

ASSEMBLY, No. 68

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KAVANAUGH

1 AN ACT concerning divorce and revising various sections of the  
2 statutory law.

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

6  
7 1. Section 22 of P.L.1981, c.243 (C.2A:4-30.45) is amended to  
8 read as follows:

9 22. Rules of evidence. In any hearing for the civil enforcement of  
10 this act the court is governed by the rules of evidence applicable in a  
11 civil court action in the Superior Court. If the action is based on a  
12 support order issued by another court a certified copy of the order  
13 shall be received as evidence of the duty of support, subject only to  
14 any defenses available to an obligor with respect to paternity (section  
15 26) or to a defendant in an action or a proceeding to enforce a foreign  
16 money judgment. The determination or enforcement of a duty of  
17 support owed to one obligee is unaffected by any interference by  
18 another obligee with rights of custody or **[visitation]** parenting time  
19 granted by a court.

20 (cf: P.L.1981, c.243, s.22)

21

22 2. Section 2 of P.L.1990, c.104 (C.2A:34-31.1) is amended to read  
23 as follows:

24 2. After the issuance of any temporary or permanent order  
25 determining custody or **[visitation]** parenting time of a minor child, a  
26 law enforcement officer having reasonable cause to believe that a  
27 person is likely to flee the State with the child or otherwise by flight  
28 or concealment evade the jurisdiction of the courts of this State may  
29 take a child into protective custody and return the child to the parent  
30 having lawful custody, or to a court in which a custody hearing  
31 concerning the child is pending.

32 (cf: P.L.1990, c.104, s.2)

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

**Matter underlined thus is new matter.**

1       3. Section 3 of P.L.1990, c.104 (C.2A:34-31.2) is amended to read  
2 as follows:

3       3. Every order of a court involving custody or [visitation]  
4 parenting time shall include a written notice, in both English and  
5 Spanish, advising the persons affected as to the penalties provided in  
6 N.J.S.2C:13-4 for violating that order.  
7 (cf: P.L.1990, c.104, s.3)

8

9       4. Section 9 of P.L.1979, c.124 (C.2A:34-36) is amended to read  
10 as follows:

11       9. a. If the petitioner for an initial decree has wrongfully taken the  
12 child from another state or has engaged in similar reprehensible  
13 conduct the court may decline to exercise jurisdiction if this is just and  
14 proper under the circumstances.

15       b. Unless required in the interest of the child, the court shall not  
16 exercise its jurisdiction to modify a custody decree of another state if  
17 the petitioner, without consent of the person entitled to custody, has  
18 improperly removed the child from the physical custody of person  
19 entitled to custody or has improperly retained the child after [a visit]  
20 the scheduled parenting time has elapsed or other temporary  
21 relinquishment of physical custody. If the petitioner has violated any  
22 other provision of a custody decree of another state the court may  
23 decline to exercise its jurisdiction if this is just and proper under the  
24 circumstances.

25       c. In appropriate cases a court dismissing a petition under this  
26 section may assess, and if not paid enter a judgment against the  
27 petitioner for necessary travel and other expenses, including attorneys'  
28 fees, incurred by other parties or their witnesses. Payment shall be  
29 made to the clerk of the court for remittance to the proper party, or in  
30 the event of a judgment shall be collected in accordance with the  
31 normal procedures for the collection of judgments.

32 (cf: P.L.1979, c.124, s. 9)

33

34       5. Section 10 of P.L.1979, c.124 (C.2A:34-37) is amended to read  
35 as follows:

36       10. a. Every party in a custody proceeding in his first pleading or  
37 in an affidavit attached to that pleading shall give information under  
38 oath as to the child's present address, the places where the child has  
39 lived within the last 5 years, and the names and present addresses of  
40 the persons with whom the child has lived during that period. In this  
41 pleading or affidavit every party shall further declare under oath  
42 whether:

43       (1) He has participated (as a party, witness, or in any other  
44 capacity) in any other litigation concerning the custody of the same  
45 child in this or any other state;

46       (2) He has information of any custody proceeding concerning the

1 child pending in a court of this or any other state; and

2 (3) He knows of any person not a party to the proceedings who has  
3 physical custody of the child or claims to have custody or [visitation]  
4 parenting time rights with respect to the child.

