "Gross aggregate family income" means the total annual income of all members of a family, from whatever source derived, including but not limited to, pension, annuity, retirement and social security benefits; except that there may be excluded from income (1) such reasonable allowances for dependents, (2) such reasonable allowances for medical expenses, (3) all or any proportionate part of the earnings of gainfully employed minors, or (4) such income as is not received regularly, as the agency by rule or regulation may determine.

h. "Housing project" or "project" means any work or undertaking, other than a continuing-care community, whether new construction, improvement, rehabilitation, or

acquisition of existing buildings or units which is designed for the primary purpose of providing multi-family rental housing or acquisition of sites for future multi-family rental housing.

i. "Housing sponsor" means any person, partnership, corporation or association, whether organized as for profit or not for profit, to which the agency has made or proposes to make a loan, either directly or through an institutional lender, for a housing project.

j. "Institutional lender" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in the State.

k. "Life safety improvement" means any addition, modification or repair to a boarding house which is necessary to improve the life safety of the residents of the boarding house, as certified by the Department of Community Affairs, including, but not limited to, the correction of a violation of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the administrative regulations promulgated in accordance with these acts.

l. "Life safety improvement loan" means an eligible loan the proceeds of which are to be used to finance, in whole or in part, the construction, acquisition or rendering of life safety improvements at or to boarding houses.

m. "Loan originator" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in the State, or any agency or instrumentality of the United States or the State or a political subdivision of the State, which is authorized to make eligible loans.

n. "Municipality" means any city of any class or any town, township, village or borough.

o. "Mutual housing" means a housing project operated or to be operated upon completion of construction, improvement or rehabilitation exclusively for the benefit of the families who are entitled to occupancy by reason of ownership of stock in the housing sponsor, or by reason of co-ownership of premises in a horizontal property regime pursuant to P.L.1963, c.168; but the agency may adopt rules and regulations permitting a reasonable percentage of space in such project to be rented for residential or for commercial use.

p. "Persons and families of low and moderate income" mean persons and families, irrespective of race, creed, national origin or sex, determined by the agency to require assistance on account of personal or family income being not sufficient to afford adequate housing. In making such determination the agency shall take into account the following:

(1) the amount of the total income of such persons and families available for housing needs, (2) the size of the family, (3) the cost and condition of housing facilities available and (4) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of projects with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the agency may determine that the limits so established shall govern. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency in its rules and regulations.

q. "Project cost" means the sum total of all costs incurred in the acquisition, development, construction, improvement or rehabilitation of a housing project, which are approved by the agency as reasonable or necessary, which costs shall include, but are not necessarily limited to, (1) cost of land acquisition and any buildings thereon, (2) cost of site preparation, demolition and development, (3) architect, engineer, legal, agency and other fees paid or payable in connection with the planning, execution and financing of the project, (4) cost of necessary studies, surveys, plans and permits, (5) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (6) cost of construction, reconstruction, fixtures, and equipment related to the real property, (7) cost of land improvements, (8) necessary expenses in connection with initial occupancy of the project, (9)

a reasonable profit or fee to the builder and developer, (10) an allowance established by the agency for working capital and contingency reserves, and reserves for any operating deficits, (11) costs of guarantees, insurance or other additional financial security for the project and (12) the cost of such other items, including tenant relocation, as the agency shall determine to be reasonable and necessary for the development of the project, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction, improvement or rehabilitation.

All costs shall be subject to approval and audit by the agency. The agency may adopt rules and regulations specifying in detail the types and categories of cost which shall be allowable if actually incurred in the development, acquisition, construction, improvement or rehabilitation of a housing project.

r. "Retirement family" means one or more persons related by blood, marriage or adoption who live or expect to live together as a single household in the same dwelling unit, provided that at least one of the persons is an individual who (1) has attained retirement age as defined in section 216a of the Federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) such individuals as the agency by rule or regulation shall include; and provided further, that the surviving member of a retirement family whose other members died during occupancy of a continuing-care retirement community shall be considered as a retirement family for purposes of permitting continued occupancy of the dwelling unit occupied by such retirement family.

125. Section 1 of P.L.2003, c.186 (C.30:4C-27.16) is amended to read as follows:

C.30:4C-27.16 Definitions relative to background checks for residential child care staff.

1. As used in sections 1 through 6 and 8 through 11 of this act:

"Department" means the Department of Human Services.

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

"Residential child care facility" or "facility" means any public or private establishment subject to the regulatory authority of the department that provides room, board, care, shelter or treatment services for children on a 24-hour-a-day basis. The term shall include: residential facilities operated by or under contract or agreement with the division to serve 13 or more children with emotional or behavioral problems as defined pursuant to section 2 of P.L.1951, c.138 (C.30:4C-2); State-operated children's psychiatric facilities providing inpatient treatment; group homes, treatment homes, teaching family homes, alternative care homes and supervised transitional living homes operated by or under contract or agreement with the division to serve 12 or fewer children with emotional or behavioral problems as defined pursuant to N.J.A.C.10:128-1.2; and shelter care facilities and homes, including shelters serving children in juvenile-family crisis and in need of temporary shelter care, as defined pursuant to section 3 of P.L.1982, c.77 (C.2A:4A-22).

"Staff member" means an individual 18 years of age or older who is an administrator of, employed by, or works in a facility on a regularly scheduled basis during the facility's operating hours, including full-time, part-time, voluntary, contract, consulting and substitute staff, whether compensated or not.

C.30:4C-2.5 Rules, regulations.

126. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to carry out the provisions of this act.

Repealer.

127. The following are repealed:

Section 5 of P.L.1951, c.138 (C.30:4C-5); and

Section 11 of P.L.2001, c.419 (C.30:4C-27.13).

Repealer.

128. P.L.1992, c.139 (C.30:4C-26.10 et seq.) is repealed.

129. This act shall take effect immediately, except that sections 88 and 128 shall take effect on September 1, 2005.

Approved August 27, 2004.