



**NEW JERSEY LAW REVISION COMMISSION**

**Draft Final Report**

**Relating to**

**Title 9-Child Abuse and Neglect**

**June 9, 2014**

The work of the New Jersey Law Revision Commission is only a recommendation until enacted. Please consult the New Jersey statutes in order to determine the law of the State.

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## **Title 9 – Children; Abused, Neglected and Dependent Children**

### **Introduction**

This is a draft of revised law on child abuse and neglect. It includes sections that deal directly with proceedings concerning child abuse and neglect, proceedings to allow the Department of Children and Families to provide services to children in need, and provisions that govern proceedings to terminate parental rights. Although actions on these subjects are usually connected, the provisions governing them are now separated, most of child abuse and neglect in Title 9 and children in need of services and termination of parental rights in Title 30. The revision replaces Title 9 Chapter 6 and a large part of Title 30 Chapter 4C. The Table of Dispositions indicates which sections are involved and where their substance can be found in the revision.

Because the current law was enacted over a long period of time, there are provisions that no longer reflect current practice. These have been deleted or rewritten. There are many overlapping provisions; and, because of the way it was enacted, there is no organizational structure. The revision consolidates overlapping provisions organizes the material into groups of provisions on related subjects. The revision creates nine new chapters to be added to Title 9. The principal revisions are in Chapter 27 on child abuse and neglect and children in need of services and Chapter 30 on termination of parental rights. The last chapters are on discrete subjects that were added to the law relatively recently and have been changed little or not at all. These chapters are included so that the nine new chapters can provide a coherent, comprehensive statement of the law.

This revision benefited from the help of many interested parties. Representatives from the Department of Children and Families, the Office of Law Guardian, the Office of the Public Defender, Parental Representation Program, as well as members of the public with a deep interest in issues raised by child abuse and neglect provided comments and suggestions through oral and written submissions and at meetings. This Report embodies much of that input. While this draft has not been formally approved by any agency or organization, it is hoped that it responds to many of the issues raised.

### **Chapter 26 -- General Provisions**

#### **9:26-1 Definitions**

As used in this act, unless the specific context indicates otherwise:

- a. "Board" means the Child Fatality and Near Fatality Review Board established under P.L.1997, c.175 (C.9:6-8.83 et al.).
- b. "Child" means any person under the age of 18 and a person between 18 and 21 who is receiving services from the Division..
- c. "Commissioner" means the Commissioner of Children and Families.
- d. "Day school" means a public or private school that provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.

- e. "Department" means the Department of Children and Families.
- f. "Dispositional hearing" means a hearing to as provided in section 9:26-31 determine what order should be made after a finding of child abuse or neglect.
- g. "Division" means the Division of Child Protection and Permanency in the Department of Children and Families.
- h. "Fact-finding hearing" means a hearing as provided in section 9:26-30 to determine whether child abuse or neglect has occurred.
- i. "Institution" means a public or private facility in the State that provides children with out of home care, supervision or maintenance. Institution includes, but is not limited to, a correctional facility, detention facility, treatment facility, day care center, residential school, shelter and hospital.
- j. "Law guardian" means an attorney admitted to the practice of law in this State, regularly employed by the Office of the Public Defender, and designated under this act to represent minors in cases of alleged child abuse or neglect and in termination of parental rights proceedings.
- k. "Near fatality" means a case in which a child is in serious or critical condition, as certified by a physician.
- l. "Panel" means a citizen review panel as established under P.L.1997, c.175 (C.9:6-8.83 et al.).
- m. "Parent or ~~guardian~~ other custodian" means any natural parent, adoptive parent, resource family parent, stepparent, ~~paramour of a parent~~ or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. Parent or ~~guardian~~ other custodian includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Parent or ~~guardian~~ other custodian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school.
- n. "Reasonable efforts" means attempts by an agency authorized by the Department of Children and Families to assist the parents in preventing the removal of the child from his home and placement in the care of the division or in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).
- o. "Significant bodily injury" means a temporary loss of the functioning of any bodily member or organ or temporary loss of any one of the five senses.
- p. "Withholding of medically indicated treatment" means the failure to respond to a child's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's reasonable judgment, will most likely be effective in ameliorating or correcting all such conditions. The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication to a child when, in the treating physician's reasonable medical judgment:
- (1) the child is chronically and irreversibly comatose;

(2) the provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the child's life-threatening conditions, or otherwise be futile in terms of the survival of the child; or

(3) the provision of such treatment would be virtually futile in terms of the survival of the child and the treatment itself under such circumstances would be inhumane.

Source: 9:6-8.21; 9:6-8.84; 9:8-44; 9:8-45

#### COMMENT

This section contains the definitions now in 9:6-8.84 as well as those in 9:6-8.21 other than those of child abuse and neglect. Definitions in subsections (n) and (o) are derived from 9:8-44 and 9:8-45. The definitions of "Department" and "Division" use their current names. These terms have been substituted for those of a variety of predecessors.

### **9:26-2 Health, safety of child paramount concern**

a. The purpose of this chapter is to provide for the protection of children under 18 years of age who have had serious injury inflicted upon them by other than accidental means. The safety of the children served shall be of paramount concern. It is the intent of this legislation to assure that the lives of innocent children are immediately safeguarded from further injury and possible death and that the legal rights of such children are fully protected.

b. (1) In accordance with the provisions of paragraphs (2), (3), and (4) of this subsection, when determining the reasonable efforts to be made and when making the reasonable efforts, the child's health and safety shall be of paramount concern.

(2) In any case in which the Division accepts a child in care or custody, the Division shall make reasonable efforts including the arrangement of financial or other assistance and services as necessary, prior to placement, to preserve the family in order to prevent the need for removing the child from his home. After placement, the Division shall make reasonable efforts to make it possible for the child to safely return to his home.

(3) Reasonable efforts to place a child for adoption or with a legal guardian or in an alternative permanent placement may be made concurrently with reasonable efforts to preserve and reunify the child's family.

(4) In any case in which family reunification is not the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner and to complete the steps necessary to finalize the permanent placement of the child.

Source: 9:6-8.8

#### COMMENT

This section is identical to its source.

### **9:26-4. Regulations**

The Commissioner of Children and Families shall adopt rules and regulations pursuant to the "Administrative Procedure Act," to carry out the purposes this act.

Source: 9:6-8.10d; 9:6-8.15; 9:6-8.58b; 9:6-8.72; 9:6-8.101

## COMMENT

This regulatory power given by the source sections has been consolidated and expanded to include all parts of these chapters.

### Chapter 27 -- Child Abuse or neglect

#### **9:27-1. "Child abuse or neglect" defined**

a. "Child abuse or neglect" means an action or failure to act by a parent or other custodian that creates a risk to the child in that:

(1) the parent or other custodian knows it will cause injury to the child;

(2) the parent or other custodian knows it creates a substantial and unjustifiable risk of injury to the child;

(3) the parent or other custodian acts with reckless disregard of a substantial and unjustifiable risk of injury to the child; or

(4) it is habitual and allows a substantial, ~~and~~ unjustifiable and continuing risk of injury.

b. "Child abuse or neglect" includes:

(1) Committing or allowing one or more sexual offenses or acts of sexual abuse against the child including (i.) the enticement or coercion of any child to engage in, or assist in sexually explicit conduct or simulation of such conduct for the purpose of sexual stimulation of either that person or another person; (ii) sexual conduct including molestation, prostitution, other forms of sexual exploitation of children;

(2) infliction of excessive physical punishment or restraint; and

(3) Failing to supply the child with adequate food, clothing, shelter, education, or medical care though able to do so.

c. "Child abuse or neglect" does not include good faith treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof or inability to provide housing or other essentials due to a lack of financial means.

d. For purposes of this section: "Injury" means significant or protracted impairment of physical, mental, or emotional health, and

Source: 9:6-8.21; 9:6-8.9

## COMMENT

The definition of child abuse is derived from 9:6-8.21 and 9:6-8.9 which are substantively identical to each other. That definition from the parts of 9:6-8.9 that define abuse rather than neglect is:

"Abused child" means a child under the age of 18 years whose parent, guardian, or other person having his custody and control:

a. Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;

b. Creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; or

c. Commits or allows to be committed an act of sexual abuse against the child;

The definition has been updated to reflect the Supreme Court's opinion in *DYFS v. T.B.*, 207 N.J. 294 (2011) which clarifies the meaning of "child abuse and neglect" and requires more than ordinary negligence as the basis of a finding of neglect. Subsection (b)(3) uses the phrase "physical punishment" which is more inclusive and covers everything included in the old phrase "corporal punishment". The addition of human trafficking as a basis for a finding of child abuse reflect the policy of recent legislation, P.L.2013, c.51.

The phrase, "parent or other custodian" is defined in section 9:26-1 to include every kind of custodian of a child.

### **9:27-2. "Child in need of services" defined**

For purposes of this act, "child in need of services" means a child whose health or safety is in imminent danger and that danger can be prevented by services that the Division can supply.

b. "child in need of services" does not include a child whose need results from (i) good faith treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, or (ii) inability to provide housing or other essentials due to a lack of financial means.

Source: New

#### **COMMENT**

This definition in this section is derived from the Supreme Court opinion in *DYFS v. I.S.* 214 N.J. 8 (2013) That case identified a basis for a court to order the provision of Division service without a finding of child abuse or neglect.

### **9:27-3. Report of abuse or neglect**

a. Any person who has reasonable cause to believe that a child has been abused or neglected shall report that immediately to the Division by telephone or otherwise. Where possible, the report shall contain the names and addresses of the child and the child's parent, guardian other custodian, or other person having custody and control of the child and, if known, the child's age, the nature of the abuse, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

b. Anyone acting pursuant to this act in making a report of child abuse or neglect shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any judicial proceeding resulting from the report.

c. A person who reports or causes to report in good faith an allegation of child abuse or neglect and as a result thereof is discharged from employment or in any manner discriminated against with respect to compensation, hire, tenure or terms, conditions or privileges of employment, may file a cause of action for appropriate relief in the family part of the Chancery Division of the Superior Court. If the court finds that the person was discharged or discriminated against as a result of the person's reporting an allegation of child abuse or neglect, the court may grant reinstatement of employment with back pay or other legal or equitable relief.

d. Any person who has reasonable cause to believe that an act of child abuse has been committed and knowingly fails to report the child abuse is a disorderly person.

Source: 9:6-8.10; 9:6-8.13; 9:6-8.14.

#### COMMENT

This section has been simplified but is substantively similar to its sources. Subsection (a) is derived from 9:6-8.10; subsections (b) and (c) from 9:6-8.13. Subsection (d) is substantively identical to 9:6-8.14.

### **9:27-4 Records of child abuse reports; confidentiality; disclosure**

a. All records of child abuse reports made as required by this chapter, all information obtained by the Division in investigating such reports, and all reports of findings forwarded to the child abuse registry shall be kept confidential, and the Division shall disclose information only as expressly authorized in this section that is relevant to the purpose for which the information is required, and nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a Division investigation or a civil or criminal investigation or judicial proceeding. If the Division denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court.

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

b. The Division may, and upon written request shall, release the records and reports referred to in subsection a. including medical, mental health, school, drug or alcohol treatment and other records and information concerning a client, or parts thereof, to:

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

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

(3) A physician who is examining or treating a child reasonably suspected of having been abused or neglected, or an authorized member of the staff of a designated regional child abuse diagnostic and treatment center which is involved with a particular child who is the subject of the request;

(4) A physician, a hospital director or designate, a police officer or other person authorized to place a child in protective custody who is aiding a child reasonably suspected of having been abused or neglected and requires the information in order to determine whether to place the child in protective custody;

(5) An agency, whether public or private, including the Division, authorized to care for, treat, assess, evaluate or supervise a child who is the subject of a child abuse report, or a parent, ~~guardian~~ other custodian, resource family parent or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, assessment, evaluation or supervision to such child or such parent, ~~guardian~~ other custodian, resource family parent or other person and the provision of information is in the best interests of the child as determined by the Division;

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

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

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

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

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

(11) Any person appealing a Division service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the Division or the presiding Administrative Law Judge that disclosure is necessary for a determination of the issue on appeal;

(12) Any party to an administrative appeal or litigation in the Superior Court of New Jersey regarding a finding by the Division of child abuse or neglect and his attorney or authorized lay representative;

(13) Any person accused of and investigated for child abuse or neglect who concurrently or subsequently is a party to litigation in the Superior Court of New Jersey (or a similar court in another jurisdiction) to the extent that the allegation or investigation finding is a material issue in the case, upon providing pleadings evidencing the issue to the Division.

