

CHAPTER 47
(Corrected Copy)

AN ACT establishing the Department of Children and Families as a principal department in the Executive Branch, supplementing Title 9 of the Revised Statutes, and revising various parts of the statutory law.

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

C.9:3A-1 Short title.

1. Sections 2 through 15 of this act shall be known and may be cited as the “Department of Children and Families Act.”

C.9:3A-2 Findings, declarations relative to establishing Department of Children and Families.

2. The Legislature finds and declares that:

a. In 2003, New Jersey settled a class action lawsuit alleging that the State’s child welfare system, which was primarily administered through the Division of Youth and Family Services in the Department of Human Services, failed to protect the State’s most vulnerable children from child abuse and neglect. Under the terms of the settlement agreement, a New Jersey Child Welfare Panel was created to provide technical assistance to the State on child welfare issues in order to monitor the development and implementation of a State plan to reform New Jersey’s child welfare system;

b. Although the State has committed substantial financial resources to the reform of the child welfare system between the date of the settlement agreement and 2005, the New Jersey Child Welfare Panel concluded that the department has not been able to demonstrate substantial progress in the implementation of the reform plan, and the Child Welfare Panel and other child advocates have concluded that children continue to remain at risk;

c. One of the concerns about the reform is that the child welfare system is administered through and is one of several large units within one of the largest agencies in State government, the Department of Human Services, which is responsible for so many of our State’s vulnerable citizens. The department consists of approximately 22,000 employees and includes, in addition to the Division of Youth and Family Services: the Division of Medical Assistance and Health Services, which administers the State’s Medicaid and NJ FamilyCare programs; the Division of Family Development, which administers the Temporary Assistance for Needy Families program and other public assistance programs; the Division of Developmental Disabilities, which provides services to developmentally disabled persons in the community and operates seven developmental centers; the Division of Mental Health Services, which provides services to persons with mental illness in the community and operates five psychiatric hospitals; the Division of Addiction Services, which administers the State’s substance abuse programs; the Division of Disability Services, which provides various services to disabled adults; and the Commission for the Blind and Visually Impaired and the Division of the Deaf and Hard of Hearing, which are responsible for providing services to persons who are blind or visually impaired and persons with hearing impairments, respectively; and

d. In order to facilitate aggressive reform of the child welfare system and ensure that the reform effort is successful, it is, therefore, in the best interest of the citizens of this State to establish a principal department within the Executive Branch that focuses exclusively on protecting children and strengthening families, so that our State’s children will have the optimum conditions in which to grow and prosper to the benefit of themselves, their families,

and society as a whole. The department shall have the goal of ensuring safety, permanency, and well-being for all children, and shall have direct responsibility for child welfare and other children and family services, supported by strong inter-agency partnerships among other State departments also responsible for family services.

C.9:3A-3 Department of Children and Families established.

3. There is established in the Executive Branch of the State Government a principal department that shall be known as the Department of Children and Families.

C.9:3A-4 Definitions relative to Department of Children and Families.

4. As used in this act:

“Commissioner” means the Commissioner of Children and Families.

“Department” means the Department of Children and Families established by this act.

C.9:3A-5 Commissioner of Children and Families.

5. a. The head and chief administrative officer of the department shall be the Commissioner of Children and Families. The commissioner shall be a person qualified by training and experience to perform the duties of his office. The commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor’s term of office and until the appointment and qualification of the commissioner’s successor. He shall receive such salary as shall be provided by law and shall devote his entire time and attention to the duties of the office and shall not engage in any other profession or occupation.

b. The commissioner shall delegate such of his powers as he deems appropriate for the efficient administration of the department, to be exercised under the commissioner's direction and supervision by one or more deputy commissioners. A deputy commissioner shall devote his entire time and attention to the duties of that office and shall receive such salary as the commissioner deems appropriate.

C.9:3A-6 Designation of final decision maker for contested cases.

6. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may designate an appropriate officer of the department to serve as the final decision maker in any contested case or group of contested cases filed with the Office of Administrative Law. The designation shall be in writing and shall be filed with the Office of Administrative Law. The designation shall remain in effect until amended by the commissioner.

C.9:3A-7 Responsibilities, duties of commissioner.

7. The commissioner, as administrator and chief executive officer of the department, shall:

a. Administer the work of the department;

b. Appoint and remove officers and other personnel employed within the department, subject to the provisions of Title 11A of the New Jersey Statutes, Civil Service, and other applicable statutes, except as herein otherwise specifically provided;

c. Appoint such deputy and assistant commissioners, directors and other personnel in the unclassified service as the commissioner deems appropriate to receive such compensation as may be provided by law;

d. Perform, exercise and discharge the functions, powers and duties of the department through such divisions as may be established by this act or otherwise by law;

e. Organize the work of the department in such divisions, not inconsistent with the provisions of this act, and in such other organizational units as he may determine to be necessary for efficient and effective operation;

f. Adopt, issue and promulgate, in the name of the department, such rules and regulations as may be authorized by law, consistent with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

g. Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the department, its officers and employees;

h. Institute or cause to be instituted such legal proceedings or processes as may be necessary to enforce and give effect to any of his powers or duties;

i. Make such reports of the department's operation as the Governor or the Legislature shall from time to time request, or as may be required by law;

j. Coordinate the activities of the department, and the several divisions and other agencies therein, in a manner designed to eliminate overlapping and duplicating functions;

k. Integrate within the department, so far as practicable, all staff services of the department and of the several divisions and other agencies therein;

l. Maintain suitable headquarters for the department and such other quarters as are necessary to the proper functioning of the department;

m. Solicit, apply for, and accept on behalf of the State any contributions, donations of money, goods, services, real or personal property or grants from the federal government or any agency thereof, or from any foundation, corporation, association or individual, and comply with the terms, conditions and limitations thereof, for any of the purposes of the department;

n. Enter into contracts and agreements with public and private entities, as may be appropriate to carry out the purposes of the department;

o. Be the request officer for the department within the meaning of such term as defined in P.L.1944, c.112 (C.52:27B-1 et seq.); and

p. Perform such other functions as may be prescribed in this act or by any other law.

C.9:3A-8 Necessary investigations; powers.

8. The commissioner may make, or cause to be made, such investigations as he deems necessary in the administration of the Department of Children and Families. For the purpose of any such investigation he may cause to be examined under oath any and all persons whatsoever and compel by subpoena the attendance of witnesses and the production of such books, records, accounts, papers and other documents as are appropriate. If a witness fails without good cause to attend, testify or produce such records or documents as directed in the subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons or subpoena issued from a court of record in this State.

C.9:3A-9 Functions, powers, duties of Office of Children's Services transferred to department.

9. All of the functions, powers and duties of the Office of Children's Services in the Department of Human Services, and the power to receive, allocate, expend, and authorize the expenditure of federal moneys available for children and families are hereby transferred and assigned to, assumed by and devolved upon the Department of Children and Families. To effectuate such transfer there shall also be transferred such officers and employees as are

necessary, all appropriations or reappropriations, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, and all necessary books, papers, records and property. All rules, regulations, acts, determinations and decisions in force at the time of such transfer and proceedings or other such matters undertaken, commenced or pending by or before the Office of Children's Services at the time of such transfer shall continue in force and effect until duly modified, abrogated or completed by the Department of Children and Families.

As used in this section, the Office of Children's Services includes, but is not limited to, the Division of Youth and Family Services, the Division of Child Behavioral Health Services, the Division of Prevention and Community Partnerships and the New Jersey Child Welfare Training Academy in the Department of Human Services.

C.9:3A-10 "Office of Children's Services" refers to Department of Children and Families.

10. a. Whenever the term "Office of Children's Services" occurs or any reference is made thereto in any law, regulation, contract or document, the same shall be deemed to mean or refer to the Department of Children and Families.

b. Whenever the terms "Division of Youth and Family Services," "Division of Child Behavioral Health Services," "Division of Prevention and Community Partnerships" and "New Jersey Child Welfare Training Academy" occur or any reference is made thereto in any law, regulation, contract or document, the same shall be deemed to mean or refer to, respectively, the "Division of Youth and Family Services," "Division of Child Behavioral Health Services," "Division of Prevention and Community Partnerships," and "New Jersey Child Welfare Training Academy" in the Department of Children and Families established herein.

C.9:3A-11 Transfer of certain DHS staff to department.

11. A proportionate share of the programmatic, administrative, and support staff of the Department of Human Services supporting the functions, powers and duties transferred under this act are transferred to the Department of Children and Families.

The transfer of specific facilities, resources and personnel shall be determined by agreement between the Commissioner of Children and Families and the Commissioner of Human Services, after considering the number and type of positions currently used for support for the functions, powers and duties transferred and the appropriateness of transferring personnel, positions, and funding.

C.9:3A-12 Act subject to C.52:14D-1 et seq.

12. This act shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), except as may otherwise be provided under this act.

C.9:3A-13 Inapplicability of act.

13. This act shall not:

a. affect the tenure, compensation, and pension rights, if any, of the lawful holder thereof, in any position not specifically abolished herein; and

b. alter the term of any member of any board, commission, or public body, not specifically abolished herein, lawfully in office on the effective date of this act, or require the reappointment thereof.

C.9:3A-14 Criminal history record information check for certain employees.

14. The Department of Children and Families shall not employ any individual as a direct care staff member unless the Commissioner of Children and Families has first determined, consistent with the requirements and standards of this section, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being employed at the department. A criminal history record background check shall be conducted at least once every two years for an individual employed as a direct care staff member.

As used in this section, "direct care staff member" means an individual employed at the department in a position which involves unsupervised, regular contact with individuals receiving services from the department.

a. An individual shall be disqualified from employment as a direct care staff member if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, no individual shall be disqualified from employment under this act on the basis of any conviction disclosed by a criminal history record check performed pursuant to this section if the individual has affirmatively demonstrated to the Commissioner of Children and Families clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(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 individual 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 persons who have had the individual under their supervision.

c. If a prospective direct care staff member refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall not consider the individual for employment as a direct care staff member. The prospective staff member shall, however, retain any available right of review by the Merit System Board in the Department of Personnel.

d. If a current direct care staff member refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall immediately

remove the individual from his position as a direct care staff member and terminate the individual's employment. The staff member shall, however, retain any available right of review by the Merit System Board in the Department of Personnel.

e. Notwithstanding the provisions of subsection a. of this section to the contrary, the department may provisionally employ an individual as a direct care staff member for a period not to exceed six months if that individual's State Bureau of Identification criminal history record background check does not contain any information that would disqualify the individual from employment at the department and if the individual submits to the commissioner a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this section, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties under the direct supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal information is complete.

f. All applicants or current direct care staff members from whom criminal history record background checks are required shall submit their fingerprints in a manner acceptable to the commissioner. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this section. No criminal history record background check shall be performed pursuant to this section unless the applicant shall have furnished his written consent to the check.

g. (1) Upon receipt of an applicant or direct care staff member's criminal history record information from the Federal Bureau of Investigation or the Division of State Police, as applicable, the commissioner shall notify the applicant or staff member, in writing, of the applicant's or staff member's qualification or disqualification for employment under this act. If the applicant or staff member is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the written notice.

(2) The applicant or staff member shall have 30 days from the date of written notice of disqualification to petition the commissioner for a hearing on the accuracy of the criminal history record information or to establish his rehabilitation under subsection b. of this section. The commissioner may refer any case arising hereunder to the Office of Administrative Law for administrative proceedings pursuant to P.L.1978, c.67 (C.52:14F-1 et al.).

(3) The commissioner shall not maintain any individual's criminal history record information or evidence of rehabilitation submitted under this section for more than six months from the date of a final determination by the commissioner as to the individual's qualification or disqualification to be a direct care staff member pursuant to this section.

h. The commissioner shall initiate a criminal history record background check on all prospective direct care staff members. Current direct care staff members who have had a criminal history record background check conducted and stored in a manner approved by the commissioner shall have up to two years from the effective date of this act until the next criminal history background check is conducted.

i. The department shall assume the cost of all criminal history record background checks conducted on current and prospective direct care staff members.

C.53:1-20.9f Exchange of fingerprint data.

15. a. The Commissioner of Children and Families 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 in accordance with the provisions of section 14 of P.L.2006, c.47 (C.9:3A-14).

b. The Division of State Police shall promptly notify the Department of Children and Families in the event an applicant for a direct care staff member position or a direct care 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 Children and Families shall make a determination regarding the employment of the applicant or staff member.

16. Section 18 of P.L.1982, c.77 (C.2A:4A-37) is amended to read as follows:

C.2A:4A-37 Place of detention or shelter.

18. Place of detention or shelter. a. The Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) shall specify the place where a juvenile may be detained; and the Department of Children and Families shall specify where a juvenile may be placed in shelter.

b. No juvenile shall be placed in detention or shelter care in any place other than that specified by the Juvenile Justice Commission or Department of Children and Families as provided in subsection a.

c. A juvenile being held for a charge under this act or for a violation of or contempt in connection with a violation of Title 39 of the Revised Statutes, chapter 7 of Title 12 of the Revised Statutes or N.J.S.2C:33-13, including a juvenile who has reached the age of 18 years after being charged, shall not be placed in any prison, jail or lockup nor detained in any police station, except that if no other facility is reasonably available a juvenile may be held in a police station in a place other than one designed for the detention of prisoners and apart from any adult charged with or convicted of a crime for a brief period if such holding is necessary to allow release to his parent, guardian, other suitable person, or approved facility. No juvenile shall be placed in a detention facility which has reached its maximum population capacity, as designated by the Juvenile Justice Commission.

d. No juvenile charged with delinquency shall be transferred to an adult county jail solely by reason of having reached age 18. The following standards shall apply to any juvenile who has been placed on probation pursuant to section 24 of P.L.1982, c.77 (C.2A:4A-43) and who violates the conditions of that probation after reaching the age of 18; who has been placed on parole pursuant to the provisions of the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.) and who violates the conditions of that parole after reaching the age of 18; or who is arrested after reaching the age of 18 on a warrant emanating from the commission of an act of juvenile delinquency:

(1) In the case of a person 18 years of age but less than 20 years of age, the court, upon application by any interested party, shall determine the place of detention, taking into consideration the age and maturity of the person, whether the placement of the person in a juvenile detention facility would present a risk to the safety of juveniles residing at the facility, the likelihood that the person would influence in a negative manner juveniles incarcerated at the facility, whether the facility has sufficient space available for juveniles and any other factor the court deems appropriate. Upon application at any time by the juvenile detention facility administrator or any other interested party, the court may order

that the person be relocated to the county jail. The denial of an application shall not preclude subsequent applications based on a change in circumstances or information that was not previously made available to the court. The determination of the place of detention shall be made in a summary manner;

(2) In the case of a person 20 years of age or older, the person shall be incarcerated in the county jail unless good cause is shown.

e. (1) The Juvenile Justice Commission and the Department of Children and Families shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for juvenile detention facilities or shelters under their respective supervision.

(2) The Juvenile Justice Commission and the Department of Children and Families, in consultation with the appropriate county administrator of the county facility or shelter, shall assign a maximum population capacity for each juvenile detention facility or shelter based on minimum standards for these facilities.

f. (1) Where either the Juvenile Justice Commission or the Department of Children and Families determines that a juvenile detention facility or shelter under its control or authority is regularly over the maximum population capacity or is in willful and continuous disregard of the minimum standards for these facilities or shelters, the commission or department may restrict new admissions to the facility or shelter.

(2) Upon making such determination, the commission or department shall notify the governing body of the appropriate county of its decision to impose such a restriction, which notification shall include a written statement specifying the reasons therefor and corrections to be made. If the commission or department shall determine that no appropriate action has been initiated by the administrator of the facility or shelter within 60 days following such notification to correct the violations specified in the notification, it shall order that such juvenile detention facility or shelter shall immediately cease to admit juveniles. The county shall be entitled to a hearing where such a restriction is imposed by the commission or department.

(3) Any juvenile detention facility or shelter so restricted shall continue under such order until such time as the commission or department determines that the violation specified in the notice has been corrected or that the facility or shelter has initiated actions which will ensure the correction of said violations.

(4) Upon the issuance of an order to cease admissions to a juvenile detention facility or shelter, the commission or department shall determine whether other juvenile detention facilities or shelters have adequate room for admitting juveniles and shall assign the juveniles to the facilities or shelters on the basis of available space; provided that the department shall not assign the juvenile to a facility or shelter where such facility or shelter is at the maximum population. A juvenile detention facility or shelter ordered to accept a juvenile shall do so within five days following the receipt of an order to accept admission of such juvenile.

(5) A juvenile detention facility or shelter restricted by an order to cease admissions shall assume responsibility for the transportation of a juvenile sent to another juvenile detention facility or shelter so long as the order shall remain in effect.

(6) A facility or shelter receiving juveniles pursuant to paragraph (4) of this subsection shall receive from the sending county a reasonable and appropriate per diem allowance for each juvenile sent to the facility, such allowance to be used for the custody, care, maintenance, and any other services normally provided by the county to juveniles in the facility or shelter and which reflects all county expenditures in maintaining such juvenile,

including a proportionate share of all buildings and grounds costs, personnel costs, including fringe benefits, administrative costs and all other direct and indirect costs.

(7) The governing body of a county whose juvenile detention facility or shelter has been prohibited from accepting new admissions, and whose juveniles have been assigned to other juvenile detention facilities or shelters, shall appropriate an amount to pay the county receiving such juveniles for all expenses incurred pursuant to paragraph (6) of this subsection.

17. 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 Children and Families, 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.

18. 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 Children and Families 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 Children and Families 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 Children and Families 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.

19. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to read as follows:

C.2A:4A-60 Disclosure of juvenile information; penalties for disclosure.

1. Disclosure of juvenile information; penalties for disclosure.

a. Social, medical, psychological, legal and other records of the court and probation division, and records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection. Such records shall be made available only to:

(1) Any court or probation division;

(2) The Attorney General or county prosecutor;

(3) The parents or guardian and to the attorney of the juvenile;

(4) The Department of Human Services or Department of Children and Families, if providing care or custody of the juvenile;

(5) Any institution or facility to which the juvenile is currently committed or in which the juvenile is placed;

(6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown, except that information concerning adjudications of delinquency, records of custodial confinement, payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction of a crime or adjudication of delinquency, and the juvenile's financial resources, shall be made available upon request to the Victims of Crime

Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), which shall keep such information and records confidential;

(7) The Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170);

(8) Law enforcement agencies for the purpose of reviewing applications for a permit to purchase a handgun or firearms purchaser identification card;

(9) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to official court documents, such as complaints, pleadings and orders, and that such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family and otherwise shall be safeguarded from disclosure to other members of the public. Any potential party in a civil action related to the juvenile offense may file a motion with the civil trial judge seeking to have the juvenile's social, medical or psychological records admitted into evidence in a civil proceeding for damages;

(10) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to police or investigation reports concerning acts of delinquency, which shall be disclosed by a law enforcement agency only with the approval of the County Prosecutor's Office or the Division of Criminal Justice. Prior to disclosure, all personal information regarding all individuals, other than the requesting party and the arresting or investigating officer, shall be redacted. Such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family, and otherwise shall be safeguarded from disclosure to other members of the public;

(11) The Office of the Child Advocate established pursuant to P.L.2005, c.155 (C.52:27EE-1 et al.). Disclosure of juvenile information received by the child advocate pursuant to this paragraph shall be in accordance with the provisions of section 76 of P.L.2005, c.155 (C.52:27EE-76); and

(12) Law enforcement agencies with respect to information available on the juvenile central registry maintained by the courts pursuant to subsection g. of this section, including, but not limited to: records of official court documents, such as complaints, pleadings and orders for the purpose of obtaining juvenile arrest information; juvenile disposition information; juvenile pretrial information; and information concerning the probation status of a juvenile.

b. Records of law enforcement agencies may be disclosed for law enforcement purposes, or for the purpose of reviewing applications for a permit to purchase a handgun or a firearms purchaser identification card to any law enforcement agency of this State, another state or the United States, and the identity of a juvenile under warrant for arrest for commission of an act that would constitute a crime if committed by an adult may be disclosed to the public when necessary to execution of the warrant.

c. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed to:

(1) The victim or a member of the victim's immediate family;

(2) (Deleted by amendment P.L.2005, c.165).

(3) On a confidential basis, the principal of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or to planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education; or

(4) A party in a subsequent legal proceeding involving the juvenile, upon approval by the court.

d. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, advise the principal of the school where the juvenile is enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

(1) The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school; or

(2) The juvenile was taken into custody as a result of information or evidence provided by school officials; or

(3) The offense, if committed by an adult, would constitute a crime, and the offense:

(a) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury; or

(b) involved the unlawful use or possession of a firearm or other weapon; or

(c) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog; or

(d) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(e) would be a crime of the first or second degree.

Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to a juvenile's educational and social development, and no record of such information shall be maintained except as authorized by regulation of the Department of Education.

e. Nothing in this section prohibits a law enforcement or prosecuting agency from providing the principal of a school with information identifying one or more juveniles who are under investigation or have been taken into custody for commission of any act that would constitute an offense if committed by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the principal in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No information provided pursuant to this section shall be maintained.

f. Information as to the identity of a juvenile adjudicated delinquent, the offense, the adjudication and the disposition shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree, or aggravated assault, destruction or damage to property to an extent of more than \$500.00, unless upon application at the time of disposition

the juvenile demonstrates a substantial likelihood that specific and extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

g. (1) Nothing in this section shall prohibit the establishment and maintaining of a central registry of the records of law enforcement agencies relating to juveniles for the purpose of exchange between State and local law enforcement agencies and prosecutors of this State, another state, or the United States. These records of law enforcement agencies shall be available on a 24-hour basis.

(2) Certain information and records relating to juveniles in the central registry maintained by the courts, as prescribed in paragraph (12) of subsection a. of this section, shall be available to State and local law enforcement agencies and prosecutors on a 24-hour basis.

h. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly persons offense.

i. Juvenile delinquency proceedings.

(1) Except as provided in paragraph (2) of this subsection, the court may, upon application by the juvenile or his parent or guardian, the prosecutor or any other interested party, including the victim or complainant or members of the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that specific harm to the juvenile would not result. The court shall have the authority to limit and control attendance in any manner and to the extent it deems appropriate;

(2) The court or, in cases where the county prosecutor has entered an appearance, the county prosecutor shall notify the victim or a member of the victim's immediate family of any court proceeding involving the juvenile and the court shall permit the attendance of the victim or family member at the proceeding except when, prior to completing testimony as a witness, the victim or family member is properly sequestered in accordance with the law or the Rules Governing the Courts of the State of New Jersey or when the juvenile or the juvenile's family member shows, by clear and convincing evidence, that such attendance would result in a substantial likelihood that specific harm to the juvenile would result from the attendance of the victim or a family member at a proceeding or any portion of a proceeding and that such harm substantially outweighs the interest of the victim or family member to attend that portion of the proceeding;

(3) The court shall permit a victim, or a family member of a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult.

j. The Department of Education, in consultation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the creation, maintenance and disclosure of pupil records including information acquired pursuant to this section.

20. Section 14 of P.L.1982, c.80 (C.2A:4A-89) is amended to read as follows:

C.2A:4A-89 Out-of-home placement hearing.

14. When intake has filed with the court a petition for out of home placement, the court shall, within 24 hours, conduct a hearing on the petition. The court shall notify the parents,

the juvenile and his counsel and, if indigent, have counsel appointed by the court. The hearing shall be conducted in accordance with the Rules of Court and shall be attended by the parents, the juvenile, and when requested by the court, a representative of the Department of Children and Families. The following procedure shall be followed for the hearing:

a. The court shall hold the hearing to consider the petition and may approve or disapprove the temporary out of home placement. The court may approve the temporary out of home placement if either of the following factors exists:

(1) A serious conflict or other problem between the parent and the juvenile which cannot be resolved by delivery of services to the family during continued placement of the juvenile in the parental home; or

(2) The physical safety and well-being of the juvenile would be threatened if the juvenile were placed in the parental home.

b. If the court disapproves a petition for an out of home placement, a written statement of reasons shall be filed, and the court shall order that the juvenile is to remain at or return to the parental home.

c. Temporary out of home placement shall continue until otherwise provided by the court. The order approving the temporary out of home placement shall direct the Department of Children and Families, or other service or agency to submit a family service plan that is designed to resolve the family crisis consistent with the well-being and physical safety of the juvenile. The court shall direct such department, service or agency to make recommendations as to which agency or person shall have physical custody of the child, the extent of the parental powers to be awarded to such agency or person and parental visitation rights.

d. Within 14 days of the date of the order approving the petition for temporary out of home placement is entered, unless for good cause shown, but no later than 30 days, the department, service or agency shall submit to the court a family service plan, which shall be presumed valid, detailing the specifics of the court order. The plan shall be developed within the limits of fiscal and other resources available to the department, service or agency. If the court determines that the service plan is inappropriate, given existing resources, the department, service or agency may request a hearing on that determination.

e. At the hearing held to consider the family service plan presented by the department or other service or agency, the court shall consider all such recommendations included therein. The court, consistent with this section, may modify such plan and shall make its dispositional order for the juvenile. The court's dispositional order shall specify the responsibility of the Department of Children and Families or other service with respect to the juvenile who shall be placed, those parental powers temporarily ordered to the department or service and parental visitation rights. Where placement cannot be immediately made, the department or other service or agency shall report to the court every 14 days on the status of the placement and progress toward implementation of the plan.

21. N.J.S.2A:12-6 is amended to read as follows:

Distribution of law reports.

2A:12-6. The Administrative Director of the Courts is authorized to distribute or cause to be distributed any bound volumes of the New Jersey Reports and the New Jersey Superior Court Reports heretofore or hereafter published and delivered to him, as follows:

To each member of the Legislature, one copy of each volume of such reports.

