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SENATE, No. 2209

STATE OF NEW JERSEY

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**By Senators DiFRANCESCO, INVERSO, Bryant, Baer, Sinagra,
Matheussen, Assemblywoman Heck, Assemblyman Talarico
and Assemblywoman Pou**

1 **AN ACT** concerning child abuse and neglect and revising parts 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. (New section) This act shall be known as and may be cited as
8 the "Comprehensive Child Abuse Prevention and Treatment Act."

9

10 2. (New section) As used in this act:

11 "Board" means the Child Fatality and Near Fatality Review Board
12 established under P.L. , c. (C.)(pending before the Legislature
13 as this bill).

14 "Child" means any person under the age of 18.

15 "Commissioner" means the Commissioner of Human Services.

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

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

23 "Near fatality" means a case in which a child is in serious or critical
24 condition, as certified by a physician.

25 "Panel" means a citizen review panel as established under P.L. c,
26 (C.)(pending before the Legislature as this bill).

**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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SWF committee amendments adopted June 19, 1997.

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

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

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

11 ¹[or]¹

12 b. sexual conduct including molestation, prostitution, other forms
13 of sexual exploitation of children or incest¹; or

14 c. sexual penetration and sexual contact as defined in N.J.S.2C:14-
15 1 and a prohibited sexual act as defined in N.J.S.2C:24-4¹.

16 "Significant bodily injury" means a temporary loss of the
17 functioning of any bodily member or organ or temporary loss of any
18 one of the five senses.

19 "Withholding of medically indicated treatment" means the failure to
20 respond to ¹[an infant's] a child's¹ life-threatening conditions by
21 providing treatment, including appropriate nutrition, hydration, and
22 medication which, in the treating physician's reasonable judgment, will
23 most likely be effective in ameliorating or correcting all such
24 conditions. The term does not include the failure to provide treatment,
25 other than appropriate nutrition, hydration, or medication to ¹[an
26 infant] a child¹ when, in the treating physician's reasonable medical
27 judgment:

28 a. the ¹[infant] child¹ is chronically and irreversibly comatose;

29 b. the provision of such treatment would merely prolong dying, not
30 be effective in ameliorating or correcting all of the ¹[infant's] child's¹
31 life-threatening conditions, or otherwise be futile in terms of the
32 survival of the ¹[infant] child¹; or

33 c. the provision of such treatment would be virtually futile in terms
34 of the survival of the ¹[infant] child¹ and the treatment itself under
35 such circumstances would be inhumane.

36
37 3. (New section) The commissioner shall establish procedures for
38 responding to the reporting of medical neglect, including instances of
39 withholding of medically indicated treatment from disabled ¹[infants]
40 children¹ with life-threatening conditions, to provide for: a.
41 coordination and consultation with persons designated by and within
42 appropriate health care facilities, and b. prompt notification by these
43 persons of cases of suspected medical neglect, including withholding
44 of medically indicated treatment from disabled ¹[infants] children¹
45 with life-threatening conditions.

1 4. (New section) The division may pursue any legal remedies,
2 including the initiation of legal proceedings in a court of competent
3 jurisdiction, as may be necessary to: a. prevent the withholding of
4 medically indicated treatment from disabled ¹[infants] children¹ with
5 life-threatening conditions, or b. provide medical care or treatment for
6 a child when such care or treatment is necessary to prevent or remedy
7 serious harm to the child or to prevent the withholding of medically
8 indicated treatment from disabled ¹[infants] children¹ with life-
9 threatening conditions.

10
11 5. (New section) In any case in which the division accepts a child
12 in care or custody, including placement, the division shall not be
13 required to provide diligent efforts to reunify the child with a parent
14 who has been found by a court of competent jurisdiction to have
15 committed murder, aggravated manslaughter or manslaughter of
16 another child of the parent; to have aided or abetted, attempted,
17 conspired or solicited to commit the murder, aggravated manslaughter
18 or manslaughter of the child or another child of the parent; or to have
19 committed¹, or attempted to commit,¹ an assault that resulted¹, or
20 could have resulted,¹ in the significant bodily injury to the child or
21 another child of the parent¹]; or attempted to commit an assault
22 against the child or another child of the parent¹.

