

SENATE, No. 709

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senators CAFIERO and EWING

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)

33

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

36 3. Every order of a court involving custody or **[visitation]**  
37 **parenting time** shall include a written notice, in both English and

1 Spanish, advising the persons affected as to the penalties provided in  
2 N.J.S.2C:13-4 for violating that order.  
3 (cf: P.L.1990, c.104, s.3)

4

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

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

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

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

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

29

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

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

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

42 (2) He has information of any custody proceeding concerning the  
43 child pending in a court of this or any other state; and

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

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

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

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

10

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

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

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

24

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

26 2C:13-4. Interference with custody. a. Custody of children. A  
27 person, including a parent, guardian or other lawful custodian, is guilty  
28 of interference with custody if he:

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

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

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

46 (4) After the issuance of a temporary or final order specifying

1 custody, [visitation or] joint custody rights or parenting time, takes,  
2 detains, entices or conceals a minor child from the other parent in  
3 violation of the custody or [visitation] parenting time order.

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

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

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

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

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

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

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

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

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

46 e. The offenses enumerated in this section are continuous in nature

1 and continue for so long as the child is concealed or detained.

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

6 (2) In imposing sentence under subsection a. of this section the  
7 court shall consider, in addition to the factors enumerated in chapter  
8 44 of Title 2C of the New Jersey Statutes:

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

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

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

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

14

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

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

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

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

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

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

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

41 (6) The existence of a verifiable order of protection from another  
42 jurisdiction.

43 An order issued under this act shall only restrain or provide  
44 damages payable from a person against whom a complaint has been  
45 filed under this act and only after a finding or an admission is made  
46 that an act of domestic violence was committed by that person. The

1 issue of whether or not a violation of this act occurred, including an  
2 act of contempt under this act, shall not be subject to mediation or  
3 negotiation in any form. In addition, where a temporary or final order  
4 has been issued pursuant to this act, no party shall be ordered to  
5 participate in mediation on the issue of custody or [visitation]  
6 parenting time.

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

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

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

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

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

41 (b) The court shall consider suspension of the [visitation] parenting  
42 time order and hold an emergency hearing upon an application made  
43 by the plaintiff certifying under oath that the defendant's access to the  
44 child pursuant to the [visitation] parenting time order has threatened  
45 the safety and well-being of the child.

46 (4) An order requiring the defendant to pay to the victim monetary

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

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

22 (6) An order restraining the defendant from entering the residence,  
23 property, school, or place of employment of the victim or of other  
24 family or household members of the victim and requiring the defendant  
25 to stay away from any specified place that is named in the order and  
26 is frequented regularly by the victim or other family or household  
27 members.

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

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

42 (9) An order granting either party temporary possession of  
43 specified personal property, such as an automobile, checkbook,  
44 documentation of health insurance, an identification document, a key,  
45 and other personal effects.

46 (10) An order awarding emergency monetary relief, including

1 emergency support for minor children, to the victim and other  
2 dependents, if any. An ongoing obligation of support shall be  
3 determined at a later date pursuant to applicable law.

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

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

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

16 (a) The plaintiff specifically and voluntarily requests such an order;  
17 and

18 (b) The judge determines that the request is made voluntarily and  
19 with the plaintiff's knowledge that the order may not provide the same  
20 protection as an order excluding the defendant from the premises and  
21 with the plaintiff's knowledge that the order may be difficult to  
22 enforce; and

23 (c) Any conditions placed upon the defendant in connection with  
24 the continued access to the premises and any penalties for  
25 noncompliance with those conditions shall be explicitly set out in the  
26 order and shall be in addition to any other remedies for noncompliance  
27 available to the victim.

28 (14) An order granting any other appropriate relief for the plaintiff  
29 and dependent children, provided that the plaintiff consents to such  
30 relief, including relief requested by the plaintiff at the final hearing,  
31 whether or not the plaintiff requested such relief at the time of the  
32 granting of the initial emergency order.

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

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

42 (17) An order prohibiting the defendant from stalking or following,  
43 or threatening to harm, to stalk or to follow, the complainant or any  
44 other person named in the order in a manner that, taken in the context  
45 of past actions of the defendant, would put the complainant in  
46 reasonable fear that the defendant would cause the death or injury of

1 the complainant or any other person. Behavior prohibited under this  
2 act includes, but is not limited to, behavior prohibited under the  
3 provisions of P.L.1992, c.209 (C.2C:12-10).