To the following named, for official use, to remain the property of the State, the following number of copies of each volume of such reports:

- a. To the Governor, four copies;
- b. To the Department of Law and Public Safety, for the Division of Law, four copies; and the Division of Alcoholic Beverage Control, one copy;
- c. To the Department of the Treasury, for the State Treasurer, one copy; the Division of Taxation, three copies; and the Division of Local Government Services in the Department of Community Affairs, one copy;
- d. To the Department of State, one copy;
- e. To the Department of Personnel, one copy;
- f. To the Department of Banking and Insurance, two copies;
- g. To the Board of Public Utilities in the Department of the Treasury, one copy;
- h. To the Department of Labor and Workforce Development, for the commissioner, one copy; the Division of Workers' Compensation, five copies; the State Board of Mediation, one copy; and the Division of Employment Security, three copies;
- i. To the Department of Education, for the commissioner, one copy;
- j. To the Department of Transportation, one copy;
- k. To the Department of Human Services, one copy; the Department of Corrections, one copy; and the Department of Children and Families, one copy;
- l. To each judge of the federal courts in and for the district of New Jersey, one copy;
- m. To each justice of the Supreme Court, one copy;
- n. To each judge of the Superior Court, one copy;
- o. To the Administrative Director of the Courts, one copy;
- p. To each standing master of the Superior Court, one copy;
- q. (Deleted by amendment, P.L.1983, c.36.)
- r. To the clerk of the Supreme Court, one copy;
- s. To the clerk of the Superior Court, one copy;
- t. (Deleted by amendment, P.L.1983, c.36.)
- u. (Deleted by amendment, P.L.1983, c.36.)
- v. (Deleted by amendment, P.L.1991, c.91.)
- w. (Deleted by amendment, P.L.1991, c.91.)
- x. To each county prosecutor, one copy;
- y. To the Central Management Unit in the Office of Legislative Services, one copy;
- z. To each surrogate, one copy;
- aa. To each county clerk, one copy;
- ab. To each sheriff, one copy;
- ac. To Rutgers, The State University, two copies; and the law schools, five copies each;
- ad. To the law school of Seton Hall University, five copies;
- ae. To Princeton University, two copies;
- af. To the Library of Congress, four copies;
- ag. To the New Jersey Historical Society, one copy;
- ah. To every library provided by the board of chosen freeholders of any county at the courthouse in each county, one copy;
- ai. To the library of every county bar association in this State, one copy;
- aj. To each incorporated library association in this State, which has a law library at the county seat of the county in which it is located, one copy;
- ak. To each judge of the tax court, one copy;

al. The State Library, 60 copies, five of which shall be deposited in the Law Library, and 55 of which shall be used by the State Librarian to send one copy to the state library of each state and territory of the United States, the same to be in exchange for the law reports of such states and territories sent to the State Library, which reports shall be deposited in and become part of the collection of the Law Library.

The remaining copies of such reports shall be retained by the administrative director for the use of the State and for such further distribution as he may determine upon.

22. Section 6 of P.L.2004, c.157 (C.2A:23C-6) is amended to read as follows:

C.2A:23C-6 Exceptions to privilege.

6. Exceptions to Privilege.

a. There is no privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4) for a mediation communication that is:

- (1) in an agreement evidenced by a record signed by all parties to the agreement;
- (2) made during a session of a mediation that is open, or is required by law to be open, to the public;
- (3) a threat or statement of a plan to inflict bodily injury or commit a crime;
- (4) intentionally used to plan a crime, attempt to commit a crime, or to conceal an ongoing crime or ongoing criminal activity;
- (5) sought or offered to prove or disprove a claim or complaint filed against a mediator arising out of a mediation;
- (6) except as otherwise provided in subsection c., sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or
- (7) sought or offered to prove or disprove child abuse or neglect in a proceeding in which the Division of Youth and Family Services in the Department of Children and Families is a party, unless the Division of Youth and Family Services participates in the mediation.

b. There is no privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4) if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:

- (1) a court proceeding involving a crime as defined in the "New Jersey Code of Criminal Justice," N.J.S. 2C:1-1 et seq.; or
- (2) except as otherwise provided in subsection c., a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

c. A mediator may not be compelled to provide evidence of a mediation communication referred to in paragraph (6) of subsection a. or paragraph (2) of subsection b.

d. If a mediation communication is not privileged under subsection a. or b., only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection a. or b. does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

23. Section 5 of P.L.1994, c.133 (C.2C:7-5) is amended to read as follows:

C.2C:7-5 Records; immunity.

5. a. Records maintained pursuant to this act shall be open to any law enforcement agency in this State, the United States or any other state and may be released to the Division of Youth and Family Services in the Department of Children and Families for use in carrying out its responsibilities under law. Law enforcement agencies in this State shall be authorized to release relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection in accordance with the provisions of P.L.1994, c.128 (C.2C:7-6 et seq.).

b. An elected public official, public employee, or public agency is immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

c. Nothing in this act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for failing to release information as authorized in subsection d. of this section.

d. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public exposed to danger of any persons that pose a danger under circumstances that are not enumerated in this act.

24. N.J.S.2C:13-1 is amended to read as follows:

Kidnapping.

2C:13-1. Kidnapping. a. Holding for ransom, reward or as a hostage. A person is guilty of kidnapping if he unlawfully removes another from the place where he is found or if he unlawfully confines another with the purpose of holding that person for ransom or reward or as a shield or hostage.

b. Holding for other purposes. A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

- (1) To facilitate commission of any crime or flight thereafter;
- (2) To inflict bodily injury on or to terrorize the victim or another;
- (3) To interfere with the performance of any governmental or political function; or
- (4) To permanently deprive a parent, guardian or other lawful custodian of custody of the victim.

c. Grading of kidnapping. (1) Except as provided in paragraph (2) of this subsection, kidnapping is a crime of the first degree and upon conviction thereof, a person may, notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between 15 and 30 years. If the actor releases the victim unharmed and in a safe place prior to apprehension, it is a crime of the second degree.

(2) Kidnapping is a crime of the first degree and upon conviction thereof, an actor shall be sentenced to a term of imprisonment by the court, if the victim of the kidnapping is less than 16 years of age and if during the kidnapping:

(a) A crime under N.J.S.2C:14-2 or subsection a. of N.J.S.2C:14-3 is committed against the victim;

(b) A crime under subsection b. of N.J.S.2C:24-4 is committed against the victim; or

(c) The actor sells or delivers the victim to another person for pecuniary gain other than in circumstances which lead to the return of the victim to a parent, guardian or other person responsible for the general supervision of the victim.

Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, the term of imprisonment imposed under this paragraph shall be either a term of 25 years during which the actor shall not be eligible for parole, or a specific term between 25 years and life imprisonment, of which the actor shall serve 25 years before being eligible for parole; provided, however, that the crime of kidnapping under this paragraph and underlying aggravating crimes listed in subparagraph (a), (b) or (c) of this paragraph shall merge for purposes of sentencing. If the actor is convicted of the criminal homicide of a victim of a kidnapping under the provisions of chapter 11, any sentence imposed under provisions of this paragraph shall be served consecutively to any sentence imposed pursuant to the provisions of chapter 11.

d. “Unlawful” removal or confinement. A removal or confinement is unlawful within the meaning of this section and of sections 2C:13-2 and 2C:13-3, if it is accomplished by force, threat or deception, or, in the case of a person who is under the age of 14 or is incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

e. It is an affirmative defense to a prosecution under paragraph (4) of subsection b. of this section, which must be proved by clear and convincing evidence, that:

(1) The actor reasonably believed that the action was necessary to preserve the victim from imminent danger to his welfare. However, no defense shall be available pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a victim under his protection, give notice of the victim’s location to the police department of the municipality where the victim resided, the office of the county prosecutor in the county where the victim resided, or the Division of Youth and Family Services in the Department of Children and Families;

(2) The actor reasonably believed that the taking or detaining of the victim was consented to by a parent, or by an authorized State agency; or

(3) The victim, being at the time of the taking or concealment not less than 14 years old, was taken away at his own volition by his parent and without purpose to commit a criminal offense with or against the victim.

f. It is an affirmative defense to a prosecution under paragraph (4) of subsection b. of this section that a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent, provided that the parent having custody, as soon as reasonably practicable:

(1) Gives notice of the victim’s location to the police department of the municipality where the victim resided, the office of the county prosecutor in the county where the victim resided, or the Division of Youth and Family Services in the Department of Children and Families; or

(2) Commences an action affecting custody in an appropriate court.

g. As used in subsections e. and f. of this section, “parent” means a parent, guardian or other lawful custodian of a victim.

25. N.J.S.2C:13-4 is amended to read as follows:

Interference with custody.

2C:13-4. Interference with custody.

a. Custody of children. A person, including a parent, guardian or other lawful custodian, is guilty of interference with custody if he:

(1) Takes or detains a minor child with the purpose of concealing the minor child and thereby depriving the child's other parent of custody or parenting time with the minor child; or

(2) After being served with process or having actual knowledge of an action affecting marriage or custody but prior to the issuance of a temporary or final order determining custody and parenting time rights to a minor child, takes, detains, entices or conceals the child within or outside the State for the purpose of depriving the child's other parent of custody or parenting time, or to evade the jurisdiction of the courts of this State; or

(3) After being served with process or having actual knowledge of an action affecting the protective services needs of a child pursuant to Title 9 of the Revised Statutes in an action affecting custody, but prior to the issuance of a temporary or final order determining custody rights of a minor child, takes, detains, entices or conceals the child within or outside the State for the purpose of evading the jurisdiction of the courts of this State; or

(4) After the issuance of a temporary or final order specifying custody, joint custody rights or parenting time, takes, detains, entices or conceals a minor child from the other parent in violation of the custody or parenting time order.

Interference with custody is a crime of the second degree if the child is taken, detained, enticed or concealed: (i) outside the United States or (ii) for more than 24 hours. Otherwise, interference with custody is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply.

b. Custody of committed persons. A person is guilty of a crime of the fourth degree if he knowingly takes or entices any committed person away from lawful custody when he is not privileged to do so. "Committed person" means, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally defective or insane person, or other dependent or incompetent person entrusted to another's custody by or through a recognized social agency or otherwise by authority of law.

c. It is an affirmative defense to a prosecution under subsection a. of this section, which must be proved by clear and convincing evidence, that:

(1) The actor reasonably believed that the action was necessary to preserve the child from imminent danger to his welfare. However, no defense shall be available pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a child under his protection, give notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Youth and Family Services in the Department of Children and Families;

(2) The actor reasonably believed that the taking or detaining of the minor child was consented to by the other parent, or by an authorized State agency; or

(3) The child, being at the time of the taking or concealment not less than 14 years old, was taken away at his own volition and without purpose to commit a criminal offense with or against the child.

d. It is an affirmative defense to a prosecution under subsection a. of this section that a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent, provided that the parent having custody, as soon as reasonably practicable:

(1) Gives notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Youth and Family Services in the Department of Children and Families; or

(2) Commences an action affecting custody in an appropriate court.

e. The offenses enumerated in this section are continuous in nature and continue for so long as the child is concealed or detained.

f. (1) In addition to any other disposition provided by law, a person convicted under subsection a. of this section shall make restitution of all reasonable expenses and costs, including reasonable counsel fees, incurred by the other parent in securing the child's return.

(2) In imposing sentence under subsection a. of this section the court shall consider, in addition to the factors enumerated in chapter 44 of Title 2C of the New Jersey Statutes:

(a) Whether the person returned the child voluntarily; and

(b) The length of time the child was concealed or detained.

g. As used in this section, "parent" means a parent, guardian or other lawful custodian of a minor child.

26. Section 1 of P.L.1999, c.421 (C.2C:25-34) is amended to read as follows:

C.2C:25-34 Domestic violence restraining orders, central registry.

1. The Administrative Office of the Courts shall establish and maintain a central registry of all persons who have had domestic violence restraining orders entered against them, all persons who have been charged with a crime or offense involving domestic violence, and all persons who have been charged with a violation of a court order involving domestic violence. All records made pursuant to this section shall be kept confidential and shall be released only to:

a. A public agency authorized to investigate a report of domestic violence;

b. A police or other law enforcement agency investigating a report of domestic violence, or conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer or for any other purpose authorized by law or the Supreme Court of the State of New Jersey;

c. A court, upon its finding that access to such records may be necessary for determination of an issue before the court;

d. A surrogate, in that person's official capacity as deputy clerk of the Superior Court, in order to prepare documents that may be necessary for a court to determine an issue in an adoption proceeding; or

e. The Division of Youth and Family Services in the Department of Children and Families when the division is conducting a background investigation involving:

(1) an allegation of child abuse or neglect, to include any adult member of the same household as the individual who is the subject of the abuse or neglect allegation; or

(2) an out-of-home placement for a child being placed by the Division of Youth and Family Services, to include any adult member of the prospective placement household.

Any individual, agency, surrogate or court which receives from the Administrative Office of the Courts the records referred to in this section shall keep such records and reports, or parts thereof, confidential and shall not disseminate or disclose such records and reports, or parts thereof; provided that nothing in this section shall prohibit a receiving individual, agency, surrogate or court from disclosing records and reports, or parts thereof, in a manner consistent with and in furtherance of the purpose for which the records and reports or parts thereof were received.

Any individual who disseminates or discloses a record or report, or parts thereof, of the central registry, for a purpose other than investigating a report of domestic violence, conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer, making a determination of an issue before the court, conducting a background investigation as specified in subsection e. of this section, or for any other purpose other than that which is authorized by law or the Supreme Court of the State of New Jersey, shall be guilty of a crime of the fourth degree.

27. 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 Children and Families 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.

28. Section 1 of P.L.2003, c.301 (C.2C:44-6.2) is amended to read as follows:

C.2C:44-6.2 Person sentenced to incarceration, care and custody of minor child.

1. a. In any case in which a person has been convicted of a crime for which the person will be incarcerated, the court shall order, as part of the presentence investigation required pursuant to N.J.S.2C:44-6, that a determination be made as to whether the person is the sole caretaker of a minor child and, if so, who will assume responsibility for the child's care and custody during the period the person is incarcerated.

b. If the determination is made that the person is the sole caretaker of the child, the presentence investigation shall also include:

(1) verification that the person who will be responsible for the child's care and custody during the period of incarceration has agreed to assume responsibility for the child's care and custody;

(2) an inquiry as to the willingness of the person to assume responsibility for the child's care and custody during the period of incarceration; and

(3) a PROMIS/GAVEL network check, juvenile central registry check and domestic violence central registry check on the person who will be responsible for the child's care and custody during the period of incarceration and on any adult and juvenile over 12 years of age in the person's household.

c. The court shall provide the information compiled pursuant to subsection b. of this section, from the presentence investigation, to the Division of Youth and Family Services in the Department of Children and Families.

29. Section 3 of P.L.2003, c.301 (C.2C:44-6.3) is amended to read as follows:

C.2C:44-6.3 Report of persons convicted of certain crimes residing with minor children.

3. a. In any case in which a person has been convicted of a crime enumerated in subsection b. of this section and:

(1) the victim of the crime was either a person under the age of 18 at the time of the commission of the crime, or a person defined in paragraph (9) of subsection b. of this section; and

(2) the person convicted of the crime resides in a household with other minor children or is a parent of a minor child,

the court, based on an interview with the defendant, shall make a referral to the Division of Youth and Family Services in the Department of Children and Families and provide the division with the name and address of the person convicted of the crime, information on the person's criminal history and the name and address of each child referred to in paragraph (2) of this subsection.

b. For purposes of this section, "crime" includes any of the following:

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

(2) simple assault or aggravated assault pursuant to N.J.S.2C:12-1;

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

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

(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) 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;

(8) 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;

(9) 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;

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

(11) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (10) of this subsection.

30. Section 3 of P.L.1995, c.76 (C.3B:12-69) is amended to read as follows:

C.3B:12-69 Definitions.

3. As used in this act:

“Appointed standby guardian” means a person appointed pursuant to section 6 of this act to assume the duties of guardian over the person and, when applicable, the property of a minor child upon the death or a determination of incapacity or debilitation, and with the consent, of the parent or legal custodian.

“Attending physician” means the physician who has primary responsibility for the treatment and care for the petitioning parent or legal custodian. When more than one physician shares this responsibility, or when a physician is acting on the primary physician’s behalf, any such physician may act as the attending physician pursuant to this act. When no physician has this responsibility, a physician who is familiar with the petitioner’s medical condition may act as the attending physician pursuant to this act.

“Consent” means written consent signed by the parent or legal custodian in the presence of two witnesses who shall also sign the document. The written consent shall constitute the terms for the commencement of the duties of the standby guardian.

“Debilitation” means a chronic and substantial inability, as a result of a physically debilitating illness, disease, or injury, to care for one’s minor child.

“Designated standby guardian” means a person designated pursuant to section 8 of this act to assume temporarily the duties of guardianship over the person and, when applicable, the property of a minor child upon the death or a determination of incapacity or debilitation, and with the consent, of the parent or legal custodian.

“Designation” means a written document voluntarily executed by the designator pursuant to this act.

“Designator” means a competent parent or legal custodian of a minor child who makes a designation pursuant to this act.

“Determination of debilitation” means a written determination made by the attending physician which contains the physician’s opinion to a reasonable degree of medical certainty regarding the nature, cause, extent and probable duration of the parent’s or legal custodian’s debilitation.

“Determination of incapacity” means a written determination made by the attending physician which contains the physician’s opinion to a reasonable degree of medical certainty regarding the nature, cause, extent and probable duration of the parent’s or legal custodian’s incapacity.

“Incapacity” means a chronic and substantial inability, as a result of mental or organic impairment, to understand the nature and consequences of decisions concerning the care of one’s minor child, and a consequent inability to make these decisions.

“Minor child” means a child under the age of eighteen years but excludes a child residing in a placement funded or approved by the Division of Youth and Family Services in the Department of Children and Families pursuant to either a voluntary placement agreement or court order.

“Triggering event” means an event stated in the designation, petition or decree which empowers the standby guardian to assume the duties of the office, which event may be the death, incapacity or debilitation, with the consent, of the custodial parent or legal custodian, whichever occurs first.

31. Section 2 of P.L.2001, c.250 (C.3B:12A-2) is amended to read as follows:

C.3B:12A-2 Definitions relative to kinship legal guardianship.

2. As used in sections 1 through 6 of P.L.2001, c.250 (C.3B:12A-1 et seq.):

“Caregiver” means a person over 18 years of age, other than a child’s parent, who has a kinship relationship with the child and has been providing care and support for the child, while the child has been residing in the caregiver’s home, for either the last 12 consecutive months or 15 of the last 22 months. “Caregiver” includes a resource family parent as defined in section 1 of P.L.1962, c.136 (C.30:4C-26.4).

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

“Commissioner” means the Commissioner of Children and Families.

“Court” means the Superior Court, Chancery Division, Family Part.

“Department” means the Department of Children and Families.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“Family friend” means a person who is connected to a child or the child’s parent by an established positive psychological or emotional relationship that is not a biological or legal relationship.

“Home review” means the basic review of the information provided by the petitioner and a visit to the petitioner’s home where the child will continue to reside, in accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.) and pursuant to regulations adopted by the commissioner.

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

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

“Kinship relationship” means a family friend or a person with a biological or legal relationship with the child.

“Parental incapacity” means incapacity of such a serious nature as to demonstrate that the parent is unable, unavailable or unwilling to perform the regular and expected functions of care and support of the child.

32. Section 6 of P.L.2001, c.250 (C.3B:12A-6) is amended to read as follows:

C.3B:12A-6 Considerations for appointment as kinship legal guardian.

6. a. In making its determination about whether to appoint the caregiver as kinship legal guardian, the court shall consider:

- (1) if proper notice was provided to the child's parents;
 - (2) the best interests of the child;
 - (3) the kinship caregiver assessment;
 - (4) in cases in which the division is involved with the child as provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-85), the recommendation of the division, including any parenting time or visitation restrictions;
 - (5) the potential kinship legal guardian's ability to provide a safe and permanent home for the child;
 - (6) the wishes of the child's parents, if known to the court;
 - (7) the wishes of the child if the child is 12 years of age or older, unless unique circumstances exist that make the child's age irrelevant;
 - (8) the suitability of the kinship caregiver and the caregiver's family to raise the child;
 - (9) the ability of the kinship caregiver to assume full legal responsibility for the child;
 - (10) the commitment of the kinship caregiver and the caregiver's family to raise the child to adulthood;
 - (11) the results from the child abuse record check conducted pursuant to section 9 of P.L.2001, c.250 (C.30:4C-86); and
 - (12) the results from the criminal history record background check and domestic violence check conducted pursuant to section 9 of P.L.2001, c.250 (C.30:4C-86). In any case in which the caregiver petitioning for kinship legal guardianship, or any adult residing in the prospective caregiver's home, has a record of criminal history or a record of being subjected to a final domestic violence restraining order under P.L.1991, c.261 (C.2C:25-17 et seq.), the court shall review the record with respect to the type and date of the criminal offense or the provisions and date of the final domestic violence restraining order and make a determination as to the suitability of the person to become a kinship legal guardian. For the purposes of this paragraph, with respect to criminal history, the court shall consider convictions for offenses specified in subsections c., d. and e. of section 1 of P.L.1985, c.396 (C.30:4C-26.8).
- b. The court shall not award kinship legal guardianship of the child unless proper notice was served upon the parents of the child and any other party to whom the court has awarded custody or parenting time for that child, in accordance with the Rules of Court.
- c. The court shall not award kinship legal guardianship of the child solely because of parental incapacity.
- d. The court shall appoint the caregiver as a kinship legal guardian if, based upon clear and convincing evidence, the court finds that:
- (1) each parent's incapacity is of such a serious nature as to demonstrate that the parents are unable, unavailable or unwilling to perform the regular and expected functions of care and support of the child;

(2) the parents' inability to perform those functions is unlikely to change in the foreseeable future;

(3) in cases in which the division is involved with the child as provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-85), (a) the division exercised reasonable efforts to reunify the child with the birth parents and these reunification efforts have proven unsuccessful or unnecessary; and (b) adoption of the child is neither feasible nor likely; and

(4) awarding kinship legal guardianship is in the child's best interests.

e. The court order appointing the kinship legal guardian shall specify, as appropriate, that:

(1) a kinship legal guardian shall have the same rights, responsibilities and authority relating to the child as a birth parent, including, but not limited to: making decisions concerning the child's care and well-being; consenting to routine and emergency medical and mental health needs; arranging and consenting to educational plans for the child; applying for financial assistance and social services for which the child is eligible; applying for a motor vehicle operator's license; applying for admission to college; responsibility for activities necessary to ensure the child's safety, permanency and well-being; and ensuring the maintenance and protection of the child; except that a kinship legal guardian may not consent to the adoption of the child or a name change for the child;

(2) the birth parent of the child retains the authority to consent to the adoption of the child or a name change for the child;

(3) the birth parent of the child retains the obligation to pay child support;

(4) the birth parent of the child retains the right to visitation or parenting time with the child, as determined by the court;

(5) the appointment of a kinship legal guardian does not limit or terminate any rights or benefits derived from the child's parents, including, but not limited to, those relating to inheritance or eligibility for benefits or insurance; and

(6) kinship legal guardianship terminates when the child reaches 18 years of age or when the child is no longer continuously enrolled in a secondary education program, whichever event occurs later, or when kinship legal guardianship is otherwise terminated.

f. An order or judgment awarding kinship legal guardianship may be vacated by the court prior to the child's 18th birthday if the court finds that the kinship legal guardianship is no longer in the best interests of the child or, in cases where there is an application to return the child to the parent, based upon clear and convincing evidence, the court finds that the parental incapacity or inability to care for the child that led to the original award of kinship legal guardianship is no longer the case and termination of kinship legal guardianship is in the child's best interests.

In cases in which the division was involved, when determining whether a child should be returned to a parent, the court may refer a parent for an assessment prepared by the division, in accordance with regulations adopted by the commissioner.

g. An order or judgment awarding kinship legal guardianship may be vacated by the court if, based upon clear and convincing evidence, the court finds that the guardian failed or is unable, unavailable or unwilling to provide proper care and custody of the child, or that the guardianship is no longer in the child's best interests.

33. Section 2 of P.L.1977, c.367 (C.9:3-38) is amended to read as follows:

C.9:3-38 Definitions.

2. For the purposes of this act:

- a. "Approved agency" means a nonprofit corporation, association or agency, including any public agency, approved by the Department of Children and Families for the purpose of placing children for adoption in New Jersey;
- b. "Child" means a person under 18 years of age;
- c. "Custody" means the general right to exercise continuing control over the person of a child derived from court order or otherwise;
- d. "Guardianship" means the right to exercise continuing control over the person or property or both of a child which includes any specific right of control over an aspect of the child's upbringing derived from court order;
- e. "Guardian ad litem" means a qualified person, not necessarily an attorney, appointed by the court under the provisions of this act or at the discretion of the court to represent the interests of the child whether or not the child is a named party in the action;
- f. "Parent" means a birth parent or parents, including the birth father of a child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given, or a parent or parents by adoption;
- g. "Placement for adoption" means the transfer of custody of a child to a person for the purpose of adoption by that person;
- h. "Plaintiff" means a prospective parent or parents who have filed a complaint for adoption;
- i. "Legal services" means the provision of counseling or advice related to the law and procedure for adoption of a child, preparation of legal documents, or representation of any person before a court or administrative agency;
- j. "Surrender" means a voluntary relinquishment of all parental rights by a birth parent, previous adoptive parent, or other person or agency authorized to exercise these rights by law, court order or otherwise, for purposes of allowing a child to be adopted;
- k. "Home study" means an approved agency's formal assessment of the capacity and readiness of prospective adoptive parents to adopt a child, including the agency's written report and recommendations conducted in accordance with rules and regulations promulgated by the Director of the Division of Youth and Family Services; and
- l. "Intermediary" means any person, firm, partnership, corporation, association or agency, which is not an approved agency as defined in this section, who acts for or between any parent and any prospective parent or acts on behalf of either in connection with the placement of the parent's child for adoption in the State or in any other state or country. An intermediary in any other state or country shall not receive money or other valuable consideration in connection with the placement of a child for adoption in this State. An intermediary in this State shall not receive money or other valuable consideration in connection with the placement of a child for adoption in this State or in any other state or country. The provisions of this subsection shall not be construed to prohibit the receipt of money or other valuable consideration specifically authorized in section 18 of P.L.1993, c.345 (C.9:3-39.1).

34. Section 18 of P.L.1993, c.345 (C.9:3-39.1) is amended to read as follows:

C.9:3-39.1 Offering, assisting in the placement of child for adoption, conditions.