5 b. If the declaration as to any of the above items is in the  
6 affirmative the declarant shall give additional information under oath  
7 as required by the court. The court may examine the parties under  
8 oath as to details of the information furnished and as to other matters  
9 pertinent to the court's jurisdiction and the disposition of the case.

10 c. Each party has a continuing duty to inform the court of any  
11 custody proceeding concerning the child in this or any other state of  
12 which he obtained information during this proceeding.

13 (cf: P.L.1979, c.124, s.10)

14

15

16 6. Section 11 of P.L.1979, c.124 (C.2A:34-38) is amended to read  
17 as follows:

18 11. If the court learns from information furnished by the parties  
19 pursuant to section 10 of [this act] P.L.1979, c.124 (C.2A:34-37), or  
20 from other sources that a person not a party to the custody  
21 proceeding has physical custody the child or claims to have custody or  
22 [visitation] parenting time rights with respect to the child, it shall  
23 order that person to be joined as a party and to be duly notified of the  
24 pendency of the proceeding and of his joinder as a party. If the person  
25 joined as a party is outside that State he shall be served with process  
26 or otherwise notified in accordance with the provisions of section 6 of  
27 [this act] P.L.1979, c.124 (C.2A:34-33).

28 (cf: P.L.1979, c.124, s.11)

29

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

31 2C:13-4. Interference with custody. a. Custody of children.  
32 A person, including a parent, guardian or other lawful custodian, is  
33 guilty of interference with custody if he:

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

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

44 (3) After being served with process or having actual knowledge of  
45 an action affecting the protective services needs of a child pursuant to  
46 Title 9 of the Revised Statutes in an action affecting custody, but prior

1 to the issuance of a temporary or final order determining custody  
2 rights of a minor child, takes, detains, entices or conceals the child  
3 within or outside the State for the purpose of evading the jurisdiction  
4 of the courts of this State; or

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

9 Interference with custody is a crime of the third degree but the  
10 presumption of non-imprisonment set forth in subsection e. of  
11 N.J.S.2C:44-1 for a first offense of a crime of the third degree shall  
12 not apply. However, if the child is taken, detained, enticed or  
13 concealed outside the United States, interference with custody is a  
14 crime of the second degree.

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

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

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

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

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

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

46 (1) Gives notice of the child's location to the police department of

1 the municipality where the child resided, the office of the county  
2 prosecutor in the county where the child resided, or the Division of  
3 Youth and Family Services in the Department of Human Services; or

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

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

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

11 (2) In imposing sentence under subsection a. of this section the  
12 court shall consider, in addition to the factors enumerated in chapter  
13 44 of Title 2C of the New Jersey Statutes:

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

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

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

18 (cf: P.L.1990, c.104, s.1.)

19

20 8. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read  
21 as follows:

22 13. a. A hearing shall be held in the Family Part of the Chancery  
23 Division of the Superior Court within 10 days of the filing of a  
24 complaint pursuant to section 12 of this act in the county where the ex  
25 parte restraints were ordered, unless good cause is shown for the  
26 hearing to be held elsewhere. A copy of the complaint shall be served  
27 on the defendant in conformity with the Rules of Court. If a criminal  
28 complaint arising out of the same incident which is the subject matter  
29 of a complaint brought under P.L.1981, c.426 (C.2C:25-1 et seq.) or  
30 P.L.1991, c.261 (C.2C:25-17 et seq.) has been filed, testimony given  
31 by the plaintiff or defendant in the domestic violence matter shall not  
32 be used in the simultaneous or subsequent criminal proceeding against  
33 the defendant, other than domestic violence contempt matters and  
34 where it would otherwise be admissible hearsay under the rules of  
35 evidence that govern where a party is unavailable. At the hearing the  
36 standard for proving the allegations in the complaint shall be by a  
37 preponderance of the evidence. The court shall consider but not be  
38 limited to the following factors:

39 (1) The previous history of domestic violence between the plaintiff  
40 and defendant, including threats, harassment and physical abuse;

41 (2) The existence of immediate danger to person or property;

42 (3) The financial circumstances of the plaintiff and defendant;

43 (4) The best interests of the victim and any child;

44 (5) In determining custody and [visitation] parenting time the  
45 protection of the victim's safety; and

46 (6) The existence of a verifiable order of protection from another

1 jurisdiction.