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

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

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



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

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

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

(20) A parent, resource family parent, or ~~legal guardian~~ other custodian when the information is needed in a Division matter in which that parent, resource family parent or ~~legal guardian~~ other custodian is directly involved. The information may be released only to the extent necessary for the requesting parent, resource family parent or ~~legal guardian~~ other custodian to discuss services or the basis for the Division's involvement or to develop, discuss, or implement a case plan for the child;

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

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

(23) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); or

(24) Members of a family team or other case planning group formed by the Division and established in accordance with regulations adopted by the Commissioner of Children and Families for the purpose of addressing the child's safety, permanency or well-being, when the provision of such information is in the best interests of the child as determined by the Division.

(25) A child who is the subject of a child abuse or neglect report, as appropriate to the child's age or condition, to enable the child to understand the basis for the Division's involvement and to participate in the development, discussion, or implementation of a case plan for the child.

c. Any individual, or entity which receives from the Division the records and reports referred to in subsection (a), shall keep these records and reports confidential and shall not disclose any part of the records and reports except as authorized by law.

d. The Division may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Children and Families or his designee shall first have been obtained.

e. For incidents determined by the Division to be substantiated, the Division shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings

obtained by the Division during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

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

g. The Division shall release the records and reports referred to in subsection a. of this section to a unified child care agency contracted with the Division pursuant to N.J.A.C.10:15-2.1 for the purpose of providing information on child abuse or neglect allegations involving a prospective approved home provider or any adult household member pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child's parent when the information is necessary for the parent to make a decision concerning the placement of the child in an appropriate child care arrangement.

h. The Division shall not release any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person.

Source: 9:6-8.10a.

#### COMMENT

Although reorganized slightly and somewhat simplified in wording, this section is substantively similar to 9:6-8.10a. Subsections (b)(12) and (13) are new but motivated by the same considerations of fairness as the other exceptions to confidentiality as the others. It should be noted that nothing in this section (or in 9:6-8.10a which it replaces) allows the disclosure of the identity of complainants.

### **9:27-5. Emergency telephone services for child abuse or neglect calls**

The Division shall maintain, at all times, an emergency telephone service for the receipt of calls involving a report, complaint or allegation of child abuse or neglect.

Source: 9:6-8.12.

#### COMMENT

This section is identical to its source.

### **9:27-6. Actions to ensure safety of child; investigation; report**

Upon receipt of a report of child abuse or neglect, the Division shall immediately take action necessary to insure the safety of the child and to that end may request and shall receive appropriate assistance from local and State law enforcement officials. A representative of the Division shall initiate an investigation within 24 hours of receipt of the report, unless the Division authorizes a delay based upon the request of a law enforcement official. The Division

shall also, within 72 hours, forward a report of such matter to the child abuse registry operated by the Division in Trenton.

The child abuse registry shall be the repository of all information regarding child abuse or neglect that is accessible to the public pursuant to State and federal law. No information received in the child abuse registry shall be considered as a public record within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

Source: 9:6-8.11.

#### COMMENT

This section is substantively identical to its source.

### **9:27-7. Records involving abuse or neglect**

When the Division receives a report or complaint that a child may be abused or neglected; when the Division provides services to a child; or when the Division receives a request from the Superior Court, Chancery Division, Family Part to investigate an allegation of abuse or neglect, the Division may request of any and all public or private institutions, or agencies including law enforcement agencies, or any private practitioners, their records past and present pertaining to that child and other children under the same care, custody and control. The Division shall not be charged a fee for the copying of the records. Records kept pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982, c.77 (C.2A:4A-20 et seq.) may be obtained by the Division, upon issuance by a court of an order on good cause shown directing these records to be released to the Division for the purpose of aiding in evaluation to determine if the child is abused or neglected. In the release of the aforementioned records, the source shall have immunity from any liability, civil or criminal.

Source: 9:6-8.40.

#### COMMENT

This section is identical to its source.

### **9:27-8. Report to prosecutor of all instances of suspected child abuse, neglect**

The Division shall immediately report all instances of suspected child abuse and neglect, as defined by regulations, to the county prosecutor of the county in which the child resides. The regulations shall be developed jointly by the Division and the county prosecutors, approved by the Attorney General, and promulgated by the Commissioner of Children and Families.

Source: 9:6-8.36a.

#### COMMENT

This section is identical to its source. The section also replaces subsection (a) of 9:6-8.25 which requires courts to report complaints alleging child abuse to the prosecutor. As a matter of practice, reporting is done by the Division.

### **9:27-9. Expungement of unfounded allegations**

a. The Division shall expunge from its records all information relating to a report, complaint or allegation of an incident of child abuse or neglect with respect to which the Division to investigate allegations of child abuse or neglect has determined, based upon its investigation thereof, that the report, complaint or allegation of the incident was unfounded.

b. The definition of, and process for, making a determination of an unfounded report, complaint or allegation of an incident of child abuse or neglect shall be defined in regulations promulgated by the Department pursuant to the "Administrative Procedure Act."

Source: 9:6-8.40a.

**COMMENT**

This section is identical to its source.

**9:27-10. Emergency actions by medical personnel**

a. Any physician who has examined or treated a child, or the director or designate of any hospital or similar institution to which a child has been brought for care or treatment, may take the child into protective custody when:

(1) the child has suffered serious physical injury or injuries,

(2) the most probable inference from the medical and factual information supplied, is that the injury or injuries were inflicted on the child by another person by other than accidental means, and

(3) the person suspected of inflicting the injury, or permitting it to be inflicted upon the child, is a person into whose custody the child would normally be returned.

b. The physician or the designate of the director of a hospital or similar institution that takes a child into protective custody shall immediately report the action to the Division by calling its emergency telephone service.

c. Any physician or director of a hospital or similar institution who takes or keeps a child in protective custody pursuant to this act shall have immunity from any civil and criminal liability that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any resulting judicial proceeding.

Source: 9:6-8.16; 9:6-8.17; 9:6-8.20.

**COMMENT**

This section is substantively identical to its sources. Subsection (a) is derived from 9:6-8.16, subsection (b) is derived from 9:6-8.17, and subsection (c) is derived from 9:6-8.20.

**9:27-11. Emergency action by law enforcement personnel**

a. A police officer or a designated employee of the Division may remove a child from the place where the child is residing, or may keep a child in custody without a court order and without the consent of the parent or ~~guardian~~ other custodian regardless of whether the parent or ~~guardian~~ other custodian is absent, if the child is in such a condition that continuance in that place or residence or in the care and custody of the parent or ~~guardian~~ other custodian presents an imminent danger to the child's life, safety or health, and there is insufficient time to apply for a court order.

b. In cases of emergency, in addition to the removal of one child, any other child residing in the home may also be removed if immediate removal is necessary to avoid imminent danger to that child's life or health.

c. The person taking or keeping a child in protective custody shall:

(1) if the removal is not done by an employee of the Division, immediately report the action to the Division by calling its emergency telephone service;

(2) bring the child immediately to a place designated by the Division for this purpose, and

(3) make every reasonable effort including written notice to inform the parent or ~~guardian~~ other custodian that the child has been taken into protective custody and the facility to which the has been taken.

d. Any person or institution acting in good faith in the removal or keeping of a child pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or keeping.

e. Any person acting under the authority of this act may request and shall receive appropriate assistance from local and State law enforcement officials.

f. The Division shall not be required to provide reasonable efforts to prevent placement if removal of the child is necessary due to imminent danger to the child's life, safety or health.

Source: 9:6-8.27, 9:6-8.29, 9:6-8.33.

#### COMMENT

This section combines the sources. The power to act to protect a child is identical in substance to both 9:6-8.27 and 9:6-8.29. Other provisions are derived from 9:6-8.29 and from 9:6-8.16 et seq. that give similar power to physicians. Subsection (b) is derived from 9:8-6.33. 9:6-8.27 also allows taking a child with parental consent; that provision was deleted as self-evident and unnecessary. The portions of the sources that allowed the Division to remove a child in an emergency have been moved to the next section.

### **9:27-12. Emergency action by the Division**

a. When the Division is informed that there has been an emergency removal of a child without court order, by medical personnel, law enforcement personnel or by an employee of the Division, it shall investigate the circumstances and take appropriate action to insure the safety of the child. The Division shall investigate whether there are suitable relatives with whom the child could be placed. The Division may arrange for immediate medical screening of the child and has legal authority to consent to screening. If necessary to safeguard the child's health or life, the Division may also arrange for and consent to medical care or treatment of the child. Medical reports resulting from this screening, examination or care or treatment shall be released to the Division for the purpose of aiding in the determination of whether the child has been abused or neglected. Any person or health care facility acting in good faith in the screening of, examination of or provision of care and treatment to a child or in the release of medical records shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

b. The Division shall make every reasonable effort to communicate immediately with the child's parent or ~~guardian~~ other custodian orally and in writing that emergency removal has been made and the location of the facility to which the child has been taken. For the purposes of this section, "facility" means a hospital, shelter or child care institution in which a child may be placed for temporary care, but does not include a resource family home.

c. If the child is not returned to the parent or ~~guardian~~ other custodian, the Division shall commence an action under this act and shall advise the parent or guardian that the case will be heard in Superior Court, Chancery Division, Family Part within three court days. The Division

shall make a reasonable effort, at least 24 hours prior to the court hearing, to notify the parent or guardian orally and in writing of the time to appear in court; and inform the parent or ~~guardian~~ other custodian of the right to obtain counsel, and how to obtain counsel through the Office of the Public Defender if the parent or ~~guardian~~ other custodian is indigent. If there is reasonable cause to believe that the parent or ~~guardian~~ other custodian is indigent, the Division shall notify the Office of the Public Defender's Office of Parental Representation and include a copy of the complaint. The Division shall also advise the party who removed the child to appear. The Division shall notify the law guardian of the initial filing, and shall provide a copy of the complaint and the confidential placement information for the child.

d. If the removed child is returned home prior to the court hearing, there shall be no court hearing to determine the sufficiency of cause for the child's removal, unless the child's parent or ~~guardian~~ other custodian makes application to the court for review. The Division may commence an action alleging child abuse or neglect under this chapter even if the child is returned.

e. The parents or ~~guardian~~ other custodian of a child in care and custody whether the child was removed by medical personnel, law enforcement or the Division, upon request and in the reasonable discretion of the Division, may visit the child, provided that the life or health of the child will not be endangered by the visit.

Source: 9:6-8.30.

#### COMMENT

This section is substantively identical to its source. It replaces 9:6-18 that applied only to physician removals. It also replaces 9:6-8.19 which is largely duplicative except for the provision on parental visitation, the source of subsection (e). The sentence in subsection (a) which requires the Division to investigate the availability of relatives is derived from 9:6-8.19a. In that subsection, the Division is given the authority rather than the duty to order medical screening. That change reflects practice; there are situations where additional medical screening is not necessary. The limitation of the period of custody now in 9:6-8-19(c) has been deleted as unnecessarily duplicative given the requirement for a court hearing within three days. Notification required by subsection (c) has been made more specific, requiring it to be orally and in writing.

### 9:27-13. Application for services

a. The parent or parents, ~~guardian or other custodian, or person having custody~~ of a child in this State may request assistance of the Division to ensure the health and safety of the child. Upon receipt of the request, the Division shall investigate the situation, and if the circumstances warrant, afford the parent, parents, ~~guardian or other custodian, or person having custody~~ of the child an opportunity to file an application for care.

b. If, after investigation has been completed, it appears that the child requires care and supervision by the Division or other action to ensure the health and safety of the child, the Division may provide any services agreed between the parent and the Division or may commence an action to determine whether the child is in need of services as provided by this act.

#### COMMENT

This section is based on 30:4C-12. Subsection (a) is more limited than the source which allows an application by any person and action without agreement of the parents. This section limits applications to parents and persons who have custody of the child. Subsection (b) reflects the interpretation of the source by the Supreme Court in *DFFS v. I.S.* 214 N.J. 8 (2013). That subsection allows the Division to apply to the court for an order directing that services be provided to the child. This subsection allows the Division to act where the parents have not neglected or abused the child but services are required to protect the child.

### **9:27-14. Originating child abuse or neglect or child in need of services proceeding**

a. A proceeding to determine whether a child is abused or neglected or in need of services may be commenced by Division or by any person with knowledge of facts substantiating the abuse or neglect or in need of services.

b. If the proceeding is commenced by a person other than the Division, the person shall:

(1) show that the abuse, neglect or need of services was reported to the Division, and

(2) make the Division a party to the proceeding.

c. If the proceeding is commenced by a person other than the Division, on motion by the Division, the court may substitute the Division as plaintiff in the action.

d. A proceeding to determine whether a child is abused or neglected or is in need of services shall be originated by the filing of an order show cause and complaint alleging facts sufficient to establish that a child is abused or neglected or is in need of services.

e. Where more than one child is the responsibility of the parent or ~~guardian~~ other custodian, one complaint may allege that one or more children are abused or neglected or in need of services.