18. a. A person, firm, partnership, corporation, association or agency shall not place, offer to place or materially assist in the placement of any child for adoption in New Jersey unless:

- (1) the person is the parent or guardian of the child, or

(2) the firm, partnership, corporation, association or agency is an approved agency to act as agent, finder or to otherwise materially assist in the placement of any child for adoption in this State, or

(3) the placement for adoption is with a brother, sister, aunt, uncle, grandparent, birth father or stepparent of the child, or

(4) the placement is through an intermediary and (a) the person with whom the child is to be placed has been approved for placement for adoption by an approved agency home study which consists of the agency's formal written assessment of the capacity and readiness of the prospective adoptive parents to adopt a child, conducted in accordance with rules and regulations promulgated by the Director of the Division of Youth and Family Services;

(b) The birth parent, except one who cannot be identified or located prior to the placement of the child for adoption, shall be offered counseling as to his or her options other than placement of the child for adoption. Such counseling shall be made available by or through an approved licensed agency in New Jersey or in the birth parent's state or country of residence. The fact that counseling has been made available, and the name, address and telephone number of the agency through which the counseling is available, shall be confirmed in a written document signed by the birth parent and acknowledged in this State pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-2.1) or acknowledged in another state or country pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-6.1) a copy of which shall be provided to the birth parent and the agency conducting the adoption complaint investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-48) and shall be filed with the court prior to termination of parental rights; and

(c) Written notice shall be given to the birth parent, except one who cannot be identified or located prior to the placement of the child for adoption, and the adoptive parent that the decision not to place the child for adoption or the return of the child to the birth parent cannot be conditioned upon reimbursement of expenses by the birth parent to the adoptive parent, and that payments by the adoptive parent are non-refundable. Provision of such notice shall be confirmed in a written document signed by the birth parent and adoptive parent in separate documents which shall be acknowledged in this State pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-2.1) or acknowledged in another state or country pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-6.1), a copy of which shall be provided to the birth parent, and the agency conducting the adoption complaint investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-48), and shall be filed with the court prior to termination of parental rights.

b. The Superior Court in an action by the Commissioner of Children and Families may enjoin any party found by the court to have violated this section from any further violation of this section.

c. A person, firm, partnership, corporation, association, or agency violating subsection a. of this section shall be guilty of a crime of the third degree.

d. A person, firm, partnership, corporation, association, intermediary or agency other than an approved agency which pays, seeks to pay, receives, or seeks to receive money or other valuable consideration in connection with the placement of a child for adoption shall be guilty of a crime of the second degree.

e. It shall not be a violation of subsection d. of this section: (1) to pay, provide or reimburse to a parent of the child, or for a parent of the child to receive payment, provision or reimbursement for medical, hospital, counseling or other similar expenses incurred in connection with the birth or any illness of the child, or the reasonable living expenses of the mother of the child during her pregnancy including payments for reasonable food, clothing,

medical expenses, shelter, and religious, psychological, vocational, or similar counseling services during the period of the pregnancy and for a period not to exceed four weeks after the termination of the pregnancy by birth or otherwise. These payments may be made directly to the birth mother or on the mother's behalf to the supplier of the goods or services, or

(2) where the child is from a foreign country, reasonable and customary fees and expenses of a foreign agency or attorney for the care or representation of the child during any period of foster or institutional care in the child's country of origin, or

(3) reasonable attorney fees and costs for legal services.

35. Section 4 of P.L.1977, c.367 (C.9:3-40) is amended to read as follows:

C.9:3-40 Qualification of agencies for approval.

4. The Commissioner of Children and Families shall promulgate rules and regulations relating to the qualification of agencies for approval to make placements for adoption in New Jersey. The rules and regulations shall include, but shall not be limited to, standards of professional training and experience of staff, requirements relating to responsibilities and the character of trustees, officers or other persons supervising or conducting the placement for adoption program, adequacy of facilities, maintenance and confidentiality of casework records and furnishing of reports. The requirements relating to the character of trustees, officers or other persons supervising or conducting the placement for adoption program at the agency shall include a prohibition on engaging in, or the permitting of, any conduct that is deemed inappropriate to the purposes of the agency. In the selection of adoptive parents the standard shall be the best interests of the child; and an approved agency shall not discriminate with regard to the selection of adoptive parents for any child on the basis of age, sex, race, national origin, religion or marital status provided, however, that these factors may be considered in determining whether the best interests of a child would be served by a particular placement for adoption or adoption.

36. Section 2 of P.L.2003, c.11 (C.9:3-40.1) is amended to read as follows:

C.9:3-40.1 Denial, suspension, revocation, refusal to renew agency's certificate on character requisites.

2. The Department of Children and Families may deny, suspend, revoke or refuse to renew an adoption agency's certificate of approval if the agency is in violation of the requirements relating to the character of trustees, officers or other persons supervising or conducting a placement for adoption program established pursuant to section 4 of P.L.1977, c.367 (C.9:3-40).

37. Section 1 of P.L.1979, c.292 (C.9:3-41.1) is amended to read as follows:

C.9:3-41.1 Provision of available information on child's development to prospective parent.

1. a. An approved agency making an investigation of the facts and circumstances surrounding the surrender of a child shall provide a prospective parent with all available information, other than information which would identify or permit the identification of the birth parent of the child, relevant to the child's development, including his developmental and medical history, personality and temperament, the parent's complete medical histories, including conditions or diseases which are believed to be hereditary, any drugs or

medications taken during pregnancy and any other conditions of the parent's health which may be a factor influencing the child's present or future health. This information shall be made available to the prospective parent prior to the actual adoptive placement to the extent available and supplemented upon the completion of an investigation conducted by an approved agency pursuant to section 12 of P.L.1977, c.367 (C.9:3-48).

b. The available information required of an approved agency by subsection a. of this section shall be presented to the adoptive parents on standardized forms prepared by the Commissioner of Children and Families.

38. Section 6 of P.L.1998, c.20 (C.9:3-45.1) is amended to read as follows:

C.9:3-45.1 Rules, regulations.

6. The Department of Children and Families, in consultation with the Department of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to implement the provisions of this act and to publicize throughout the State the necessity for a father, within 120 days of the birth of a child or prior to the date of the preliminary hearing, whichever occurs first, to acknowledge paternity by amending the original birth certificate record with the local registrar's office in the municipality of birth of the child who is the subject of the adoption or by filing a paternity action in court in order to be entitled to notice of an adoption pursuant to section 9 of P.L.1977, c.367 (C.9:3-45).

39. Section 19 of P.L.1993, c.345 (C.9:3-54.1) is amended to read as follows:

C.9:3-54.1 Rules, regulations.

19. The Commissioner of Children and Families shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to implement the provisions of this act.

40. Section 21 of P.L.1993, c.345 (C.9:3-54.2) is amended to read as follows:

C.9:3-54.2 Home study; fingerprint and criminal data.

21. a. (1) In addition to meeting the other requirements established by the Department of Children and Families, a home study completed by an approved agency shall include a recommendation regarding the suitability of the home for the placement of a child based upon the results of State and federal criminal history record checks for each prospective adoptive parent and each adult residing in the home.

For the purposes of this section, the federal criminal history record check conducted by the U.S. Citizenship and Immigration Services in the Department of Homeland Security on a prospective adoptive parent shall be valid for the prospective adoptive parent in fulfilling the home study requirement for the State.

(2) Each prospective adoptive parent and each member of the prospective adoptive parent's household, age 18 or older, shall submit to the approved agency standard fingerprint cards containing his name, address and fingerprints taken by a State or municipal law enforcement agency.

(3) The cost of all criminal history record checks conducted pursuant to this section shall be paid by the prospective adoptive parent or household member at the time the fingerprint cards are submitted.

(4) The approved agency shall forward the fingerprint cards and payment to the commissioner.

(5) The commissioner is authorized to exchange fingerprint data and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the recommendations provided for in this section.

(6) The department shall advise the approved agency of information received from State and federal criminal history record checks based upon the fingerprints submitted by the agency. Information provided to the approved agency shall be confidential and not disclosed by the approved agency to any individual or entity without the written permission of the person who is the subject of the record check.

(7) The commissioner shall adopt regulations for the use of criminal history record information by approved agencies when determining the suitability of a home for the placement of a child for the purposes of adoption.

b. (1) Beginning one year after the effective date of this act, a home study completed by an approved agency shall include a recommendation regarding the suitability of the home for the placement of the child based upon a check for any records which might reveal a history of child abuse or neglect by the proposed adoptive parent or member of the parent's household who is 18 years of age or older.

(2) Beginning one year after the effective date, at the request of an approved agency, the commissioner or his designee shall conduct a search of the records of the Division of Youth and Family Services regarding referrals of dispositions of child abuse or neglect matters as to the proposed adoptive parent and any member of the parent's household 18 years of age or older, and, if there is information that would raise a question of the suitability of the proposed adoptive parent or member of the parent's household to have guardianship of a child, shall provide that information to the approved agency for its consideration. Information provided to the approved agency pursuant to this paragraph shall be confidential. The commissioner shall establish penalties for disclosure of this confidential information.

41. 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 Children and Families 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.

42. 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 Children and Families 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 or the Department of Children and Families, 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 Children and Families 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 Children and Families 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.

43. Section 2 of P.L.2003, c.301 (C.9:6-8.10c) is amended to read as follows:

C.9:6-8.10c Child abuse record information check on designated caretaker.

2. a. Upon receiving the presentencing investigation information from the court pursuant to section 1 of P.L.2003, c.301 (C.2C:44-6.2) concerning a sole caretaker of a child who will be incarcerated and the person who will assume care and custody of the child during the period of incarceration, the Division of Youth and Family Services in the Department of Children and Families shall conduct a child abuse record information check of its child abuse records to determine if an incident of child abuse or neglect has been substantiated against the person who will be responsible for the child's care and custody or any adult and juvenile over 12 years of age in the person's household.

b. If, based on the information provided by the court and the check of its child abuse records, the division determines that the incarcerated person's minor child may be at risk for abuse or neglect or the child's emotional, physical, health care and educational needs will not be met during the period of incarceration, the division shall take appropriate action to ensure the safety of the child.

44. Section 4 of P.L.2003, c.301 (C.9:6-8.10d) is amended to read as follows:

C.9:6-8.10d Rules, regulations.

4. The Commissioner of Children and Families 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 sections 2 and 3 of this act.

45. Section 9 of P.L.2005, c.370 (C.9:6-8.10e) is amended to read as follows:

C.9:6-8.10e Check of child abuse registry for guardians.

9. a. In accordance with the provisions of sections 6 and 7 of P.L.2005, c.370 (C.52:27G-37 and C.52:27G-38), the Department of Children and Families shall conduct a check of its child abuse registry for each person seeking registration as a professional guardian who is required to undergo such a check pursuant to P.L.2005, c.370 (C.52:27G-32 et al.). The department shall immediately forward the information obtained as a result of the check to the Office of the Public Guardian for Elderly Adults.

b. Subsequent to the initial registration of an individual as a professional guardian, the public guardian may submit the name of a registered professional guardian for an additional child abuse registry check. Upon receipt of a response from the department, the public guardian shall make a determination regarding the continuation of the registration of the person as a professional guardian.

46. 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 Children and Families as may be designated by the Commissioner of Children and Families 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.).

47. 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, paramour of a parent 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 Children and Families 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.

48. Section 7 of P.L.1974, c.119 (C.9:6-8.27) is amended to read as follows:

C.9:6-8.27 Temporary removal with consent.

7. a. A police officer or an agency or institution or individual may temporarily remove a child from the place where he is residing with the consent of his parent or other person legally responsible for his care, if, there is reasonable cause to suspect that the child's life or health is in imminent danger. If the child is not returned within 3 working days from the date of removal, the procedure required pursuant to this act shall be applied immediately.

b. (Deleted by amendment, P.L.2006, c.47).

49. Section 10 of P.L.1974, c.119 (C.9:6-8.30) is amended to read as follows:

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

10. 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 P.L.1974, c.119 (C.9:6-8.27 or 9:6-8.29), the division shall arrange for immediate medical screening of the child and shall have legal authority to consent to such screening. 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 screening, examining or providing care or treatment to a child in accordance with and in reliance upon such consent. Medical reports resulting from such screening, 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 screening of, 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.

50. 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 Children and Families 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 Children and Families.

51. 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 Children and Families 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.

52. 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 Children and Families 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 Children and Families 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.).

53. Section 2 of P.L.1998, c.127 (C.9:6-8.58b) is amended to read as follows:

C.9:6-8.58b Regulations.

2. The Commissioner of Children and Families pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to effectuate the purposes of this act.

54. 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 Children and Families, 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 Children and Families and local school districts regarding the reporting and investigation of allegations of child abuse.

55. Section 2 of P.L.1994, c.119 (C.9:6-8.75) is amended to read as follows:

C.9:6-8.75 "New Jersey Task Force on Child Abuse and Neglect," established, purpose; powers, duties.

2. There is established the "New Jersey Task Force on Child Abuse and Neglect."

a. The purpose of the task force is to study and develop recommendations regarding the most effective means of improving the quality and scope of child protective services provided or supported by State government, including a review of the practices and policies utilized by the Division of Youth and Family Services in the Department of Children and Families in order to optimize coordination of child abuse-related services and investigations, promote the safety of children at risk of abuse or neglect, and ensure a timely determination with regard to reports of alleged child abuse.

b. The task force shall receive, evaluate and approve applications of public and private agencies and organizations for grants from moneys annually appropriated from the "Children's Trust Fund" established pursuant to section 2 of P.L.1985, c.197 (C.54A:9-25.4). Any portion of the moneys actually appropriated which are remaining at the end of a fiscal year shall lapse to the "Children's Trust Fund."

Grants shall be awarded to public and private agencies for the purposes of planning and establishing or improving programs and services for the prevention of child abuse and neglect, including activities which:

(1) Provide Statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect;

(2) Encourage professional persons and groups to recognize and deal with problems of child abuse and neglect;

(3) Make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and

(4) Encourage the development of community prevention programs, including:

(a) community-based educational programs on parenting, prenatal care, prenatal bonding, child development, basic child care, care of children with special needs, coping with family stress, personal safety and sexual abuse prevention training for children, and self-care training for latchkey children; and

(b) community-based programs relating to crisis care, aid to parents, child abuse counseling, peer support groups for abusive or potentially abusive parents and their children,

lay health visitors, respite of crisis child care, and early identification of families where the potential for child abuse and neglect exists.

The task force shall, in awarding grants, establish such priorities respecting the programs or services to be funded and the amounts of funding to be provided as it deems appropriate, except that the task force shall place particular emphasis on community-based programs and services which are designed to develop and demonstrate strategies for the early identification, intervention and assistance of families and children at risk in order to prevent child abuse and neglect.

The task force shall adopt such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to govern the awarding of grants pursuant to this subsection as may be necessary to establish adequate reporting requirements on the use of grant funds by recipient agencies and organizations and to permit the task force to evaluate the programs and services for which grants are awarded.

c. The task force shall establish a Staffing and Oversight Review Subcommittee to review staffing levels of the Division of Youth and Family Services in order to develop recommendations regarding staffing levels and the most effective methods of recruiting, hiring, and retaining staff within the division. In addition, the subcommittee shall review the division's performance in the achievement of management and client outcomes, and shall issue a preliminary report with its findings and recommendations no later than January 1, 2007, and subsequent reports annually thereafter with the first full report due no later than July 1, 2007. The subcommittee shall directly issue its reports to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

56. Section 3 of P.L.1994, c.119 (C.9:6-8.76) is amended to read as follows:

C.9:6-8.76 Task force membership.

3. The task force shall consist of 29 members as follows: the Commissioners of Human Services, Children and Families, Education, Community Affairs, Corrections, and Health and Senior Services, the Attorney General, the Chief Justice of the Supreme Court, the Public Defender, the Child Advocate and the Superintendent of State Police, or their designees, as ex officio members; two members of the Senate and the General Assembly, respectively, no more than one of whom in each case shall be of the same political party; and a county prosecutor appointed by the Attorney General. The 13 public members shall be appointed by the Governor as follows: one member who is a director of a regional diagnostic and treatment center for child abuse and neglect; one member who represents the Association for Children of New Jersey; one member who represents Foster and Adoptive Family Services; one member who represents a faith-based organization; one member who is a director of a county department of human services; one member who is a youth 21 years of age or younger who is or has been placed under the care and custody of the Division of Youth and Family Services because of an allegation of child abuse or neglect; two members who represent service providers under contract with the Division of Youth and Family Services; and five members of the public who have an interest or expertise in issues concerning child welfare. The public members shall reflect the diversity of the residents of the State and the children and families served by the State's child welfare system.

The task force membership shall comply with the multidisciplinary requirements set forth in the "Child Abuse Prevention and Treatment Act," Pub.L.93-247 (42 U.S.C. s.5101 et seq.).

The task force shall be co-chaired, one co-chair shall be the Commissioner of Children and Families and the other shall be appointed by the Governor with the advice and consent of the Senate. The second co-chair shall be selected from among the public members and shall serve at the pleasure of the Governor. The public members shall serve for a term of three years.

57. Section 5 of P.L.1994, c.119 (C.9:6-8.78) is amended to read as follows:

C.9:6-8.78 Providing staff.

5. The Department of Children and Families shall provide professional and clerical staff to the task force as necessary to effectuate the purposes of this act.

58. Section 2 of P.L.1997, c.175 (C.9:6-8.84) is amended to read as follows:

C.9:6-8.84 Definitions relative to child abuse, neglect.

2. As used in this act:

“Board” means the Child Fatality and Near Fatality Review Board established under P.L.1997, c.175 (C.9:6-8.83 et al.).

“Child” means any person under the age of 18.

“Commissioner” means the Commissioner of Children and Families.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“Near fatality” means a case in which a child is in serious or critical condition, as certified by a physician.

“Panel” means a citizen review panel as established under P.L.1997, c.175 (C.9:6-8.83 et al.).

“Parent or guardian” means a person defined pursuant to section 1 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care.

“Reasonable efforts” means attempts by an agency authorized by the Division of Youth and Family Services to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

“Sexual abuse” means contacts or actions between a child and a parent or caretaker for the purpose of sexual stimulation of either that person or another person. Sexual abuse includes:

a. the employment, use, persuasion, inducement, enticement or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct;

b. sexual conduct including molestation, prostitution, other forms of sexual exploitation of children or incest; or

c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1 and a prohibited sexual act as defined in N.J.S.2C:24-4.

“Significant bodily injury” means a temporary loss of the functioning of any bodily member or organ or temporary loss of any one of the five senses.

“Withholding of medically indicated treatment” means the failure to respond to a child's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's reasonable judgment, will most likely be effective in ameliorating or correcting all such conditions. The term does not include the

failure to provide treatment, other than appropriate nutrition, hydration, or medication to a child when, in the treating physician's reasonable medical judgment:

- a. the child is chronically and irreversibly comatose;
- b. the provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the child's life-threatening conditions, or otherwise be futile in terms of the survival of the child; or
- c. the provision of such treatment would be virtually futile in terms of the survival of the child and the treatment itself under such circumstances would be inhumane.

59. Section 6 of P.L.1997, c.175 (C.9:6-8.88) is amended to read as follows:

C.9:6-8.88 Child Fatality and Near Fatality Review Board.

6. There is established the Child Fatality and Near Fatality Review Board. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is established within the Department of Children and Families, but notwithstanding the establishment, the board shall be independent of any supervision or control by the department or any board or officer thereof.

The purpose of the board is to review fatalities and near fatalities of children in New Jersey in order to identify their causes, their relationship to governmental support systems, and methods of prevention. The board shall describe trends and patterns of child fatalities and near fatalities in New Jersey; identify risk factors and their prevalence in these populations of children; evaluate the responses of governmental systems to children in families who are considered to be at high risk and to offer recommendations for improvement in those responses; characterize risk groups in terms that are compatible with the development of public policy; improve the sources of data collection by developing protocols for autopsies, death investigations, and complete recording of cause of death on the death certificate; and provide case consultation to individuals or agencies represented by the board.

60. Section 7 of P.L.1997, c.175 (C.9:6-8.89) is amended to read as follows:

C.9:6-8.89 Membership, terms of board members.

7. a. The board shall consist of 14 members as follows: the Commissioner of Children and Families, the Commissioner of Health and Senior Services, the Director of the Division of Youth and Family Services in the Department of Children and Families, the Attorney General, the Child Advocate and the Superintendent of State Police, or their designees, the State Medical Examiner, and the Chairperson or Executive Director of the New Jersey Task Force on Child Abuse and Neglect, who shall serve *ex officio*; and six public members appointed by the Governor, one of whom shall be a representative of the New Jersey Prosecutors' Association, one of whom shall be a Law Guardian, one of whom shall be a pediatrician with expertise in child abuse and neglect, one of whom shall be a psychologist with expertise in child abuse and neglect, one of whom shall be a social work educator with experience and expertise in the area of child abuse or a related field and one of whom shall have expertise in substance abuse.

b. The public members of the board shall serve for three-year terms. Of the public members first appointed, three shall serve for a period of two years, and three shall serve for a term of three years. They shall serve without compensation but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their

official duties and within the limits of funds appropriated for this purpose. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made.

c. The Governor shall appoint a public member to serve as chairperson of the board who shall be responsible for the coordination of all activities of the board and who shall provide the technical assistance needed to execute the duties of the board.

d. The board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case pursuant to the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.). The board may also seek the advice of experts, such as persons specializing in the fields of pediatric, radiological, neurological, psychiatric, orthopedic and forensic medicine; nursing; psychology; social work; education; law enforcement; family law; substance abuse; child advocacy or other related fields, if the facts of a case warrant additional expertise.

61. Section 19 of P.L.1997, c.175 (C.9:6-8.98) is amended to read as follows:

C.9:6-8.98 Rules, regulations by department.

19. The Department of Children and Families shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

62. Section 1 of P.L.1998, c.19 (C.9:6-8.99) is amended to read as follows:

C.9:6-8.99 Regional diagnostic and treatment centers for child abuse and neglect established.

1. The Commissioner of Children and Families shall establish four regional diagnostic and treatment centers for child abuse and neglect affiliated with medical teaching institutions in the State that meet the standards adopted by the commissioner, in consultation with the New Jersey Task Force on Child Abuse and Neglect. The regional centers shall be located in the northern, north central, south central and southern regions of the State. Each center shall have experience in addressing the medical and mental health diagnostic and treatment needs of abused and neglected children in the region in which it is located.

63. Section 2 of P.L.1998, c.19 (C.9:6-8.100) is amended to read as follows:

C.9:6-8.100 Function of center, staffing.

2. Each center shall demonstrate a multidisciplinary approach to identifying and responding to child abuse and neglect. The center staff shall include, at a minimum, a pediatrician, a consulting psychiatrist, a psychologist and a social worker who are trained to evaluate and treat children who have been abused or neglected and their families. Each center shall establish a liaison with the district office of the Division of Youth and Family Services in the Department of Children and Families and the prosecutor's office from the county in which the child who is undergoing evaluation and treatment resides. At least one member of the staff shall also have an appropriate professional credential or significant training and experience in the identification and treatment of substance abuse.

Each center shall develop an intake, referral and case tracking process which assists the division and prosecutor's office in assuring that child victims receive appropriate and timely diagnostic and treatment services.

64. 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 Children and Families 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.

65. 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 Children and Families 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 Children and Families, 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.

66. Section 8 of P.L.1998, c.19 (C.9:6-8.106) is amended to read as follows:

C.9:6-8.106 Rules, regulations.

8. The Commissioner of Children and Families shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this act.

67. Section 7 of P.L.1985, c.197 (C.9:6A-5) is amended to read as follows:

C.9:6A-5 Additional moneys.

7. In addition to moneys deposited into the "Children's Trust Fund" pursuant to P.L.1985, c.197 (C.9:6A-1 et al.), the Commissioner of Children and Families may designate moneys to be deposited into the fund which have been appropriated from the General Fund to the Department of Children and Families as he deems necessary to effect the establishment of the "Children's Trust Fund."

68. Section 8 of P.L.1985, c.197 (C.9:6A-6) is amended to read as follows:

C.9:6A-6 Deduction of costs.

8. Any costs incurred for collection or administration attributable to this act by the Division of Taxation may be deducted from receipts collected pursuant to section 2 of P.L.1985, c.197 (C.54A:9-25.4), as determined by the Director of the Division of Budget and Accounting.

69. Section 2 of P.L.1986, c.27 (C.9:6A-11) is amended to read as follows:

C.9:6A-11 County commissions encouraged.

2. The Department of Children and Families shall establish a program, using county human services advisory councils, to encourage each county in this State to establish a special county commission on child abuse and missing children. The special county commission shall address the problems of child abuse and missing children in the county and its activities may include, but shall not be limited to, arranging for educational programs for parents and children, providing information concerning the available services in the county and in the State for abused children and their parents and the parents of missing children, and coordinating the provision of services and programs concerning child abuse and missing children that are offered in the county and neighboring counties.

70. Section 2 of P.L.1991, c.290 (C.9:6B-2) is amended to read as follows:

C.9:6B-2 Findings, declarations.

2. The Legislature finds and declares that:

a. A child placed outside his home by the Department of Human Services, the Department of Children and Families, the Department of Health and Senior Services or a board of education, or an agency or organization with which the applicable department contracts to provide services has certain specific rights separate from and independent of the child's parents or legal guardian by virtue of his placement in another residential setting;

b. The State has an affirmative obligation to recognize and protect these rights through its articulation of a clear and specific bill of rights that reflects the best interests of the child whereby the safety of the child is of paramount concern and an affirmation by the State of its

commitment to enforce these rights in order to protect and promote the welfare of the child placed outside his home; and

c. The obligation of the State to recognize and protect the rights of the child placed outside his home shall be fulfilled in the context of a clear and consistent policy to promote the child's eventual return to his home or placement in an alternative permanent setting, which this Legislature has expressly declared to be in the public interest in section 2 of the "Child Placement Review Act," P.L.1977, c.424 (C.30:4C-51).

71. Section 3 of P.L.1991, c.290 (C.9:6B-3) is amended to read as follows:

C.9:6B-3 Definitions.

3. As used in this act:

"Child placed outside his home" means a child placed outside his home by the Department of Human Services, the Department of Children and Families, the Department of Health and Senior Services or a board of education.

"Department" means the Department of Human Services, the Department of Children and Families, the Department of Health and Senior Services or board of education, as applicable.

72. Section 5 of P.L.1991, c.290 (C.9:6B-5) is amended to read as follows:

C.9:6B-5 Public information.