2 An order issued under this act shall only restrain or provide  
3 damages payable from a person against whom a complaint has been  
4 filed under this act and only after a finding or an admission is made  
5 that an act of domestic violence was committed by that person. The  
6 issue of whether or not a violation of this act occurred, including an  
7 act of contempt under this act, shall not be subject to mediation or  
8 negotiation in any form. In addition, where a temporary or final order  
9 has been issued pursuant to this act, no party shall be ordered to  
10 participate in mediation on the issue of custody or [visitation]  
11 parenting time.

12 b. In proceedings in which complaints for restraining orders have  
13 been filed, the court shall grant any relief necessary to prevent further  
14 abuse. At the hearing the judge of the Family Part of the Chancery  
15 Division of the Superior Court may issue an order granting any or all  
16 of the following relief:

17 (1) An order restraining the defendant from subjecting the victim  
18 to domestic violence, as defined in this act.

19 (2) An order granting exclusive possession to the plaintiff of the  
20 residence or household regardless of whether the residence or  
21 household is jointly or solely owned by the parties or jointly or solely  
22 leased by the parties. This order shall not in any manner affect title or  
23 interest to any real property held by either party or both jointly. If it  
24 is not possible for the victim to remain in the residence, the court may  
25 order the defendant to pay the victim's rent at a residence other than  
26 the one previously shared by the parties if the defendant is found to  
27 have a duty to support the victim and the victim requires alternative  
28 housing.

29 (3) An order providing for [visitation] parenting time. The order  
30 shall protect the safety and well-being of the plaintiff and minor  
31 children and shall specify the place and frequency of [visitation] the  
32 parenting time. [Visitation] Parenting time arrangements shall not  
33 compromise any other remedy provided by the court by requiring or  
34 encouraging contact between the plaintiff and defendant. Orders for  
35 [visitation] parenting time may include a designation of a place of  
36 [visitation] parenting time away from the plaintiff, the participation of  
37 a third party, or supervised [visitation] parenting time.

38 (a) The court shall consider a request by a custodial parent who  
39 has been subjected to domestic violence by a person with [visitation]  
40 parenting time rights to a child in the parent's custody for an  
41 investigation or evaluation by the appropriate agency to assess the risk  
42 of harm to the child prior to the entry of a [visitation] parenting time  
43 order. Any denial of such a request must be on the record and shall  
44 only be made if the judge finds the request to be arbitrary or  
45 capricious.

46 (b) The court shall consider suspension of the [visitation] parenting

1 time order and hold an emergency hearing upon an application made  
2 by the plaintiff certifying under oath that the defendant's access to the  
3 child pursuant to the [visitation] parenting time order has threatened  
4 the safety and well-being of the child.

5 (4) An order requiring the defendant to pay to the victim monetary  
6 compensation for losses suffered as a direct result of the act of  
7 domestic violence. The order may require the defendant to pay the  
8 victim directly, to reimburse the Violent Crimes Compensation Board  
9 for any and all compensation paid by the Violent Crimes Compensation  
10 Board directly to or on behalf of the victim, and may require that the  
11 defendant reimburse any parties that may have compensated the  
12 victim, as the court may determine. Compensatory losses shall include,  
13 but not be limited to, loss of earnings or other support, including child  
14 or spousal support, out-of-pocket losses for injuries sustained, cost of  
15 repair or replacement of real or personal property damaged or  
16 destroyed or taken by the defendant, cost of counseling for the victim,  
17 moving or other travel expenses, reasonable attorney's fees, court  
18 costs, and compensation for pain and suffering. Where appropriate,  
19 punitive damages may be awarded in addition to compensatory  
20 damages.

21 (5) An order requiring the defendant to receive professional  
22 domestic violence counseling from either a private source or a source  
23 appointed by the court and, in that event, at the court's discretion  
24 requiring the defendant to provide the court at specified intervals with  
25 documentation of attendance at the professional counseling. The court  
26 may order the defendant to pay for the professional counseling.

27 (6) An order restraining the defendant from entering the residence,  
28 property, school, or place of employment of the victim or of other  
29 family or household members of the victim and requiring the defendant  
30 to stay away from any specified place that is named in the order and  
31 is frequented regularly by the victim or other family or household  
32 members.