Source: 9:6-8.33, 9:8-6.34.

#### **COMMENT**

Subsection (a) is similar to 9:8-6.34 but subsection (b) requires that if the proceeding is commenced by a private party, that person shall show that the matter has been reported to the Division and the Division shall be made a party to the proceeding. Other parties are required to report child neglect and abuse to the Division, and current practice is for the Division to investigate and determine whether there is a basis for a court action. Subsections (c) is new; it provides that the court may substitute the Division as plaintiff in the action if the Division so requests. Subsections (d) and (e) are substantively identical to subsections (a) and (b) of 9:6-34. Subsection (c) of 9:6-8.33 has been moved to the section allowing temporary removal of a child.

The section has been expanded by inclusion of actions to find that a child is in need of services. These actions, now under 30:4C-12, are often filed concurrently with actions alleging child abuse or neglect. This section simplifies that approach, providing a single set of procedures for both actions. An explicit provision allowing actions to determine whether a child is in need of services is new, as are the requirements as to private party actions in those cases.

### **9:27-15. Jurisdiction of Superior Court, Chancery Division, Family Part**

a. The Superior Court, Chancery Division, Family Part shall have jurisdiction over all noncriminal proceedings involving alleged cases of child abuse or neglect or a child in need of services and shall be charged with the immediate protection of the children. All noncriminal cases involving child abuse or neglect shall be commenced in this court or transferred to it from other courts as soon as they are identified. Cases of child abuse or neglect or child in need of services shall be the first order of priority in the Family Part. The safety of the children shall be of paramount concern.

b. In determining the jurisdiction of the court under this act, the age of the child at the time the proceedings are initiated is controlling.

c. In determining the jurisdiction of the court under this act, the child need not be currently in the care or custody of the child's parent or ~~guardian~~ other custodian, as defined.

d. The Superior Court, Chancery Division, Family Part and the Division shall deal with cases involving imminent physical harm or actual physical harm on a priority basis.

e. If the matter in regard to the parent or ~~guardian~~ other custodian is referred to the county prosecutor by the Family Part or otherwise the Family Part may continue the proceeding under this act in regard to the child after such referral. If the proceeding in regard to the child is continued, the Family Part shall enter any preliminary order necessary to protect the interests of the child pending a final order from the criminal courts.

f. Any hearing held before the Family Part may serve as a permanency hearing to provide judicial review and approval of a permanency plan for the child if all the requirements of section 50 of P.L.1999, c.53 (C.30:4C-61.2) are met.

Source 9:6-8.22; 9:6-8.24, 9:6-8.34.

#### COMMENT

Subsection (a) is substantively identical to 9:6-8.22 and subsection (a) of 9:6-8.24. Subsections (b) (c) (e) and (f) are substantively identical to the equivalent subsections of 9:6-8.24. Subsection (d) is derived from a portion of 9:6-8.34.

### **9:27-16. Preliminary order of court before preliminary hearing held**

a. The Superior Court, Chancery Division, Family Part may enter an order, whereby the safety of the child shall be of paramount concern, directing the temporary removal of a child before a preliminary hearing under this act, if (1) the parent or other person legally responsible for the child's care was informed of an intent to apply for any order under this section; and (2) the child appears to suffer from abuse or neglect such that immediate removal is necessary to avoid imminent danger to the child's life, safety or health; and (3) there is not enough time to hold a preliminary hearing.

b. The order shall specify the place to which the child is to be brought.

c. The Family Part may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before a preliminary hearing is held under this act if (1) such procedures are necessary to safeguard the life or health of the child; and (2) there is not enough time to hold a preliminary hearing.

d. The Division shall make every reasonable effort to inform the parent or ~~guardian~~ or other custodian of any application for immediate removal and make inquiries to aid the court in disposing of the application. Within 24 hours the Division shall report such application to the child abuse registry of the Division.

e. Any person acting under the authority of this act may request and shall receive appropriate assistance from local and State law enforcement officials.

Source: 9:6-8.28.

#### COMMENT

This section is substantively identical to its source.

### **9:27-17. Preliminary orders after filing of complaint**

a. In any case in which the child has been removed without court order the court shall hold a hearing on the next court day, whereby the safety of the child shall be of paramount



concern, to determine whether the child's interests require protection pending a final order of disposition. In any other case under this act, any party may apply for, or the court, on its own motion, may order a hearing at any time after the complaint is filed to determine, with the safety of the child of paramount concern, whether the child's interests require protection pending a final order of disposition.

b. If the court finds that continued removal is necessary to avoid an ongoing risk to the child's life, safety or health, it shall affirm the removal of the child to an appropriate place or place the child in the custody of a suitable person. If the court orders removal of the child it may order suitable visitation of child by the parents or others.

c. If the court determines that removal of the child was necessary due to imminent danger to the child's life, safety or health, the court shall find that the Division was not required to provide reasonable efforts to prevent placement of the child.

d. If the court finds that the action is necessary to avoid an ongoing risk to the child's life, safety or health, the court may, for good cause shown:

(1) issue a preliminary order of protection which may contain any of the provisions authorized on the making of an order of protection;

(2) authorize a physician or hospital to provide medical or surgical procedures if the procedures are necessary to safeguard the child's life or health.

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

f. In all cases involving abuse or neglect the court shall order an examination of the child by a physician appointed or designated for the purpose by the Division. As part of the examination, the physician shall arrange to have color photographs taken as soon as practical of any areas of trauma visible on the child and may, if indicated, arrange to have a radiological examination performed on the child. The physician shall forward the results of the examination with the photographs to the court.

g. In any case, the court, for good cause, may order release the child to the custody of a parent or to ~~guardian~~ the other custodian from whose custody or care the child was removed, pending a final order of disposition.

Source: 9:6-8.31; 9:6-19.

#### COMMENT

This section is substantively similar to its source. The reference to visitation is derived from 9:6-19.

### **9:27-18. Search for relatives; assessment of abilities**

a. In any case in which the Division accepts a child in its care or custody, including placement, the Division shall initiate a search for relatives who may be willing and able to provide the care and support required by the child. The search shall be initiated within 30 days of the Division's acceptance of the child in its care or custody. The search will be completed when all sources contacted have either responded to the inquiry or failed to respond within 45 days. The Division shall complete an assessment of each interested relative's ability to provide the care and support, including placement, required by the child.

b. If the Division determines that the relative is unwilling or unable to assume the care of the child, the Division shall not be required to re-evaluate the relative. The Division shall inform the relative in writing of:

(1) the reasons for the determination;

(2) the responsibility of the relative to inform the division if there is a change in the circumstances upon which the determination was made;

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

(4) the right to seek review by the division of the determination.

Source: 30:4C-12.1.

#### COMMENT

This section is substantively identical to subsections (a) and (b) of its source. Subsection (c) of that section overlaps the more specific 30:4C-15 which is the source for 9:30-1.

### **9:27-19. Hearing to determine if child to be returned**

a. If there has not been a hearing on the removal of the child at which the parent or ~~guardian~~ other custodian was present and represented by counsel or had an adequate opportunity to be present and represented; or upon good cause shown, upon the application of the parent or ~~guardian~~ other custodian of a child temporarily removed under this act, the court shall hold an additional hearing, whereby the safety of the child shall be of paramount concern, to determine whether the child should be returned.

b. Except for good cause shown, the hearing shall be held within three court days of the application. The court shall grant the application unless it finds that such return presents an imminent risk to the child's life, safety or health.

Source: 9:6-8.32.

#### COMMENT

This section is substantively identical to its source.

### **9:27-20. Law guardian; other counsel**

a. Any minor who is the subject of a child abuse or neglect or child in need of services proceeding under this act must be represented by a law guardian to help protect the minor's interests and to help express the minor's wishes to the court. Representation by the law guardian shall continue through all proceedings under this act until permanency is achieved or until the Division's administrative case for provision of services is no longer open.

b. At the time it determines to commence a case, the Division shall notify the Office of Law Guardian and the Office of Parental Representation in the Office of the Public Defender, and provide those offices with a copy of the complaint. The Division shall provide the law guardian the child's confidential placement information prior to the filing of the case or when it provides a copy of the complaint to the law guardian. The Division shall notify the law guardian in advance of any change in the child's placement, or in emergent situations, immediately thereafter.

c. The parents or ~~guardian~~ other custodian of a minor who is the subject of a child abuse or neglect or child in need of services proceeding under this act have a right to be represented by counsel and, if indigent, to have counsel provided for them through the Office of the Public Defender. The rights of parents and ~~guardians~~ other custodians to be represented by counsel and to have counsel appointed shall continue through all proceedings under this act until permanency is achieved or until the Division's administrative case for provision of services is no longer open.

d. Nothing in this act shall be construed to preclude any other interested person or agency from appearing or appearing by counsel.

Source: 9:6-8.23.

#### COMMENT

This section is largely similar to its source. However, in the interests of efficiency, subsection (b) has been changed so that the Division, rather than the court, notifies the Office of Law Guardian. In addition, subsection (c) has been added to provide specifically that a parent or ~~guardian~~ other custodian of a child has the right to counsel and, if indigent, the right to appointed counsel. The last sentences of subsections (a) and (c) reflect current practice and guarantee that representation continues through all proceedings relevant to the case.

### **9:27-21. Issuance and service of summons**

a. On the filing of a complaint involving abuse or neglect or child in need of services under this act, unless a warrant is issued, the court shall cause a copy of the complaint and a summons to be issued immediately requiring the parent or ~~guardian~~ other custodian with whom the child is residing to appear at the court within three court days regarding the complaint. The court shall also, unless dispensed with for good cause shown, require the person thus summoned to produce the child at the time and place named.

b. The complaint and summons shall be served within two court days after their issuance. If they cannot be served within that time, the reasons shall be reported to the court within three court days after their issuance and the court shall issue a warrant.

c. Service of a summons and complaint shall be made by delivery of a copy to the person summoned at least 24 hours before the time stated therein for appearance.

d. If after reasonable effort, personal service is not made, the court may at any stage in the proceedings make an order providing for substituted service in the manner provided for substituted service in accordance with the Rules of Court.

Source: 9:6-8.37; 9:6-38.

#### COMMENT

Subsection (a) is substantively similar to 9:6-8.37; subsections (b), (c) and (d) are substantively identical to 9:6-8.38.

### **9:27-22. Issuance of warrant and reports**

a. The court may issue a warrant directing the parent or ~~guardian~~ other custodian with whom the child is residing to be brought before the court, when a complaint is filed with the court under this act and it appears that (1) the summons cannot be served; or (2) the summoned person has refused to obey the summons; or (3) the parent or ~~guardian~~ other custodian is likely to leave the jurisdiction; or (4) a summons, in the court's opinion, would be ineffectual; or (5) the safety of the child is endangered.

b. When issuing a warrant under this section, the court may also direct that the child be brought before the court.

c. If a warrant is not executed within two court days of its issuance that fact shall be reported to the court within three court days of the issuance of the warrant.

Source: 9:6-8.39.

**COMMENT**

This section is substantively identical to its source.

**9:27-23. Required findings concerning notice**

No hearing may commence under this act unless the court enters a finding:

a. that the parent or ~~guardian~~ other custodian is present at the hearing or has been served with a copy of the complaint; or

b. if the parent or ~~guardian~~ other custodian is not present, that every reasonable effort has been made to effect service.

Source: 9:6-8.41.

**COMMENT**

This section is substantively identical to its source.

**9:27-24. Effect of absence of parent or ~~guardian~~ other custodian**

Whether or not the parent or ~~guardian~~ other custodian is present, the court may proceed to hear a complaint under this act only if the child is represented by a law guardian. If the parent or ~~guardian~~ other custodian is not present and thereafter makes a motion to the court that a resulting disposition be vacated and asks for a rehearing, the court shall grant the motion on an affidavit showing such relationship or responsibility unless the court finds that the parent or ~~guardian~~ other custodian willfully refused to appear at the hearing in which case the court may deny the motion.

Source: 9:6-8.42.

**COMMENT**

This section is substantively identical to its source.