5. The Departments of Human Services, Children and Families, Health and Senior Services, and Education shall each prepare and update at least every six months, and shall make available to the public upon request, aggregate non-identifying data about children under their care, custody or supervision who are placed in out-of-home settings, by category as appropriate. The data shall include the following:

- a. The number of children placed outside their homes during the six-month period and the cumulative number of children residing in out-of-home settings;
- b. The age, sex and race of the children residing in out-of-home settings;
- c. The reasons for placement of these children;
- d. The types of settings in which these children reside;
- e. The length of time that these children have resided in these settings;
- f. The number of placements for those children who have been placed in more than one setting;
- g. The number of children who have been placed in the same county in which their parents or legal guardians reside and the number who have been placed outside of the State;
- h. The number of children who have been permanently placed or returned to their homes during the six-month period, and a projection of the number of children who will be permanently placed or returned to their homes during the following six-month period; and
- i. The number of children who have been permanently placed or returned to their homes who are subsequently returned to an out-of-home setting during the six-month period.

73. Section 6 of P.L.1991, c.290 (C.9:6B-6) is amended to read as follows:

C.9:6B-6 Rules, regulations.

6. The Commissioners of Human Services, Children and Families, Health and Senior Services, and Education, pursuant to the "Administrative Procedure Act," P.L.1968, c.410

(C.52:14B-1 et seq.), shall each adopt rules and regulations to effectuate the purposes of this act.

74. Section 3 of P.L.1999, c.224 (C.9:12A-4) is amended to read as follows:

C.9:12A-4 Definitions relative to homeless youth.

3. As used in this act:

“Department” means the Department of Children and Families.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“Homeless youth” means a person 21 years of age or younger who is without shelter where appropriate care and supervision are available.

75. Section 8 of P.L.1999, c.224 (C.9:12A-9) is amended to read as follows:

C.9:12A-9 Rules, regulations.

8. Subject to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Children and Families shall adopt rules and regulations for the licensing by the department of organizations and agencies that provide street outreach or basic center shelter or transitional living programs for homeless youth.

76. Section 2 of P.L.1989, c.284 (C.9:23-6) is amended to read as follows:

C.9:23-6 Designation of appropriate public authorities.

2. As used in Article III of the compact “appropriate public authorities” and as used in subsection a. of paragraph 1. of Article V of the compact, “appropriate authority in the receiving state” means, with reference to New Jersey, the Department of Children and Families and the department shall receive and act with reference to notices required by Article III.

77. Section 12 of P.L.1989, c.284 (C.9:23-16) is amended to read as follows:

C.9:23-16 Adoption of regulations.

12. The Commissioner of Children and Families shall have the power to adopt regulations for the enforcement of this act pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

78. Section 19 of P.L.1999, c.53 (C.9:23-18) is amended to read as follows:

C.9:23-18 Authorization to enter into interstate compacts to enhance protection, permanency for children.

19. a. The Commissioner of Children and Families is authorized on behalf of this State to develop, negotiate and enter into the Interstate Compact on Adoption and Medical Assistance and other interstate compacts, as determined by the commissioner to enhance protection and permanency for children. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

b. A compact entered into pursuant to the authority conferred by subsection a. of this section shall include:

- (1) a provision making it available for joinder by all states;
- (2) a provision for withdrawal from the compact upon written notice to the parties, with a period of one year between the date of the notice and the effective date of the withdrawal;
- (3) a requirement that the protections afforded by or pursuant to the compact be covered by a written agreement between the agency providing services and the parents, adoptive parents, or other caregiver for the child and that the protections continue in force for the duration of the written agreement for all children who, on the effective date of the withdrawal, are receiving services from a party state other than the one in which they reside; and
- (4) such other provisions as may be appropriate to implement the proper administration of the compact.

79. 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 Children and Families, 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.

80. Section 2 of P.L.2005, c.310 (C.18A:6-112) is amended to read as follows:

C.18A:6-112 Instruction in suicide prevention for public school teaching staff.

2. The State Board of Education, in consultation with the New Jersey Youth Suicide Prevention Advisory Council established in the Department of Children and Families pursuant to P.L.2003, c.214 (C.30:9A-22 et seq.), shall, as part of the professional development requirement established by the State board for public school teaching staff members, require each public school teaching staff member to complete at least two hours of instruction in suicide prevention, to be provided by a licensed health care professional with training and experience in mental health issues, in each professional development period.

81. Section 6 of P.L.1979, c.207 (C.18A:7B-2) is amended to read as follows:

C.18A:7B-2 Deductions, forwarding of sums to appropriate departments; disposition.

6. a. For each State-placed child who is resident in a district and in a State facility on the last school day prior to October 16 of the prebudget year, and for each district-placed child who is resident in a district and in a State facility on the last school day prior to October 16 of the budget year, the Commissioner of Education shall deduct from the State aid payable to that district an amount equal to the approved per pupil cost established pursuant to the provisions of section 24 of P.L.1996, c.138 (C.18A:7F-24); except that for a child in a county juvenile detention center, no deduction shall be made until Fiscal Year 1999, in which year and thereafter 50% of the per pupil cost shall be deducted.

b. If, for any district, the amount to be deducted pursuant to subsection a. of this section is greater than State aid payable to the district, the district shall pay to the Department of Education the difference between the amount to be deducted and the State aid payable to the district.

c. The amount deducted pursuant to subsection a. of this section and the amount paid to the Department of Education pursuant to subsection b. of this section shall be forwarded to the Department of Human Services or the Department of Children and Families, as applicable, if the facility is operated by or under contract with that department, or to the Department of Corrections if the facility is operated by or under contract with that department, or to the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) if the facility is operated by or under contract with that commission, and shall serve as payment by the district of tuition for the child. In the case of county juvenile detention centers, the tuition shall be deemed to supplement funds currently provided by the county for this purpose under chapter 10 and chapter 11 of Title 9 of the Revised Statutes. In Fiscal Year 1998, a county shall not decrease its level of contribution as a result of the payment of tuition pursuant to this section. In Fiscal Year 1999 and thereafter, a county shall be required to pay 50% of the approved per pupil costs established pursuant to the provisions of section 24 of P.L.1996, c.138 (C.18A:7F-24) for the purpose of implementing chapters 10 and 11 of Title 9 of the Revised Statutes. Amounts so deducted shall be used solely for the support of educational programs and shall be maintained in a separate account for that purpose. No district shall be responsible for the tuition of any child admitted by the State to a State facility after the last school day prior to October 16 of the prebudget year.

82. Section 8 of P.L.1979, c.207 (C.18A:7B-4) is amended to read as follows:

C.18A:7B-4 Use of funds; authorization for appropriations.

8. Funds received pursuant to this act by the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) shall be used only for the salaries of teachers, educational administrators at the program level, child study team personnel, clerical staff assigned to child study teams or to educational day programs, paraprofessionals assigned to educational programs in State facilities, and for diagnostic services required as part of the child study team evaluations and related educational services personnel whose function requires an educational certificate issued by the State Department of Education, and for the costs of educational materials, supplies and equipment for these programs. No such funds shall be used for the renovation or construction of capital facilities, for the maintenance and operation of educational facilities, or for custodial, habilitation or other noneducational costs.

There are hereby authorized to be appropriated to the Departments of Human Services, Children and Families and Corrections such funds as may be necessary to provide for adult, post-secondary and college programs.

83. Section 11 of P.L.1979, c.207 (C.18A:7B-7) is amended to read as follows:

C.18A:7B-7 Request for administrative review concerning pupil in State facility.

11. a. Any parent or guardian of a pupil in a State facility and any pupil in a State facility between 18 and 20 years of age, may request an administrative review on matters of educational classification or educational program.

b. The administrative review process shall include the following sequence:

(1) A conference with teaching staff members or child study team personnel;

(2) A conference with the Director of Educational Services of the Department of Human Services, the Department of Children and Families, the Department of Corrections, or the Juvenile Justice Commission, whichever is appropriate;

(3) A hearing by the Commissioner of Education pursuant to law and regulation.

c. The due process rights available to children, parents and guardians in the public schools on matters of educational classification or educational program shall be available to children, parents and guardians in State facilities.

d. The placement of a child in a particular State facility shall not be subject to an administrative review or hearing pursuant to this section.

84. Section 13 of P.L.1979, c.207 (C.18A:7B-9) is amended to read as follows:

C.18A:7B-9 Office of Education in Department of Children and Families.

13. There is hereby created and established in the Department of Children and Families an Office of Education to be headed by a Director of Educational Services who shall supervise the educational programs in all the State facilities operated by or under contract with that department and shall approve all personnel hired by the State for such programs.

The director shall hold the appropriate certificate issued by the State Board of Examiners and shall be qualified by training and experience for his position and shall be appointed by the Commissioner of Children and Families. He shall serve at the pleasure of the commissioner and shall receive such salary as shall be fixed by the commissioner.

The director shall establish primary, secondary, and vocational programs which meet the educational needs of school age persons for whom the department is responsible. Appropriate credit and certification shall be given for the successful completion of such programs.

Within any available appropriation, the program of education shall include adult, post-secondary and college programs offered by institutions licensed by the Department of Education or the Commission on Higher Education.

85. 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 Children and Families, 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, the Department of Children and Families 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.

86. Section 20 of P.L.1979, c.207 (C.18A:7B-13) is amended to read as follows:

C.18A:7B-13 Annual report by commissioner to Legislature.

20. Beginning in the school year 1997-98, the Commissioner of Education shall annually report to the Legislature, describing the condition of educational programs in State facilities, the efforts of the Departments of Corrections, Children and Families, and Human Services and the Juvenile Justice Commission in meeting the standards of a thorough and efficient education in these facilities, the steps underway to correct any deficiencies in their educational programs, and the progress of the educational programs in New Jersey State facilities in comparison with those in the state facilities of other states. At that time the commissioner shall recommend to the Legislature any necessary or desirable changes or modifications in P.L.1979, c.207 (C.18A:7B-1 et al.).

87. Section 3 of P.L.1996, c.138 (C.18A:7F-3) is amended to read as follows:

C.18A:7F-3 Definitions relative to school funding.

3. As used in this act, unless the context clearly requires a different meaning:

"Abbott district" means one of the 28 urban districts in district factor groups A and B specifically identified in the appendix to Raymond Abbott, et al. v. Fred G. Burke, et al. decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J.287, 394) or any other district classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or Salem City School District;

"Bilingual education pupil" means a pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education;

"Budgeted local share" means the sum of designated general fund balance, miscellaneous revenues estimated consistent with GAAP, and that portion of the district's local tax levy contained in the T&E budget certified for taxation purposes;

"Capital outlay" means capital outlay as defined in GAAP;

"Commissioner" means the Commissioner of Education;

"Concentration of low-income pupils" shall be based on prebudget year pupil data and means, for a school district or a county vocational school district, the number of low-income pupils among those counted in modified district enrollment, divided by modified district enrollment. For a school, it means the number of low-income pupils recorded in the registers at that school, divided by the total number of pupils recorded in the school's registers;

"CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor;

"County special services school district" means any entity established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes;

"County vocational school district" means any entity established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes;

"County vocational school, special education services pupil" means a pupil who is attending a county vocational school and who is receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Debt service" means and includes payments of principal and interest upon school bonds and other obligations issued to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"District factor group A district" means a school district, other than an Abbott district or a school district in which the equalized valuation per pupil is more than twice the average Statewide equalized valuation per pupil and in which resident enrollment exceeds 2,000 pupils, which based on the 1990 federal census data is included within the Department of Education's district factor group A;

"District income" for the 1997-98 school year means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Bureau of the Census in the United States Department of Commerce for 1989. Beginning with the 1998-99 school year and thereafter, district income means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending prior to the prebudget year. The commissioner may supplement data contained on the State Income Tax forms with data available from other State or federal agencies in order to better correlate the data to that collected on the federal census. With respect to regional districts and their constituent districts, however, the district

income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

"Estimated minimum equalized tax rate" for a school district means the district's required local share divided by its equalized valuation; for the State it means the sum of the required local shares of all school districts in the State, excluding county vocational and county special services school districts as defined pursuant to this section, divided by the sum of the equalized valuations for all the school districts in the State except those for which there is no required local share;

"Equalized valuation" means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the tax court by January 15, of the prebudget year. With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the equalized table certified by the director shall be revised by the tax court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value multiplier, Statewide equalized valuation per pupil, estimated minimum equalized tax rate for the State, or Statewide average equalized school tax rate;

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State board pursuant to N.J.S.18A:4-14;

"Household income" means income as defined in 7CFR 245.2 and 245.6 or any subsequent superseding federal law or regulation;

"Lease purchase payment" means and includes payments of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection f. of N.J.S.18A:20-4.2 to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Low-income pupils" means those pupils from households with a household income at or below the most recent federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.30;

"Minimum permissible T&E budget" means the sum of a district's core curriculum standards aid, and required local share calculated pursuant to sections 5, 14 and 15 of this act;

"Modified district enrollment" means the number of pupils other than preschool pupils, evening school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16, are enrolled in the school district or county vocational school district; or are resident in the school district or county vocational school district and are: (1) receiving home instruction, (2) enrolled in an approved private school for the handicapped, (3) enrolled in a regional day school, (4) enrolled in a county special services school district, (5) enrolled in an educational services commission including an alternative high school program operated by an educational services commission, (6) enrolled in a State college demonstration school, (7) enrolled in the Marie H. Katzenbach School for the Deaf, or (8) enrolled in an alternative high school program in a county vocational school. Modified district enrollment shall be based on the prebudget year count

for the determination of concentration of low-income pupils, and shall be projected to the current year and adjusted pursuant to section 5 of this act when used in the calculation of aid;

"Net budget" unless otherwise stated in this act, means the sum of the net T&E budget and the portion of the district's local levy that is above the district's maximum T&E budget;

"Net T&E budget" means the sum of the T&E program budget, early childhood program aid, demonstrably effective program aid, instructional supplement aid, transportation aid, and categorical program aid received pursuant to sections 19 through 22, 28, and 29 of this act;

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented;

"Prebudget year equalized tax rate" means the amount calculated by dividing the district's general fund levy for the prebudget year by its equalized valuation certified in the year prior to the prebudget year;

"Prebudget year net budget" for the 1997-98 school year means the sum of the foundation aid, transition aid, transportation aid, special education aid, bilingual education aid, aid for at-risk pupils, technology aid, and county vocational program aid received by a school district or county vocational school district in the 1996-97 school year pursuant to P.L.1996, c.42, and the district's local levy for the general fund;

"Report on the Cost of Providing a Thorough and Efficient Education" or "Report" means the report issued by the Governor pursuant to section 4 of this act;

"Resident enrollment" means the number of pupils other than preschool pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include regardless of nonresidence, the enrolled children of teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Handicapped children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes;

"School enrollment" means the number of pupils other than preschool pupils, evening school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"Special education services pupils" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Spending growth limitation" means the annual rate of growth permitted in the net budget of a school district, county vocational school district or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to subsection d. of section 5 of this act;

"Stabilization aid growth limit" means 10% or the rate of growth in the district's projected resident enrollment over the prebudget year, whichever is greater. For the 1997-98 school year, this means 8% or one-half the rate of growth in the district's projected resident enrollment and preschool enrollment between the October 1991 enrollment report as contained on the district's Application for State School Aid for 1992-93 and the 1997-98 school year, whichever is greater. For the 1998-99 and 1999-2000 school years, this means the greatest of the following: 10%, one-half the district's rate of growth in projected resident enrollment and preschool enrollment over the October 1991 enrollment report as contained on the district's Application for State School Aid for 1992-93, or the district's projected rate of growth in resident enrollment over the prebudget year;

"State facility" means a State developmental center; a State Division of Youth and Family Services' residential center; a State residential mental health center; a Department of Children and Families Regional Day School; a State training school/Secure care facility; a State juvenile community program; a juvenile detention center or a boot camp under the supervisory authority of the Juvenile Justice Commission pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.); or an institution operated by or under contract with the Department of Corrections, Children and Families or Human Services, or the Juvenile Justice Commission;

"Statewide average equalized school tax rate" means the amount calculated by dividing the general fund tax levy for all school districts, which excludes county vocational school districts and county special services school districts as defined pursuant to this section, in the State for the prebudget year by the equalized valuations certified in the year prior to the prebudget year of all taxing districts in the State except taxing districts for which there are no school tax levies;

"Statewide equalized valuation per pupil" means the equalized valuations of all taxing districts having resident enrollment in the State, divided by the resident enrollment for the State;

"T&E amount" means the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough regular education under the assumptions of reasonableness and efficiency contained in the Report on the Cost of Providing a Thorough and Efficient Education;

"T&E flexible amount" means the dollar amount which shall be applied to the T&E amount to determine the T&E range;

"T&E program budget" means the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, designated general fund balance, miscellaneous local general fund revenue and that portion of the district's local levy that supports the district's T&E budget;

"T&E range" means the range of regular education spending which shall be considered thorough and efficient. The range shall be expressed in terms of T&E budget spending per elementary pupil, and shall be delineated by alternatively adding to and subtracting from the T&E amount the T&E flexible amount;

"Total Statewide income" means the sum of the district incomes of all taxing districts in the State.

88. 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 Children and Families Regional Day Schools, Department of Children and Families residential centers, State residential mental health centers, and institutions operated by or under contract with the Department of Human Services or the Department of Children and Families. 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.

89. Section 24 of P.L.1996, c.138 (C.18A:7F-24) is amended to read as follows:

C.18A:7F-24 Submission of budget for educational programs in State facilities.

24. Annually by December 15, the Department of Corrections, the Department of Human Services, the Department of Children and Families and the Juvenile Justice Commission shall each submit to the commissioner for approval, with respect to the facilities under their operational or supervisory authority, a budget for educational programs as set forth in section 8 of P.L.1979, c.207 (C.18A:7B-4) for the subsequent year, together with enrollments and per pupil costs. For the purposes of calculating a per pupil cost, enrollment shall be based on the number of pupils in the State facility on the last school day prior to October 16 of the prebudget year. In the subsequent year, pursuant to P.L.1979, c.207 (C.18A:7B-1 et seq.) for students resident in a district, approved per pupil amounts shall be deducted from each school district's State aid and remitted to the appropriate agency, except that for county juvenile detention centers, no deduction shall be made until Fiscal Year 1999; in that year and thereafter, 50% of approved per pupil amounts shall be deducted and remitted to the Juvenile Justice Commission.

90. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read as follows:

C.18A:7G-3 Definitions relative to construction, financing of public school facilities.

3. As used in sections 1 through 30 and 57 through 71 of this act, unless the context clearly requires a different meaning:

"Abbott district" means an Abbott district as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3);

"Area cost allowance" means \$138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be as established in the biennial Report on the Cost of Providing a Thorough and Efficient Education and inflated by an appropriate cost index for the second year to which the report applies. The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Community provider" means a private entity which has contracted to provide early childhood education programs for an ECPA district and which (a) is licensed by the Department of Children and Families to provide day care services pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.); and (b) is a tax exempt nonprofit organization;

"Community early childhood education facilities project" means a school facilities project consisting of facilities in which early childhood education programs are provided to 3 or 4-year old children under contract with the ECPA district but which are owned and operated by a community provider;

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4);

"Cost index" means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to regulations promulgated by the authority pursuant to section 26 of this act;

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon school bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of this act;

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a State-operated school district established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.);

"District aid percentage" means the number expressed as a percentage derived from dividing the district's core curriculum standards aid calculated pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) as of the date of the commissioner's determination of preliminary eligible costs by the district's T & E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) as of the date of the commissioner's determination of preliminary eligible costs;

"ECPA district" means a district that qualifies for early childhood program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16);

"Excess costs" means the additional costs, if any, which shall be borne by the district, of a school facilities project which result from design factors that are not required to meet the facilities efficiency standards and not approved pursuant to paragraph (1) of subsection g. of section 5 of this act or are not authorized as community design features included in final eligible costs pursuant to subsection c. of section 6 of this act;

"Facilities efficiency standards" means the standards developed by the commissioner pursuant to subsection h. of section 4 of this act;

"Final eligible costs" means for school facilities projects to be constructed by the authority, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the authority, pursuant to section 5 of this act; for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the authority which may include the cost of community design features determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the authority and approved by the State Treasurer pursuant to section 6 of this act; and for districts whose district aid percentage is less than 55% and which elect not to have the authority construct a school facilities project, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of this act;

"FTE" means a full-time equivalent student which shall be calculated as follows: in districts that qualify for early childhood program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16), each student in grades kindergarten through 12 shall be counted at 100% of the actual count of students, and each preschool student approved by the

commissioner to be served in the district shall be counted at 50% or 100% of the actual count of preschool students for an approved half-day or full-day program, respectively; in districts that do not qualify for early childhood program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through 12 shall be counted at 100% of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50% of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100% of the actual count of kindergarten students, and preschool students shall not be counted. In addition, each preschool handicapped child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of this act for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of this act and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

"Lease purchase payment" means and includes payment of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection f. of N.J.S.18A:20-4.2 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Local share" means, in the case of a school facilities project to be constructed by the authority, the total costs less the State share as determined pursuant to section 5 of this act; in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of this act; and in the case of a school facilities project not to be constructed by the authority, but which shall be financed pursuant to section 15 of this act, the total costs less the State share as determined pursuant to that section;

"Local unit" means a county, municipality, board of education or any other political subdivision or instrumentality authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law;

"Local unit obligations" means bonds, notes, refunding bonds, refunding notes, lease obligations and all other obligations of a local unit which are issued or entered into for the purpose of paying for all or a portion of the costs of a school facilities project, including moneys payable to the authority;

"Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of this act;

"Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expenditures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of this act;

"Other allowable costs" means the costs of site development, acquisition of land or other real property interests necessary to effectuate the school facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the administrative costs of the authority or the district incurred in connection with the school facilities project;

"Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of this act which shall be deemed to include the costs of construction and other allowable costs;

"Redevelopment entity" means a redevelopment entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.);

"Report on the Cost of Providing a Thorough and Efficient Education" or "Report" means the report issued by the commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4);

"School bonds" means, in the case of a school facilities project which is to be constructed by the authority, a redevelopment entity, or a district under section 15 of this act, bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the authority or a redevelopment entity, or financed under section 15 of this act, bonds, notes or other obligations issued by a district to finance the total costs;

"School enrollment" means the number of FTE students other than evening school students, including post-graduate students and post-secondary vocational students, who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"School facility" means and includes any structure, building or facility used wholly or in part for academic purposes by a district, but shall exclude athletic stadiums, grandstands, and any structure, building or facility used solely for school administration;

"School facilities project" means the acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project;

"Special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"State aid" means State municipal aid and State school aid;

"State debt service aid" means for school bonds issued for school facilities projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not to have the authority or a redevelopment entity construct the project or which elect not to finance the project under section 15 of this act, the amount of State aid determined pursuant to section 9 of this act; and for school bonds or certificates of participation issued for school facilities projects approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid determined pursuant to section 10 of this act;

"State municipal aid" means business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or other similar forms of State aid payable to the local unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the municipality or county by the State;

"State school aid" means the funds made available to school districts pursuant to sections 15 and 17 of P.L.1996, c.138 (C.18A:7F-15 and 17);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the authority as determined pursuant to section 5 of this act; in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of this act; and in the case of a school facilities project to be financed pursuant to section 15 of this act, the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the authority or a redevelopment entity or financed pursuant to section 15 of this act, the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the authority or a redevelopment entity or financed pursuant to section 15 of this act, the total cost of the project as determined by the district.

91. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read as follows:

C.18A:7G-5 Financing, construction of school facilities in certain districts by authority.

5. a. The authority shall construct and finance the school facilities projects of Abbott districts, districts in level II monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with a district aid percentage equal to or greater than 55%.

b. Any district whose district aid percentage is less than 55% may elect to have the authority undertake the construction of a school facilities project in the district and the State share shall be determined pursuant to this section. In the event that the district elects not to have the authority undertake the construction of the project, State support for the project shall be determined pursuant to section 9 or section 15 of this act, as applicable.

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose district aid percentage is less than 55%, which elects not to have the authority or a redevelopment entity undertake the construction of the project, shall also be required to comply with the provisions of N.J.S.18A:18A-16.

d. Any district seeking to initiate a school facilities project shall apply to the commissioner for approval of the project. The application shall, at a minimum, contain the following information: a description of the school facilities project; a schematic drawing of the project or, at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; the number of unhoused students to be housed in the project; the area allowances per FTE student as calculated pursuant to section 8 of this act; and the estimated cost to complete the project as determined by the district.

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of this act; except that in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate.

g. If the commissioner determines that the school facilities project is inconsistent with the facilities efficiency standards or exceeds the area allowances per FTE student derived from those standards, the commissioner shall notify the district.

(1) The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the board of education or State district superintendent, as appropriate, demonstrates that school facilities needs related to required programs cannot be addressed within the facilities efficiency standards and that all other proposed spaces are consistent with those standards. The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the additional area allowances are necessary to accommodate centralized facilities to be shared among two or more school buildings within the district and the centralized facilities represent a more cost effective alternative.

(2) The commissioner may waive a facilities efficiency standard if the board of education or State district superintendent, as appropriate, demonstrates to the commissioner's satisfaction that the waiver will not adversely affect the educational adequacy of the school facility, including the ability to deliver the programs and services necessary to enable all students to achieve the core curriculum content standards.

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To the extent that existing administrative space will continue to be used for administrative purposes, the space shall be included in the formulas set forth in section 7 of this act.

If the commissioner approves excess facilities efficiency standards or additional area allowances pursuant to paragraph (1), (2), or (3) of this subsection, the commissioner shall calculate the preliminary eligible costs based upon the additional area allowances or excess facilities efficiency standards pursuant to the formulas set forth in section 7 of this act. In the event that the commissioner does not approve the excess facilities efficiency standards or additional area allowances, the district may either: modify its submission so that the school facilities project meets the facilities efficiency standards; or pay for the excess costs.

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may: (a) allow for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of this act plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

h. Upon approval of a school facilities project and determination of the preliminary eligible costs:

(1) In the case of a district whose district aid percentage is less than 55% and which has elected not to have the authority undertake the construction of the school facilities project, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10% or more. The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to

the preliminary eligible costs. The commissioner shall forward the appeal information to the authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In all other cases, the commissioner shall promptly prepare and submit to the authority a preliminary project report which shall consist, at a minimum, of the following information: a complete description of the school facilities project; the actual location of the project; the total square footage of the project together with a breakdown of total square footage by functional component; the preliminary eligible costs of the project; the project's priority ranking determined pursuant to subsection m. of this section; any other factors to be considered by the authority in undertaking the project; and the name and address of the person from the district to contact in regard to the project.

i. Upon receipt by the authority of the preliminary project report, the authority, upon consultation with the district, shall prepare detailed plans and specifications and schedules which contain the authority's estimated cost and schedule to complete the school facilities project. The authority shall transmit to the commissioner the authority's recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the authority determines should be considered by the commissioner.

