

# ASSEMBLY, No. 5598

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman GABRIELA M. MOSQUERA**

**District 4 (Camden and Gloucester)**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

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

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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

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

3

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

6

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

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

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

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

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

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

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

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

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

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

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

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

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

**Matter underlined thus is new matter.**

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

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

7 (cf: P.L.2006; 2012, c.16, s.13)

8

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

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

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

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

19 (2) the circumstances of the kinship relationship;

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

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

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

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

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

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

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

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

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

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

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

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

42

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

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

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

48 (2) the best interests of the child;

- 1 (3) the kinship caregiver assessment;
- 2 (4) in cases in which the division is involved with the child as  
3 provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-  
4 85), the recommendation of the division, including any parenting  
5 time or visitation restrictions;
- 6 (5) the potential kinship legal guardian's ability to provide a safe  
7 and permanent home for the child;
- 8 (6) the wishes of the child's parents, if known to the court;
- 9 (7) the wishes of the child if the child is 12 years of age or older,  
10 unless unique circumstances exist that make the child's age  
11 irrelevant;
- 12 (8) the suitability of the kinship caregiver and the caregiver's  
13 family to raise the child;
- 14 (9) the ability of the kinship caregiver to assume full legal  
15 responsibility for the child;
- 16 (10) the commitment of the kinship caregiver and the caregiver's  
17 family to raise the child to adulthood;
- 18 (11) the results from the child abuse record check conducted  
19 pursuant to section 9 of P.L.2001, c.250 (C.30:4C-86); and
- 20 (12) the results from the criminal history record background  
21 check and domestic violence check conducted pursuant to section 9  
22 of P.L.2001, c.250 (C.30:4C-86). In any case in which the caregiver  
23 petitioning for kinship legal guardianship, or any adult residing in  
24 the prospective caregiver's home, has a record of criminal history  
25 or a record of being subjected to a final domestic violence  
26 restraining order under P.L.1991, c.261 (C.2C:25-17 et seq.), the  
27 court shall review the record with respect to the type and date of the  
28 criminal offense or the provisions and date of the final domestic  
29 violence restraining order and make a determination as to the  
30 suitability of the person to become a kinship legal guardian. For the  
31 purposes of this paragraph, with respect to criminal history, the  
32 court shall consider convictions for offenses specified in  
33 subsections c., d. and e. of section 1 of P.L.1985, c.396 (C.30:4C-  
34 26.8).
- 35 b. The court shall not award kinship legal guardianship of the  
36 child unless proper notice was served upon the parents of the child  
37 and any other party to whom the court has awarded custody or  
38 parenting time for that child, in accordance with the Rules of Court.
- 39 c. The court shall not award kinship legal guardianship of the  
40 child solely because of parental incapacity.
- 41 d. The court shall appoint the caregiver as a kinship legal  
42 guardian if, based upon clear and convincing evidence, the court  
43 finds that:
  - 44 (1) each parent's incapacity is of such a serious nature as to  
45 demonstrate that the parents are unable, unavailable or unwilling to  
46 perform the regular and expected functions of care and support of  
47 the child;

- 1 (2) the parents' inability to perform those functions is unlikely to  
2 change in the foreseeable future;
- 3 (3) in cases in which the division is involved with the child as  
4 provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-  
5 85), **[(a)]** the division exercised reasonable efforts to reunify the  
6 child with the birth parents and these reunification efforts have  
7 proven unsuccessful or unnecessary; **[and (b) adoption of the child**  
8 **is neither feasible nor likely;]** (Deleted by amendment,  
9 P.L. c. (C. ) (pending before the Legislature as this bill)  
10 and
- 11 (4) awarding kinship legal guardianship is in the child's best  
12 interests.
- 13 e. The court order appointing the kinship legal guardian shall  
14 specify, as appropriate, that:
- 15 (1) a kinship legal guardian shall have the same rights,  
16 responsibilities and authority relating to the child as a birth parent,  
17 including, but not limited to: making decisions concerning the  
18 child's care and well-being; consenting to routine and emergency  
19 medical and mental health needs; arranging and consenting to  
20 educational plans for the child; applying for financial assistance and  
21 social services for which the child is eligible; applying for a motor  
22 vehicle operator's license; applying for admission to college;  
23 responsibility for activities necessary to ensure the child's safety,  
24 permanency and well-being; and ensuring the maintenance and  
25 protection of the child; except that a kinship legal guardian may not  
26 consent to the adoption of the child or a name change for the child;
- 27 (2) the birth parent of the child retains the authority to consent to  
28 the adoption of the child or a name change for the child;
- 29 (3) the birth parent of the child retains the obligation to pay child  
30 support;
- 31 (4) the birth parent of the child retains the right to visitation or  
32 parenting time with the child, as determined by the court;
- 33 (5) the appointment of a kinship legal guardian does not limit or  
34 terminate any rights or benefits derived from the child's parents,  
35 including, but not limited to, those relating to inheritance or  
36 eligibility for benefits or insurance; and
- 37 (6) kinship legal guardianship terminates when the child reaches  
38 18 years of age or when the child is no longer continuously enrolled  
39 in a secondary education program, whichever event occurs later, or  
40 when kinship legal guardianship is otherwise terminated.
- 41 f. An order or judgment awarding kinship legal guardianship  
42 may be vacated by the court prior to the child's 18th birthday if the  
43 court finds that the kinship legal guardianship is no longer in the  
44 best interests of the child or, in cases where there is an application  
45 to return the child to the parent, based upon clear and convincing  
46 evidence, the court finds that the parental incapacity or inability to  
47 care for the child that led to the original award of kinship legal

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

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

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

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

14

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

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

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

27 notify the parent or guardian of the time to appear in court; and  
28 inform the parent or guardian of his right to obtain counsel, and  
29 how to obtain counsel through the Office of the Public Defender if  
30 the parent or guardian is indigent.

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

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

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

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

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

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

16  
17 5. Section 11 P.L.1974, c.119 (C.9:6-8.31) is amended to read  
18 as follows:

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

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

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

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

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

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

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

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

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

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

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

23

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

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

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

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

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

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

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

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

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

21

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

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

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

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

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

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

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

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

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

10

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (4) facilitating appropriate visitation.

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

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

30

31 9. This act shall take effect immediately.

32

33

34

#### STATEMENT

35

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

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

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

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

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

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

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

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

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

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

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

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

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