

ASSEMBLY, No. 5598

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblyman P. CHRISTOPHER TULLY

District 38 (Bergen and Passaic)

Co-Sponsored by:

**Assemblywoman Vainieri Huttle, Assemblyman Stanley and
Assemblywoman Swain**

SYNOPSIS

Requires DCF or court to consider placement of children with relatives or kinship guardians when making placement decision; makes changes to certain standards for initiating petitions to terminate parental rights.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT concerning child protective services and amending various
2 parts of the statutory law.

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

6
7 1. Section 2 of P.L.2001, c.250 (C.3B:12A-2) is amended to
8 read as follows:

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

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

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

20 “Commissioner” means the Commissioner of Children and
21 Families.

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

24 “Department” means the Department of Children and Families.

25 “Division” means the Division of Child Protection and
26 Permanency in the Department of Children and Families.

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

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

3 “Parental incapacity” means incapacity of such a serious nature
4 as to demonstrate that the parent is unable, unavailable, or unwilling
5 to perform the regular and expected functions of care and support of
6 the child.
7 (cf: P.L.2006; 2012, c.16, s.13)
8

9 2. Section 5 of P.L.2001, c.250 (C.3B:12A-5) is amended to
10 read as follows:

11 5. a. Upon petition of a caregiver, the court may appoint the
12 caregiver as kinship legal guardian of a child residing in the
13 caregiver’s home pursuant to the provisions of P.L. 2001, c. 250 (C.
14 3B:12A-1 et al.).

15 b. A petition for the appointment of a kinship legal guardian
16 shall include a kinship caregiver assessment, which shall contain:

17 (1) the full name and address of the person seeking to become
18 the kinship legal guardian;

19 (2) the circumstances of the kinship relationship;

20 (3) the whereabouts of the child’s parents, if known;

21 (4) the nature of the parents’ incapacitation, if known;

22 (5) the wishes of the parents, if known;

23 (6) the ability of the kinship caregiver family to assume
24 permanent care of the child;

25 (7) the child’s property and assets, if known;

26 (8) the wishes of the child, if appropriate;

27 (9) any current involvement of a child with the division if the
28 child has an open division case and is actively receiving services;

29 (10) certification from the caregiver that the caregiver has been
30 providing care and support for the child, while the child has been
31 residing in the caregiver’s home, for at least the last **12**
32 **consecutive** six consecutive months or nine of the last 15 months;

33 (11) the results from a criminal history record background check
34 and a domestic violence central registry check of the caregiver and
35 any adult residing in the caregiver’s household conducted pursuant
36 to section 9 of P.L. 2001, c. 250 (C. 30:4C-86);

37 (12) the results from a child abuse record check arranged for and
38 coordinated by the division pursuant to section 9 of P.L. 2001, c.
39 250 (C. 30:4C-86); and

40 (13) the results of the caregiver’s home review.

41 (cf: P.L.2001, c.250, s.5)
42

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

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

47 (1) if proper notice was provided to the child’s parents;

48 (2) the best interests of the child;

1 (3) the kinship caregiver assessment;

2 (4) in cases in which the division is involved with the child as
3 provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-
4 85), the recommendation of the division, including any parenting
5 time or visitation restrictions;

6 (5) the potential kinship legal guardian's ability to provide a safe
7 and permanent home for the child;

8 (6) the wishes of the child's parents, if known to the court;

9 (7) the wishes of the child if the child is 12 years of age or older,
10 unless unique circumstances exist that make the child's age
11 irrelevant;

12 (8) the suitability of the kinship caregiver and the caregiver's
13 family to raise the child;

14 (9) the ability of the kinship caregiver to assume full legal
15 responsibility for the child;

16 (10) the commitment of the kinship caregiver and the caregiver's
17 family to raise the child to adulthood;

18 (11) the results from the child abuse record check conducted
19 pursuant to section 9 of P.L.2001, c.250 (C.30:4C-86); and

20 (12) the results from the criminal history record background
21 check and domestic violence check conducted pursuant to section 9
22 of P.L.2001, c.250 (C.30:4C-86). In any case in which the caregiver
23 petitioning for kinship legal guardianship, or any adult residing in
24 the prospective caregiver's home, has a record of criminal history
25 or a record of being subjected to a final domestic violence
26 restraining order under P.L.1991, c.261 (C.2C:25-17 et seq.), the
27 court shall review the record with respect to the type and date of the
28 criminal offense or the provisions and date of the final domestic
29 violence restraining order and make a determination as to the
30 suitability of the person to become a kinship legal guardian. For the
31 purposes of this paragraph, with respect to criminal history, the
32 court shall consider convictions for offenses specified in
33 subsections c., d. and e. of section 1 of P.L.1985, c.396 (C.30:4C-
34 26.8).