(1) In the event that the authority determines that the school facilities project can be completed within the preliminary eligible costs: the final eligible costs shall be deemed to equal the preliminary eligible costs; the commissioner shall be deemed to have given final approval to the project; and the preliminary project report shall be deemed to be the final project report delivered to the authority pursuant to subsection j. of this section.

(2) In the event that the authority determines that the school facilities project cannot be completed within the preliminary eligible costs, prior to the submission of the authority's recommendations to the commissioner, the authority shall, in consultation with the district and the commissioner, determine whether changes can be made in the project which will result in a reduction in costs while at the same time meeting the facilities efficiency standards approved by the commissioner.

(a) If the authority determines that changes in the school facilities project are possible so that the project can be accomplished within the scope of the preliminary eligible costs while still meeting the facilities efficiency standards, the authority shall so advise the commissioner, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs; give final approval to the project with the changes noted; and issue a final project report to the authority pursuant to subsection j. of this section.

(b) If the authority determines that it is not possible to make changes in the school facilities project so that it can be completed within the preliminary eligible costs either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the authority shall recommend to the commissioner that the preliminary eligible costs be increased accordingly, whereupon the commissioner shall: calculate the final eligible costs to equal the sum of the preliminary eligible costs plus the increase recommended by the authority; give final approval to the project; and issue a final project report to the authority pursuant to subsection j. of this section.

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the authority shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the authority pursuant to subsection j. of this section; provided that the commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

(d) For a school facilities project constructed by the authority, the authority shall be responsible for any costs of construction, but only from the proceeds of bonds issued by the authority pursuant to this act, which exceed the amount originally projected by the authority and approved for financing by the authority, provided that the excess is the result of an underestimate of labor or materials costs by the authority. After receipt by the authority of the final project report, the district shall be responsible only for the costs associated with changes, if any, made at the request of the district to the scope of the school facilities project.

j. The authority shall not commence the acquisition or construction of a school facilities project unless the commissioner transmits to the authority a final project report and the district complies with the approval requirements for the local share, if any, pursuant to section 11 of this act. The final project report shall contain all of the information contained in the preliminary project report and, in addition, shall contain: the final eligible costs; the excess costs, if any; the total costs which equals the final eligible costs plus excess costs, if any; the State share; and the local share.

k. For the Abbott districts, the State share shall be 100% of the final eligible costs. For all other districts, the State share shall be an amount equal to 115% of the district aid percentage; except that the State share shall not be less than 40% of the final eligible costs.

If any district which is included in district factor group A or B, other than an Abbott district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

l. The local share for school facilities projects constructed by the authority or a redevelopment entity shall equal the final eligible costs plus any excess costs less the State share.

m. The commissioner shall establish, in consultation with the Abbott districts, a priority ranking of all school facilities projects in the Abbott districts based upon his determination of critical need, and shall establish priority categories for all school facilities projects in non-

Abbott districts. The commissioner shall rank projects from Tier I to Tier IV in terms of critical need according to the following prioritization:

Tier I: health and safety, including electrical system upgrades; required early childhood education programs; unhoused students/class size reduction as required to meet the standards of the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.);

Tier II: educational adequacy - specialized instructional spaces, media centers, cafeteriums, and other non-general classroom spaces contained in the facilities efficiency standards; special education spaces to achieve the least restrictive environment;

Tier III: technology projects; regionalization or consolidation projects;

Tier IV: other local objectives.

n. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities project constructed by a district but shall not be applicable to projects constructed by the authority or a redevelopment entity pursuant to the provisions of this act.

o. In the event that a district whose district aid percentage is less than 55% elects not to have the authority undertake construction of a school facilities project, any proceeds of school bonds issued by the district for the purpose of funding the project which remain unspent upon completion of the project shall be used by the district to reduce the outstanding principal amount of the school bonds.

p. Upon completion by the authority of a school facilities project, if the cost of construction and completion of the project is less than the total costs, the district shall be entitled to receive a portion of the local share based on a pro rata share of the difference based on the ratio of the State share to the local share.

q. The authority shall determine the cause of any costs of construction which exceed the amount originally projected by the authority and approved for financing by the authority.

r. In the event that a district has engaged architectural services to prepare the documents required for initial proposal of a school facilities project, the district shall, if permitted by the terms of the district's contract for architectural services, and at the option of the authority assign the contract for architectural services to the authority if the authority determines that the assignment would be in the best interest of the school facilities project.

s. Notwithstanding anything to the contrary contained in P.L.2000, c.72 (C.18A:7G-1 et al.), an ECPA district, at its option, may provide in its long-range facilities plan submitted pursuant to section 4 of this act, for one or more community early childhood education facilities projects. If the district has requested designation of a demonstration project pursuant to section 6 of this act and is eligible to submit a plan for a community early childhood education facilities project pursuant to this section, the district shall be permitted to include the community early childhood education facilities project as part of the demonstration project.

(1) An ECPA district seeking to initiate a community early childhood education facilities project shall apply to the commissioner for approval of the project. The application shall, at a minimum, contain the following information: the name of the community provider; evidence that the community provider is licensed by the Department of Children and Families pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.) and is a tax exempt nonprofit organization; evidence that the community provider is or shall provide early childhood education programs for the district; a description of the community early childhood education facilities project; a schematic drawing of the project, or at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional

components of the project; identification of those portions of the proposed project which shall be devoted in whole or in part to the provision of early childhood education programs to 3 or 4-year old children from the ECPA district; the estimated cost to complete the project as determined by the district in consultation with the community provider; and whether the facility provides services other than early childhood education programs for 3 and 4-year old children, pursuant to a contract with the ECPA district.

(2) The commissioner shall review the proposed early childhood education facilities project to determine whether it is consistent with the district's long-range facilities plan, whether it will provide a facility which is structurally adequate and safe and capable of providing a program which will enable preschool children being served pursuant to the ECPA district's approved early childhood education operational plan to meet the standards for early childhood education programs established by the department and whether there is a need for increased capacity or to rehabilitate existing space to meet these standards. Only those facilities which are used for 3 or 4-year old children pursuant to a contract with the ECPA district shall be eligible for approval, provided that facilities which are jointly used by 3 or 4-year old children from the ECPA district and from other districts shall also be eligible for approval.

(3) If the commissioner approves the project, the commissioner shall determine, in consultation with the authority, the cost to complete the approved project, which shall be the reasonable, estimated cost of the renovation or new construction necessary to provide a facility which is structurally adequate and safe and capable of providing a program which will enable preschool children being served pursuant to the ECPA district's approved early childhood education operation plan to meet the standards for early childhood education programs established by the department. For projects initiated by an Abbott district, the State support shall be 100% of such reasonable, estimated cost. For projects initiated by an ECPA district that is not an Abbott district, the State support shall be an amount equal to 115% of the district aid percentage of that ECPA district, of such reasonable, estimated cost, except that the State support shall not be less than 40% of such reasonable, estimated cost. The commissioner shall issue a final project report to the authority which shall contain a complete description of the project, the actual location of the project, the total square footage of the project together with a breakdown of total square footage by functional component; any other factors to be considered by the authority in undertaking the project; the names and addresses of the people to contact from the district and the community provider; the amount of State support for the project; and the amount of local support required from the community provider to pay for costs, if any, of the project which have not been approved by the commissioner for State support.

(4) Upon submission to the authority of a final project report, the authority shall undertake the financing, acquisition, construction and all other appropriate actions necessary to complete the community early childhood education facilities project, provided, that if there is local support required for the project, such actions shall not commence until the authority receives the local support from the community provider. The authority may, in its discretion, and upon consultation with the commissioner, authorize a community provider to undertake the acquisition, construction and all other appropriate action necessary to complete the project, in which case the authority shall not provide State support until the community provider provides the local support, if any.

(5) In order to implement the arrangements established for community early childhood education facilities projects, the authority shall enter into an agreement with the district, the

commissioner and the community provider containing the terms and conditions determined by the parties to be necessary to effectuate the project.

(6) The authority shall require as a condition of providing State support for any community early childhood education facilities project that the State support must be repaid by the community provider in the event that (a) the commissioner determines that the project is no longer being used for the purposes for which it was intended; or (b) the project is sold, leased or otherwise conveyed to an individual or organization that does not have tax exempt nonprofit or government status.

92. 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 Children and Families 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. At the option of the local board of education, "dependent" may include an employee's domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3);

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.

93. 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 Children and Families 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.).

94. N.J.S.18A:38-1 is amended to read as follows:

Attendance at school free of charge.

18A:38-1. Public schools shall be free to the following persons over five and under 20 years of age:

a. Any person who is domiciled within the school district;

b. (1) Any person who is kept in the home of another person domiciled within the school district and is supported by such other person gratis as if he were such other person's own child, upon filing by such other person with the secretary of the board of education of the district, if so required by the board, a sworn statement that he is domiciled within the district and is supporting the child gratis and will assume all personal obligations for the child relative to school requirements and that he intends so to keep and support the child gratuitously for a longer time than merely through the school term, and a copy of his lease if a tenant, or a sworn statement by his landlord acknowledging his tenancy if residing as a tenant without a written lease, and upon filing by the child's parent or guardian with the secretary of the board of education a sworn statement that he is not capable of supporting or providing care for the child due to a family or economic hardship and that the child is not residing with the resident of the district solely for the purpose of receiving a free public education within the district. The statement shall be accompanied by documentation to support the validity of the sworn statements, information from or about which shall be supplied only to the board and only to the extent that it directly pertains to the support or nonsupport of the child. If in the judgment of the board of education the evidence does not support the validity of the claim by the resident, the board may deny admission to the child. The resident may contest the board's decision to the commissioner within 21 days of the date of the decision and shall be entitled to an expedited hearing before the commissioner on the validity of the claim and shall have the burden of proof by a preponderance of the evidence that the child is eligible for a free education under the criteria listed in this subsection. The board of education shall, at the time of its decision, notify the resident in writing of his right to contest the board's decision to the commissioner within 21 days. No child shall be denied

admission during the pendency of the proceedings before the commissioner. In the event the child is currently enrolled in the district, the student shall not be removed from school during the 21-day period in which the resident may contest the board's decision nor during the pendency of the proceedings before the commissioner. If in the judgment of the commissioner the evidence does not support the claim of the resident, he shall assess the resident tuition for the student prorated to the time of the student's ineligible attendance in the school district. Tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local district multiplied by the number of days of ineligible attendance and shall be collected in the manner in which orders of the commissioner are enforced. Nothing shall preclude a board from collecting tuition from the resident, parent or guardian for a student's period of ineligible attendance in the schools of the district where the issue is not appealed to the commissioner;

(2) If the superintendent or administrative principal of a school district finds that the parent or guardian of a child who is attending the schools of the district is not domiciled within the district and the child is not kept in the home of another person domiciled within the school district and supported by him gratis as if the child was the person's own child as provided for in paragraph (1) of this subsection, the superintendent or administrative principal may apply to the board of education for the removal of the child. The parent or guardian shall be entitled to a hearing before the board and if in the judgment of the board the parent or guardian is not domiciled within the district or the child is not kept in the home of another person domiciled within the school district and supported by him gratis as if the child was the person's own child as provided for in paragraph (1) of this subsection, the board may order the transfer or removal of the child from school. The parent or guardian may contest the board's decision before the commissioner within 21 days of the date of the decision and shall be entitled to an expedited hearing before the commissioner and shall have the burden of proof by a preponderance of the evidence that the child is eligible for a free education under the criteria listed in this subsection. The board of education shall, at the time of its decision, notify the parent or guardian in writing of his right to contest the decision within 21 days. No child shall be removed from school during the 21-day period in which the parent may contest the board's decision or during the pendency of the proceedings before the commissioner. If in the judgment of the commissioner the evidence does not support the claim of the parent or guardian, the commissioner shall assess the parent or guardian tuition for the student prorated to the time of the student's ineligible attendance in the schools of the district. Tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local district multiplied by the number of days of ineligible attendance and shall be collected in the manner in which orders of the commissioner are enforced. Nothing shall preclude a board from collecting tuition from the parent or guardian for a student's period of ineligible attendance in the schools of the district where the issue is not appealed to the commissioner;

The provisions of this section requiring proof of support, custody or tenancy shall not apply to a person keeping a child in his home whose parent or guardian is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States and who has been ordered into active military service in any of the armed forces of the United States in time of war or national emergency. In such a situation, the child shall be eligible to enroll in the district in which he is being kept, and no tuition shall be charged by the district. Following the return of the child's parent or guardian from active military service, the child's eligibility for enrollment without tuition in the district in which he or she is being kept shall cease at the end of the current school year;

c. Any person who fraudulently allows a child of another person to use his residence and is not the primary financial supporter of that child and any person who fraudulently claims to have given up custody of his child to a person in another district commits a disorderly persons offense;

d. Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has had or shall have his all-year-round dwelling place within the district for one year or longer shall be deemed to be domiciled within the district for the purposes of this section;

e. Any person for whom the Division of Youth and Family Services in the Department of Children and Families is acting as guardian and who is placed in the district by the division;

f. Any person whose parent or guardian moves from one school district to another school district as a result of being homeless and whose district of residence is determined pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12).

95. Section 1 of P.L.2000, c.138 (C.18A:44-5) is amended to read as follows:

C.18A:44-5 Commission on Early Childhood Education.

1. a. There is established a Commission on Early Childhood Education in, but not of, the Department of Education. The commission shall consist of 24 members, including the Commissioners of Education, Human Services and Children and Families and the State Treasurer, or their designees, who shall serve as ex officio members, and 20 public members who shall be appointed by the Governor, including two representatives of higher education and one representative of each of the following organizations: the New Jersey Child Care Advisory Council; the Association for Children of New Jersey; the Center for Early Education at Rutgers, the State University; the New Jersey Association for the Education of Young Children; the New Jersey Association of Child Care Resources and Referral Agencies; the New Jersey Association of Early Childhood Teacher Educators; the New Jersey Association of School Administrators; the New Jersey Child Care Association; the New Jersey Congress of Parents and Teachers; the Statewide Parent Advocacy Network; the New Jersey Education Association; the New Jersey State Federation of Teachers; the New Jersey School Boards Association; the New Jersey Head Start Association; the New Jersey Policy Development Board; the New Jersey Principals and Supervisors Association; the Advisory Committee for Nonpublic Schools of the Department of Education; and the New Jersey Professional Development Center of New Jersey.

Within 60 days of the effective date of this act, and at least one month prior to the expiration of the term of a member nominated by an organization listed above, that organization shall submit to the Governor three nominees for consideration, from which the Governor may choose. If any organization does not submit three nominees for consideration at any time required, the Governor may appoint a member of his choice.

Of the 20 public members appointed by the Governor, no more than 10 shall be of the same political party. Of the 20 public members appointed by the Governor, at least six shall represent the northern region of the State and reside in one of the following counties: Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union or Warren. Of the 20 public members appointed by the Governor, at least six shall represent the central region of the State and reside in one of the following counties: Hunterdon, Somerset, Middlesex, Mercer, Monmouth or Ocean. Of the 20 public members appointed by the Governor, at least six shall represent

the southern region of the State and reside in one of the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester or Salem.

The public members shall serve for three-year terms, but of the members first appointed, six shall be appointed for a term of one year, seven shall be appointed for a term of two years and seven shall be appointed for a term of three years. A member shall hold office for the term of his appointment and until his successor has been appointed.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.

The members of the commission shall serve without compensation but shall be reimbursed for the reasonable expenses necessarily incurred in the performance of their duties within the limits of funds appropriated or otherwise made available to the commission for its purposes.

b. The commission shall organize no later than 30 days after the appointment of all the members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

c. The department shall provide such stenographic, clerical and other administrative assistants, and such professional staff, as the commission requires to carry out its work.

d. It shall be the responsibility of the commission to provide advice on early childhood education issues, including, but not limited to:

- (1) the appropriate staff credentials for pre-school educators;
- (2) appropriate Statewide standards for early childhood education program design, implementation and assessment;
- (3) the development of standards for appropriate facilities for early childhood education programs;
- (4) coordination of early childhood programs and services across State agencies;
- (5) the identification and dissemination of information on model early childhood programs;
- (6) the funding levels necessary to support high quality early childhood education programs, including funding for certified, well-trained teachers, developmentally appropriate curriculum and materials, appropriate facilities and particularized needs.

96. N.J.S.18A:46-13 is amended to read as follows:

Types of facilities and programs.

18A:46-13. It shall be the duty of each board of education to provide suitable facilities and programs of education for all the children who are classified as handicapped under this chapter. The absence or unavailability of a special class facility in any district shall not be construed as relieving a board of education of the responsibility for providing education for any child who qualifies under this chapter.

The Department of Human Services, and the Department of Children and Families, as applicable, shall provide transportation for all children who attend day training centers operated by the department.

A board of education is not required to provide any further educational program for children who have been admitted to the Marie H. Katzenbach School for the Deaf but shall be required to furnish necessary daily transportation Monday through Friday to and from the school for nonboarding pupils when such transportation is approved by the county superintendent of schools in accordance with such rules and regulations as the State board shall promulgate for such transportation. Any special education facility or program

authorized and provided for a child attaining age 20 during a school year shall be continued for the remainder of that school year.

97. Section 2 of P.L.1986, c.32 (C.18A:46-18.3) is amended to read as follows:

C.18A:46-18.3 Notice to parents.

2. a. The multidisciplinary treatment team at a State facility shall provide written notice to the parent or legal guardian of a child who is placed in the facility, when the child attains the age of 18, or, if the child is over the age of 18 when placed in the facility, at the time of placement, that the child is not entitled to receive tuition free educational services after the age of 21.

b. Written notice given pursuant to this section shall describe in detail the parent's or guardian's opportunity to consent to having the child's name or other relevant information forwarded in a report to the Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, for the purposes of determining whether the child will likely need services after the age of 21 and, if so, recommending possible adult educational services. For the purposes of this subsection, "relevant information" means that information in the possession of and used by the multidisciplinary treatment team to ascertain the physical, mental, emotional and cultural-educational factors which contribute to the child's handicapping condition, including but not limited to: (1) results of physical and psychological examinations performed by private and school district physicians and psychologists; (2) relevant information presented by the parent or legal guardian and teacher; (3) school data which bear on the child's progress, including the child's most recent individualized educational program; (4) results of the most recent examinations and evaluations performed; and (5) results of other suitable evaluations and examinations possessed by the team. Nothing in this subsection shall be construed to require a multidisciplinary treatment team to perform any examination or evaluation not otherwise required by law.

c. Upon the written consent of the parent or legal guardian, the multidisciplinary treatment team shall forward the child's name and other relevant information in a report to the Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, for the development of a recommendation for adult educational services. A copy of the report shall also be submitted to the Commissioner of Education at the same time that the report is submitted to the Commissioner of Human Services, the Commissioner of Children and Families or the Commissioner of Corrections, as applicable.

98. Section 3 of P.L.1986, c.32 (C.18A:46-18.4) is amended to read as follows:

C.18A:46-18.4 Recommendation for adult educational services.

3. a. The Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, or their designees, in consultation with the Commissioner of Education, or his designee, shall determine whether a child, whose report is submitted to the Department of Human Services, Department of Children and Families, or the Department of Corrections, as appropriate, pursuant to subsection c. of section 2 of this act, will likely need adult educational services and, if the need will likely exist, develop a recommendation of all appropriate educational programs operated or approved by the Department of Human Services, Department of Children and Families,

Department of Corrections or Department of Education which may be available when the child attains the age of 21. If necessary and appropriate, the Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, may conduct an evaluation of the child to determine if adult educational services will be needed. The recommendation of all programs shall be made available to the parent or guardian of the child as soon as practicable but not later than six months before the child attains the age of 21.

b. If the Commissioner of Human Services, Commissioner of Children and Families, or Commissioner of Corrections, as appropriate, determines, pursuant to subsection a. of this section, that the child will not require adult educational services, the commissioner shall notify the child's parent or guardian in writing of the determination. The notice shall be given as soon as practicable but no later than six months before the child attains the age of 21.

99. Section 4 of P.L.1986, c.32 (C.18A:46-18.5) is amended to read as follows:

C.18A:46-18.5 Annual report.

4. The multidisciplinary treatment team shall prepare and submit an annual report to the Departments of Education, Corrections, Children and Families, and Human Services on October 1, 1986 and thereafter on or before October 1 of each year. The annual report shall contain the number of cases submitted to the Commissioner of Human Services, the Commissioner of Children and Families, and the Commissioner of Corrections pursuant to subsection c. of section 2 of this act, the type and severity of the handicapping condition involved with each case, and other necessary information. The annual report shall not contain individually identifying information.

100. Section 5 of P.L.1986, c.32 (C.18A:46-18.6) is amended to read as follows:

C.18A:46-18.6 Rules, regulations.

5. The Commissioner of Human Services, the Commissioner of Children and Families, and the Commissioner of Corrections shall adopt, within six months from the date that this act takes effect, rules and regulations in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) that are appropriate to implement this act.

101. N.J.S.18A:60-1 is amended to read as follows:

Requirements for tenure.

18A:60-1. The services of all professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, and other persons employed in a teaching capacity, who are or shall hereafter be employed by the commissioner in the Marie H. Katzenbach School for the Deaf or in any other educational institution, or employed in any State college or in any county college, and teachers and other certified persons employed in State institutions within the Department of Corrections, the Department of Children and Families, or the Department of Human Services, with the exception of the Director of Educational Services, shall be under tenure during good behavior and efficiency:

a. after the expiration of a period of employment of three consecutive calendar years in any such institution or institutions; or

b. after employment for three consecutive academic years together with employment at the beginning of the next succeeding academic year in any such institution or institutions; or

c. after employment in any such institution or institutions, within a period of any four consecutive academic years, for the equivalent of more than three academic years.

An academic year, for the purpose of this section, means the period between the time school opens in the institution after the general summer vacation until the next succeeding summer vacation.

The provisions of this section shall not apply to any faculty member employed by a State or county college who begins employment after the 1973-74 school year.

102. Section 1 of P.L.1986, c.158 (C.18A:60-1.1) is amended to read as follows:

C.18A:60-1.1 Findings, declarations.

1. The Legislature hereby finds that it is in the best interests of the State of New Jersey to provide job security during good behavior and efficiency for the teachers and other certified professional educators employed in State institutions within the Department of Corrections, the Department of Children and Families, and the Department of Human Services. To accomplish this goal it is appropriate to provide tenure protection for such professionals teaching in such State institutions, subject to the provisions set forth in this act.

103. Section 3 of P.L.1986, c.158 (C.18A:60-1.2) is amended to read as follows:

C.18A:60-1.2 Tenure after 3 years' service.

3. Any teacher or other certified individual serving in a teaching capacity in a State institution within the Department of Corrections, the Department of Children and Families, or the Department of Human Services as of July 1, 1986, who has completed at least two academic years of teaching service or its equivalent within three calendar years with satisfactory evaluations, shall acquire tenure under this act upon the completion of one additional calendar year of satisfactory service in such capacity.

104. N.J.S.18A:60-3 is amended to read as follows:

Reduction in staff.

18A:60-3. Nothing contained in this chapter shall be held to limit the right of the commissioner, in the case of any educational institution conducted under his jurisdiction, supervision or control; or the Commissioner of Corrections, the Commissioner of Children and Families, or the Commissioner of Human Services, in the case of any State institution conducted under their jurisdiction, supervision or control; or of the board of trustees of a college, in the case of a college, to reduce the number of professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, or other persons employed in a teaching capacity in any such institution or institutions when the reduction is due to natural diminution of the number of students or pupils in the institution or institutions. Dismissals resulting from such reduction shall not be by reason of residence, age, sex, marriage, race, religion, or political affiliation. When such professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, or other persons employed in a teaching capacity under tenure are dismissed by reason of such reduction, those professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, or other persons employed in a teaching capacity having the least number of years

of service to their credit shall be dismissed in preference to those having longer terms of service. Should any such professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher, or other person employed in a teaching capacity under tenure be dismissed as a result of such reduction, such person shall be and remain upon a preferred eligible list in the order of years of service for reemployment, whenever vacancies occur, and shall be reemployed by the commissioner in such order, when, and if, a vacancy in a position for which such professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher, or other person employed in a teaching capacity shall be qualified. Such reemployment shall give full recognition to previous years of service.

105. Section 4 of P.L.1987, c.370 (C.26:2-151) is amended to read as follows:

C.26:2-151 Catastrophic Illness in Children Relief Fund Commission.

4. There is established in, but not of, the State Department of Human Services the Catastrophic Illness in Children Relief Fund Commission. The commission shall consist of the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Commissioner of Children and Families, the Commissioner of Banking and Insurance, and the State Treasurer, who shall be members ex officio, and seven public members who are residents of this State, appointed by the Governor with the advice and consent of the Senate for terms of five years, two of whom are appointed upon the recommendation of the President of the Senate, one of whom is a provider of health care services to children in this State and two of whom are appointed upon the recommendation of the Speaker of the General Assembly, one of whom is a provider of health care services to children in this State. The five public members first appointed by the Governor shall serve for terms of one, two, three, four and five years, respectively.

Each member shall hold office for the term of his appointment and until his successor has been appointed and qualified. A member of the commission is eligible for reappointment.

Each ex officio member of the commission may designate an officer or employee of his department to represent him at meetings of the commission, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing delivered to the commission and filed with the office of the Secretary of State and shall continue in effect until revoked or amended in the same manner as provided for designation.

106. Section 2 of P.L.1997, c.229 (C.26:2-171) is amended to read as follows:

C.26:2-171 Advisory Council on Adolescent Pregnancy established.