23
24 6. (New section) There is established the Child Fatality and Near
25 Fatality Review Board. For the purposes of complying with the
26 provisions of Article V, Section IV, paragraph 1 of the New Jersey
27 Constitution, the board is established within the Department of Human
28 Services, but notwithstanding the establishment, the board shall be
29 independent of any supervision or control by the department or any
30 board or officer thereof.

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

45
46 7. (New section) a. The board shall consist of 13 members as

1 follows: the Commissioner of Human Services, the Commissioner of
2 Health and Senior Services, the Director of the Division of Youth and
3 Family Services in the Department of Human Services, the Attorney
4 General, the Superintendent of the State Police, or their designees, the
5 State Medical Examiner, and the Chairperson or Executive Director
6 of the New Jersey Task Force on Child Abuse and Neglect, who shall
7 serve ex officio; and six public members appointed by the Governor,
8 one of whom shall be a representative of the New Jersey Prosecutors'
9 Association, one of whom shall be a Law Guardian, one of whom shall
10 be a pediatrician with expertise in child abuse and neglect, one of
11 whom shall be a psychologist with expertise in child abuse and neglect,
12 one of whom shall be a social work educator with experience and
13 expertise in the area of child abuse or a related field and one of whom
14 shall have expertise in substance abuse.

15 b. The public members of the board shall serve for three year
16 terms. Of the public members first appointed, three shall serve for a
17 period of two years, and three shall serve for a term of three years.
18 They shall serve without compensation but shall be eligible for
19 reimbursement for necessary and reasonable expenses incurred in the
20 performance of their official duties and within the limits of funds
21 appropriated for this purpose. Vacancies in the membership of the
22 board shall be filled in the same manner as the original appointments
23 were made.

24 c. The ¹[Commissioner of Human Services shall be the] Governor
25 shall appoint a public member to serve as¹ chairperson of the board
26 who shall be responsible for the coordination of all activities of the
27 board and who shall provide the technical assistance needed to execute
28 the duties of the board.

29 d. The board is entitled to call to its assistance and avail itself of
30 the services of employees of any State, county or municipal
31 department, board, bureau, commission or agency as it may require
32 and as may be available for the purposes of reviewing a case pursuant
33 to the provisions of P.L. , c. (C.)(pending before the Legislature
34 as this bill). The board may also seek the advice of experts, such as
35 persons specializing in the fields of pediatric, radiological,
36 neurological, psychiatric, orthopedic and forensic medicine; nursing;
37 psychology; social work; education; law enforcement; family law;
38 substance abuse; child advocacy or other related fields, if the facts of
39 a case warrant additional expertise.

40

41 8. (New section) The board shall:

42 a. Identify the fatalities of children due to unusual circumstances
43 according to the following criteria:

44 (1) The cause of death is undetermined;

45 (2) Death where substance abuse may have been a contributing
46 factor;