**9:27-25. Notice of rights.**

a. The court shall advise the parent or ~~guardian~~ other custodian of the right to have an adjournment to retain and consult with counsel. The court shall advise the respondent that if he is indigent, he may apply for an attorney through the Office of the Public Defender. In cases where the parent or ~~guardian~~ other custodian applies for an attorney through the Office of the Public Defender, the court may adjourn the case for a reasonable period of time for the parent or ~~guardian~~ other custodian to secure counsel; however, the adjournment shall not preclude the court from granting temporary relief as appropriate under the law.

b. The general public may be excluded from any hearing under this act, and only such persons and the representatives of authorized agencies may be admitted thereto as have an interest in the case.

Source: 9:6-8.43.

**COMMENT**

This section is substantively identical to its source. The reference to appointment of a law guardian has been deleted as that matter is dealt with above.

**9:27-26. Evidence**

a. In any hearing under this chapter, including an administrative hearing held in accordance with the "Administrative Procedure Act,"

(1) proof of the abuse or neglect of one child shall be admissible evidence on the issue of the abuse or neglect of any other child of, or the responsibility of, the parent or ~~guardian~~ other custodian;

(2) proof that injuries sustained by a child or that the condition of a child is of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or ~~guardian~~ other custodian shall be evidence that a child is an abused or neglected child; and

(3) any writing, record or photograph, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a child in an abuse or neglect or child in need of services proceeding of any hospital or any other public or private institution or agency shall be admissible in evidence in proof of that condition, act, transaction, occurrence or event, if the judge finds that it was made in the regular course of the business of any hospital or any other public or private institution or agency, and that it was in the regular course of such business to make it, at the time of the condition, act, transaction, occurrence or event, or within a reasonable time thereafter, shall be evidence of the facts contained in the certification. A certification by someone other than the head of the hospital or agency shall be accompanied by a photocopy of a delegation of authority signed by both the head of the hospital or agency and by such other employees. All other circumstances of the making of the memorandum, record or photograph, including lack of personal knowledge of the making, may be proved to affect its weight, but they shall not affect its admissibility and

(4) previous statements made by the child relating to any allegations of abuse or neglect shall be admissible in evidence; provided, however, that no such statement, if uncorroborated, shall be sufficient to make a fact finding of abuse or neglect.

b. In a fact-finding hearing (1) any determination that the child was abused or neglected or is in need of services must be based on a preponderance of the evidence and (2) only competent, material and relevant evidence may be admitted.

c. In a dispositional hearing and during all other stages of a proceeding under this act, only material and relevant evidence may be admitted.

Source: 9:6-8.46.

**COMMENT**

This section is substantively similar to its source. The only change, inclusion of actions concerning children in need of services, reflects current practice. There is a substantial amount of case law on this subject. Since the section is not changed, case law will continue in its effect.

### **9:27-27. Adjournments**

a. The court may adjourn a fact-finding hearing or a dispositional hearing for good cause shown on its own motion or on the motion of the Division, the law guardian, or the respondent's attorney. If so requested, the court shall not proceed with a fact-finding hearing earlier than three days after service of summons and complaint, unless emergency medical or surgical procedures are necessary to safeguard the life and health of the child. Adjournment may not exceed 30 court days, without an additional court appearance.

b. At the conclusion of a fact-finding hearing and after it has made findings required before a dispositional hearing may commence, the court may adjourn the proceedings to enable it to make inquiry into the surroundings, conditions, and capacities of the persons involved in the proceedings.

c. If a hearing is adjourned, the court shall determine whether to continue interim orders concerning such issues as placement, services and visitation.

Source: 9:6-8.48.

#### **COMMENT**

This section is substantively identical to its source. Subsection (c), added, reflects practice. The reference to the county prosecutor has been deleted as the prosecutor is not a party.

### **9:27-28. Priority to proceedings under this chapter**

To ensure that the safety of children is of paramount concern, when scheduling hearings and investigations, the court shall give priority to proceedings under this act involving imminent or actual physical harm, or in which a child has been removed from home before a final order of disposition. Any adjournment granted in the course of such a proceeding should be for as short a time as possible.

Source: 9:6-8.49.

#### **COMMENT**

This section is identical to its source.

### **9:27-29. Resource family parent notice, opportunity to be heard**

In any case in which the Division accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of and an opportunity to be heard at any review or hearing held with respect to the child, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and opportunity to be heard.

Source 9:6-8.19a.

#### **COMMENT**

This section is substantively identical to its source.

### **9:27-30. Sustaining or dismissing complaint**

a. The court shall conduct a fact-finding hearing to determine whether it has been proved that the child was abused or neglected or in need of services. If facts sufficient to sustain the

complaint are established, the court shall enter an order stating the grounds for its findings and scheduling a dispositional hearing.

b. If the proof does not conform to the specific allegations of the complaint, the court may amend the allegations to conform to the proof; provided, however, that in that case the parties shall be given reasonable time to prepare to answer the amended allegations.

c. If facts sufficient to sustain the complaint under this act are not established, or the court concludes that its assistance is not required on the record before it, the court shall dismiss the complaint and shall state the grounds for the dismissal.

d. If the court makes a finding of abuse or neglect or child in need of services, it shall determine, based upon the facts adduced during the fact-finding hearing, and upon any other facts presented to it, whether a preliminary order is required to protect the child's interests pending a final order of disposition. The court shall state the grounds for its determination. In addition, the child may be removed and remanded to a place designated by the court or be placed in the custody of a suitable person, pending a final order of disposition, if the court finds that there is a substantial probability that the final order of disposition will be an order of placement.

e. If the court finds that the child is abused or neglected or in need of services, it may enter a preliminary order on any aspect of the matter, including anything related to the child and the parent or ~~guardian~~other custodian and order that the Division provide appropriate services to the ends of protecting the child and rehabilitating and improving family life, wherever possible. In the event of such referral, the court may suspend any dispositional hearing indefinitely. The Division shall report the status of the case so referred to the court annually in writing, a copy to be served upon the parent or ~~guardian~~other custodian and the law guardian. The Division shall also report its intent to terminate services in a case so referred to the court in writing.

f. If the court finds that the child is abused or neglected or child in need of services, the court shall determine whether to continue interim orders concerning such issues as placement and visitation.

Source: 9:6-8.50.

#### COMMENT

This section is substantively similar to its source. However, language has been added to subsection (a) making the distinction between the fact-finding hearing and the dispositional hearing. Subsection (e) has been clarified to reflect that the Division is already involved with the child but that it is providing services rather than acting as guardian.. Changes in subsections (a) and (d) reflect the inclusion of actions concerning children in need of services. Subsection (e) is new but is in accord with practice.

### **9:27-31. Dispositional hearing**

a. If the child has been found to have been abused or neglected or in need of services, the court shall conduct a dispositional hearing within 30 days to receive evidence concerning the appropriate disposition of the matter.

b. On motion of the Division, of a parent or ~~guardian~~other custodian or of the child, if the interests of a child require it, a court shall conduct subsequent dispositional hearings to reconsider the order of disposition.

c. At the conclusion of a dispositional hearing, the court shall enter an order of disposition, addressing the custody and placement of the child and the provision of services

necessary to remediate the dangers or risks to the child that led to the child's placement and the court's intervention, including:

- (1) releasing the child to the custody of the child's parents or ~~guardian~~other custodian;
- (2) placing the child in accord with section 9:26-33
- (3) making an order of protection in accord with section 9:26-34;
- (4) requiring that an individual found to have abused or neglected a child accept therapeutic services, and this order may be carried out in conjunction with any other order of disposition.

d. The court shall state the grounds for any disposition made under this section.

Source: 9:6-8.51.

#### COMMENT

Subsections (b) and (c) are substantively identical to 9:6-8.51, but a reference to the child in subsection (b) recognizes the right of the child to request subsequent hearings. Subsection (a) is new. It states the purpose of a dispositional hearing and thereby emphasizes the distinction between the fact-finding hearing and the dispositional hearing. The provision in 9:6-8.47(a) specifically allowing an immediate dispositional hearing has been deleted as other provisions will normally make that procedure impossible. See, e.g. 9:6-8.47(b) and 9:6-8.48(b).

### **9:27-33. Release to custody of parent or ~~guardian~~other custodian**

a. If the order of disposition releases the child to the custody of the parent or ~~guardian~~other custodian responsible for the child's care at the time of the filing of the complaint, the court may place the child under supervision of the Division or may enter an order of protection.

b. The court shall define permissible terms and conditions of supervision under this section.

c. The maximum duration of any condition based on a finding of child abuse or neglect shall not exceed a period of one year, unless the court finds at the conclusion of that period, upon a hearing, that exceptional circumstances require an extension thereof for one additional year.

d. The maximum duration of any condition of supervision based on a finding that the child is in need of services shall be six months, unless the court finds at the conclusion of that period, upon a hearing, that exceptional circumstances required an extension for six additional months.

Source: 9:6-8.53.

#### COMMENT

Subsections (a) and (b) are substantively identical to the source. Subsection (c) reflects the stricter limitations of 30:4C-12.

### **9:27-34. Placement of child**

a. The court may place the child in the temporary custody of a parent who did not have custody at the time of filing of the complaint, a relative or other suitable person or the Division for the placement of a child after a finding that the Division has made reasonable efforts to prevent placement including a search for relatives as provided by 9:26-18.1 or that reasonable efforts to prevent placement were not required in accordance with this act.



b. Placements under this section based on a finding of child abuse or neglect may be for an initial period of 12 months. Placements under this section based on a finding that the child is in need of services may be for an initial period of six months.

c. At the conclusion of any period of placement, the court shall hold a hearing concerning the need for continuing the placement and may:

(1) extend the placement for an additional period as limited by subsection b,

(2) make a different placement; or

(3) return the child to the custody of the parent or ~~guardian~~ other custodian who had custody at the time of filing of the complaint.

d. The court shall conduct a permanency hearing for the child no later than [30 days] after placement in cases in which the court has determined on motion by the Division, that reasonable efforts to reunify the child with the parent or ~~guardian~~ other custodian are not required pursuant to section 9:28-2, or no later than 12 months after placement in cases in which the court has determined that efforts to reunify the child with the parent or ~~guardian~~ other custodian are required. The hearing shall include, but not necessarily be limited to, consideration and evaluation of information provided by the Division and other interested parties.

e. The court shall review the permanency plan for the child periodically, as deemed appropriate by the court, to ensure that the permanency plan is achieved.

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

g. If the parent or person legally responsible for the care of the child or with whom the child resides receives public assistance, any portion of which is attributable to the child, a copy of an order of the court providing for the placement of the child outside of the home shall be furnished to the appropriate county welfare board, which shall reduce the public assistance by the amount attributable to the child.

Source: 9:6-8.54.

#### COMMENT

This section is substantively similar to its source. However, the reference to a non-custodial parent in subsection (a) reflects the holding that such an order is a placement not a custodial decision. *Division of Youth and Family Services v. G.M.*, 198 N.J. 382 (2009), and subsection (b) has been changed to clarify the options open to the court at the termination of a period of placement. The differing limitations in subsection (b) reflect the stricter limitations of 30:4C-12. The Commission was informed that the 30-day limitation in subsection (d) is impractical and not in accord with practice. As a result, that limitation is bracketed; decision as to whether a limit is necessary and what that limit should be, is left to the Legislature.

### 9:27-35. Order of protection

a. The court may make an order of protection in assistance or as a condition of any other order made under this act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent other custodian responsible for the child's care or the spouse of the parent or ~~guardian~~ custodian, or both. An order may require the person:

(1) To stay away from the home, the other spouse or the child;

- (2) To permit a parent to visit the child at stated periods;
- (3) To abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded;
- (4) To give proper attention to the care of the home; and
- (5) To refrain from acts of commission or omission that tend to make the home not a proper place for the child.

b. The court may also award temporary custody of the child, during the term of the order of protection to either parent or to an appropriate relative; however, nothing in this section shall be construed to give the court power to place or commit a child to the custody of an institution or agency. In making orders of protection, the court shall so act as to insure that in the care, protection, discipline and guardianship of the child, the child's religious faith shall be preserved and protected.

c. An order of protection under this section based on a finding that the child is in need of services may be for an initial period of no more than six months but may be extended for additional periods of six months.

Source: 9:6-8.55.

#### COMMENT

Subsections (a) and (b) are substantively identical to the source. Subsection (c) reflects the stricter limitations of 30:4C-12.