2. a. There is established in the Executive Branch of the State Government an Advisory Council on Adolescent Pregnancy. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the advisory council is allocated within the Department of Health and Senior Services, but notwithstanding that allocation, the advisory council shall be independent of any supervision or control by the department or by any board or officer thereof.

b. The advisory council shall consist of 24 members as follows: the Commissioners of the Departments of Health and Senior Services, Human Services, Children and Families, Education, Community Affairs, and Labor and Workforce Development, who shall serve as ex officio members, and 18 public members, four of whom shall be teenagers, including two teenage parents and two teenagers who are not parents, and fourteen of whom shall be

representatives of community based religious, health and social service organizations which serve adolescents and health professionals and educators with recognized expertise in the field of adolescent pregnancy. Of the public members, three shall be appointed by the President of the Senate, no more than two of whom shall be of the same political party; three shall be appointed by the Speaker of the General Assembly, no more than two of whom shall be of the same political party; and 12 shall be appointed by the Governor with the advice and consent of the Senate, no more than six of whom shall be of the same political party. The advisory council shall organize within 30 days after the appointment of its members. The members shall select one person from among them to serve as the chairperson and the members shall select a secretary, who need not be a member of the advisory council.

c. Each ex officio member may designate an employee of the member's department to represent the member at hearings of the advisory council. All designees may lawfully vote and otherwise act on behalf of the member for whom they constitute the designee.

d. Each public member shall be appointed for a term of three years, but of the members first appointed, six shall serve for a term of one year, six for a term of two years and six for a term of three years. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled in the same manner as the original appointments were made.

e. Members of the advisory council shall serve without compensation but, within the limits of funds appropriated or otherwise made available to it, shall be eligible for reimbursement of necessary expenses incurred in the performance of their duties.

f. The Department of Health and Senior Services shall provide such staff as the advisory council requests to carry out the purposes of this act.

107. Section 2 of P.L.1989, c.51 (C.26:2BB-2) is amended to read as follows:

C.26:2BB-2 Governor's Council on Alcoholism and Drug Abuse.

2. There is created a 26-member council in, but not of, the Department of the Treasury which shall be designated as the Governor's Council on Alcoholism and Drug Abuse. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Governor's Council on Alcoholism and Drug Abuse is allocated to the Department of the Treasury, but, notwithstanding the allocation, the office shall be independent of any supervision or control by the department or by any board or officer thereof.

The council shall consist of 12 ex officio members and 14 public members.

a. The ex officio members of the council shall be: the Attorney General, the Commissioners of the Departments of Labor and Workforce Development, Education, Human Services, Health and Senior Services, Children and Families, Community Affairs, Personnel and Corrections, the chair of the executive board of the New Jersey Presidents' Council, the Administrative Director of the Administrative Office of the Courts and the Adjutant General. An ex officio member may designate an officer or employee of the department or office which he heads to serve as his alternate and exercise his functions and duties as a member of the Governor's Council on Alcoholism and Drug Abuse.

b. The 14 public members shall be residents of the State who are selected for their knowledge, competence, experience or interest in connection with alcoholism or drug abuse. They shall be appointed as follows: two shall be appointed by the President of the Senate, two shall be appointed by the Speaker of the General Assembly and 10 shall be appointed by the Governor, with the advice and consent of the Senate. At least two of the public members

appointed by the Governor shall be rehabilitated alcoholics and at least two of the public members appointed by the Governor shall be rehabilitated drug abusers.

c. The term of office of each public member shall be three years; except that of the first members appointed, four shall be appointed for a term of one year, five shall be appointed for a term of two years and five shall be appointed for a term of three years. Each member shall serve until his successor has been appointed and qualified, and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired term. A public member is eligible for reappointment to the council.

d. The chairman of the council shall be appointed by the Governor from among the public members of the council and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the chairman's successor. The members of the council shall elect a vice-chairman from among the members of the council. The Governor may remove any public member for cause, upon notice and opportunity to be heard.

e. The council shall meet at least monthly and at such other times as designated by the chairman. Fourteen members of the council shall constitute a quorum. The council may establish any advisory committees it deems advisable and feasible.

f. The chairman shall be the request officer for the council within the meaning of such term as defined in section 6 of article 3 of P.L.1944, c.112 (C.52:27B-15).

g. The public members of the council shall receive no compensation for their services, but shall be reimbursed for their expenses incurred in the discharge of their duties within the limits of funds appropriated or otherwise made available for this purpose.

108. Section 33 of P.L.1991, c.187 (C.26:2H-5.7) is amended to read as follows:

C.26:2H-5.7 State Health Planning Board established.

33. There is established in the Department of Health and Senior Services a State Health Planning Board. The members of the board shall include: the Commissioners of Health and Senior Services, Children and Families and Human Services, or their designees, who shall serve as ex officio, nonvoting members; the chairmen of the Health Care Administration Board and the Public Health Council, or their designees, who shall serve as ex officio members; and nine public members appointed by the Governor with the advice and consent of the Senate, five of whom are consumers of health care services who are neither providers of health care services or persons with a fiduciary interest in a health care service.

Of the additional public members first appointed pursuant to P.L.1998, c.43, two shall serve for a term of two years and two shall serve for a term of three years. Following the expiration of the original terms, the public members shall serve for a term of four years and are eligible for reappointment. Public members serving on the board on the effective date of P.L.1998, c.43 shall continue to serve for the term of their appointment. Any vacancy shall be filled in the same manner as the original appointment, for the unexpired term. Public members shall continue to serve until their successors are appointed. The public members shall serve without compensation but may be reimbursed for reasonable expenses incurred in the performance of their duties, within the limits of funds available to the board.

a. A member or employee of the State Health Planning Board shall not, by reason of his performance of any duty, function or activity required of, or authorized to be undertaken by the board, be held civilly or criminally liable if that person acted within the scope of his duty, function or activity as a member or employee of the board, without gross negligence or malice toward any person affected thereby.

b. A member of the State Health Planning Board shall not vote on any matter before the board concerning an individual or entity with which the member has, or within the last 12 months has had, any substantial ownership, employment, medical staff, fiduciary, contractual, creditor or consultative relationship. A member who has or has had such a relationship with an individual or entity involved in any matter before the board shall make a written disclosure of the relationship before any action is taken by the board with respect to the matter and shall make the relationship public in any meeting in which action on the matter is to be taken.

109. Section 1 of P.L.1998, c.136 (C.26:2H-12.6a) is amended to read as follows:

C.26:2H-12.6a Preparation, distribution of pamphlet providing information on child abuse, neglect.

1. a. The Department of Children and Families, in consultation with the Department of Health and Senior Services, shall prepare a pamphlet which provides information on child abuse and neglect to all parents of newborn infants born in this State. The pamphlet shall be distributed to each parent present during the infant's birth, by the personnel at a hospital or birthing facility at the time of the mother's discharge, as part of the hospital or birthing facility's discharge procedures.

b. The pamphlet shall include information on the signs of child abuse and neglect, the services provided by the State which help in preventing child abuse and neglect and the legal ramifications of abusing or neglecting a child.

c. The department shall distribute the pamphlet, at no charge, to all the hospitals and birthing facilities in the State. The department shall update the pamphlet as necessary, and shall make additional copies of the pamphlet available to health care providers upon request.

110. 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 Children and Families.

(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.

111. Section 1 of P.L.1991, c.524 (C.30:1-1.1) is amended to read as follows:

C.30:1-1.1 Comprehensive social services information toll-free hotline service established.

1. a. The Commissioner of Human Services, in consultation with the Commissioners of Community Affairs, Health and Senior Services, Children and Families and Labor and Workforce Development, shall establish and maintain on a 24-hour daily basis a comprehensive social services information toll-free telephone hotline service, operating through one of the existing telephone hotline services of the department. The hotline service shall use a computerized Statewide social services data bank to be developed by the Department of Human Services and shall include among its staff persons who speak English

and Spanish. The hotline service shall receive and respond to calls from persons seeking information and referrals concerning agencies and programs which provide various social services, including but not limited to: child care, child abuse emergency response job skills training, services for victims of domestic violence, alcohol and drug abuse, home health care, senior citizen programs, rental assistance, services for persons with developmental disabilities, mental health programs, emergency shelter assistance, family planning, legal services, assistance for runaways and services for the deaf and hearing impaired, as well as information about public assistance, Medicaid, Pharmaceutical Assistance to the Aged and Disabled, Lifeline, Hearing Aid Assistance for the Aged and Disabled, food stamps and home energy assistance.

b. The Commissioner of Human Services, in conjunction with the Commissioners of Community Affairs, Health and Senior Services, Children and Families and Labor and Workforce Development, shall take such actions as are necessary to consolidate existing State telephone hotline services into the comprehensive social services information toll-free telephone hotline service, and thereby eliminate duplicative telephone hotline services.

c. Notwithstanding the provisions of subsection b. of this section to the contrary, the Commissioner of Human Services shall also establish and maintain a toll-free telephone hotline service for persons who are receiving institutional or community-based services from, or through an agency contracting with, the Division of Mental Health Services or the Division of Developmental Disabilities, or their parents, guardians or other responsible persons, to register complaints, request information or assistance, or discuss issues and problems, regarding those services in a confidential manner.

112. Section 1 of P.L.2004, c.130 (C.30:4C-1.1) is amended to read as follows:

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; and

h. (Deleted by amendment, P.L.2006, c.47).

i. (Deleted by amendment, P.L.2006, c.47).

j. (Deleted by amendment, P.L.2006, c.47).

k. (Deleted by amendment, P.L.2006, c.47).

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.

113. 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 Children and Families 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 Children and Families is placed by the department, or with its approval, for care, and shall include any person with whom a child is placed by the division for the purpose of adoption until the adoption is finalized.

(i) The term “resource family home” means and includes private residences wherein any child in the care, custody or guardianship of the Department of Children and Families may be placed by the department, or with its approval, for care, and shall include any private residence maintained by persons with whom any such child is placed by the division for the purpose of adoption until the adoption is finalized.

(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 Children and Families in accordance with rules and regulations adopted by the Commissioner of Children and Families; 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 Children and Families.

(t) “Department” means the Department of Children and Families.

114. Section 3 of P.L.2004, c.130 (C.30:4C-2.3) is amended to read as follows:

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 Children and Families 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 department, 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 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.

115. Section 4 of P.L.2004, c.130 (C.30:4C-2.4) is amended to read as follows:

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 Children and Families 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.).

116. Section 126 of P.L.2004, c.130 (C.30:4C-2.5) is amended to read as follows:

C.30:4C-2.5 Rules, regulations.

126. The Commissioner of Children and Families, 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.

117. Section 1 of P.L.2003, c.40 (C.30:4C-3.7) is amended to read as follows:

C.30:4C-3.7 Photographing, fingerprinting of child under custody of DYFS.

1. a. The Division of Youth and Family Services in the Department of Children and Families shall provide for the photographing of each child under its custody no later than two months after the division assumes custody of the child. A child who is under the custody of the division on the effective date of this act shall be photographed for the purposes of this act no later than one year after its effective date.

The division shall, in addition, provide for the fingerprinting of any child under its custody with respect to whom the division determines, in accordance with criteria as the Commissioner of Children and Families shall establish by regulation, that the availability of a fingerprint record would be appropriate; the fingerprints of any child with respect to whom such a determination is made shall be taken no later than two months after the division has made that determination.

b. The division shall update the photograph of each child taken pursuant to subsection a. of this section at least every two years. In addition, the division shall retain the fingerprint information and photograph of each child for whom such records are taken for at least one year after the date that the child is no longer under the custody of the division.

c. The division shall be entitled to receive the assistance of any other State department, division or agency as it may deem necessary and may receive the assistance of any county or municipal government agency, as may be available, in carrying out the provisions of this act.

118. Section 2 of P.L.2003, c.40 (C.30:4C-3.8) is amended to read as follows:

C.30:4C-3.8 Rules, regulations.

2. The Commissioner of Children and Families, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

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

C.30:4C-4 Powers of Department of Children and Families, other designated entity.

4. The Department of Children and Families 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 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 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 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 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 Human Services;

(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 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 maintenance, related services, and youth facility aid to such agencies, subject to a preaward qualification review of the agency's fiscal and programmatic abilities and periodic reviews.

120. Section 1 of P.L.1962, c.140 (C.30:4C-4.1) is amended to read as follows:

C.30:4C-4.1 Consent and approval of actions or proceedings.

1. Notwithstanding the provisions of any other law, no action or proceeding, including an application for a writ of habeas corpus, in any court which the Division of Youth and Family Services is authorized by law to commence or maintain shall be commenced or maintained by the division, without the consent and approval of the Commissioner of Children and Families, as hereinafter provided.

121. Section 2 of P.L.1962, c.140 (C.30:4C-4.2) is amended to read as follows:

C.30:4C-4.2 Nature of consent and approval to defend or oppose action on proceeding.

2. In no case shall the Division of Youth and Family Services, defend against any action or proceeding or make or oppose any application for a writ of habeas corpus without the express consent and approval of the Commissioner of Children and Families.

122. 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 or custody 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.

123. 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 Department of Children and Families accepts a child in its care or custody, including placement, the department 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 department'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 department 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 department determines that the relative is unwilling or unable to assume the care of the child, the department shall not be required to re-evaluate the relative. The department shall inform the relative in writing of:

- (1) the reasons for the department's determination;
- (2) the responsibility of the relative to inform the department 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 department of such determination.

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

124. Section 4 of P.L.2000, c.58 (C.30:4C-15.7) is amended to read as follows:

C.30:4C-15.7 Designated sites for voluntary relinquishment of child; assumption of care, custody, control by DYFS.

4. a. If a person voluntarily delivers a child who is or appears to be no more than 30 days old to, and leaves the child at a State, county or municipal police station and does not express an intent to return for the child, a State, county or municipal police officer shall take the child to the emergency department of a licensed general hospital in this State and the hospital shall proceed as specified in subsection b. of this section.

b. If a person voluntarily delivers a child who is or appears to be no more than 30 days old to, and leaves the child at an emergency department of a licensed general hospital in this State and does not express an intent to return for the child, or, if a State, county or municipal police officer brings a child to a licensed general hospital under the circumstances set forth in subsection a. of this section, the hospital shall:

- (1) take possession of the child without a court order;
- (2) take any action or provide any treatment necessary to protect the child's physical health and safety; and
- (3) no later than the first business day after taking possession of the child, notify the Division of Youth and Family Services in the Department of Children and Families that the hospital has taken possession of the child.

c. The Division of Youth and Family Services shall assume the care, custody and control of the child immediately upon receipt of notice from a licensed general hospital pursuant to paragraph (3) of subsection b. of this section. The division shall commence a thorough search of all listings of missing children to ensure that the relinquished child has not been reported missing.

d. A child for whom the Division of Youth and Family Services assumes care, custody and control pursuant to subsection c. of this section shall be treated as a child taken into possession without a court order.

e. It shall be an affirmative defense to prosecution for abandonment of a child that 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 as provided in subsection a. of this section or the emergency department of a licensed general hospital in this State as provided in subsection b. of this section. Nothing in this subsection shall be construed to create a defense to any prosecution arising from any conduct other than the act of delivering the child as described herein, and this subsection specifically shall not constitute a defense to any prosecution arising from an act of abuse or neglect committed prior to the delivery of the child to a State, county or municipal police station as provided in subsection a. of this section or the emergency department of a licensed general hospital in this State as provided in subsection b. of this section.

f. A State, county or municipal police officer and the governmental jurisdiction employing that officer or an employee of an emergency department of a licensed general hospital in this State and the hospital employing that person shall incur no civil or criminal liability for any good faith acts or omissions performed pursuant to this section.

g. Any person who voluntarily delivers a child who is or appears to be no more than 30 days old to a licensed general hospital or a police station in accordance with this section shall not be required to disclose that person's name or other identifying information or that of the child or the child's parent, if different from the person who delivers the child to the hospital or police station, or provide background or medical information about the child, but may voluntarily do so.

125. Section 6 of P.L.2000, c.58 (C.30:4C-15.9) is amended to read as follows:

C.30:4C-15.9 Educational and public information program, toll free hotline.

6. a. The Commissioner of Children and Families, in consultation with the Commissioner of Health and Senior Services, shall establish an educational and public information program to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents and information regarding adoption procedures. This campaign shall include the establishment of a 24-hour, toll free hotline to assist in making information about the safe haven procedures established by P.L.2000, c.58 (C.30:4C-15.5 et al.) as widely available as possible.

b. The Department of Children and Families shall provide to licensed general hospitals in this State and State, county or municipal police stations information about relevant social service agencies which may be made available to any person voluntarily delivering a child as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7).

126. Section 9 of P.L.2000, c.58 (C.30:4C-15.10) is amended to read as follows:

C.30:4C-15.10 Rules, regulations.

9. The Commissioner of Children and Families, in consultation with the Commissioner of Health and Senior Services and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

127. Section 1 of P.L.2005, c.294 is amended to read as follows:

1. The Legislature finds and declares that:

a. The "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et seq.) is intended to provide for the emergency possession of certain abandoned newborn infants in such a manner as to ensure the anonymity, confidentiality and freedom from

prosecution that may encourage a parent who may be under severe emotional stress to leave an infant at a safe haven and thereby save that infant's life;

b. This statute requires the Commissioner of Children and Families to establish an educational and public information program to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents and information regarding adoption procedures;

c. Pursuant to the Safe Haven law, the Department of Children and Families established a multifaceted media campaign to inform the public about its provisions, and this effort has included: a 24-hour toll-free telephone hotline; public service announcements on radio and cable television; posters for display in social service agencies, high schools, stores and churches; pocket cards and brochures in both English and Spanish; and advertising in local and college newspapers and on billboards and buses;

d. Despite these efforts to promote public awareness of the Safe Haven law, unlawful abandonment of newborn infants continues to be a problem in New Jersey, as evidenced by the finding of three newborn infants who were unlawfully abandoned during a three-week period in January 2004, instead of being dropped off safely as provided under P.L.2000, c.58, with the consequent loss of life for one of those infants; and

e. The indications of this continuing problem raise questions about whether the existing efforts to disseminate information about the provisions of the Safe Haven law can create sufficient public awareness to alleviate the problem of unlawful baby abandonment and thereby achieve the intent of the "New Jersey Safe Haven Infant Protection Act."

128. Section 2 of P.L.2005, c.294 is amended to read as follows:

2. There is established the Safe Haven Awareness Promotion Task Force in the Department of Children and Families. The purpose of the task force shall be to study and evaluate the efficacy of existing efforts to promote awareness among the general public of the provisions of the "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et seq.), and develop recommendations relating to specific actionable measures to support and enhance efforts that would improve the effectiveness of the campaign to promote public awareness of the Safe Haven law.

129. Section 3 of P.L.2005, c.294 is amended to read as follows:

3. a. The task force shall consist of 19 members as follows:

(1) the Commissioners of Health and Senior Services, Children and Families and Education, the Director of the Division on Women in the Department of Community Affairs and the Child Advocate, or their designees, who shall serve ex officio; and

(2) 14 public members, who shall be appointed by the Governor no later than the 30th day after the effective date of this act, as follows: one person upon the recommendation of the Association for Children of New Jersey; one person upon the recommendation of the New Jersey Chapter of the National Association of Social Workers; one person upon the recommendation of the School of Social Work at Rutgers, The State University of New Jersey; one person upon the recommendation of Foster and Adoptive Family Services; one person upon the recommendation of the American Academy of Pediatrics-New Jersey Chapter; one person upon the recommendation of the New Jersey Education Association; one person upon the recommendation of the New Jersey State School Nurses Association; one person upon the recommendation of the New Jersey Hospital Association; one person upon

the recommendation of the Mental Health Association in New Jersey; one person upon the recommendation of the New Jersey Task Force on Child Abuse and Neglect, one person upon the recommendation of the New Jersey Catholic Conference; one person upon the recommendation of New Jersey Right to Life; and two members of the public with a demonstrated expertise in issues relating to the work of the task force.

Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

b. The Commissioner of Children and Families or the commissioner's designee shall serve as chairperson of the task force. The task force shall organize as soon as practicable following the appointment of its members and shall select a vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the task force.

c. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

d. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

e. The task force may meet and hold hearings at the places it designates during the sessions or recesses of the Legislature.

f. The Department of Children and Families shall provide staff support to the task force.

130. 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 or other entity

designated by the Commissioner of Children and Families, 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.

131. 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 wherein any child in the care, custody or guardianship of the Department of Children and Families may be placed by the department, or with its approval, for care, and shall include any private residence maintained by persons with whom any such child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

132. Section 2 of P.L.1962, c.137 (C.30:4C-26.2) is amended to read as follows:

C.30:4C-26.2 Child care centers; establishment and maintenance.

2. The Division of Youth and Family Services, shall establish and maintain, within the limits of available appropriations, child care shelters in such numbers and at such locations throughout the State as the Commissioner of Children and Families shall deem to be necessary.

133. 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 Department of Children and Families is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

134. 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 Department of Children and Families is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

135. 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 Children and Families, 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 Children and Families 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 Department of Children and Families is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

136. 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; definition.

1. The Department of Children and Families 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 Children and Families 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 Department of Children and Families is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

137. 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 Department of Children and Families is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

138. 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 Children and Families.

“Department” means the Department of Children and Families.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“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, including a child who has been placed by the division with the person for the purpose of adoption, 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.

139. 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 Children and Families.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“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.

140. 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 Children and Families, 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 Children and Families, 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.

141. 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 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 Children and Families;

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.

142. 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 Children and Families 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.

143. Section 5 of P.L.1991, c.448 (C.30:4C-53.5) is amended to read as follows:

C.30:4C-53.5 Rules, regulations.

5. Pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Children and Families shall adopt all rules and regulations necessary to effectuate the purposes of this act.

144. Section 4 of P.L.1992, c.111 (C.30:4C-69) is amended to read as follows:

C.30:4C-69 Development of interdepartmental plan.

4. The Commissioner of Children and Families shall develop an interdepartmental plan for the implementation of an individualized, appropriate child and family driven care system for children with special emotional needs and for the reduction of inappropriate use of out-of-home placements of these children. The plan shall first address children ready to be returned from in-State and out-of-State residential facilities, and those at imminent risk of extended out-of-home placement. The commissioner shall consult with appropriate representatives from the State departments of Education, Human Services, Corrections,

Health and Senior Services, Community Affairs and the Public Advocate, the Child Advocate, the private entity, if any, designated by the Governor as the State's mental health protection and advocacy agency, the Statewide Children's Coordinating Council in the Department of Children and Families, the Administrative Office of the Courts, and Statewide family advocacy groups, in the development of the plan.

145. Section 5 of P.L.1992, c.111 (C.30:4C-70) is amended to read as follows:

C.30:4C-70 Establishment of CART, CIACC.

5. A county may establish a CART and CIACC in accordance with the provisions of this act. In the event that a county does not establish a CART or CIACC, the Department of Children and Families may establish a CART or CIACC for that county.

146. Section 6 of P.L.1992, c.111 (C.30:4C-71) is amended to read as follows:

C.30:4C-71 Contents of plan.

6. The plan shall:

a. Assess current policies and activities of all divisions in the Department of Children and Families in the implementation of the individualized, appropriate child and family driven care system;

b. Assess the implementation of the policies and procedures of the Case Assessment Resource Teams (CARTs) and the County Inter-Agency Coordinating Councils (CIACCs) sanctioned by the Department of Children and Families to be certain, among other things, that a family using the services is a full participant in the CART/CIACC process;

c. Be consistent with principles set forth in section 7 of this act;

d. Set forth specific timelines and procedures for the implementation of new policies and practices that shall be undertaken to develop a system of care which is integrated across divisional and departmental lines;

e. Specify the role and function of the CARTs and CIACCs in developing the individualized, appropriate child and family driven care system;

f. Recommend departmental or divisional organizational changes required to execute the system of care;

g. Specify the interdepartmental amounts and sources of financial resources required to implement and maintain a coordinated system of care;

h. Develop a mechanism to guarantee that savings accrued through implementation of this plan be applied to community-based children's services;

i. Identify funding mechanisms compatible with individual county needs to carry out the purposes of this act;

j. Develop a system to monitor and evaluate the outcomes for children with special emotional needs who have received community-based services as a result of the implementation of an individualized, appropriate child and family driven care system;

k. Develop an independent evaluation mechanism to report at least quarterly, which is designed to enhance and evaluate the CART/CIACC inter-agency system at both the local and Statewide levels;

l. Describe all services, both public and private, including rehabilitation services, vocational services, substance abuse services, housing services, educational services, medical and dental care to be provided by local school systems under the "Education of the Handicapped Act," (20 U.S.C. s.1401 et seq.); and

m. Describe how parents will be involved in the development of the plan and how the plan will insure their full participation in the CART/CIAAC process.

147. Section 8 of P.L.1992, c.111 (C.30:4C-73) is amended to read as follows:

C.30:4C-73 Use of monies saved.

8. Any monies saved by the Department of Children and Families in preventing the out-of-home placement of children pursuant to this act shall be used by the department to provide services pursuant to the interdepartmental plan developed pursuant to this act.

148. Section 3 of P.L.1993, c.157 (C.30:4C-76) is amended to read as follows:

C.30:4C-76 Establishment of family preservation services program; objectives.

3. a. The Department of Children and Families may establish, through purchase of service contracts with community-based organizations, at least one family preservation services program in each county in the State. The program shall provide services to families whose children are at imminent risk of placement as determined by agencies authorized to place children, or whose children are being prepared for reunification.

b. The family preservation services program shall be based on the following objectives:

(1) The prevention of out-of-home placement by enhancing family functioning and problem solving;

(2) The development of appropriate crisis management and parenting skills;

(3) The provision of services to families, as needed, including transportation, emergency financial assistance for food, clothing and housing, family counseling and substance abuse treatment; and

(4) The development of linkages with service networks and community resources.

149. Section 6 of P.L.1993, c.157 (C.30:4C-79) is amended to read as follows:

C.30:4C-79 Development of manual of standards.

6. The Department of Children and Families shall develop a manual of standards on the operation and programmatic aspects of family preservation services.

150. Section 7 of P.L.1993, c.157 (C.30:4C-80) is amended to read as follows:

C.30:4C-80 Family Preservation Services Coordinating Unit established.

7. There is established a Family Preservation Services Coordinating Unit in the Department of Children and Families. The unit shall consist of persons with knowledge of and experience with the family preservation services program in the State and in all facets of the operation of the program. The coordinating unit personnel shall be appointed by the Commissioner of Children and Families. The coordinating unit shall develop, monitor and implement all phases of the family preservation services initiative and its activities will include the provision of technical support and the establishment and the monitoring of all family preservation services programs throughout the State.

151. 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 Children and Families shall report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to 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.

152. Section 9 of P.L.1993, c.157 (C.30:4C-82) is amended to read as follows:

C.30:4C-82 Use of federal funding, maximize.

9. The Department of Children and Families shall seek to maximize any available federal funding which may be used for the purposes of administering or providing family preservation services. Any federal funding made available under this section shall be used to supplement and shall not supplant State funds used to carry out the purposes of this act.