- 1 (3) Homicide, child abuse or neglect;
 - 2 (4) Death where child abuse or neglect may have been a
3 contributing factor;
 - 4 (5) Malnutrition, dehydration, or medical neglect or failure to
5 thrive;
 - 6 (6) Sexual abuse;
 - 7 (7) Head trauma, fractures or blunt force trauma without obvious
8 innocent reason such as auto accidents;
 - 9 (8) Suffocation or asphyxia;
 - 10 (9) Burns without obvious innocent reason such as auto accident
11 or house fire; and
 - 12 (10) Suicide.
- 13 b. Identify fatalities and near fatalities among children whose
14 family, currently or within the last 12 months, were receiving services
15 from the division.
- 16
- 17 9. (New section) a. The board shall determine which fatalities
18 shall receive full review. The board may establish local or regional
19 community-based teams to review information regarding children
20 identified by the board. At least one team shall be designated to
21 review information regarding child fatalities due to unusual
22 circumstances. At least one team shall be designated to review child
23 fatalities and near fatalities identified pursuant to subsection b. of
24 section 8 of P.L. , c. (C.)(pending before the Legislature as this
25 bill) as well as child fatalities where information available to the board
26 indicates that child abuse or neglect may have been a contributing
27 factor.
- 28 b. Each team shall include, at a minimum, a person experienced in
29 prosecution, a person experienced in local law enforcement
30 investigation, a medical examiner, a public health advocate, a
31 physician, preferably a pediatrician, and a casework supervisor from
32 a division field office. As necessary to perform its functions, each
33 team may add additional members or seek the advice of experts in
34 other fields if the facts of a case warrant additional expertise.
- 35 c. Each team shall submit to the board chairperson a report of its
36 findings and recommendations based upon its review of information
37 regarding each child fatality or near fatality.
- 38
- 39 10. (New section) a. The board shall record the name, age, date
40 of birth, place of death or pronouncement of death, date and time of
41 death, and circumstances surrounding the death in a confidential
42 master file. Similar information shall be recorded for each near fatality
43 reviewed by the board. The file shall serve as the minimum record of
44 the case and shall be the only file that contains the name of the child
45 and shall not be subject to discovery, but may be used by the
46 chairperson of the board to refer an individual case, including the

1 board's deliberations and conclusions, to the extent necessary for an
2 appropriate agency to investigate or to provide services.

3 b. Except as provided in subsection a. of this section, the
4 deliberations and conclusions of the board and of its teams, related to
5 a specific case, shall be confidential. Summary records that are
6 prepared by the board and the teams on each reported case shall be
7 free of information that would identify the child.

8 c. The summary reports, deliberations and conclusions of the board
9 or its teams shall not supersede or replace the conclusions or opinions
10 of the agencies that contribute information from their own records.

11 d. The board shall review the reports submitted by each team and
12 issue an annual report to the Governor and the Legislature which
13 includes the number of cases reviewed and specific non-identifying
14 information regarding cases of particular significance. The board shall
15 also include in the report recommendations for achieving better
16 coordination and collaboration among State and local agencies and
17 recommendations for system-wide improvements in services to prevent
18 fatalities and near fatalities among children.

19

20 11. (New section) a. The board may subpoena and review records
21 that pertain to the child, except as provided in any statute, regulation
22 or Executive Order relating to the confidentiality of criminal
23 investigations and criminal investigative files. The records subject to
24 subpoena and review shall include, but are not limited to, private
25 medical and hospital records, school records, mental health records,
26 and other records which may be deemed pertinent to the review
27 process and necessary for the formulation of a conclusion by the
28 board.

29 b. Records obtained by the board pursuant to subsection a. of this
30 section shall not be subject to subpoena.

31 c. If, at the time of initial notification or during the subsequent
32 review, the board has reasonable cause to believe that the death is the
33 result of child abuse or neglect, or has reasonable cause to believe that
34 the death is the result of an on-going hazard to other members of the
35 household, then the board shall notify or shall verify that notification
36 has been made to the county prosecutor of the county wherein the
37 death occurred or was pronounced, and to the division.

38

39 12. (New section) A member of the board shall not be liable for
40 any civil damages as a result of providing in good faith any reports,
41 records, opinions or recommendations pursuant to P.L. , c.
42 (C.)(pending before the Legislature as this bill).

43

44 13. (New section) The board may solicit and receive grants and
45 other funds made available from a governmental, public, private,
46 nonprofit, or for-profit agency, including funds made available under

1 any federal or State law, regulation or program.

2

3 14. (New section) The board shall adopt regulations pursuant to
4 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.) concerning the operation of the board, procedures for conducting
6 reviews of cases involving child fatalities and near fatalities, and other
7 matters necessary to effectuate the purposes of this act.

8

9 15. (New section) a. The commissioner shall designate three
10 citizen review panels for the purpose of examining the policies and
11 procedures of State and local agencies and, as appropriate, specific
12 cases, and evaluating the extent to which the agencies are effectively
13 discharging their child protection responsibilities.