35 b. The court shall not award kinship legal guardianship of the
36 child unless proper notice was served upon the parents of the child
37 and any other party to whom the court has awarded custody or
38 parenting time for that child, in accordance with the Rules of Court.

39 c. The court shall not award kinship legal guardianship of the
40 child solely because of parental incapacity.

41 d. The court shall appoint the caregiver as a kinship legal
42 guardian if, based upon clear and convincing evidence, the court
43 finds that:

44 (1) each parent's incapacity is of such a serious nature as to
45 demonstrate that the parents are unable, unavailable or unwilling to
46 perform the regular and expected functions of care and support of
47 the child;

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

3 (3) in cases in which the division is involved with the child as
4 provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-
5 85), **[(a)]** the division exercised reasonable efforts to reunify the
6 child with the birth parents and these reunification efforts have
7 proven unsuccessful or unnecessary; **[and (b) adoption of the child**
8 **is neither feasible nor likely;]** (Deleted by amendment,
9 P.L. c. (C.) (pending before the Legislature as this bill)
10 and

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

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

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

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

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

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

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

37 (6) kinship legal guardianship terminates when the child reaches
38 18 years of age or when the child is no longer continuously enrolled
39 in a secondary education program, whichever event occurs later, or
40 when kinship legal guardianship is otherwise terminated.

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

1 guardianship is no longer the case and termination of kinship legal
2 guardianship is in the child's best interests.

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

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

13 (cf: P.L.2006, c.47, s.32)

14

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

17 10. a. The division, when informed that there has been an
18 emergency removal of a child from his home without court order,
19 shall make every reasonable effort to communicate immediately
20 with the child's parent or guardian that such emergency removal has
21 been made and the location of the facility to which the child has
22 been taken, and advise the parent or guardian to appear in the
23 appropriate Superior Court, Chancery Division, Family Part within
24 two court days.

25 The division shall make a reasonable effort, at least 24 hours
26 prior to the court hearing, to:

27 notify the parent or guardian of the time to appear in court; and

28 inform the parent or guardian of his right to obtain counsel, and
29 how to obtain counsel through the Office of the Public Defender if
30 the parent or guardian is indigent.

31 The division shall also advise the party making the removal to
32 appear. If the removed child is returned to his home prior to the
33 court hearing, there shall be no court hearing to determine the
34 sufficiency of cause for the child's removal, unless the child's
35 parent or guardian makes application to the court for review.

36 The division shall make reasonable efforts to place the child with
37 a suitable relative or person who has a kinship relationship as
38 defined in section 2 of P.L.2001, c.250 (C.3B:12A-2) prior to
39 placing the child with another suitable person.

40 For the purposes of this section, "facility" means a hospital,
41 shelter or child care institution in which a child may be placed for
42 temporary care, but does not include a resource family home.

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

45 c. Whenever a child has been removed pursuant to section 7 or 9
46 of P.L.1974, c.119 (C.9:6-8.27 or 9:6-8.29), the division shall
47 arrange for immediate medical screening of the child and shall have
48 legal authority to consent to such screening. If necessary to

1 safeguard the child's health or life, the division also is authorized to
2 arrange for and consent to medical care or treatment of the child.
3 Consent by the division pursuant to this subsection shall be deemed
4 legal and valid for all purposes with respect to any person, hospital,
5 or other health care facility screening, examining or providing care
6 or treatment to a child in accordance with and in reliance upon such
7 consent. Medical reports resulting from such screening,
8 examination or care or treatment shall be released to the division for
9 the purpose of aiding in the determination of whether the child has
10 been abused or neglected. Any person or health care facility acting
11 in good faith in the screening of, examination of or provision of
12 care and treatment to a child or in the release of medical records
13 shall have immunity from any liability, civil or criminal, that might
14 otherwise be incurred or imposed as a result of such act.
15 (cf: P.L.2006, c.47, s.49)
16