153. Section 10 of P.L.1993, c.157 (C.30:4C-83) is amended to read as follows:

C.30:4C-83 Transfer of funds.

10. The Commissioner of Children and Families, following prior review and approval from the Office of Management and Budget, may transfer funds appropriated for substitute care services to purchase family preservation services established pursuant to this act.

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

C.30:4C-84 Definitions relative to kinship legal guardianship and State agency action.

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

“Caregiver” means a person over 18 years of age, other than a child's parent, who has a kinship relationship with the child and has been providing care and support for the child, while the child has been residing in the caregiver's home, for either the last 12 consecutive months or 15 of the last 22 months. “Caregiver” includes a resource family parent as defined in section 1 of P.L.1962, c.136 (C.30:4C-26.4).

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

“Commissioner” means the Commissioner of Children and Families.

“Court” means the Superior Court, Chancery Division, Family Part.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“Family friend” means a person who is connected to a child or the child's parent by an established, positive psychological or emotional relationship that is not a biological or legal relationship.

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

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

“Kinship relationship” means a family friend or a person with a biological or legal relationship with the child.

155. Section 11 of P.L.2001 c.250 (C.30:4C-88) is amended to read as follows:

C.30:4C-88 Rules, regulations.

11. The Commissioner of Children and Families, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

156. Section 2 of P.L.2003, c.132 (C.30:4C-102) is amended to read as follows:

C.30:4C-102 “Statewide Tuition Waiver Program.”

2. There is created in the Department of Children and Families the “Statewide Tuition Waiver Program.” The purpose of the program is to provide State-paid tuition to children who have been under the care and custody of the Division of Youth and Family Services pursuant to section 11 of P.L.1951, c.138 (C.30:4C-11), and who are interested in pursuing a college or post-secondary vocational education at a public institution of higher education or county vocational school in this State.

157. Section 3 of P.L.2003, c.132 (C.30:4C-103) is amended to read as follows:

C.30:4C-103 Eligibility requirements for program.

3. a. A child shall be eligible to qualify for the program if the child meets the following requirements at the time of the initial application to the Commissioner of Children and Families for a tuition waiver pursuant to subsection b. of this section:

(1) the child is 16 to 23 years of age;

(2) the child:

(a) has been in the care and custody of the Division of Youth and Family Services in the Department of Children and Families for a period of nine months or more following the child's sixteenth birthday;

(b) is or has been residing in an independent living arrangement, or a transitional living program established pursuant to P.L.1999, c.224 (C.9:12A-2 et seq.), operated or approved for payment by the division; or

(c) is or has been residing in a transitional living program located in the State of New Jersey and approved for payment by the federal government pursuant to the federal “Runaway and Homeless Youth Act,” Title III of Pub.L.93-415 (42 U.S.C.A. s.5701 et seq.);

(3) the child has received a high school diploma or a certificate of high school equivalency; and

(4) the child has been granted admission to a New Jersey public institution of higher education or county vocational school.

b. A child who meets the eligibility requirements listed in this section may apply to the Commissioner of Children and Families for a tuition waiver in a form and manner prescribed by the commissioner.

c. Upon receipt of an application, the Commissioner of Children and Families shall review the application and if the child meets the program eligibility requirements, the commissioner shall approve the application and notify the appropriate New Jersey public institution of higher education or county vocational school that the child qualifies for a tuition waiver.

d. Eligibility for the program shall be limited to five years from the date the child applied to the Commissioner of Children and Families for a tuition waiver pursuant to subsection b. of this section.

e. Each child approved for the program shall be required to enroll in a full-time degree, diploma or certificate program or course of undergraduate study and retain satisfactory academic progress during the time the child qualifies for a tuition waiver.

158. Section 5 of P.L.2003, c.132 (C.30:4C-105) is amended to read as follows:

C.30:4C-105 Rules, regulations.

5. Subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Children and Families, in consultation with the Higher Education Student Assistance Authority shall adopt rules and regulations to effectuate the purposes of this act.

159. 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 aid to families with dependent children 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 aid to families with dependent children 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 aid to families with dependent children 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 in the Department of Children and Families 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 aid to families with dependent children 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 aid to families with dependent children 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 aid to families with dependent children 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,

(a) if a dependent child, does not exceed 133% of the poverty level; and

(b) if a parent or specified caretaker relative, beginning September 1, 2005 does not exceed 100% of the poverty level, beginning September 1, 2006 does not exceed 115% of the poverty level and beginning September 1, 2007 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;

The commissioner may increase the income eligibility limits for children and parents and specified caretaker relatives, as funding permits;

(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 in the Department of Children and Families 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;

(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); or

(20) Subject to federal approval under Title XIX of the federal Social Security Act, is a single adult or couple, without dependent children, whose income in 2006 does not exceed 50% of the poverty level, in 2007 does not exceed 75% of the poverty level and in 2008 and each year thereafter does not exceed 100% of the poverty level; except that a person who is a recipient of Work First New Jersey general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), shall not be a qualified applicant.

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).

160. Section 10 of P.L.1985, c.307 (C.30:4G-10) is amended to read as follows:

C.30:4G-10 Advisory Council on Personal Attendant Services.

a. There is established in the department an Advisory Council on Personal Attendant Services which consists of 19 members as follows: the Commissioner of Health and Senior Services, the Director of the Division of Youth and Family Services in the Department of Children and Families, the Director of the Division of Developmental Disabilities, and the Director of the Division of Medical Assistance and Health Services in the Department of Human Services, the Director of the Division of Veterans' Services in the Department of Military and Veterans Affairs, and the Director of the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development, or their designees, who shall serve ex officio, and 13 members appointed by the commissioner who are residents of this State, one of whom is a member of the New Jersey Association of County Representatives of Disabled Persons, four of whom represent providers of personal attendant services, five of whom represent consumers of personal attendant services and three of whom represent advocacy groups or agencies for the physically disabled.

A vacancy in the membership of the council shall be filled in the same manner as the original appointment.

The members of the council shall serve without compensation, but the department shall reimburse the members for the reasonable expenses incurred in the performance of their duties.

b. The council shall hold an organizational meeting within 30 days after the appointment of its members. The members of the council shall elect from among them a chairman, who shall be the chief executive officer of the council and the members shall elect a secretary, who need not be a member of the council.

c. The council shall:

(1) Advise the commissioner on matters pertaining to personal attendant services and the development of the personal attendant program, upon the request of the commissioner;

(2) Review the rules and regulations promulgated for the implementation of the personal attendant program and make recommendations to the commissioner, as appropriate;

(3) Evaluate the effectiveness of the personal attendant program in achieving the purposes of this act; and

(4) Assess the Statewide need for personal attendant services and the projected cost for providing these services Statewide.

161. Section 3 of P.L.1983, c.492 (C.30:5B-3) is amended to read as follows:

C.30:5B-3 Definitions.

3. As used in this act:

a. "Child" means any person under the age of 13.

b. "Child care center" or "center" means any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. In the case of a center operating in a sponsor's home, children who reside in the home shall not be included when counting the number of children being served. This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the Department of Human Services prior to the enactment of the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include:

(1) (Deleted by amendment, P.L.1992, c.95).

(2) A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;

(3) Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such children are attending religious services;

(4) A program of specialized activity or instruction for children that is not designed or intended for child care purposes, including, but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior Achievement, and single activity programs such as athletics, gymnastics, hobbies, art, music, and dance and craft instruction, which are supervised by an adult, agency or institution;

(5) Youth camps required to be licensed under the "New Jersey Youth Camp Safety Act," P.L.1973, c.375 (C.26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the Department of Health and Senior Services. A youth camp sponsor who also operates a child care center shall secure a license from the Department of Children and Families for the center;

(6) Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services;

(7) Programs operated by the board of education of the local public school district that is responsible for their implementation and management;

(8) A program such as that located in a bowling alley, health spa or other facility in which each child attends for a limited time period while the parent is present and using the facility;

(9) A child care program operating within a geographical area, enclave or facility that is owned or operated by the federal government;

(10) A family day care home that is registered pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.); and

(11) Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.18A:46-1 et seq.

c. "Commissioner" means the Commissioner of Children and Families.

d. "Department" means the Department of Children and Families.

e. "Parent" means a natural or adoptive parent, guardian, or any other person having responsibility for, or custody of, a child.

f. "Person" means any individual, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

g. "Sponsor" means any person owning or operating a child care center.

162. Section 5 of P.L.1999, c.171 (C.30:5B-5.4) is amended to read as follows:

C.30:5B-5.4 Regulations adopted by Commissioner of Children and Families relative to children's health care coverage.

5. The Commissioner of Children and Families, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to provide for the implementation by licensed child care centers, registered family day care homes, and unified child care agencies of such procedures as the commissioner deems necessary to effectuate the purposes of subsection f. of section 4 of P.L.1997, c.272 (C.30:4I-4).

163. Section 1 of P.L.1997, c.254 (C.30:5B-6.1) is amended to read as follows:

C.30:5B-6.1 Definitions relative to child abuse record information checks.

1. As used in this act:

"Department" means the Department of Children and Families.

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

"Staff member" means any owner, sponsor, director or person employed by or working at a child care center on a regularly scheduled basis during the center's operating hours, including full-time, part-time, voluntary, contract, consulting, and substitute staff, whether compensated or not.

"Child care center" or "Center" means any facility which is maintained for the care, development or supervision of six or more children under 13 years of age who attend the facility for less than 24 hours a day, and which is subject to State licensure or life-safety approval, pursuant to the provisions of the "Child Care Licensing Act," P.L. 1983, c.492 (C.30:5B-1 to 30:5B-15) .

164. Section 1 of P.L.2000, c.77 (C.30:5B-6.10) is amended to read as follows:

C.30:5B-6.10 Definitions relative to criminal history record background checks for child care center staff.

1. As used in sections 1 through 7 and 9 through 12 of P.L.2000, c.77 (C.30:5B-6.10 et seq.):

“Child care center” or “center” means any facility which is maintained for the care, development or supervision of six or more children under 13 years of age who attend the facility for less than 24 hours a day, and which is subject to State licensure or life-safety approval pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.).

“Department” means the Department of Children and Families.

“Division” means the Division of Youth and Family Services in the Department of Children and Families.

“Staff member” means a person 18 years of age or older who owns, sponsors, or directs a child care center, or who is employed by or works in a child care center on a regularly scheduled basis during the center's operating hours, including full-time, part-time, voluntary, contract, consulting, and substitute staff, whether compensated or not.

165. Section 14 of P.L.1983, c.492 (C.30:5B-14) is amended to read as follows:

C.30:5B-14 Child Care Advisory Council.

14. a. The Director of the Division of Family Development in the Department of Human Services, a designee of the Commissioner of Children and Families, and the Director of the Division on Women in the Department of Community Affairs shall establish a Child Care Advisory Council which shall consist of at least 15 individuals who have experience, training or other interests in child care issues. To the extent possible, the directors shall designate members of existing councils or task forces heretofore established on child care in New Jersey as the advisory council.

b. The advisory council shall:

(1) Review rules and regulations or proposed revisions to existing rules and regulations governing the licensing of child care centers;

(2) Review proposed statutory amendments governing the licensing of child care centers and make recommendations to the commissioner;

(3) Advise the commissioner on the administration of the licensing responsibilities under this act;

(4) Advise the Commissioners of Human Services, Children and Families, and Community Affairs and other appropriate units of State government on the needs, priorities, programs, and policies relating to child care throughout the State;

(5) Study and recommend alternative resources for child care; and

(6) Facilitate employer supported child care through information and technical assistance.

c. The advisory council may accept from any governmental department or agency, public or private body or any other source grants or contributions to be used in carrying out its responsibilities under this act.

166. 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 Children and Families.

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.

167. Section 10 of P.L.1987, c.27 (C.30:5B-25) is amended to read as follows:

C.30:5B-25 Regulations.

10. The Commissioner of Children and Families shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt regulations necessary to implement the provisions of this act.

168. 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 Children and Families 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.

169. 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 Children and Families 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 Children and Families.

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.

170. 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 Children and Families 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.

171. Section 2 of P.L.2003, c.185 (C.30:5B-32) is amended to read as follows:

C.30:5B-32 Child abuse record information check for prospective approved home providers.

2. a. A unified child care agency contracted with the Department of Human Services pursuant to N.J.A.C.10:15-2.1, shall request that the Division of Youth and Family Services in the Department of Children and Families conduct a child abuse record information check of the division's child abuse records, as promptly as possible, 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:

(1) a prospective approved home provider as defined in N.J.A.C.10:15-1.2 providing child care services under the "New Jersey Cares for Kids Program" established pursuant to N.J.A.C.10:15-5.1, or to a child whose parent is receiving assistance under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) or is employed but continues to receive supportive services pursuant to the provisions of section 5 of P.L.1997, c.13 (C.44:10-38); or

(2) any adult member of the prospective provider's household.

b. The division shall conduct the child abuse record information check only upon receipt of the prospective approved home provider's or any adult household member's written consent to the check. If the person refuses to provide his consent, the unified child care agency shall deny the prospective approved home provider's application to provide child care services.

c. If the division determines that an incident of child abuse or neglect by the prospective approved home provider or any adult member of the household has been substantiated, the

division shall release the results of the child abuse record information check to the unified child care agency pursuant to subsection g. of section 1 of P.L.1977, c.102 (C.9:6-8.10a) and the agency shall deny the prospective approved home provider's application to provide child care services.

d. Before denying the prospective approved home provider's application to provide child care services, the unified child care agency shall give notice personally or by certified or registered mail to the last known address of the prospective approved home provider with return receipt requested, of the reasons why the application will be denied. The notice shall afford the prospective approved home provider the opportunity to be heard and to contest the agency'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.).

e. If a prospective approved home provider's application to provide child care services is denied, the unified child care agency shall notify the parent of the child who would be eligible to receive such services, personally and in writing, of the reasons why the application was denied and the parent's right to select another provider. The parent shall keep such information confidential and shall not disclose the information except as authorized by law.

172. Section 2 of P.L.1995, c.321 (C.30:9A-19) is amended to read as follows:

C.30:9A-19 License required for conducting, maintaining, operating mental health program; fees.

2. a. A person shall not conduct, maintain or operate a mental health program unless: (1) the commissioner or the Commissioner of Children and Families, as applicable, has issued a license to that person, in accordance with rules and regulations adopted by the commissioner or the Commissioner of Children and Families, as applicable, which prescribe standards for the provision of services by a mental health program; and (2) that person has a purchase of service contract or an affiliation agreement with the Division of Mental Health Services in the Department of Human Services or the Department of Children and Families, including, but not limited to, the Division of Child Behavioral Health Services, as applicable.

b. Application for a license to conduct, maintain or operate a mental health program shall be made upon forms prescribed by the commissioner or the Commissioner of Children and Families, as applicable. The commissioner or the Commissioner of Children and Families, as applicable, shall charge such nonrefundable fees for the filing of an application for a license, and for any renewal thereof, as the commissioner or the Commissioner of Children and Families, as applicable, shall from time to time fix by regulation.

173. Section 3 of P.L.1995, c.321 (C.30:9A-20) is amended to read as follows:

C.30:9A-20 Construction of act.

3. Nothing in this act shall be construed to:

a. limit the authority of the Department of Health and Senior Services with respect to the licensure of a health care facility pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), regardless of whether the facility operates a separate psychiatric unit or service, or limit the authority of the Department of Human Services with respect to the licensure of an alcohol treatment facility pursuant to P.L.1975, c.305 (C.26:2B-7 et seq.), or the issuance of a certificate of approval to a narcotic and drug abuse treatment center pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.);

b. require the licensure of any facility or center referenced in subsection a. of this section by the Department of Human Services; or

c. require licensure of a mental health agency which does not provide a mental health program that is subject to regulations adopted by the commissioner or the Commissioner of Children and Families, as applicable.

174. Section 4 of P.L.1995, c.321 (C.30:9A-21) is amended to read as follows:

C.30:9A-21 Rules, regulations.

4. The commissioner or the Commissioner of Children and Families, as applicable, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

175. Section 4 of P.L.2003, c.214 (C.30:9A-25) is amended to read as follows:

C.30:9A-25 New Jersey Youth Suicide Prevention Advisory Council.

4. There is established in the Department of Children and Families the New Jersey Youth Suicide Prevention Advisory Council.

a. The purpose of the council shall be to: examine existing needs and services and make recommendations to the division for youth suicide reporting, prevention and intervention; advise the division on the content of informational materials to be made available to persons who report attempted or completed suicides; and advise the division in the development of regulations required pursuant to this act.

b. The council shall consist of 18 members as follows:

(1) the Commissioners of Human Services, Children and Families, Health and Senior Services, and Education, the executive director of the Juvenile Justice Commission established pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.) and the chairman of the Community Mental Health Citizens Advisory Board established pursuant to P.L.1957, c.146 (C.30:9A-1 et seq.), or their designees, who shall serve ex officio;

(2) six public members appointed by the Governor, as follows: one person who is a current member of a county mental health advisory board, one person with personal or family experience with suicide, one person who is a current or retired primary or secondary school teacher, one person who is a current or former member of a local board of education, one psychiatrist and one person with professional experience in the collection and reporting of social science data;

(3) three public members appointed by the President of the Senate, no more than two of whom are members of the same political party, one of whom has volunteer or paid experience in the provision of services to survivors of suicide or youth at risk of attempting suicide, one of whom is an alcohol and drug counselor, and one of whom is a representative of the New Jersey Traumatic Loss Coalition; and

(4) three public members appointed by the Speaker of the General Assembly, no more than two of whom are members of the same political party, one of whom has knowledge of and interest in the prevention of youth suicide and the provision of education about suicide to high-risk populations, including religious, racial, ethnic or sexual minorities, one of whom is a pediatrician, and one of whom is a school-based counselor.

c. The public members shall be appointed no later than 60 days after the date of enactment of this act.

d. The public members shall serve for a term of five years; but, of the members first appointed, three shall serve for a term of two years, three for a term of three years, three for a term of four years and three for a term of five years. Members are eligible for reappointment upon the expiration of their terms. Vacancies in the membership of the council shall be filled in the same manner provided for the original appointments.

e. The council shall organize as soon as practicable following the appointment of its members and shall select a chairperson and vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the council.

f. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the council.

g. The council shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

h. The Department of Children and Families shall provide staff support to the council.

176. Section 1 of P.L.1977, c.448 (C.30:11B-1) is amended to read as follows:

C.30:11B-1 Findings.

1. The Legislature finds that many developmentally disabled persons who are now housed in large institutions can be better cared for and given training for independent living in small community residences. Such persons have a right to the fuller, more normal life that care in such residences brings, and it is, therefore, the intention of the Legislature, through this act, to encourage the development of community residences for the developmentally disabled and to provide for the licensing and regulation of such residences by the Department of Human Services.

The Legislature further finds that there are many persons who have been hospitalized due to mental illness and are recovered to the extent that they no longer require such hospitalization, but would benefit from the specialized independent-living training available to residents of small community residences for the mentally ill. These community residences for the mentally ill may also be utilized by persons who have not been hospitalized for mental illness but who are participating in community mental health counseling or training programs provided by a State-affiliated community mental health agency. These persons have a right to the fuller, more normal life that care in community residences brings, and it is, therefore, the intention of the Legislature through this act, to encourage the development of community residences for the mentally ill and to provide for the licensing and regulation of the residences by the Department of Human Services or the Department of Children and Families, as applicable.

In addition, the Legislature finds that many persons who have sustained head injuries which impair their cognitive, behavioral, social or physical functioning, and who are now housed in large institutions can be better cared for and given training for independent living in small community residences. These persons have a right to the fuller, more normal life that care in these residences brings, and it is, therefore, the intention of the Legislature, through this act, to encourage the development of community residences for persons with head injuries and to provide for the licensing and regulation of these residences by the Department of Human Services.

177. Section 2 of P.L.1977, c.448 (C.30:11B-2) is amended to read as follows:

C.30:11B-2 Definitions.

2. "Community residence for the developmentally disabled" means any community residential facility housing up to 16 developmentally disabled persons which provides food, shelter and personal guidance for developmentally disabled persons who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hostels.

"Community residence for the mentally ill" means any community residential facility which provides food, shelter and personal guidance, under such supervision as required, to not more than 15 mentally ill persons who require assistance temporarily or permanently, in order to live independently in the community. These residences shall be approved for a purchase of service contract or an affiliation agreement pursuant to procedures established by the Division of Mental Health Services in the Department of Human Services or the Division of Child Behavioral Health Services in the Department of Children and Families, as applicable. These residences shall not house persons who have been assigned to a State psychiatric hospital after having been found not guilty of a criminal offense by reason of insanity or unfit to be tried on a criminal charge. These residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, family care homes and hostels.

"Community residence for persons with head injuries" means a community residential facility providing food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.).

"Developmental disability" or "developmentally disabled" means a severe, chronic disability of a person which: a. is attributable to a mental or physical impairment or combination of mental or physical impairments; b. is manifest before age 22; c. is likely to continue indefinitely; d. results in substantial functional limitations in three or more of the following areas of major life activity, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self-sufficiency; and e. reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. Developmental disability includes, but is not limited to, severe disabilities attributable to mental retardation, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.

"Mentally ill" means any psychiatric disorder which has required an individual to receive either inpatient psychiatric care or outpatient psychiatric care on an extended basis.

"Person with head injury" means a person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of cognitive, behavioral, social or physical functioning which causes partial or total disability.

178. Section 4 of P.L.1977, c.448 (C.30:11B-4) is amended to read as follows:

C.30:11B-4 Licenses; regulations.

4. All such residences which are operated by any individual or individuals, corporation, partnership, society or association, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, shall be licensed by the Department of Human Services or Department of Children and Families, as applicable, under appropriate regulations promulgated by the commissioner or the Commissioner of Children and Families, as applicable. Such regulations shall govern the operation and maintenance of residences, and prescribe conditions for admission and discharge of residents. The regulations shall assure that essential life-safety, health and comfort conditions exist in a home-like atmosphere.

179. Section 10 of P.L.1987, c.112 (C.30:11B-4.2) is amended to read as follows:

C.30:11B-4.2 Program standards.

10. a. Within six months of the effective date of this act, the Director of the Division of Mental Health Services in the Department of Human Services or the Division of Child Behavioral Health Services in the Department of Children and Families, as applicable shall develop program standards which include criteria for educational and professional experience of employees of a community residence for the mentally ill and staffing ratios appropriate to the needs of the residents of the community residences for the mentally ill.

b. Within six months after the effective date of P.L.1993, c.329, the Commissioner of Human Services or the Commissioner of Children and Families, as applicable, shall develop program standards which include criteria for educational and professional experience of employees of a community residence for persons with head injuries and staffing ratios appropriate to the needs of the residents of these community residences.

180. Section 5 of P.L.1977, c.448 (C.30:11B-5) is amended to read as follows:

C.30:11B-5 Geographic location.

5. The geographic location of community residences for the developmentally disabled, community residences for the mentally ill and community residences for persons with head injuries shall be monitored by the Department of Human Services or Department of Children and Families, as applicable. Through the granting or withholding of licenses, the respective department shall insure that these residences are available throughout the State, without unnecessary concentration in any area.

181. Section 4 of P.L.1979, c.337 (C.30:14-4) is amended to read as follows:

C.30:14-4 Advisory Council on Domestic Violence.

4. a. There is created an Advisory Council on Domestic Violence which shall consist of 20 members: the Director of the Division on Women in the Department of Community Affairs, the Director of the Division of Youth and Family Services in the Department of Children and Families and the Director of the Division of Family Development in the Department of Human Services, the Director of the Administrative Office of the Courts, the Commissioner of the Department of Education, the Commissioner of Labor and Workforce Development, the Attorney General, or their designees, and one representative of Legal Services of New

Jersey, one former domestic violence shelter resident, one representative of the Police Chiefs Association, one representative of the County Prosecutors Association, one representative of the New Jersey State Nurses Association, one representative of the Mental Health Association in New Jersey, one representative of the New Jersey Crime Prevention Officers Association, one representative of the New Jersey Hospital Association, one representative of the Violent Crimes Compensation Board, and four representatives of the New Jersey Coalition for Battered Women to be appointed by the Governor.

b. The advisory council shall:

(1) Monitor the effectiveness of the laws concerning domestic violence and make recommendations for their improvement;

(2) Review proposed legislation governing domestic violence and make recommendations to the Governor and the Legislature;

(3) Study the needs, priorities, programs, and policies relating to domestic violence throughout the State; and

(4) Ensure that all service providers and citizens are aware of the needs of and services available to victims of domestic violence and make recommendations for community education and training programs.

c. The advisory council shall periodically advise the Director of the Division of Youth and Family Services in the Department of Children and Families and the Director of the Division on Women in the Department of Community Affairs on its activities, findings and recommendations.

182. Section 3 of P.L.2001, c.195 (C.30:14-15) is amended to read as follows:

C.30:14-15 “Domestic Violence Victims’ Fund.”

3. a. There is hereby established the “Domestic Violence Victims' Fund,” a dedicated fund within the General Fund and administered by the Division of Youth and Family Services in the Department of Children and Families. The fund shall be the depository of moneys realized from the civil penalty imposed pursuant to section 1 of P.L.2001, c.195 (C.2C:25-29.1) and any other moneys made available for the purposes of the fund.

b. All moneys deposited in the “Domestic Violence Victims' Fund” shall be used for direct services to victims of domestic violence, including, but not limited to, shelter services, legal advocacy services and legal assistance services, and for related administrative costs of the Division of Youth and Family Services.

183. Section 5 of P.L.1997, c.364 (C.34:5A-10.5) is amended to read as follows:

C.34:5A-10.5 Regulations.

5. The Department of Health and Senior Services, in consultation with the Departments of Education, Human Services, Children and Families and Environmental Protection, and within 180 days of the enactment of P.L.1997, c.364 (C.34:5A-10.1 et seq.), shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), regulations necessary to implement the provisions of this act which are consistent with federal and State indoor air quality standards and standards governing the exposure of children to hazardous substances as they are adopted by the federal government.

184. Section 3 of P.L.1999, c.279 (C.34:15F-3) is amended to read as follows:

C.34:15F-3 At-Risk Youth Mentoring Program.