33 (7) An order restraining the defendant from making contact with  
34 the plaintiff or others, including an order forbidding the defendant  
35 from personally or through an agent initiating any communication  
36 likely to cause annoyance or alarm including, but not limited to,  
37 personal, written, or telephone contact with the victim or other family  
38 members, or their employers, employees, or fellow workers, or others  
39 with whom communication would be likely to cause annoyance or  
40 alarm to the victim.

41 (8) An order requiring that the defendant make or continue to  
42 make rent or mortgage payments on the residence occupied by the  
43 victim if the defendant is found to have a duty to support the victim or  
44 other dependent household members; provided that this issue has not  
45 been resolved or is not being litigated between the parties in another  
46 action.

1 (9) An order granting either party temporary possession of  
2 specified personal property, such as an automobile, checkbook,  
3 documentation of health insurance, an identification document, a key,  
4 and other personal effects.

5 (10) An order awarding emergency monetary relief, including  
6 emergency support for minor children, to the victim and other  
7 dependents, if any. An ongoing obligation of support shall be  
8 determined at a later date pursuant to applicable law.

9 (11) An order awarding temporary custody of a minor child. The  
10 court shall presume that the best interests of the child are served by an  
11 award of custody to the non-abusive parent.

12 (12) An order requiring that a law enforcement officer accompany  
13 either party to the residence or any shared business premises to  
14 supervise the removal of personal belongings in order to ensure the  
15 personal safety of the plaintiff when a restraining order has been  
16 issued. This order shall be restricted in duration.

17 (13) An order which permits the victim and the defendant to  
18 occupy the same premises but limits the defendant's use of that  
19 premises, but only if it is documented by the judge granting the order  
20 that:

21 (a) The plaintiff specifically and voluntarily requests such an order;  
22 and

23 (b) The judge determines that the request is made voluntarily and  
24 with the plaintiff's knowledge that the order may not provide the same  
25 protection as an order excluding the defendant from the premises and  
26 with the plaintiff's knowledge that the order may be difficult to  
27 enforce; and

28 (c) Any conditions placed upon the defendant in connection with  
29 the continued access to the premises and any penalties for  
30 noncompliance with those conditions shall be explicitly set out in the  
31 order and shall be in addition to any other remedies for noncompliance  
32 available to the victim.

33 (14) An order granting any other appropriate relief for the plaintiff  
34 and dependent children, provided that the plaintiff consents to such  
35 relief, including relief requested by the plaintiff at the final hearing,  
36 whether or not the plaintiff requested such relief at the time of the  
37 granting of the initial emergency order.

38 (15) An order that requires that the defendant report to the intake  
39 unit of the Family Part of the Chancery Division of the Superior Court  
40 for monitoring of any other provision of the order.

41 (16) An order prohibiting the defendant from possessing any  
42 firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1  
43 and ordering the search for and seizure of any such weapon at any  
44 location where the judge has reasonable cause to believe the weapon  
45 is located. The judge shall state with specificity the reasons for and  
46 scope of the search and seizure authorized by the order.

1 (17) An order prohibiting the defendant from stalking or following,  
2 or threatening to harm, to stalk or to follow, the complainant or any  
3 other person named in the order in a manner that, taken in the context  
4 of past actions of the defendant, would put the complainant in  
5 reasonable fear that the defendant would cause the death or injury of  
6 the complainant or any other person. Behavior prohibited under this  
7 act includes, but is not limited to, behavior prohibited under the  
8 provisions of P.L.1992, c.209 (C.2C:12-10).

9 (18) An order requiring the defendant to undergo a psychiatric  
10 evaluation.

11 c. Notice of orders issued pursuant to this section shall be sent by  
12 the clerk of the Family Part of the Chancery Division of the Superior  
13 Court or other person designated by the court to the appropriate chiefs  
14 of police, members of the State Police and any other appropriate law  
15 enforcement agency.

16 d. Upon good cause shown, any final order may be dissolved or  
17 modified upon application to the Family Part of the Chancery Division  
18 of the Superior Court, but only if the judge who dissolves or modifies  
19 the order is the same judge who entered the order, or has available a  
20 complete record of the hearing or hearings on which the order was  
21 based.