17 5. Section 11 P.L.1974, c.119 (C.9:6-8.31) is amended to read
18 as follows:

19 11. a. In any case where the child has been removed without
20 court order, except where action has been taken pursuant to
21 P.L.1973, c.147 (C.9:6-8.16 et seq.) the Superior Court, Chancery
22 Division, Family Part shall hold a hearing on the next court day,
23 whereby the safety of the child shall be of paramount concern, to
24 determine whether the child's interests require protection pending a
25 final order of disposition. In any other case under P.L.1974, c.119
26 (C.9:6-8.21 et seq.), any person who may originate a proceeding
27 may apply for, or the court, on its own motion, may order a hearing
28 at any time after the complaint is filed to determine, with the safety
29 of the child of paramount concern, whether the child's interests
30 require protection pending a final order of disposition.

31 b. Upon such hearing, if the court finds that continued removal
32 is necessary to avoid an ongoing risk to the child's life, safety, or
33 health, it shall affirm the removal of the child to an appropriate
34 place or place him in the custody of a suitable person.

35 The court shall also consider placement of the child with a
36 suitable relative or person who has a kinship relationship as defined
37 in section 2 of P.L.2001, c.250 (C.3B:12A-2), when considering if
38 the child should be placed in the custody of a suitable person.

39 If the court determines that removal of the child by a physician,
40 police officer, designated employee of the Probation Division, or
41 designated employee of the Division of Child Protection and
42 Permanency was necessary due to imminent danger to the child's
43 life, safety, or health, the court shall find that the Division of Child
44 Protection and Permanency was not required to provide reasonable
45 efforts to prevent placement of the child in accordance with section
46 24 of P.L.1999, c.53 (C.30:4C-11.2).

47 c. Upon such hearing the court may, for good cause shown,
48 issue a preliminary order of protection which may contain any of

1 the provisions authorized on the making of an order of protection
2 under section 35 of P.L.1974, c.119 (C.9:6-8.55).

3 d. Upon such hearing, the court may, for good cause shown,
4 release the child to the custody of his parent or guardian from
5 whose custody or care the child was removed, pending a final order
6 of disposition, in accord with section 33 of P.L.1974, c.119 (C.9:6-
7 8.53).

8 e. Upon such hearing, the court may authorize a physician or
9 hospital to provide medical or surgical procedures if such
10 procedures are necessary to safeguard the child's life or health.

11 f. If the court grants or denies a preliminary order requested
12 pursuant to this section, it shall state the grounds for such decision.

13 g. In all cases involving abuse or neglect the court shall order an
14 examination of the child by a physician appointed or designated for
15 the purpose by the division. As part of such examination, the
16 physician shall arrange to have color photographs taken as soon as
17 practical of any areas of trauma visible on such child and may if
18 indicated, arrange to have a radiological examination performed on
19 the child. The physician, on the completion of such examination,
20 shall forward the results thereof together with the color photographs
21 to the court ordering such examination.

22 (cf: P.L.2012, c.16, s.33)

23
24 6. Section 34 of P.L.1974, c. 119 (C.9:6-8.54) is amended to
25 read as follows:

26 34. a. For the purpose of section 31 of P.L.1974, c.119 (C.9:6-
27 8.51), the court may place the child in the custody of a relative or
28 other suitable person or the division for the placement of a child
29 after a finding that the division has made reasonable efforts to
30 prevent placement or that reasonable efforts to prevent placement
31 were not required in accordance with section 24 of P.L.1999, c.53
32 (C.30:4C-11.2). The court shall also consider placement of the
33 child with a suitable relative or person who has a kinship
34 relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-
35 2), when considering if the child should be placed in the custody of
36 another suitable person.

37 b. (1) Placements under this section may be for an initial period
38 of 12 months and the court, in its discretion, may at the expiration
39 of that period, upon a hearing make successive extensions for
40 additional periods of up to one year each. The court on its own
41 motion may, at the conclusion of any period of placement, hold a
42 hearing concerning the need for continuing the placement.