### **9:27-36. Provision for therapeutic services**

a. In cases where, in the opinion of the court, an individual found to have abused or neglected a child appears to be in need of therapeutic services, the court may order the individual to accept services or evaluation for such services, including, but not limited to, homemaker services, functional education, group self-help programs, and professional therapy; provided, however, that the court may not commit any person to any residential mental health facility without the consent of that person or after a hearing held pursuant to the requirements of R.S. 30:4-23 et seq. The court shall determine the ability to pay and the method of payment for the care, as it orders.

b. In cases where, in the opinion of the court, a parent or ~~guardian~~other custodian of a child found to be in need of services appears to be in need of therapeutic services, the court may order the Division to offer to the parent or ~~guardian~~other custodian services or evaluation for such services, including, but not limited to, homemaker services, functional education, group self-help programs, and professional therapy.

Source: 9:6-8.58.

#### COMMENT

Subsection (a) is substantively identical to its source. Subsection (b) is new. It differs from subsection (a) in that the parent or ~~guardian~~other custodian is not required to accept services since no fault has been found.

### **9:27-37. Substance abuse assessment of parent of placed child**

When a child is placed in the custody of a relative or other suitable person or the Division, because of a finding of abuse or neglect, the court may order the parent from whose

home the child was removed, and, when appropriate, any other adult domiciled in the home to undergo substance abuse assessment, when necessary. If the assessment reveals positive evidence of substance abuse, the court shall require the parent and other adult, when appropriate, to demonstrate the receipt of treatment and compliance with the treatment program for the substance abuse problem before the child is returned to the parental home.

Source: 9:6-8.58a.

**COMMENT**

This section is substantively identical to its source.

**9:27-38. Staying, modifying, setting aside or vacating orders**

For good cause shown and after due notice, the court on its own motion, or that of the law guardian, the parent or ~~guardian~~ other custodian, or the Division may stay execution of arrest, set aside, modify or vacate any order issued in the course of a proceeding under this act. The court must state the grounds for this action.

Source: 9:6-8.59.

**COMMENT**

This section is similar identical to its source, but has been adjusted to reflect practice.

**9:27-39. Petition to terminate placement**

a. Any interested person acting on behalf of a child placed under section 9:26-33 or the child's parents or ~~guardian~~ other custodian may petition the court for any order terminating the placement. The petition must be verified and must show:

(1) That an application for the child's return to his home was made to an appropriate person after expiration of the Order of Placement;

(2) That the application was denied or was not granted within 30 days from the day application was made; and

(3) The grounds for the petition.

b. A copy of the petition shall be served upon the Division, the individual having custody of the child and the law guardian promptly pursuant to the Rules of Court. The Division, the individual having custody and the law guardian shall file an answer to the petition within 5 days.

c. The court shall promptly examine the petition and answer. If the court concludes that a hearing should be held, it may proceed upon due notice to all concerned parties to hear the facts and determine whether continued placement serves the purposes of this act. If the court concludes that a hearing is not necessary, it shall enter an order granting or denying the petition.

d. If the court determines after hearing that continued placement serves the purposes of this act, it shall deny the petition. The court may, on its own motion, reduce the duration of the placement, change the agency or institution in which the child is placed, or direct the Division to make such other arrangements for the child's care and welfare as the facts of the case may require.

e. If the court determines, after hearing, that continued placement does not serve the purposes of this act, the court shall discharge the child from the custody of the Division or person given custody.

f. If a petition is denied, it may not again be filed with the court for a period of 90 days after the denial, unless the order of denial permits refiling at an earlier time.

Source: 9:6-8.60; 9:6-8.61; 9:6-8.62; 9:6-8.63; 9:6-8.64.

#### COMMENT

Subsection (a) is substantively identical to 9:6-8.60. Subsection (b) is substantively identical to 9:6-8.61. Subsection (c) is substantively identical to 9:6-8.62. Subsections (d) and (e) are substantively identical to 9:6-8.63. Subsection (f) is substantively identical to 9:6-8.64.

### **9:27-40. Substitution for original placement**

If the child is placed with a party other than the Division, and that party is no longer able to continue custody of the child, the court may authorize the Division to arrange for the child's care by another person or may order placement or custody of the child as provided in this act.

Source: 9:6-8.65.

#### COMMENT

This section is substantively similar to its source and reflects practice.

### **9:27-41. Failure to comply with terms and conditions of suspended judgment**

If a parent or ~~guardian~~ other custodian responsible for a child's care is brought before the court for failing to comply with the conditions of a suspended judgment or of a protection order, and if, after hearing, the court is satisfied by competent proof that the parent or ~~guardian~~ other custodian did so willfully and without just cause, the court may revoke the suspension of judgment or of protection and enter any order that might have been made at the time judgment was suspended the order of protection was entered.

Source: 9:6-8.66 9:6-8.67.

#### COMMENT

This section is substantively identical to its sources.

### **9:27-42. Effect of running away from place of placement**

If a child placed runs away from the place of placement, the court may, after a hearing, revoke the order of placement and may make any order, including an order of placement that might have been made at the time the order of placement was made. The court may require that the child be present at such hearing.

Source: 9:6-8.68.

#### COMMENT

This section is substantively identical to its source.

### **9:27-43. Release from responsibility under order of placement**

A facility or a person where a child has been placed under this act may petition the court for leave to return the child to the court and, for good cause shown, to be released from responsibility under the order of placement. After hearing the court may grant the petition and make any order, including an order of placement that might have been made at the time the order of placement was made.

Source: 9:6-8.69.

#### **COMMENT**

This section is substantively identical to its source.

### **9:27-44. Appealable orders**

a. An appeal may be taken as of right from an order of disposition, an order terminating parental rights and from any other final order made pursuant to this chapter. Pending the determination of the appeal, the order or decision may be stayed, if the Family Part or the Appellate Division before which the appeal is pending finds that a stay is necessary to avoid risk to the child's life or health.

b. If more than one dispositional order is entered in a case, the first dispositional order and any subsequent order that imposes new dispositions shall be final orders for purposes of an appeal, but no more than one appeal may be taken in any case challenging the finding of child abuse or neglect.

Source: 9:6-8.70.

#### **COMMENT**

Subsection (a) is substantively similar to its source except that it specifically includes orders terminating parental rights. Subsection (b) is new. It regulates the appealability of dispositional orders when a series of such orders are entered in a case. It is in accord with practice. It allows an appeal from any dispositional order. Current and proposed statutes provide for a series of dispositional orders in many cases. If these orders were not considered final, there could be no appeal possible in these cases.

## **Chapter 28 -- Permanency Planning**

### **9:28-1. Health, safety of paramount concern in placement of child**

a. In accordance with the provisions of subsections b., c., and d. of this section, when determining the reasonable efforts to be made and when making the reasonable efforts, the child's health and safety shall be of paramount concern.

b. In any case in which the Division accepts a child in care or custody, the Division shall make reasonable efforts, prior to placement, to preserve the family in order to prevent the need for removing the child from his home. After placement, the Division shall make reasonable efforts to make it possible for the child to safely return to his home.

c. Reasonable efforts to place a child for adoption or with a legal guardian or in an alternative permanent placement may be made concurrently with reasonable efforts to preserve and reunify the child's family.

d. In any case in which family reunification is not the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner and to complete the steps necessary to finalize the permanent placement of the child.

Source: 30:4C-11.1.

#### COMMENT

This section is identical to its source.

### **9:28-2. Exceptions to requirement to make reasonable efforts to prevent placement**

In any case in which the Division accepts a child in care or custody, including placement, the Division shall not be required to provide reasonable efforts to reunify the child with a parent and to prevent placement of the child if a court has determined that both of the following criteria are met:

a. One of the following actions has occurred:

(1) the parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty or abandonment,

(2) the parent has been convicted of murder, aggravated manslaughter or manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit murder, aggravated manslaughter or manslaughter of the child or another child of the parent; committing or attempting to commit an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent; or committing a similarly serious criminal act which resulted, or could have resulted, in the death of, or significant bodily injury to, the child or another child of the parent,

(3) the rights of the parent to another of the parent's children have been involuntarily terminated or

(4) removal of the child was required due to imminent danger to the child's life, safety or health; and

b. Efforts to prevent placement were not reasonable due to risk of harm to the child's health or safety.

When determining whether reasonable efforts are required to prevent placement, the health and safety of the child shall be of paramount concern to the court.

Source: 30:4C-11.2; 30:4C-11.3

#### COMMENT

This section is substantively identical to its sources.

### **9:28-3. Permanency hearing**

Any hearing held before the Family Part of the Chancery Division of the Superior Court may serve as a permanency hearing to provide judicial review and approval of a permanency plan for the child if all the requirements of section 50 of P.L.1999, c.53 (C.30:4C-61.2) are met.

Source: 30:4C-11.4.

## COMMENT

This section is substantively identical to its source.

### Chapter 29 -- Miscellaneous

#### 9:29-1. Suspension; due process rights; remedial plan

a. If there is reasonable cause for the administrator to believe that the life or health of the alleged victim or other children at the institution is in imminent danger due to continued contact between the alleged perpetrator and a child at the institution, a teacher, employee, volunteer or staff person of an institution as defined in section 9:6A-2 who is alleged to have committed an act of child abuse or neglect shall be temporarily suspended by the appointing authority from the position at the institution with pay, or reassigned to duties which would remove the risk of harm to a child under the person's custody or control.

b. A public employee suspended pursuant to this subsection shall be accorded due process rights, including notice of the proposed suspension and a presuspension opportunity to respond and any other due process rights provided by laws of this State governing public employment and under any applicable individual or group contractual agreement. A private employee suspended pursuant to this subsection shall be accorded due process rights provided for under the laws of this State governing private employment and under any applicable individual or group employee contractual agreement.

c. If the child abuse or neglect is the result of a single act occurring in an institution, within 30 days of receipt of the report of child abuse or neglect, the Division may request that the chief administrator of the institution formulate a plan of remedial action. The plan may include, but shall not be limited to, action to be taken with respect to a teacher, employee, volunteer or staff person of the institution to assure the health and safety of the alleged victim and other children at the institution and to prevent future acts of abuse or neglect. Within 30 days of the date the Division requested the remedial plan, the chief administrator shall notify the Division in writing of the progress in preparing the plan. The chief administrator shall complete the plan within 90 days of the date the Division requested the plan.

d. If the child abuse or neglect is the result of several incidents occurring in an institution, within 30 days of receipt of the report of child abuse or neglect, the Division may request that the chief administrator of the institution make administrative, personnel or structural changes at the institution. Within 30 days of the date the Division made its request, the chief administrator shall notify the Division of the progress in complying with the terms of the Division's request. The Division and chief administrator shall determine a time frame for completion of the terms of the request.

e. If a chief administrator of an institution does not formulate or implement a remedial plan or make the changes requested by the Division, the Division may impose appropriate sanctions or actions if the Division licenses, oversees, approves or authorizes the operation of the institution. If the Division does not license, oversee, approve or authorize the operation of the institution, the Division may recommend to the authority which licenses, oversees, approves or authorizes the operation of the institution that appropriate sanctions or actions be imposed against the institution.

Source: 9:6-3.1.

**COMMENT**

This section is substantively identical to its source.

**9:29-2. Regulations on reporting of child abuse by schools**

The Commissioner of Education shall, in cooperation and consultation with the Commissioner of Children and Families, adopt regulations, pursuant to the "Administrative Procedure Act," concerning the relationship, rights and responsibilities of the Department of Children and Families and local school districts regarding the reporting and investigation of allegations of child abuse.

Source: 9:6-8.72a.

**COMMENT**

This section is substantively identical to its source.

**9:29-3. Check of child abuse registry for guardians**

a. In accordance with the provisions of sections 6 and 7 of P.L.2005, c.370 (C.52:27G-37 and C.52:27G-38), the Division shall conduct a check of its child abuse registry for each person seeking registration as a professional guardian who is required to undergo such a check pursuant to P.L.2005, c.370 (C.52:27G-32 et al.). The Division shall immediately forward the information obtained as a result of the check to the Office of the Public Guardian for Elderly Adults.

b. Subsequent to the initial registration of an individual as a professional guardian, the public guardian may submit the name of a registered professional guardian for an additional child abuse registry check. Upon receipt of a response from the Division, the public guardian shall make a determination regarding the continuation of the registration of the person as a professional guardian.

Source: 9:6-8.10e.

**COMMENT**

This section is identical to its source.

**9:29-4. Child abuse record information check on designated caretaker**

a. Upon receiving the presentencing investigation information from the court pursuant to 2C:44-6.2 concerning a sole caretaker of a child who will be incarcerated and the person who will assume care and custody of the child during the period of incarceration, the Division shall conduct a child abuse record information check of its child abuse records to determine if an incident of child abuse or neglect has been substantiated against the person who will be responsible for the child's care and custody or any adult and juvenile over 12 years of age in the person's household.

b. If, based on the information provided by the court and the check of its child abuse records, the Division determines that the incarcerated person's minor child may be at risk for abuse or neglect or the child's emotional, physical, health care and educational needs will not be met during the period of incarceration, the Division shall take appropriate action to ensure the safety of the child.