22 (cf: P.L.1994, c.137, s.2)

23  
24 9. R.S. 9:2-4 is amended to read as follows:

25 9:2-4. The Legislature finds and declares that it is in the public  
26 policy of this State to assure minor children of frequent and continuing  
27 contact with both parents after the parents have separated or dissolved  
28 their marriage and that it is in the public interest to encourage parents  
29 to share the rights and responsibilities of child rearing in order to  
30 effect this policy.

31 In any proceeding involving the custody of a minor child, the rights  
32 of both parents shall be equal and the court shall enter an order which  
33 may include:

34 a. Joint custody of a minor child to both parents, which is  
35 comprised of legal custody or physical custody which shall include: (1)  
36 provisions for residential arrangements so that a child shall reside  
37 either solely with one parent or alternatively with each parent in  
38 accordance with the needs of the parents and the child; and (2)  
39 provisions for consultation between the parents in making major  
40 decisions regarding the child's health, education and general welfare;

41 b. Sole custody to one parent with appropriate [visitation]  
42 parenting time for the noncustodial parent; or

43 c. Any other custody arrangement as the court may determine to  
44 be in the best interests of the child.

45 In making an award of custody, the court shall consider but not be  
46 limited to the following factors: the parents' ability to agree,

1 communicate and cooperate in matters relating to the child; the  
2 parents' willingness to accept custody and any history of unwillingness  
3 to allow [visitation] parenting time not based on substantiated abuse;  
4 the interaction and relationship of the child with its parents' and  
5 siblings; the history of domestic violence, if any; the safety of the child  
6 and the safety of either parent from physical abuse by the other parent;  
7 the preference of the child when of sufficient age and capacity to  
8 reason so as to form an intelligent decision; the needs of the child; the  
9 stability of the home environment offered; the quality and continuity  
10 of the child's education; the fitness of the parents; the geographical  
11 proximity of the parents' homes; the extent and quality of the time  
12 spent with the child prior to or subsequent to the separation; the  
13 parents' employment responsibilities; and the age and number of the  
14 children. A parent shall not be deemed unfit unless the parents'  
15 conduct has a substantial adverse effect on the child.

16 The court, for good cause and upon its own motion, may appoint  
17 a guardian ad litem or an attorney or both to represent the minor  
18 child's interests. The court shall have the authority to award a counsel  
19 fee to the guardian ad litem and the attorney and to assess that cost  
20 between the parties to the litigation.

21 d. The court shall order any custody arrangement which is agreed  
22 to by both parents unless it is contrary to the best interests of the  
23 child.

24 e. In any case in which the parents cannot agree to a custody  
25 arrangement, the court may require each parent to submit a custody  
26 plan which the court shall consider in awarding custody.

27 f. The court shall specifically place on the record the factors which  
28 justify any custody arrangement not agreed to by both parents.

29 (cf: P.L.1990, c.26, s.2)

30

31 10. Section 10 of P.L.1977, c.367 (C.9:3-46) is amended to read  
32 as follows:

33 10. a. A person who is entitled to notice pursuant to section 9 of  
34 P.L.1977, c.367 (C.9:3-45) shall have the right to object to the  
35 adoption of his child. A judgment of adoption shall not be entered over  
36 an objection of a parent communicated to the court by personal  
37 appearance or by letter unless the court finds:

38 (1) that the parent has substantially failed to perform the regular  
39 and expected parental functions of care and support of the child,  
40 although able to do so, or

41 (2) that the parent is unable to perform the regular and expected  
42 parental functions of care and support of the child and that the parent's  
43 inability to perform those functions is unlikely to change in the  
44 immediate future.

45 The regular and expected functions of care and support of a child  
46 shall include the following:

1 (a) the maintenance of a relationship with the child such that the  
2 child perceives the person as his parent;

3 (b) communicating with the child or person having legal custody  
4 of the child and [visiting the child] parenting time rights unless  
5 [visitation] having parenting time is impossible because of the parent's  
6 confinement in an institution, or unless prevented from so doing by the  
7 custodial parent or other custodian of the child or a social service  
8 agency over the birth parent's objection; or

9 (c) providing financial support for the child unless prevented from  
10 doing so by the custodial parent or other custodian of the child or a  
11 social service agency.