14 b. The commissioner may designate as panels for the purposes of
15 P.L. , c. (C.)(pending before the Legislature as this bill), one or
16 more existing entities established under federal or State law, if such
17 entities have the capacity to satisfy the requirements of this act.

18 c. Each panel shall be composed of volunteer members who are
19 broadly representative of the community in which the panel is
20 established, including members who have expertise in the prevention
21 and treatment of child abuse and neglect.

22 d. Each panel shall meet not less than once every three months.

23 e. The members of the panels:

24 (1) shall not disclose to any person or government official any
25 identifying information about a specific child protection case with
26 respect to which the panel is provided information; and

27 (2) shall not make public other information unless authorized by
28 State statute.

29 f. Each panel shall have access to information as necessary to carry
30 out its functions. Each panel is entitled to call to its assistance and
31 avail itself of the services of employees of any State, county or
32 municipal department, board, bureau, commission or agency as it may
33 require and as may be available for the purposes of effectuating the
34 provisions of P.L. , c. (C.)(pending before the Legislature as this
35 bill). This subsection shall not be construed to permit access to
36 information which may compromise the integrity of a division
37 investigation or a civil or criminal investigation or judicial proceeding.

38 g. Each panel shall prepare and make available to the public on an
39 annual basis, a report containing a summary of its activities.

40 h. A member of the panel shall not be liable for any civil damages
41 as a result of providing, in good faith, a report, record, opinion or
42 recommendation pursuant to P.L. , c. (C.)(pending before the
43 Legislature as this bill).

44 i. A panel may receive grants and other funds made available from
45 any governmental, public, private, nonprofit or for-profit agency,
46 including funds made available under any federal or State law,

1 regulation or program.

2

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

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

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

27 b. The division may and upon written request, shall release the
28 records and reports referred to in subsection a., or parts thereof,
29 consistent with the provisions of P.L. , c. (C.)(pending before the
30 Legislature as this bill) to:

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

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

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

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

45 (5) An agency , whether public or private, including any other
46 division or unit in the Department of Human Services, authorized to

1 care for, treat, or supervise a child who is the subject of a child abuse
2 report, or a parent, guardian or other person who is responsible for the
3 child's welfare, or both, when the information is needed in connection
4 with the provision of care, treatment, or supervision to such child or
5 such parent, guardian or other person;

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

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

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

20 (9) [Any person engaged in a bona fide research purpose,
21 provided, however, that no names or other information identifying
22 persons named in the report shall be made available to the researcher
23 unless it is absolutely essential to the research purpose and provided
24 further that the approval of the director of the Division of Youth and
25 Family Services shall first have been obtained;]~~(Deleted by~~
26 amendment, P.L. , c.)(pending before the Legislature as this bill).

27 (10) A family day care sponsoring organization for the purpose of
28 providing information on child abuse or neglect allegations involving
29 prospective or current providers or household members pursuant to
30 [P.L.1993, c.350 (C.30:5B-25.1 et al.)] P.L.1993, c.350 (C.30:5B-
31 25.1 et seq. and as necessary, for use in administrative appeals related
32 to information obtained through a central registry search;

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

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

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

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

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

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

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

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

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

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

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

35 (22) Child Fatality and Near Fatality Review Board established
36 pursuant to P.L. , c. (C.)(pending before the Legislature as this
37 bill).

38 Any individual, agency, board, court, grand jury [or], legislative
39 committee, or other entity, which receives from the division the
40 records and reports referred to in subsection a., shall keep such
41 records and reports, or parts thereof, confidential and shall not
42 disclose such records and reports or parts thereof except as authorized
43 by law .

44 c. The division may share information with a child who is the
45 subject of a child abuse or neglect report, as appropriate to the child's
46 age or condition, to enable the child to understand the basis for the

1 division's involvement and to participate in the development,
2 discussion, or implementation of a case plan for the child.

3 d. The division may release the records and reports referred to in
4 subsection a. of this section to any person engaged in a bona fide
5 research purpose, provided, however, that no names or other
6 information identifying persons named in the report shall be made
7 available to the researcher unless it is absolutely essential to the
8 research purpose and provided further that the approval of the
9 Director of the Division of Youth and Family Services shall first have
10 been obtained.