Source: 9:6-8.10c



#### COMMENT

This section is substantively identical to its source.

### **9:29-5. Notice to the prosecutor; notice to the Family Part**

a. Any criminal complaint charging facts amounting to abuse or neglect under this act may be transferred by the county prosecutor or the criminal court in which the complaint was made, to the Family Part. If any police officer, county prosecutor or criminal court receives a complaint which amounts to child abuse or neglect, the police officer, county prosecutor or criminal court shall report the complaint to the Division immediately. If the Family Part determines a complaint should be filed, proceedings under this act shall be commenced immediately.

b. Nothing in this act shall be interpreted to preclude the county prosecutor from bringing criminal action against the parent or ~~guardian~~ other custodian or any other person even though the child involved is initially or ultimately the subject of proceedings in the Family Part.

Source: 9:6-8.25.

#### COMMENT

This section is substantively identical to subsections (b) and (c) of its source. Subsection (a), requiring the Family Part to forward a copy of the complaint to the county prosecutor has been deleted as unnecessary since the Division is required to notify the prosecutor of all allegations of child abuse.

## **Chapter 30 -- Termination of Parental Rights**

### **9: 30-1. Petition to terminate parental rights, conditions**

a. A petition to terminate the parental rights of the parent or parents of a child under the age of 18, setting forth the facts in the case, shall be filed by the Division with the Family Part of the Chancery Division of the Superior Court in the county where the child is at the time of filing, when:

(1) the child has been placed in the care and custody of the Division by an order of disposition based on a finding of child abuse or neglect or that the child is in need of services and the Division determines that termination of parental rights is in the best interests of a child as defined in section 9:30-2; or

(2) the parent of a child has been convicted of endangering welfare of the child, of murder, aggravated manslaughter or manslaughter of another child of the parent; or to have committed, or attempted to commit, an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent; or the parent has subjected the child to human trafficking as defined by 2C:13-8, or the parent has committed a similarly serious act which resulted, or could have resulted, in the death or significant bodily injury to the child or another child of the parent;

b. A petition shall be filed as soon as any one of the circumstances in subsections (a) of this section is established, but no later than when the child has been in placement for 15 of the most recent 22 months, unless the Division establishes an exception to the requirement to seek termination of parental rights in accordance with the requirement for permanency planning.

c. When a petition is filed, the Division shall initiate or continue efforts to identify, recruit, process and approve a qualified family to adopt the child.

Source: 30:4C-15

#### COMMENT

This section is substantively similar to 30:4C-15, but subsection (c) is derived from 30:4C-15.1. The final paragraph of 30:4C-15 which allowed private parties to file termination actions has been deleted.

### **9:30-2. Termination of parental rights, standards**

a. The Division shall initiate a petition to terminate parental rights on the grounds of the "best interests of the child" pursuant to subsection 9: 27-1(a) if the following standards are met:

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

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

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

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

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

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

(A) the parent, although able to have contact, has had no contact with the child, the child's resource family parent or the Division; or

(B) the parent's whereabouts are unknown, notwithstanding the Division's reasonable efforts to locate the parent; or

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

(3) where the parent voluntarily delivered the child to and left the child at, or voluntarily arranged for another person to deliver the child to and leave the child at a State, county or municipal police station or at an emergency department of a licensed general hospital in this State when the child is or appears to be no more than 30 days old, without expressing an intent to return for the child, as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7), the Division shall file for termination of parental rights no later than 21 days after the day the Division assumed care, custody and control of the child.

c. As used in this section and in section 15 of P.L.1951, c.138 (C.30:4C-15) "reasonable efforts" mean attempts by an agency authorized by the Division to assist the parents in

remediating the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, including, but not limited to:

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

(2) locating, utilizing and engaging extended family, friends, and community members as family support in achieving permanency;

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

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

(5) facilitating appropriate visitation.

Source: 30:4C-15.1

#### **COMMENT**

This section is substantively identical to its source. The last subsection of 30:4C-15.1 which provided for an exception to permanency planning has been deleted as covered Chapter 28.

### **9:30-3. Exemptions from requirement of petition for termination of parental rights**

The Division shall not be required to file a petition seeking the termination of parental rights if:

a. The child is being cared for by a relative and a permanent plan for the child can be achieved without termination of parental rights;

b. The Division has documented in the case plan, available for court review, a compelling reason for determining that filing the petition would not be in the best interests of the child; or

c. The Division is required to provide reasonable efforts to reunify the family but the Division has not provided to the family of the child, consistent with the time period in the case plan, such services as the Division deems necessary for the safe return of the child to his home.

Source: 30:4C-15.3

#### **COMMENT**

This section is substantively identical to its source.

### **9:30-4. Notice to parent of right to counsel; public defender appointments; law guardian, selection**

a. In any action concerning the termination of parental rights, the court shall provide the respondent parent with notice of the right to retain and consult with legal counsel. If the parent appears before the court, is indigent and requests counsel, the court shall appoint the Office of the Public Defender to represent the parent. The Office of the Public Defender shall appoint counsel to represent the parent in accordance with subsection c. of this section.

If the parent was previously represented by counsel from the Office of the Public Defender in a child abuse or neglect action on behalf of the same child, the same counsel, to the extent practicable, shall continue to represent the parent in the termination of parental rights

action, unless that counsel seeks to be relieved by the court upon application for substitution of counsel or other just cause.

Nothing in this section shall be construed to preclude the parent from retaining private counsel.

b. A child who is the subject of an application for the termination of parental rights shall be represented by a law guardian. If the child was represented by a law guardian in a child abuse and neglect action, the same law guardian, to the extent practicable, shall continue to represent the child in the termination of parental rights action, unless that law guardian seeks to be relieved by the court upon application for substitution of counsel or other just cause.

c. The Office of the Public Defender is authorized to provide representation to children and indigent parents in termination of parental rights proceedings under Title 30 of the Revised Statutes pursuant to the provisions of this section.

(1) In selecting attorneys to serve as law guardians or counsel for indigent parents, the Office of the Public Defender shall take into consideration the nature, complexity and other characteristics of the cases, the services to be performed, the status of the matters, the attorney's pertinent trial and other legal experience and other relevant factors. The Office of the Public Defender also shall take into consideration an attorney's willingness to make a commitment to represent a child or parent, as applicable, in any actions taken related to child abuse and neglect and termination of parental rights.

(2) The Office of the Public Defender shall ensure that an attorney selected pursuant to this section has received training in representing clients in child abuse and neglect and termination of parental rights actions from the Office of the Public Defender or will receive such equivalent training, as soon as practicable, from other sources.

(3) The Office of the Public Defender shall provide for an internal administrative unit with the responsibility to supervise, evaluate and select non-staff counsel who will represent indigent parents independently from the Law Guardian Program staff in the Office of the Public Defender. All decisions of the Office of the Public Defender concerning the representation of indigent parents in particular cases shall be made by staff who have no actual involvement with the day-to-day legal representation being provided by the Law Guardian Program in the Office of the Public Defender. Nothing in this paragraph shall be construed to limit the powers of the Public Defender pursuant to section 7 of P.L.1967, c.43 (C.2A:158A-7).

Source: 30:4C-15.4

#### COMMENT

This section is substantively identical to its source.

### **9:30-5. Adjournments; Final guardianship hearing**

a. Adjournment of any hearing on a petition for termination of parental rights shall not exceed a total period of 45 days.

b. A final hearing for guardianship shall be held within three months from the date the petition is filed.

Source: 30:4C-15.2; 30:4C-19

#### COMMENT

Subsection (a) is substantively identical to 30:4C-19; subsection (b) to 30:4C-15.2.

### **9:30-6 Order terminating parental rights; committing child to guardianship**

a. The court shall terminate parental rights if it finds by clear and convincing evidence that the best interests of the child require terminating parental rights in that:

(1) the child's health and development have been or will be seriously impaired by the parental relationship;

(2) the parents are unable or unwilling to eliminate the harm and delaying permanent placement will add to the harm;

(3) the court has considered alternatives to termination; and

(4) the termination of parental rights will not do more harm than good.

b. If the court terminates parental rights, it shall commit the child to the guardianship and control of the Division. The Division shall thereupon become the legal guardian of the child for all purposes, including the placement of such child for adoption.

c. If the court does not find that the best interests of the child require terminating parental rights:

(1) The Division shall return the child forthwith to the parent or parents, guardian or other custodian ~~or person~~ who had custody of the child immediately prior to the filing of the petition, or

(2) If return of the child does not ensure the safety of the child or if the parent or parents, guardian or other custodian ~~or person~~ who had custody cannot be found, the court, may place the child as provided in 9:27-4.

Source: 30:4C-20

#### COMMENT

This section is derived from 30:4C-20. Language has been added to subsection (a) to include the standard for termination of parental rights expressed in *Division of Youth and Family Services v. A.W.*, 103 N.J. 591 (1986). Subsection (c) has been restructured to make it clear that the court has the option to place the child, subject to all of the provisions on placement found in the previous chapter.

### **9:30-7. Guardianship order not to be restrictive**

a. The order of the court committing a child to the guardianship of the Division shall not be restrictive of the duties, powers and authority of the Division in the care, custody, placement, welfare and exclusive guardianship of the child.

b. The care, custody or guardianship of the Division shall be full and complete for all purposes and shall vest in the Division the custody and control of both the person and property of children in its custody or care.

c. Care, custody or guardianship of the Division shall enable the Division to prosecute suits, claims and proceedings or actions on behalf of the children under its care, custody or guardianship when the children are in resource family homes; to demand and receive from all persons, including guardians previously appointed, any property of the children under its care,

custody or guardianship when the children are in resource family homes; and to hold and administer the real and personal property of the children under its care, custody or guardianship when the children are in resource family homes; provided, however, that the Division may hold funds of the children under its care, custody or guardianship when the children are in resource family homes on deposit in banks, and to apply funds, other than earned income or the corpus of any trust, devise or intestate share, or the proceeds of an insurance contract or a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury, of any child under its care, custody or guardianship when the child is in a resource family home against expenditures for the maintenance of such child under its care, custody or guardianship when the child is in a resource family home.

The Superior Court shall hear petitions by the Division, on behalf of the children under its care, custody or guardianship when the children are in resource family homes, for the transfer of assets being held by guardians previously appointed. The court shall have jurisdiction, in its discretion, to waive costs in any proceedings by the Division on behalf of the children under its care, custody or guardianship when the children are in resource family homes.

Source: 30:4C-21; 30:4C-22

#### COMMENT

Subsection (a) is substantively identical to 30:4C-21; subsections (b) and (c) to 30:4C-22.

## Chapter 31 -- Task Force on Child Abuse and Neglect

### 9:31-1. "New Jersey Task Force on Child Abuse and Neglect"

- a. There is established the "New Jersey Task Force on Child Abuse and Neglect."
- b. The purpose of the task force is to study and develop recommendations regarding the most effective means of improving the quality and scope of child protective and preventative services provided or supported by State government, including a review of the practices and policies utilized by the Department in order to:
  - (1) optimize coordination of child abuse-related services and investigations;
  - (2) promote the safety of children at risk of abuse or neglect;
  - (3) ensure a timely determination with regard to reports of alleged child abuse;
  - (4) educate the public about the problems of, and coordinate activities relating to, child abuse and neglect;
  - (5) develop a Statewide plan to prevent child abuse and neglect and mechanisms to facilitate child abuse and neglect prevention strategies in coordination with the Division of Prevention and Community Partnerships;
  - (6) mobilize citizens and community agencies in a proactive effort to prevent and treat child abuse and neglect; and
  - (7) foster cooperative working relationships between State and local agencies responsible for providing services to victims of child abuse and neglect and their families.

c. The task force shall receive, evaluate and approve applications of public and private agencies and organizations for grants from moneys annually appropriated from the "Children's Trust Fund" established pursuant to section 2 of P.L.1985, c.197 (C.54A:9-25.4). Any portion of the moneys actually appropriated which are remaining at the end of a fiscal year shall lapse to the "Children's Trust Fund."