12 A parent shall be presumed to have failed to perform the regular  
13 and expected parental functions of care and support of the child if the  
14 court finds that the situation set forth in paragraph (1) or (2) has  
15 occurred for six or more months.

16 b. The guardian of a child to be adopted who has not executed a  
17 surrender pursuant to section 5 of P.L.1977, c.367 (C.9:3-41) and any  
18 other person who has provided care and supervision in his home for  
19 the child for a period of six months or one half of the life of the child,  
20 whichever is less, in the two years prior to the complaint shall be given  
21 notice of the action and in accordance with the Rules of Court shall  
22 have standing to object to the adoption, which objection shall be given  
23 due consideration by the court in determining whether the best  
24 interests of the child would be promoted by the adoption.

25 (cf: P.L.1993, c.345, s.9)

26

27 11. Section 16 of P.L.1983, c.17 (C.9:17-53) is amended to read  
28 as follows:

29 16. a. The judgment or order of the court determining the  
30 existence or nonexistence of the parent and child relationship is  
31 determinative for all purposes.

32 b. If the judgment or order of the court is at variance with the  
33 child's birth certificate, the court shall order that an amendment to the  
34 original birth record be made under section 22.

35 c. The judgment or order may contain any other provision directed  
36 against the appropriate party to the proceeding concerning the duty of  
37 support, the custody and guardianship of the child, [visitation]  
38 parenting time privileges with the child, the furnishing of bond or other  
39 security for the payment of the judgment, the repayment of any public  
40 assistance grant, or any other matter in the best interests of the child.  
41 The judgment or order may direct the father to pay the reasonable  
42 expenses of the mother's pregnancy and postpartum disability,  
43 including repayment to an agency which provided public assistance  
44 funds for those expenses.

45 d. Support judgments or orders ordinarily shall be for periodic  
46 payments, which may vary in amount. In the best interests of the

1 child, the purchase of an annuity may be ordered in lieu of periodic  
2 payments of support. The court may limit a parent's liability for past  
3 support of the child to the proportion of the expenses already incurred  
4 that the court deems just.

5 e. In determining the amount to be paid by a parent for support of  
6 the child and the period during which the duty of support is owed, a  
7 court enforcing the obligation of support shall consider all relevant  
8 facts, including the:

9 (1) Needs of the child;

10 (2) Standard of living and economic circumstances of each parent;

11 (3) Income and assets of each parent, including any public  
12 assistance grant received by a parent;

13 (4) Earning ability of each parent, including educational  
14 background, training, employment skills, work experience, custodial  
15 responsibility for children and the length of time and cost for each  
16 parent to obtain training or experience for appropriate employment;

17 (5) Need and capacity of the child for education, including higher  
18 education;

19 (6) Age and health of the child and each parent;

20 (7) Income, assets and earning ability of the child;

21 (8) Responsibility of the parents for the support of others; and

22 (9) Debts and liabilities of each child and parent.

23 The factors set forth herein are not intended to be exhaustive. The  
24 court may consider such other factors as may be appropriate under the  
25 circumstances.

26 (cf: P.L.1983, c.17, s.16.)

27  
28 12. Section 1 of P.L.1984, c.183 (C.52:27D-9.1) is amended to  
29 read as follows:

30 1. The Department of Community Affairs shall develop a program  
31 which: a. makes grandparents aware of their rights under P.L.1971,  
32 c.420 (C.9:2-7.1), which establishes [visitation] parenting time rights  
33 for grandparents in cases involving the custody and [visitation of]  
34 parenting time with the child, such as divorce cases; and b. informs  
35 divorcing parents as to the utility, to the child, of regular and frequent  
36 [visitation] parenting time with grandparents.

37 (cf: P.L.1984, c.183, s.1.)

38  
39 13. This act shall take effect immediately.  
40  
41

## 42 STATEMENT

43  
44 This bill would amend various sections of the law and replace the  
45 term "visitation" with the term "parenting time" to more accurately  
46 reflect the relationship between a parent and child who have gone

1 through a divorce.

2 This bill embodies recommendation number 6 of the report of the  
3 Commission to Study the Law of Divorce, issued April 18, 1995.

4

5

6

7

8 Revises the statutes by changing the term "visitation" to "parenting  
9 time."