43 (2) The court shall conduct a permanency hearing for the child
44 no later than 30 days after placement in cases in which the court has
45 determined that reasonable efforts to reunify the child with the
46 parent or guardian are not required pursuant to section 25 of
47 P.L.1999, c.53 (C.30:4C-11.3), or no later than 12 months after
48 placement in cases in which the court has determined that efforts to

1 reunify the child with the parent or guardian are required. The
2 hearing shall include, but not necessarily be limited to,
3 consideration and evaluation of information provided by the
4 division and other interested parties regarding such matters as those
5 listed in subsection c. of section 50 of P.L.1999, c.53 (C.30:4C-
6 61.2).

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

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

12 d. If the parent or person legally responsible for the care of any
13 such child or with whom such child resides receives public
14 assistance and care, any portion of which is attributable to such
15 child, a copy of the order of the court providing for the placement
16 of such child from his home shall be furnished to the appropriate
17 county welfare board, which shall reduce the public assistance and
18 care furnished to such parent or other person by the amount
19 attributable to such child.

20 (cf: P.L.1999, c.213, s.2)

21
22 7. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to
23 read as follows:

24 6. a. In any case in which the Department of Children and
25 Families accepts a child in its care or custody, including placement,
26 the department shall consider placement of the child with a suitable
27 relative or person who has a kinship relationship as defined in
28 section 2 of P.L.2001, c.250 (C.3B:12A-2). **【the】** The department
29 shall initiate a search for relatives or persons with a kinship
30 relationship with the child who may be willing and able to provide
31 the care and support required by the child. The search shall be
32 initiated within 30 days of the department's acceptance of the child
33 in its care or custody. The search will be completed when all
34 sources contacted have either responded to the inquiry or failed to
35 respond within 45 days. The department shall complete an
36 assessment of each interested relative's or person's ability to
37 provide the care and support, including placement, required by the
38 child.

39 b. If the department determines that the relative or person who
40 has a kinship relationship with the child is unwilling or unable to
41 assume the care of the child, the department shall not be required to
42 re-evaluate the relative. The department shall inform the relative or
43 person in writing of:

44 (1) the reasons for the department's determination;

45 (2) the responsibility of the relative or person to inform the
46 department if there is a change in the circumstances upon which the
47 determination was made;

1 (3) the possibility that termination of parental rights may occur if
2 the child remains in resource family care for more than six months;
3 and

4 (4) the right to seek review by the department of such
5 determination.

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

9 (cf: P.L.2006, c.47, s.123)

10

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

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

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

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

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

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

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

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

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

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

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

46 (3) where the parent voluntarily delivered the child to and left
47 the child with an adult employee, or voluntarily arranged for
48 another person to deliver the child to and leave the child with an

1 adult employee, at a State, county or municipal police station, a fire
2 station of a municipal, county, fire district, or volunteer fire
3 department, the premises of a public or private ambulance, first aid,
4 or rescue squad; or voluntarily delivered the child to and left the
5 child at an emergency department of a licensed general hospital in
6 this State when the child is or appears to be no more than 30 days
7 old, without expressing an intent to return for the child, as provided
8 in section 4 of P.L.2000, c.58 (C.30:4C-15.7), the division shall file
9 for termination of parental rights no later than 21 days after the day
10 the division assumed care, custody and control of the child.

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

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

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

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

22 (4) facilitating appropriate visitation.

23 d. The division shall not be required to provide “reasonable
24 efforts” as defined in subsection c. of this section prior to filing a
25 petition for the termination of parental rights if an exception to the
26 requirement to provide reasonable efforts to reunify the family has
27 been established pursuant to section 25 of P.L.1999, c.53 (C.30:4C-
28 11.3).

29 (cf: P.L.2015, c.82, s.3)

30

31 9. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill amends section 2 of P.L.2001, c.250 (C.3B:12A-2) to
37 stipulate that a “caregiver” is defined as a person over the age of 18,
38 other than the person’s parent, who has a kinship relationship with,
39 and has been providing support services to, the child while the child
40 has been residing in the person’s home for either the last six
41 consecutive months or nine of the last 15 months instead of either
42 the last 12 consecutive months or 15 of the last 22 months as
43 currently provided by law.