Grants shall be awarded to public and private agencies for the purposes of planning and establishing or improving programs and services for the prevention of child abuse and neglect, including activities which:

(1) Provide Statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect;

(2) Encourage professional persons and groups to recognize and deal with problems of child abuse and neglect;

(3) Make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and

(4) Encourage the development of community prevention programs, including:

(A) community-based educational programs on parenting, prenatal care, prenatal bonding, child development, basic child care, care of children with special needs, coping with family stress, personal safety and sexual abuse prevention training for children, and self-care training for latchkey children; and

(B) community-based programs relating to crisis care, aid to parents, child abuse counseling, peer support groups for abusive or potentially abusive parents and their children, lay health visitors, respite of crisis child care, and early identification of families where the potential for child abuse and neglect exists.

d. The task force shall, in awarding grants, establish such priorities respecting the programs or services to be funded and the amounts of funding to be provided as it deems appropriate, except that the task force shall place particular emphasis on community-based programs and services which are designed to develop and demonstrate strategies for the early identification, intervention and assistance of families and children at risk in order to prevent child abuse and neglect.

e. The task force shall adopt such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to govern the awarding of grants pursuant to this subsection as may be necessary to establish adequate reporting requirements on the use of grant funds by recipient agencies and organizations and to permit the task force to evaluate the programs and services for which grants are awarded.

e. The task force shall establish a Staffing and Oversight Review Subcommittee to review staffing levels of the Department of Children and Families in order to develop recommendations regarding staffing levels and the most effective methods of recruiting, hiring, and retaining staff within the Department. In addition, the subcommittee shall review the Department's performance in the achievement of management and client outcomes, and shall issue a preliminary report with its findings and recommendations no later than January 1, 2007, and subsequent reports annually thereafter with the first full report due no later than July 1, 2007.

The subcommittee shall directly issue its reports to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

Source: 9:6-8.75

**COMMENT**

This section is substantively identical to its source.

**9:31-2 Task force membership.**

a. The task force shall consist of 30 members as follows: the Commissioners of Human Services, Children and Families, Education, Community Affairs, Corrections, and Health and Senior Services, the Attorney General, the Chief Justice of the Supreme Court, two judges of the Superior Court involved in both civil and criminal court proceedings related to child abuse and neglect as appointed by the Chief Justice of the Supreme Court; the Public Defender, and the Superintendent of State Police, or their designees, as ex officio members; two members of the Senate and the General Assembly, respectively, no more than one of whom in each case shall be of the same political party; and a county prosecutor appointed by the Attorney General. The 13 public members shall be appointed by the Governor as follows: one member who is a director of a regional diagnostic and treatment center for child abuse and neglect; one member who represents the Advocates for Children of New Jersey; one member who represents Foster and Adoptive Family Services; one member who represents a faith-based organization; one member who is a director of a county department of human services; one member who is a youth 21 years of age or younger who is or has been placed under the care and custody of the Department of Children and Families because of an allegation of child abuse or neglect; two members who represent service providers under contract with the Department; and five members of the public who have an interest or expertise in issues concerning child welfare. The public members shall reflect the diversity of the residents of the State and the children and families served by the State's child welfare system.

b. The task force membership shall comply with the multidisciplinary requirements set forth in the "Child Abuse Prevention and Treatment Act," Pub.L.93-247 (42 U.S.C. s.5101 et seq.).

c. The task force shall be co-chaired, one co-chair shall be the Commissioner of Children and Families and the other shall be appointed by the Governor with the advice and consent of the Senate. The second co-chair shall be selected from among the public members and shall serve at the pleasure of the Governor. The public members shall serve for a term of three years.

d. Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments. The members of the task force shall serve without compensation but may be reimbursed for traveling and other miscellaneous expenses necessary to perform their duties, within the limits of funds made available to the task force for its purposes.

Source: 9:6-8.76; 9:6-8.77

**COMMENT**

Subsections (a), (b) and (c) are substantively identical to 9:6-8.76. Subsection (d) is substantively identical to 9:6-8.77.



### **9:31-3 Staff; services; consultants**

a. The Department of Children and Families shall provide professional and clerical staff to the task force as necessary to effectuate the purposes of this chapter.

b. The task force shall be entitled to call upon the services of any State, county or municipal department, board, commission or agency, as may be available to it for these purposes, and to incur such traveling and other miscellaneous expenses as it may deem necessary for the proper execution of its duties and as may be within the limit of funds appropriated or otherwise made available to it for these purposes.

c. The task force shall consult with such organizations and associations as the Advocates for Children of New Jersey, the New Jersey Association of Children's Residential Facilities, the New Jersey Chapter of the National Association of Social Workers, Inc., the Child Placement Advisory Council, the Medical Society of New Jersey, the New Jersey State Nurses Association, the New Jersey Education Association, the New Jersey Foster Parent Association, and the Graduate School of Social Work of Rutgers, The State University.

Source: 9:6-8.78; 9:6-8.79

#### **COMMENT**

Subsection (a) is substantively identical to 9:6-8.78. Subsections (b) and (c) are substantively identical to 9:6-8.79.

### **9:31-4. Meetings; use of funds; report**

a. The task force may meet and hold hearings at places and times it chooses.

b. The task force may solicit, receive, disburse and monitor grants and other funds made available from any governmental, public, private, not-for-profit or for-profit agency, including funds made available under any federal or State law, regulation or program.

Source: 9:6-8.80; 9:6-8.81.

#### **COMMENT**

Subsection (a) is substantively identical to 9:6-8.80. Subsection (b) is identical to 9:6-8.81. . Section 9:6-8.82 required that a report be filed in 1995; it has been deleted as executed.

## **Chapter 32 -- Comprehensive Child Abuse Prevention and Treatment**

### **9:32-1. Short title**

This chapter shall be known and may be cited as the "Comprehensive Child Abuse Prevention and Treatment Act."

Source: 9:6-8.83.

#### **COMMENT**

This section is substantively identical to its source.

### **9:32-2 Procedures for responding to reports of medical neglect**

The commissioner shall establish procedures for responding to the reporting of medical neglect, including instances of withholding of medically indicated treatment from disabled children with life-threatening conditions, to provide for:

- a. coordination and consultation with persons designated by and within appropriate health care facilities, and
- b. prompt notification by these persons of cases of suspected medical neglect, including withholding of medically indicated treatment from disabled children with life-threatening conditions.

Source: 9:6-8.85.

#### **COMMENT**

This section is identical to its source.

### **9:32-3. Pursuit of legal remedies for medical care**

The Department may pursue any legal remedies, including the initiation of legal proceedings, necessary to:

- a. prevent the withholding of medically indicated treatment from disabled children with life-threatening conditions, or
- b. provide medical care or treatment for a child when necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from disabled children with life-threatening conditions.

Source: 9:6-8.86.

#### **COMMENT**

This section is substantively identical to its source.

## **Chapter 33 -- Regional Diagnostic and Treatment Centers**

### **9:33-1 Regional diagnostic and treatment centers for child abuse and neglect established**

The Commissioner of Children and Families shall establish four regional diagnostic and treatment centers for child abuse and neglect affiliated with medical teaching institutions in the State that meet the standards adopted by the commissioner, in consultation with the New Jersey Task Force on Child Abuse and Neglect. The regional centers shall be located in the northern, north central, south central and southern regions of the State. Each center shall have experience in addressing the medical and mental health diagnostic and treatment needs of abused and neglected children in the region in which it is located.

Source: 9:6-8.99.

#### **COMMENT**

This section is identical to its source.

### **9:33-2 Function of center, staffing**

Each center shall demonstrate a multidisciplinary approach to identifying and responding to child abuse and neglect. The center staff shall include, at a minimum, a pediatrician, a consulting psychiatrist, a psychologist and a social worker who are trained to evaluate and treat children who have been abused or neglected and their families. Each center shall establish a liaison with the district office of the Department of Children and Families and the prosecutor's office from the county in which the child who is undergoing evaluation and treatment resides. At least one member of the staff shall also have an appropriate professional credential or significant training and experience in the identification and treatment of substance abuse.

Each center shall develop an intake, referral and case tracking process which assists the Department and prosecutor's office in assuring that child victims receive appropriate and timely diagnostic and treatment services.

Source: 9:6-8.100.

#### **COMMENT**

This section is identical to its source.

### **9:33-3. Purpose of center**

The regional centers shall: evaluate and treat child abuse and neglect; be resources for the region and develop additional resources within the region; provide training and consultative services; and be available for emergency phone consultation 24 hours a day. The centers shall also be a source for research and training for additional medical and mental health personnel dedicated to the identification and treatment of child abuse and neglect.

The regional center may charge a sliding scale fee for services provided under this act.

Source: 9:6-8.101.

#### **COMMENT**

This section is identical to its source.

### **9:33-4. Services provided by staff of center**

Services provided by the center's staff shall include:

- a. Providing psychological and medical evaluation and treatment of the child, counseling for family members and substance abuse assessment and mental health and substance abuse counseling for the parents or ~~guardian~~ other custodians of the child;
- b. Providing referral for appropriate social services and medical care;
- c. Providing testimony regarding alleged child abuse or neglect at judicial proceedings;
- d. Providing treatment recommendations for the child and mental health and substance abuse treatment recommendations for his family, and providing mental health and substance abuse treatment recommendations for persons convicted of child abuse or neglect;
- e. Receiving referrals from the Department of Children and Families and the county prosecutor's office and assisting them in any investigation of child abuse or neglect;

f. Providing educational material and seminars on child abuse and neglect and the services the center provides to children, parents, teachers, law enforcement officials, the judiciary, attorneys and other citizens.

Source: 9:6-8.102.

**COMMENT**

This section is substantively identical to its source.

**9:33-5. Safety of child undergoing treatment assured**

The regional center shall ensure the safety of a child undergoing treatment while the child is at the regional center to the extent permitted by law. The appropriate law enforcement officials and protective services providers shall continue to ensure the safety of the child to the extent permitted by law.

Source: 9:6-8.103.

**COMMENT**

This section is substantively identical to its source.

**9:33-6. Establishment, maintenance of county-based multidisciplinary teams**

Regional centers shall act as a resource in the establishment and maintenance of county-based multidisciplinary teams which work in conjunction with the county prosecutor and the Department of Children and Families in the investigation of child abuse and neglect in the county in which the child who is undergoing evaluation and treatment resides. The Commissioner of Children and Families, in consultation with the New Jersey Task Force on Child Abuse and Neglect, shall establish standards for a county team. The county team shall consist of representatives of the following disciplines: law enforcement; child protective services; mental health; substance abuse identification and treatment; and medicine; and, in those counties where a child advocacy center has been established, shall include a staff representative of a child advocacy center, all of whom have been trained to recognize child abuse and neglect. The county team shall provide: facilitation of the investigation, management and disposition of cases of criminal child abuse and neglect; referral services to the regional diagnostic center; appropriate referrals to medical and social service agencies; information regarding the identification and treatment of child abuse and neglect; and appropriate follow-up care for abused children and their families.

As used in this section, "child advocacy center" means a county-based center which meets the standards for a county team established by the commissioner pursuant to this section and demonstrates a multidisciplinary approach in providing comprehensive, culturally competent child abuse prevention, intervention and treatment services to children who are victims of child abuse or neglect.

Source: 9:6-8.104.

**COMMENT**

This section is substantively identical to its source.

## **Chapter 34 -- New Jersey Safe Haven Infant Protection Act**

### **9:34-1. Short title**

This chapter shall be known and may be cited as the "New Jersey Safe Haven Infant Protection Act."

Source: 30:4C-15.5.

#### **COMMENT**

This section is substantively identical to its source.

### **9:34-2. Findings, declarations relative to abandoned children**

The Legislature finds and declares that:

a. New Jersey and the nation have experienced sorrow in the knowledge that newborn infants are sometimes abandoned in life-threatening situations and that some of these children have been harmed or have died as a consequence of their abandonment.

b. The parents of these newborn infants may be under severe emotional stress and may need a safe haven available to them and their child.

c. Anonymity, confidentiality and freedom from prosecution may encourage the parent to leave an infant safely and save the life of the infant.

d. Texas passed a law in 1999 concerning the emergency possession of certain abandoned children (Texas Family Code Section 262.301 et seq.) and measures similar to this Texas law have passed in Minnesota and Louisiana and are under consideration in more than 20 states, including California, Colorado, Kentucky and Indiana to name a few.

e. Infants at risk may be served by having this legislation in place and this legislation is worthwhile if it saves even one infant's life.

Source: 30:4C-15.6.

#### **COMMENT**

This section is identical to its source.