11 e. ¹For incidents determined by the division to be substantiated, the
12 division shall forward to the police or law enforcement agency in
13 whose jurisdiction the child named in the report resides, the identity
14 of persons alleged to have committed child abuse or neglect and of
15 victims of child abuse or neglect, their addresses, the nature of the
16 allegations, and other relevant information, including, but not limited
17 to, prior reports of abuse or neglect and names of siblings obtained by
18 the division during its investigation of a report of child abuse or
19 neglect. The police or law enforcement agency shall keep such
20 information confidential.

21 f.¹ The division may disclose to the public the findings or
22 information about a case of child abuse or neglect which has resulted
23 in a child fatality or near fatality. Nothing may be disclosed which
24 would likely endanger the life, safety, or physical or emotional well-
25 being of a child or the life or safety of any other person or which may
26 compromise the integrity of a division investigation or a civil or
27 criminal investigation or judicial proceeding. If the division denies
28 access to specific information on this basis, the requesting entity may
29 seek disclosure of the information through the Chancery Division of
30 the Superior Court. No information may be disclosed which is deemed
31 confidential by federal or State law. The name or any other
32 information identifying the person or entity who referred the child to
33 the division shall not be released to the public.

34 (cf: P.L.1996, c.32, s.1)

35

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

38 15. Whenever (a) it appears that a court wherein a complaint has
39 been proffered as provided in chapter 6 of Title 9 of the Revised
40 Statutes, has entered a conviction against the parent or parents,
41 guardian, or person having custody and control of any child because
42 of abuse, abandonment, neglect of or cruelty to such child; or (b)
43 (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best
44 interests of any child under the care or custody of the Division of
45 Youth and Family Services require that he be placed under
46 guardianship; or (d) it appears that a parent or guardian of a child,

1 following the acceptance of such child by the division pursuant to
2 section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following
3 the placement or commitment of such child in the care of an
4 authorized agency, whether in an institution or in a foster home, and
5 notwithstanding the diligent efforts of such agency to encourage and
6 strengthen the parental relationship, has failed for a period of one year
7 to remove the circumstances or conditions that led to the removal or
8 placement of the child, although physically and financially able to do
9 so, notwithstanding the division's diligent efforts to assist the parent
10 or guardian in remedying the conditions; [or] (e) the parent has
11 abandoned the child; or (f) the parent of a child has been found by a
12 court of competent jurisdiction to have committed murder, aggravated
13 manslaughter or manslaughter of another child of the parent; to have
14 aided or abetted, attempted, conspired, or solicited to commit such
15 murder, aggravated manslaughter or manslaughter of the child or
16 another child of the parent; or to have committed¹, or attempted to
17 commit,¹ an assault that resulted¹, or could have resulted,¹ in the
18 significant bodily injury to the child or another child of the parent;
19 ¹[or attempted to commit an assault against the child or another child
20 of the parent;]¹ a petition, setting forth the facts in the case, may be
21 filed with the Family Part of the Chancery Division of the Superior
22 Court in the county where such child may be at the time of the filing
23 of such petition. A petition as provided in this section may be filed by
24 any person or any association or agency, interested in such child, or by
25 the division in the circumstances set forth in items (c),(d) [and], (e)
26 and (f) hereof.

27 (cf: P.L.1995, c.416, s.2)

28

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

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

35 (1) The child's health and development have been or will continue
36 to be endangered by the parental relationship;

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

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

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

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

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

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

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

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

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

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

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

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

28 (4) facilitating appropriate visitation.

29 d. The division shall not be required to provide "diligent efforts"
30 as defined in subsection c. of this section prior to filing a petition for
31 the termination of parental rights pursuant to (f) of section 15 of
32 P.L.1951, c.138 (C.30:4C-15).

33 (cf: P.L.1995, c.416, s.3)

34

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

39

40 20. This act shall take effect immediately.

41

42

43

44

45 "Comprehensive Child Abuse Prevention and Treatment Act."