4 (18) An order requiring the defendant to undergo a psychiatric  
5 evaluation.

6 c. Notice of orders issued pursuant to this section shall be sent by  
7 the clerk of the Family Part of the Chancery Division of the Superior  
8 Court or other person designated by the court to the appropriate chiefs  
9 of police, members of the State Police and any other appropriate law  
10 enforcement agency.

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

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

18

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

20 9:2-4. The Legislature finds and declares that it is in the public  
21 policy of this State to assure minor children of frequent and continuing  
22 contact with both parents after the parents have separated or dissolved  
23 their marriage and that it is in the public interest to encourage parents  
24 to share the rights and responsibilities of child rearing in order to  
25 effect this policy.

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

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

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

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

40 In making an award of custody, the court shall consider but not be  
41 limited to the following factors: the parents' ability to agree,  
42 communicate and cooperate in matters relating to the child; the  
43 parents' willingness to accept custody and any history of unwillingness  
44 to allow [visitation] parenting time not based on substantiated abuse;  
45 the interaction and relationship of the child with its parents' and  
46 siblings; the history of domestic violence, if any; the safety of the child

1 and the safety of either parent from physical abuse by the other parent;  
2 the preference of the child when of sufficient age and capacity to  
3 reason so as to form an intelligent decision; the needs of the child; the  
4 stability of the home environment offered; the quality and continuity  
5 of the child's education; the fitness of the parents; the geographical  
6 proximity of the parents' homes; the extent and quality of the time  
7 spent with the child prior to or subsequent to the separation; the  
8 parents' employment responsibilities; and the age and number of the  
9 children. A parent shall not be deemed unfit unless the parents'  
10 conduct has a substantial adverse effect on the child.

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

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

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

22 f. The court shall specifically place on the record the factors which  
23 justify any custody arrangement not agreed to by both parents.  
24 (cf: P.L.1990, c.26, s.2)

25

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

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

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

36 (2) that the parent is unable to perform the regular and expected  
37 parental functions of care and support of the child and that the parent's  
38 inability to perform those functions is unlikely to change in the  
39 immediate future.

40 The regular and expected functions of care and support of a child  
41 shall include the following:

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

44 (b) communicating with the child or person having legal custody  
45 of the child and [visiting the child] parenting time rights unless  
46 [visitation] having parenting time is impossible because of the parent's

1 confinement in an institution, or unless prevented from so doing by the  
2 custodial parent or other custodian of the child or a social service  
3 agency over the birth parent's objection; or

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

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

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

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

21

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

24 16. a. The judgment or order of the court determining the  
25 existence or nonexistence of the parent and child relationship is  
26 determinative for all purposes.

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

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

40 d. Support judgments or orders ordinarily shall be for periodic  
41 payments, which may vary in amount. In the best interests of the  
42 child, the purchase of an annuity may be ordered in lieu of periodic  
43 payments of support. The court may limit a parent's liability for past  
44 support of the child to the proportion of the expenses already incurred  
45 that the court deems just.

46 e. In determining the amount to be paid by a parent for support of

1 the child and the period during which the duty of support is owed, a  
2 court enforcing the obligation of support shall consider all relevant  
3 facts, including the:

- 4 (1) Needs of the child;
- 5 (2) Standard of living and economic circumstances of each parent;
- 6 (3) Income and assets of each parent, including any public  
7 assistance grant received by a parent;
- 8 (4) Earning ability of each parent, including educational  
9 background, training, employment skills, work experience, custodial  
10 responsibility for children and the length of time and cost for each  
11 parent to obtain training or experience for appropriate employment;
- 12 (5) Need and capacity of the child for education, including higher  
13 education;
- 14 (6) Age and health of the child and each parent;
- 15 (7) Income, assets and earning ability of the child;
- 16 (8) Responsibility of the parents for the support of others; and
- 17 (9) Debts and liabilities of each child and parent.

18 The factors set forth herein are not intended to be exhaustive. The  
19 court may consider such other factors as may be appropriate under the  
20 circumstances.

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

22

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

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

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

33

34 13. This act shall take effect immediately.

35

36

37

#### STATEMENT

38

39 This bill would amend various sections of the law and replace the  
40 term "visitation" with the term "parenting time" to more accurately  
41 reflect the relationship between a parent and child who have gone  
42 through a divorce.

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

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3 Revises the statutes by changing the term "visitation" to "parenting  
4 time."