### **9:34-3. Designated sites for voluntary relinquishment of child; assumption of care, custody, control by Department**

a. If a person voluntarily delivers a child who is or appears to be no more than 30 days old to, and leaves the child at a State, county or municipal police station and does not express an intent to return for the child, a State, county or municipal police officer shall take the child to the emergency department of a licensed general hospital in this State and the hospital shall proceed as specified in subsection b. of this section.

b. If a person voluntarily delivers a child who is or appears to be no more than 30 days old to, and leaves the child at an emergency department of a licensed general hospital in this State and does not express an intent to return for the child, or, if a State, county or municipal police officer brings a child to a licensed general hospital under the circumstances set forth in subsection a. of this section, the hospital shall:

(1) take possession of the child without a court order;

(2) take any action or provide any treatment necessary to protect the child's physical health and safety; and

(3) no later than the first business day after taking possession of the child, notify the Department of Children and Families that the hospital has taken possession of the child.

c. The Department of Children and Families shall assume the care, custody and control of the child immediately upon receipt of notice from a licensed general hospital pursuant to paragraph (3) of subsection b. of this section. The Department shall commence a thorough search of all listings of missing children to ensure that the relinquished child has not been reported missing.

d. A child for whom the Department of Children and Families assumes care, custody and control pursuant to subsection c. of this section shall be treated as a child taken into possession without a court order.

e. It shall be an affirmative defense to prosecution for abandonment of a child that the parent voluntarily delivered the child to and left the child at, or voluntarily arranged for another person to deliver the child to and leave the child at, a State, county or municipal police station as provided in subsection a. of this section or the emergency department of a licensed general hospital in this State as provided in subsection b. of this section. Nothing in this subsection shall be construed to create a defense to any prosecution arising from any conduct other than the act of delivering the child as described herein, and this subsection specifically shall not constitute a defense to any prosecution arising from an act of abuse or neglect committed prior to the delivery of the child to a State, county or municipal police station as provided in subsection a. of this section or the emergency department of a licensed general hospital in this State as provided in subsection b. of this section.

f. A State, county or municipal police officer and the governmental jurisdiction employing that officer or an employee of an emergency department of a licensed general hospital in this State and the hospital employing that person shall incur no civil or criminal liability for any good faith acts or omissions performed pursuant to this section.

g. Any person who voluntarily delivers a child who is or appears to be no more than 30 days old to a licensed general hospital or a police station in accordance with this section shall not be required to disclose that person's name or other identifying information or that of the child or the child's parent, if different from the person who delivers the child to the hospital or police station, or provide background or medical information about the child, but may voluntarily do so.

Source: 30:4C-15.7.

#### COMMENT

This section is identical to its source.

### **9:34-4. Responsibilities of Department, placement of child**

The Department, after assuming the care, custody and control of a child from a licensed general hospital pursuant to this chapter, shall not be required to attempt to reunify the child with the child's parents. Additionally, the Department shall not be required to search for relatives of the child as a placement or permanency option, or to implement other placement requirements

that give preference to relatives if the Department does not have information as to the identity of the child, the child's mother or the child's father. The Department shall place the child with potential adoptive parents as soon as possible.

Source: 30:4C-15.8.

**COMMENT**

This section is substantively identical to its source.

**9:34-5. Educational and public information program, toll free hotline**

a. The Commissioner of Children and Families, in consultation with the Commissioner of Health and Senior Services, shall establish an educational and public information program to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents and information regarding adoption procedures. This campaign shall include the establishment of a 24-hour, toll free hotline to assist in making information about the safe haven procedures established by this chapter as widely available as possible.

b. The Department of Children and Families shall provide to licensed general hospitals in this State and State, county or municipal police stations information about relevant social service agencies which may be made available to any person voluntarily delivering a child as provided in this chapter.

Source: 30:4C-15.9.

**COMMENT**

This section is substantively identical to its source.

**9:34-6. Distribution of information about "New Jersey Safe Haven Infant Protection Act" to certain public school students**

a. The Commissioner of Children and Families, in consultation with the Commissioner of Education, shall develop a plan to distribute to all public school districts in the State with students in grades 7 through 12, pamphlets, posters and other educational materials that provide information to these students on the provisions of the "New Jersey Safe Haven Infant Protection Act.

b. The Department of Children and Families shall distribute the pamphlets, posters and other educational materials, at no charge, to the school districts. The department shall update the pamphlets, posters and other educational materials as necessary, and shall make additional copies available to educators and other individuals working with public school students in grades 7 through 12.

c. The Department of Children and Families shall notify relevant county and municipal government agencies, agencies that deliver social services administered by the Departments of Children and Families, Human Services, and Health and Senior Services, physicians, pregnancy crisis centers, adoption agencies, and colleges and universities about the availability of information concerning the "New Jersey Safe Haven Infant Protection Act," including the pamphlets, posters, and other materials available on the department's Internet site.

Source: 30:4C-15.11.

**COMMENT**

This section is substantively identical to its source.



## CHILD ABUSE TABLE OF DISPOSITIONS

Section	Disposition	Comment
9:6-1	9:27-1	changed to reflect case law
9:6-1.1	to be preserved	not to be repealed
9:6-2	9:26-1	substantively unchanged
9:6-3	deleted	see 2C:24-4
9:6-3.1	9:29-1	substantively unchanged
9:6-4	deleted	unnecessary
9:6-5	deleted	unnecessary
9:6-6	deleted	unnecessary
9:6-7	deleted	unnecessary
9:6-8	deleted	unnecessary
9:6-8.8	9:26-2	substantively unchanged
9:6-8.9	9:27-1	changed to reflect case law
9:6-8.10	9:27-3	substantively similar
9:6-8.10a	9:27-4	substantively unchanged
9:6-8.10b	deleted	unnecessary
9:6-8.10c	9:29-4	substantively unchanged
9:6-8.10d	9:26-4	consolidated
9:6-8.10e	9:29-3	unchanged
9:6-8.11	9:27-6	substantively unchanged
9:6-8.12	9:27-5	unchanged
9:6-8.13	9:27-3	substantively similar
9:6-8.14	9:27-3	substantively unchanged
9:6-8.15	9:26-4	consolidated
9:6-8.16	9:27-10	substantively unchanged
9:6-8.17	9:27-10	substantively unchanged
9:6-8.18	deleted	see 9:27-12
9:6-8.19	9:27-11	generalized
9:6-8.19a	9:27-29	substantively unchanged
9:6-8.20	9:27-10	substantively unchanged
9:6-8.21	9:26-1; 9:27-1	clarified and changed to reflect case law
9:6-8.22	9:27-15	substantively unchanged
9:6-8.23	9:27-20	similar; expanded
9:6-8.24	9:27-15	substantively unchanged
9:6-8.25	9:29-5	substantively unchanged in part; see also 9:27-7
9:6-8.26	deleted	unnecessary
9:6-8.27	9:27-11	generalized
9:6-8.28	9:27-16	substantively unchanged
9:6-8.29	9:27-11	generalized
9:6-8.30	9:27-12	substantively unchanged; added provision from 9:6-8.19
9:6-8.31	9:27-17	substantively similar
9:6-8.32	9:27-19	substantively unchanged
9:6-8.33	9:27-11, 9:27-14	substantively unchanged
9:6-8.34	9:27-14; 9:27-15	limited in part

9:6-8.35	deleted	not in accord with current practice
9:6-8.36	9:27-12	subsumed in general provision
9:6-8.36a	9:27-8	substantively unchanged; clarified
9:6-8.37	9:27-21	substantively unchanged
9:6-8.38	9:27-21	substantively unchanged
9:6-8.39	9:27-22	substantively unchanged
9:6-8.40	9:27-7	unchanged
9:6-8.40a	9:27-9	unchanged
9:6-8.41	9:27-23	substantively unchanged
9:6-8.42	9:27-24	unchanged
9:6-8.43	9:27-25	substantively unchanged; see also 9:27-19
9:6-8.44	deleted	unnecessary
9:6-8.45	deleted	unnecessary
9:6-8.46	9:27-26	substantively similar
9:6-8.47	deleted	conflicts with 8.48; anacronistic
9:6-8.48	9:27-27	unchanged
9:6-8.49	9:27-28	unchanged
9:6-8.50	9:27-30	substantively unchanged; clarified
9:6-8.51	9:27-31	substantively unchanged; clarified
9:6-8.52	deleted	unnecessary, not practiced
9:6-8.53	9:27-33	substantively unchanged
9:6-8.54	9:27-34	substantively unchanged
9:6-8.55	9:27-35	substantively unchanged
9:6-8.56	deleted	constitutionally questionable and not practiced
9:6-8.57	deleted	see 9:27-1(f); 9:27-12; 9:27-13
9:6-8.58	9:27-36	substantively unchanged
9:6-8.58a	9:27-37	substantively unchanged
9:6-8.58b	9:26-4	consolidated
9:6-8.59	9:27-38	unchanged
9:6-8.60	9:27-39	substantively unchanged
9:6-8.61	9:27-39	substantively unchanged
9:6-8.62	9:27-39	substantively unchanged
9:6-8.63	9:27-39	substantively unchanged
9:6-8.64	9:27-39	substantively unchanged
9:6-8.65	9:27-40	substantively unchanged
9:6-8.66	9:27-41	substantively unchanged
9:6-8.67	9:27-41	substantively unchanged
9:6-8.68	9:27-42	substantively unchanged
9:6-8.69	9:27-43	substantively unchanged
9:6-8.70	9:27-44	substantively similar
9:6-8.71	deleted	executed
9:6-8.72	9:26-4	consolidated
9:6-8.72a	9:29-2	substantively unchanged
9:6-8.73	deleted	unnecessary
9:6-8.74	deleted	unnecessary
9:6-8.75	9:31-1	substantively similar
9:6-8.76	9:31-2	substantively similar

9:6-8.77	9: 31-2	substantively similar
9:6-8.78	9: 31-3	substantively similar
9:6-8.79	9: 31-3	substantively similar
9:6-8.80	9: 31-4	substantively similar
9:6-8.81	9: 31-4	substantively similar
9:6-8.82	deleted	executed
9:6-8.83	deleted	unnecessary
9:6-8.84	9:27-1	changed to reflect case law
9:6-8.85	9:32-1	unchanged
9:6-8.86	9:32-2	substantively unchanged
9:6-8.87	deleted	unnecessary
9:6-8.88	to be preserved	not to be repealed
9:6-8.89	to be preserved	not to be repealed
9:6-8.90	to be preserved	not to be repealed
9:6-8.91	to be preserved	not to be repealed
9:6-8.92	to be preserved	not to be repealed
9:6-8.93	to be preserved	not to be repealed
9:6-8.94	to be preserved	not to be repealed
9:6-8.95	to be preserved	not to be repealed
9:6-8.96	to be preserved	not to be repealed
9:6-8.97	to be preserved	not to be repealed
9:6-8.98	to be preserved	not to be repealed
9:6-8.99	9:33-1	unchanged
9:6-8.100	9:33-2	unchanged
9:6-8.101	9:26-4; 9:33-3	unchanged
9:6-8.102	9:33-4	substantively unchanged
9:6-8.103	9:33-5	substantively unchanged
9:6-8.104	9:33-6	substantively unchanged
9:6-8.106	deleted	unnecessary
30:4C-11	deleted	see 9:27-1(f); 9:27-12; 9:27-13
30:4C-11.1	9:28-1	unchanged
30:4C-11.2	9:28-2	substantively unchanged
30:4C-11.3	9:28-2	substantively unchanged
30:4C-11.4	9:28-3	substantively unchanged
30:4C-11.5	deleted	executed
30:4C-11.6	deleted	unnecessary see 9:26-4
30:4C-12	9:27-13	limited
30:4C-12.1	9:27-18	substantially similar
30:4C-12.2	9:27-29	substantially similar
30:4C-13	deleted	unnecessary
30:4C-14	deleted	unnecessary
30:4C-15	9:30-1	substantively similar
30:4C-15.1	9:30-2	substantively unchanged, last sentence deleted
30:4C-15.2	9:30-5	substantively unchanged
30:4C-15.3	9:30-3	substantively unchanged
30:4C-15.4	9:30-4	substantively unchanged

30:4C-15.5	9:34-1	substantively unchanged
30:4C-15.6	9:34-2	unchanged
30:4C-15.7	9:34-3	unchanged
30:4C-15.8	9:34-4	substantively unchanged
30:4C-15.9	9:34-5	substantively unchanged
30:4C-15.11	9:34-6	substantively unchanged
30:4C-16	deleted	anachronistic
30:4C-17	deleted	anachronistic
30:4C-18	9:30-5	substantively unchanged
30:4C-20	9:30-6	substantively unchanged
30:4C-21	9:30-7	substantively unchanged
30:4C-22	9:30-7	substantively unchanged
30:4C-23	deleted	see 9:27-1(f); 9:27-12; 9:27-13
30:4C-24	deleted	see 9:27-1(f); 9:27-12; 9:27-13