3. There is established in the Department of Labor and Workforce Development an At-Risk Youth Mentoring Program to be administered by the Commissioner of Labor and Workforce Development pursuant to the provisions of this act. The commissioner shall consult with the Department of Human Services, the Department of Children and Families, and the Department of Education and other appropriate State agencies regarding the development, operation and administration of the program. The commissioner shall also consult with the Community Agencies Corporation of New Jersey and other public and private nonprofit organizations providing youth mentoring services. The program shall provide for the training of volunteer mentors through local collaborative partnerships between the school district, the educational foundation and other community based organizations and for the assignment of mentors to at-risk students enrolled within a participating school district. The program shall also provide for collaboration with public and private organizations that provide comprehensive health, employment, and social services to youth. The purpose of the program shall be to enable at-risk students to develop a relationship with a caring and responsible adult to provide the personal and emotional support necessary for school success and future successful functioning in society.

185. 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 Children and Families 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 Children and Families in accordance with rules and regulations adopted by the Commissioner of Children and Families provided, however, that no group home shall contain more than 12 children.

186. 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 Children and Families, 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.

187. 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 Children and Families, 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 (c) 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 (c) 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 (c) 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 (C) 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.).

188. Section 13 of P.L.1971, c.182 (C.52:13D-24) is amended to read as follows:

C.52:13D-24 Restriction on, solicitation, receipt, etc. of certain things of value by certain State officers, employees.

13. a. No State officer or employee, special State officer or employee, or member of the Legislature shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift, honorarium, out-of-State travel or subsistence expense or other thing of value from any source other than the State of New Jersey, for any service, advice, assistance, appearance, speech or other matter related to the officer, employee, or member’s official duties, except as authorized in this section.

b. A State officer or employee, special State officer or employee, or member of the Legislature may, in connection with any service, advice, assistance, appearance, speech or other matter related to the officer, employee, or member’s official duties, solicit, receive or agree to receive, whether directly or indirectly, from sources other than the State, the following:

(1) reasonable fees for published books on matters within the officer, employee, or member’s official duties;

(2) reimbursement or payment of actual and reasonable expenditures for travel or subsistence and allowable entertainment expenses associated with attending an event in New Jersey if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey;

(3) reimbursement or payment of actual and reasonable expenditures for travel or subsistence outside New Jersey, not to exceed \$500.00 per trip, if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey. The \$500 per trip limitation shall not apply if the reimbursement or payment is made by (a) a nonprofit organization of which the officer, employee, or member is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State or the Legislature in the case of a member of the Legislature; (b) a nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services; or (c) any agency of the federal government, any agency of another state or of two or more states, or any political subdivision of another state.

Members of the Legislature shall obtain the approval of the presiding officer of the member’s House before accepting any reimbursement or payment of expenditures for travel or subsistence outside New Jersey.

As used in this subsection, “reasonable expenditures for travel or subsistence” means commercial travel rates directly to and from an event and food and lodging expenses which are moderate and neither elaborate nor excessive; and “allowable entertainment expenses” means the costs for a guest speaker, incidental music and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive, but does not include the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may occur as part of that event.

c. This section shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, except that campaign contributions may not be accepted if they are known to be given in lieu of a payment prohibited pursuant to this section.

d. (1) Notwithstanding any other provision of law, a designated State officer as defined in paragraph (2) of this subsection shall not solicit, receive or agree to receive, whether directly or indirectly, any compensation, salary, honorarium, fee, or other form of income from any source, other than the compensation paid or reimbursed to him or her by the State for the performance of official duties, for any service, advice, assistance, appearance, speech or other matter, except for investment income from stocks, mutual funds, bonds, bank accounts, notes, a beneficial interest in a trust, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property, or any other similar financial instrument and except for reimbursement for travel as authorized in subsections (2) and (3) of paragraph b. of this section. To receive such income, a designated State officer shall first seek review and approval by the State Ethics Commission to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any applicable code of ethics, and does not undermine the full and diligent performance of the designated State officer's duties.

(2) For the purposes of this subsection, "designated State officer" shall include: the Governor, the Adjutant General, the Secretary of Agriculture, the Attorney General, the Commissioner of Banking and Insurance, the Secretary and Chief Executive Officer of the Commerce and Economic Growth Commission, the Commissioner of Community Affairs, the Commissioner of Corrections, the Commissioner of Education, the Commissioner of Environmental Protection, the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Commissioner of Children and Families, the Commissioner of Labor and Workforce Development, the Commissioner of Personnel, the President of the State Board of Public Utilities, the Secretary of State, the Superintendent of State Police, the Commissioner of Transportation, the State Treasurer, the head of any other department in the Executive Branch, and the following members of the staff of the Office of the Governor: Chief of Staff, Chief of Management and Operations, Chief of Policy and Communications, Chief Counsel to the Governor, Director of Communications, Policy Counselor to the Governor, and any deputy or principal administrative assistant to any of the aforementioned members of the staff of the Office of the Governor listed in this subsection.

e. A violation of this section shall not constitute a crime or offense under the laws of this State.

189. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to read as follows:

C.52:14-15.107 Department officers; annual salaries.

1. Notwithstanding the provisions of the annual appropriations act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the Governor shall fix and establish the annual salary, not to exceed \$133,330 in calendar year 2000, \$137,165 in calendar year 2001 and \$141,000 in calendar year 2002 and thereafter, for each of the following officers:

Title

Agriculture Department

Secretary of Agriculture

Children and Families Department

Commissioner of Children and Families

Community Affairs Department

Commissioner of Community Affairs

Corrections Department

Commissioner of Corrections
Education Department
Commissioner of Education
Environmental Protection Department
Commissioner of Environmental Protection
Health and Senior Services Department
Commissioner of Health and Senior
Services
Human Services Department
Commissioner of Human Services
Banking and Insurance Department
Commissioner of Banking and Insurance
Labor and Workforce Development Department
Commissioner of Labor and Workforce Development
Law and Public Safety Department
Attorney General
Military and Veterans' Affairs Department
Adjutant General
Personnel Department
Commissioner of Personnel
State Department
Secretary of State
Transportation Department
Commissioner of Transportation
Treasury Department
State Treasurer
Members, Board of Public Utilities
Public Advocate Department
Public Advocate

Notwithstanding the provisions of this section to the contrary, the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission shall receive such salary as shall be fixed by the Governor pursuant to subsection b. of section 8 of P.L.1998, c.44 (C.52:27C-68).

190. 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 in the Department of Children and Families, 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 Children and Families 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.

191. Section 2 of P.L.2000, c.24 (C.52:17B-88.10) is amended to read as follows:

C.52:17B-88.10 Standardized protocols for autopsies of suspected SIDS victims.

2. a. The State Medical Examiner, in consultation with the Commissioner of Health and Senior Services, shall develop standardized protocols for autopsies performed in those cases in which the suspected cause of death of a child under one year of age is sudden infant death syndrome and in which the child is between one and three years of age and the death is sudden and unexpected.

b. The State Medical Examiner shall establish a Sudden Child Death Autopsy Protocol Committee to assist in developing and reviewing the protocol. The committee shall include, but shall not be limited to, the State Medical Examiner or his designee, the Assistant Commissioner of the Division of Family Health Services in the Department of Health and Senior Services or his designee, the Director of the Division of Youth and Family Services in

the Department of Children and Families or his designee, the director of the SIDS Resource Center established pursuant to P.L.1987, c.331 (C.26:5D-4), an epidemiologist, a forensic pathologist, a pediatric pathologist, a county medical examiner, a pediatrician who is knowledgeable about sudden infant death syndrome and child abuse, a law enforcement officer, an emergency medical technician or a paramedic, a family member of a sudden infant death syndrome victim and a family member of a sudden unexpected death victim who was between one and three years of age at the time of death.

The committee shall annually review the protocol and make recommendations to the State Medical Examiner to revise the protocol, as appropriate.

c. The protocols shall include requirements and standards for scene investigation, criteria for ascertaining the cause of death based on autopsy, criteria for specific tissue sampling, and such other requirements as the committee deems appropriate. The protocols shall take into account nationally recognized standards for pediatric autopsies.

The State Medical Examiner shall be responsible for ensuring that the protocols are followed by all medical examiners and other persons authorized to conduct autopsies in those cases in which the suspected cause of death is sudden infant death syndrome or in which the child is between one and three years of age and the death is sudden and unexpected.

d. The protocols shall authorize the State Medical Examiner, county medical examiner or other authorized person to take tissue samples for research purposes, as provided in section 2 of P.L.2005, c.227 (C.52:17B-88.11).

e. The sudden infant death syndrome autopsy protocol shall provide that if the findings in the autopsy are consistent with the definition of sudden infant death syndrome specified in the protocol, the person who conducts the autopsy shall state on the death certificate that sudden infant death syndrome is the cause of death.

192. Section 2 of P.L.1995, c.284 (C.52:17B-170) is amended to read as follows:

C.52:17B-170 Juvenile Justice Commission established.

2. a. A Juvenile Justice Commission is established in, but not of, the Department of Law and Public Safety. The commission is allocated to the Department of Law and Public Safety for the purpose of complying with Article V, Section IV, paragraph 1 of the New Jersey Constitution. The Attorney General shall be the request officer for the commission within the meaning of section 6 of article 3 of P.L.1944, c.112 (C.52:27B-15) and shall exercise that authority and other administrative functions, powers and duties consistent with the provisions of this act.

b. The commission shall consist of an executive director, an executive board, an advisory council and such facilities, officers, employees and organizational units as provided herein or as otherwise necessary to performance of the commission's duties and responsibilities.

c. The executive director shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor during the Governor's term of office and until a successor is appointed and qualified.

d. The executive board shall consist of the following members: The Attorney General, who shall serve as chair of the executive board; the Commissioner of Corrections and the Commissioner of Children and Families, who shall serve as vice-chairs of the executive board; the Commissioner of Education; the chair of the Juvenile Justice Commission advisory council, established pursuant to section 4 of P.L.1995, c.284 (C.52:17B-172); and two members who serve as chairs of a county youth services commission, established

pursuant to P.L.1995, c.282 (C.52:17B-180), to be appointed by the Governor to serve at the Governor's pleasure. The Administrative Director of the Administrative Office of the Courts is invited to participate on the executive board, subject to the approval of the Supreme Court. A member of the executive board may name a designee who shall have the authority to act for the member. Members of the executive board shall serve without compensation for their services to the commission. The executive board shall meet at least quarterly and at such other times as designated by the chair. Except with respect to matters concerning distribution of funds to counties, four members of the executive board shall constitute a quorum to transact business of the executive board and action of the executive board shall require an affirmative vote of four members. A member of the executive board who is also a member of a county youth services commission shall not participate in matters concerning distribution of funds to counties; in these matters, three members of the executive board shall constitute a quorum to transact business and an action of the executive board shall require an affirmative vote of three members.

e. The commission shall have the following powers, duties and responsibilities:

(1) To specify qualifications for and to employ, within the limits of available appropriations and subject to the provisions of P.L.1995, c.284 (C.52:17B-169 et seq.) and Title 11A of the New Jersey Statutes, such staff as are necessary to accomplish the work of the commission or as are needed for the proper performance of the functions and duties of the commission, including but not limited to:

(a) The number of deputy directors, assistant directors, superintendents, assistant superintendents and other assistants who shall be in the unclassified service and shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.); and

(b) Juvenile corrections officers;

(2) To utilize such staff of the Department of Law and Public Safety as the Attorney General, within the limits of available appropriations, may make available to the commission;

(3) To organize the work of the commission in appropriate bureaus and other organization units;

(4) To enter into contracts and agreements with State, county and municipal governmental agencies and with private entities for the purpose of providing services and sanctions for juveniles adjudicated or charged as delinquent and programs for prevention of juvenile delinquency;

(5) To contract for the services of professional and technical personnel and consultants as necessary to fulfill the statutory responsibilities of the commission;

(6) To establish minimum standards for the care, treatment, government and discipline of juveniles confined pending, or as a result of, an adjudication of delinquency;

(7) To assume the custody and care of all juveniles committed by court order, law, classification, regulation or contract to the custody of the commission or transferred to the custody of the commission pursuant to section 8 of P.L.1995, c.284 (C.52:17B-176);

(8) To manage and operate all State secure juvenile facilities which shall include the New Jersey Training School for Boys created pursuant to R.S.30:1-7 and transferred to the Commissioner of Corrections pursuant to section 8 of P.L.1976, c.98 (C.30:1B-8) and the Juvenile Medium Security Facility created pursuant to R.S.30:1-7 and both transferred to the commission pursuant to section 8 of P.L.1995, c.284 (C.52:17B-176) and shall include any other secure juvenile facility established by the commission in the future;

(9) To manage and operate all State juvenile facilities or juvenile programs for juveniles adjudicated delinquent which shall include facilities and programs transferred to the commission pursuant to section 8 of P.L.1995, c.284 (C.52:17B-176) or established or contracted for in the future by the commission;

(10) To prepare a State Juvenile Justice Master Plan every third year which identifies facilities, sanctions and services available for juveniles adjudicated or charged as delinquent and juvenile delinquency prevention programs and which identifies additional needs based upon the extent and nature of juvenile delinquency and the adequacy and effectiveness of available facilities, services, sanctions and programs;

(11) To approve plans for each county submitted by the county youth services commission pursuant to P.L.1995, c.282 (C.52:17B-180);

(12) To administer the State/Community Partnership Grant Program established pursuant to P.L.1995, c.283 (C.52:17B-179);

(13) To accept from any governmental department or agency, public or private body or any other source, grants or contributions to be used in exercising its power, and in meeting its duties and responsibilities;

(14) To formulate and adopt standards and rules for the efficient conduct of the work of the commission, the facilities, services, sanctions and programs within its jurisdiction, and its officers and employees;

(15) To provide for the development of the facilities, services, sanctions and programs within its jurisdiction and to promote the integration of State, county and local facilities, sanctions, services and programs, including probation and parole;

(16) To institute, or cause to be instituted, such legal proceedings or processes as may be necessary to enforce properly and give effect to any of its powers or duties including the authority to compel by subpoena, subject to the sanction for contempt of subpoena issued by a court, attendance and production of records;

(17) To provide for the timely and efficient collection and analysis of data regarding the juvenile justice system to insure the continuing review and evaluation of services, policies and procedures;

(18) To receive and classify juveniles committed to the custody of the commission;

(19) To supervise compliance with conditions of parole;

(20) To establish appropriate dispositions of juveniles for whom parole has been revoked;

(21) To perform such other functions as may be prescribed by law; and

(22) To promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement and effectuate the purposes of this act.

193. Section 7 of P.L.1995, c.284 (C.52:17B-175) is amended to read as follows:

C.52:17B-175 Responsibilities of other departments.

7. a. Notwithstanding the Juvenile Justice Commission's responsibility for State secure juvenile facilities and State juvenile facilities and programs, the Department of Corrections, through agreement with the commission, shall provide central transportation, communication and other services required by the commission in connection with the operation of these facilities and the custody and care of juveniles confined in the facilities.

b. Notwithstanding the commission's responsibility for State secure juvenile facilities and State juvenile facilities, the Department of Children and Families shall provide care and custody for juveniles placed under the care and custody or committed to the department

pursuant to paragraphs (5), (6) and (7) of subsection b. of section 24 of P.L.1982, c.77 (C.2A:4A-43).

c. The commission and the Commissioner of Children and Families shall formulate a plan to provide adequate and appropriate mental health services to juveniles in secure juvenile facilities and juvenile facilities operated by the commission. The commission and the Commissioner of Children and Families shall jointly adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing the procedures included in the plan. The plan shall include the following:

(1) Procedures for identifying juveniles in need of such services upon admission to and while in a facility, including procedures for evaluation;

(2) Procedures for providing appropriate and adequate treatment and for terminating treatment when it is no longer needed;

(3) Procedures for ensuring cooperation between employees of the commission and the Department of Children and Families; and

(4) Procedures for review and revision of the plan.

d. The commission, through agreement with the Attorney General, the Commissioner of Corrections or the Commissioner of Children and Families as appropriate, shall arrange to provide such other services as may be required by the commission and may enter into other agreements as authorized pursuant to R.S.52:14-1 et seq. or any other law of this State.

e. The commission and the Commissioner of the Department of Corrections shall, consistent with applicable State and federal standards, formulate a plan setting forth procedures for transferring custody of any juvenile incarcerated in a juvenile facility who has reached the age of 16 during confinement and whose continued presence in the juvenile facility threatens the public safety, the safety of juvenile offenders, or the ability of the commission to operate the program in the manner intended. The commission and the Commissioner of the Department of Corrections shall jointly adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing the procedures included in the plan.

194. Section 69 of P.L.2005, c.155 (C.52:27EE-69) is amended to read as follows:

C.52:27EE-69 Office of the Child Advocate; duties.

69. Office of the Child Advocate; duties.

a. The child advocate shall:

(1) administer the work of the Office of the Child Advocate;

(2) appoint and remove such officers, investigators, stenographic and clerical assistants and other personnel, in the career or unclassified service, as may be required for the conduct of the office, subject to the provisions of Title 11A of the New Jersey Statutes (Civil Service), and other applicable statutes, except as provided otherwise herein;

(3) formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the office, its officers and employees, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

(4) institute or cause to be instituted such legal proceedings or processes consistent with the Rules Governing the Courts of New Jersey as may be necessary to properly enforce and give effect to any of the child advocate's powers or duties.

b. Consistent with the provisions of federal and State law,

(1) the child advocate shall have access to, and the right to inspect and copy, any records, including pupil records in accordance with the provisions of N.J.S.18A:36-19, necessary to carry out the responsibilities under this act; and

(2) the child advocate shall have reasonable access to, and the right to copy any records from, the Division of Youth and Family Services' Service Information System, or its successor, necessary to carry out its responsibilities under this act, and only with regard to individuals who are or may be the subject of an investigation by the child advocate, or to assess the status of an individual complaint or inquiry to determine whether further action by the child advocate is appropriate; except that, access provided to the successor system, including the Statewide Automated Child Welfare Information System, shall be limited to information available through the Service Information System, unless otherwise agreed to by the child advocate and the Department of Children and Families.

c. The child advocate may issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers and other documents, and administer oaths to witnesses in any matter under the investigation of the office.

If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the child advocate may apply to the Superior Court, which may order the person to appear and give testimony or produce the books, papers or other documents, as applicable.

d. The child advocate shall disseminate information to the public on the objectives of the office, the services the office provides and the methods by which the office may be contacted.

e. The child advocate shall aid the Governor in proposing methods of achieving increased coordination and collaboration among State agencies to ensure maximum effectiveness and efficiency in the provision of services to children.

195. Section 70 of P.L.2005, c.155 (C.52:27EE-70) is amended to read as follows:

C.52:27EE-70 Office of the Child Advocate; powers.

70. Office of the Child Advocate; powers.

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 and all juvenile justice facilities operated by or under contract with the Juvenile Justice Commission, including, but not limited to, secure correctional facilities and residential and day treatment programs;

(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, licensed, or approved for payment, by the Department of Human Services, Department of Children and Families, Department of Community Affairs or Department of Health and Senior Services; and

(3) any other public or private 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;

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;

h. in exercising the authority provided in subsection a. of this section, the child advocate may conduct unannounced site visits to any institution or facility to which children are committed, placed or otherwise disposed if the child advocate, prior to conducting an unannounced site visit, has initiated a project or investigation into the response or disposition of an allegation of abuse or neglect and there is a reasonable basis to believe that an unannounced site visit is necessary to carry out the child advocate's responsibilities under this act, provided, however, that any unannounced site visit shall be conducted at a reasonable time and in a reasonable manner;

i. in exercising the authority provided under subsections a. through e. of this section, the child advocate shall consult with any appropriate State, county or municipal agency or a State-funded private entity providing services to children, and may request from any such entity, and the entity is hereby authorized and directed to provide, such cooperation and assistance as will enable the child advocate to properly perform its responsibilities under this act; and

j. notwithstanding the provisions of section 11 of P.L.1944, c.20 (C.52:17A-11) to the contrary, hire independent counsel on a case-by-case basis to provide competent representation in light of the nature of the case, the services to be performed, the experience of the particular attorney and other relevant factors.

196. Section 75 of P.L.2005, c.155 (C.52:27EE-75) is amended to read as follows:

C.52:27EE-75 Office of the Child Advocate; reports.

75. Office of the Child Advocate; reports.

The child advocate shall report annually to the Governor, the Public Advocate, the Commissioners of Human Services and Children and Families, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature on: the activities of the office; priorities for children's services that have been identified by the child advocate; and recommendations for improvement or needed changes concerning the provision of services to children who are at risk of abuse or neglect, and are in State or institutional custody or receive child protective or permanency services by State agencies and State-funded private entities.

The annual report shall be made available to the public.

197. Section 76 of P.L.2005, c.155 (C.52:27EE-76) is amended to read as follows:

C.52:27EE-76 Office of the Child Advocate; disclosure; confidentiality.

76. Office of the Child Advocate; disclosure; confidentiality.

a. The child advocate shall make public its findings of investigation reports or other studies undertaken by the office, including its investigatory findings to complaints received pursuant to section 70 of this act, and shall forward any publicly reported findings to the Governor, the Legislature, the Public Advocate, the Commissioners of Human Services and Children and Families, the affected public agencies and the Governor's Cabinet for Children.

b. The child advocate shall not disclose:

(1) any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of a person who filed a complaint or which may compromise the integrity of a State or county department or agency investigation, civil or criminal investigation or judicial or administrative proceeding; and

(2) the name of or any other information identifying the person who filed a complaint with, or otherwise provided information to, the office without the written consent of that person.

The information subject to the provisions of this subsection shall not be considered a public record pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

c. The child advocate shall not disclose any information that may be deemed confidential by federal or State law, except when necessary to allow the Department of the Public Advocate, Department of Human Services, Department of Children and Families, Attorney General, Juvenile Justice Commission and other State or county department or agency to perform its duties and obligations under the law.

198. Section 6 of P.L.2005, c.370 (C.52:27G-37) is amended to read as follows:

C.52:27G-37 Criminal background checks for professional guardians.

6. a. Upon receipt of an application for registration as a professional guardian, the Office of the Public Guardian for Elderly Adults is authorized to determine whether criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division or in the State Bureau of Identification in the Division of State Police that would disqualify the person from being registered as a professional guardian.

The Office of the Public Guardian for Elderly Adults is authorized to access the child abuse registry in the Department of Children and Families and the domestic violence central registry in the Administrative Office of the Courts.

A person shall be disqualified from registration if the person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.;

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.;

(c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or fraud relating to any health care plan or program as set forth in section 15 of P.L.1989, c.300

(C.2C:21-4.1), sections 2 and 3 of P.L.1997, c.353 (C.2C:21-4.2 and 2C:21-4.3), P.L.1999, c.162 (C.2C:21-22.1) or section 17 of P.L.1968, c.413 (C.30:4D-17); or

(d) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

A person shall also be disqualified from registration if a check of the child abuse registry reveals that the person has a history of child abuse.

In a case in which a check of the domestic violence central registry reveals that the person has a history of domestic violence, the public guardian shall review the record with respect to the type and date of the criminal offense or the provisions and date of the final domestic violence restraining order and make a determination as to the suitability of the person to be a registered professional guardian.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, no person shall be disqualified from registration on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the person has affirmatively demonstrated to the public guardian clear and convincing evidence of the applicant's rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the 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, work history, or the recommendation of those who have had the person under their supervision.

c. If a person refuses to consent to, or cooperate in, the securing of a criminal history record background check, the public guardian shall not register that person as a professional guardian and shall notify the person of that denial.

199. Section 7 of P.L.2005, c.370 (C.52:27G-38) is amended to read as follows:

C.52:27G-38 Information provided for background checks.

7. a. A person who is required to undergo a criminal history record background, child abuse registry and domestic violence central registry check pursuant to section 6 of this act shall submit to the public guardian his name, address and fingerprints, in accordance with the applicable State and federal laws, rules and regulations. The Office of the Public Guardian is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the public guardian shall, within a reasonable time, notify the person in writing of his qualification or disqualification for registration under this act. If the person is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the notice to the person.

c. Upon receipt of the information for a person from the child abuse registry in the Department of Children and Families or the domestic violence central registry in the Administrative Office of the Courts, the public guardian shall, within a reasonable time, notify the person in writing of his qualification or disqualification for registration under this act. If the person is disqualified, the incident or incidents which constitute the basis for the disqualification shall be identified in the notice to the person.

d. The person has a right to be heard by the Office of the Public Guardian for Elderly Adults, within 30 days from the date of the written notice of disqualification, on the accuracy of his criminal history record, child abuse registry or domestic violence central registry information or to establish his rehabilitation under subsection b. of section 6 of this act. Upon the issuance of a final decision by the public guardian, pursuant to this subsection, the Office of the Public Guardian for Elderly Adults shall notify the person as to whether he remains disqualified. A person disputing an adverse determination by the Office of the Public Guardian for Elderly Adults may file with the Office of Administrative Law for an administrative hearing.

200. 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 Children and Families 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.

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201. 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 Children and Families 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 Children and Families 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 Children and Families 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 Children and Families 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 Children and Families shall make a determination regarding the employment of the applicant or staff member.

202. Section 7 of P.L.2003, c.186 (C.53:1-20.9d) is amended to read as follows:

C.53:1-20.9d Exchange of fingerprint data, criminal history record information on residential child care staff.

7. a. The Commissioner of Children and Families is authorized to exchange fingerprint data with, and to receive criminal history record 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 residential child care facility from the Federal Bureau of Investigation and the Division of State Police, the Department of Children and Families shall notify the applicant or staff member, as applicable, and the residential child care facility, in writing, of the applicant's or

staff member's qualification or disqualification for employment or service under section 4 or 5 of P.L.2003, c.186 (C.30:4C-27.19 or C.30:4C-27.20). 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 shall notify the facility that the applicant or staff member has been disqualified from employment.

b. The Division of State Police shall promptly notify the Department of Children and Families 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 shall make a determination regarding the employment of the applicant or staff member.

C.9:3A-7.1 Regulations for implementing provisions of act establishing the department.

203. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Children and Families may, with the approval of the Governor, adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed six months and may, thereafter, be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

Repealer.

204. The following are repealed:

Section 7 of P.L.1998, c.19 (C.9:6-8.105);

Sections 4, 5, and 6 of P.L.1985, c.197 (C.9:6A-2 through 9:6A-4);

Section 2 of P.L.2004, c.130 (C.30:4C-2.2); and

P.L.2001, c.252 (C.30:4C-3.1 through 30:4C-3.6).

205. This act shall take effect July 1, 2006 and, if enacted after that date, shall be retroactive to July 1, 2006.

Approved July 11, 2006.