44 The bill amends section 5 of P.L.2001, c.250 (C.3B-12A-5) to
45 require that the kinship caregiver assessment included in a petition
46 for the appointment of a kinship legal guardian is to contain a
47 certification from a caregiver that the caregiver has been providing
48 care and support for a child while the child has been residing in the

1 caregiver's home for at least the last six consecutive months of nine
2 of the last 15 months instead of for at least the last 12 consecutive
3 months, as currently provided by law.

4 Current law allows the court to appoint a caregiver as a kinship
5 legal guardian, in cases in which the Division of Child Protection
6 and Permanency (DCCP) is involved with the child as provided in
7 subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-85), and
8 based upon clear and convincing evidence, if the court finds the
9 DCCP exercised reasonable efforts to reunify the child with the
10 birth parents and these reunification efforts have proven
11 unsuccessful or unnecessary and adoption of the child is neither
12 feasible nor likely.

13 The bill amends section 6 of P.L.2001, c.250 (C.3B:12A-6) to
14 remove the requirement that, in cases in which the DCCP is
15 involved with a child, the court needs to find that the adoption of
16 the child is neither feasible nor likely in order to appoint a caregiver
17 as a kinship legal guardian.

18 The bill also amends sections 10, 11, and 34 of P.L.1974, c.119
19 (C.9:6-8.30), (C.9:6-8.31), and (C.9:6-8.54), respectively, to require
20 the court or the Division of Child Protection and Permanency
21 (DCCP) to make reasonable efforts to place the child with a suitable
22 relative or person who has a kinship relationship as defined in
23 section 2 of P.L.2001, c.250 (C.3B:12A-2) prior to placing the child
24 with another suitable person when: (1) the DCCP is informed that
25 there has been an emergency removal of a child from the child's
26 home; (2) the court finds that a child's continued removal is
27 necessary to avoid an ongoing risk to the child's life, safety, or
28 health; or (3) the court places a child with a relative, other suitable
29 person, or the DCCP for placement, upon a finding that the DCCP
30 has made reasonable efforts to prevent a child's placement or that
31 reasonable efforts to prevent placement is not required.

32 The bill amends section 6 of P.L.1991, c.275 (C.30:4C-12.1) to
33 require that in any case in which the Department of Children and
34 Families (DCF) accepts a child in its care or custody, including
35 placement, the DCF is to consider placement of the child with a
36 suitable relative or person who has a kinship relationship.

37 The bill further amends section 6 of P.L.1991, c.275 (C.30:4C-
38 12.1) to require the DCF initiate a search for persons with a kinship
39 relationship with the child who may be willing to provide care and
40 support to the child and assess their ability to provide the care and
41 support, including placement, required by the child.

42 If it is determined that a person with a kinship relationship is
43 unwilling or unable to assume the care of the child, the DCF is to
44 inform the person of its determination, the person's responsibility if
45 there is a change in circumstances upon which the DCF made its
46 determination, the person's right to seek review of the DCF's
47 determination, and the possibility of that termination of parental

1 rights may occur if the child remains in resource family care for
2 more than six months.

3 Under current law, the DCF is required to initiate a search for
4 relatives of a child who may be willing to provide care and support,
5 including placement, to that child, assess their ability to provide
6 that care and support to the child, and if a determination is made
7 that he relative is unwilling or unable to assume care of the child,
8 inform the person of its determination and provide the relative with
9 other information as necessary by law. The DCF is not required to
10 follow such procedures for persons who have a kinship relationship
11 with the child.

12 The provisions of section 15 of P.L.1951, c.138 (C.30:4C-15)
13 stipulate that a petition to terminate parental rights can be initiated
14 on the grounds of the “best interests of the child” if the parent is
15 unwilling or unable to eliminate the harm facing a child or is unable
16 or unwilling to provide a safe and stable home for the child and the
17 delay of permanent placement will add to the harm. Under this
18 standard, such harm may include evidence that separating a child
19 from the child’s resource family parents would cause serious and
20 enduring emotional or psychological harm to the child.

21 The bill amends section 7 of P.L.1991, c.275 (C30:4C-15.1) to
22 eliminate the provision that allows evidence that separating a child
23 from the child’s resource family parents would cause serious and
24 enduring emotional or psychological harm to the child to be used in
25 initiating a petition to terminate parental rights.