

SENATE, No. 2558

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED DECEMBER 1, 2014

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Enhances procedures for enforcement of visitation and parenting time when parents' access to child has been denied.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning visitation and parenting time, supplementing
2 Title 2A of the New Jersey Statutes, amending R.S.9:2-4 and
3 P.L.1997, c.300.

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

7
8 1. R.S.9:2-4 is amended to read as follows:

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

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

18 a. Joint custody of a minor child to both parents, which is
19 comprised of legal custody or physical custody which shall include:
20 (1) provisions for residential arrangements so that a child shall
21 reside either solely with one parent or alternatively with each parent
22 in accordance with the needs of the parents and the child; and (2)
23 provisions for consultation between the parents in making major
24 decisions regarding the child's health, education and general
25 welfare;

26 b. Sole custody to one parent with appropriate parenting time
27 for the noncustodial parent; or

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

30 Any custody order of the court which provides for visitation or
31 parenting time shall contain a provision stating that the custodial
32 parent has a duty to facilitate visitation or parenting time of a minor
33 child with the noncustodial parent.

34 In making an award of custody, the court shall consider but not
35 be limited to the following factors: the parents' ability to agree,
36 communicate and cooperate in matters relating to the child; the
37 parents' willingness to accept custody and any history of
38 unwillingness to allow parenting time not based on substantiated
39 abuse; the interaction and relationship of the child with its parents
40 and siblings; the history of domestic violence, if any; the safety of
41 the child and the safety of either parent from physical abuse by the
42 other parent; the preference of the child when of sufficient age and
43 capacity to reason so as to form an intelligent decision; the needs of
44 the child; the stability of the home environment offered; the quality
45 and continuity of the child's education; the fitness of the parents;

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

Matter underlined thus is new matter.

1 the geographical proximity of the parents' homes; the extent and
2 quality of the time spent with the child prior to or subsequent to the
3 separation; the parents' employment responsibilities; and the age
4 and number of the children. A parent shall not be deemed unfit
5 unless the parents' conduct has a substantial adverse effect on the
6 child.

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

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

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

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

21 (cf: P.L.1997, c.299, s.9)

22

23 2. Section 1 of P.L.1997, c.300 (C.2A:34-23.2) is amended to
24 read as follows:

25 1. The Legislature finds and declares that:

26 a. There has been an increase in the filings of dissolutions of
27 marriages in the recent years; and

28 b. The best interests of the children of these marriages in
29 maintaining close relationships with both parents regardless of
30 which parent has the physical custody of the child is paramount;
31 and

32 c. Proceeding criminally in cases where the terms of an order
33 of visitation or parenting time with a child has failed to be honored
34 may be both difficult and inappropriate; **[and]**

35 d. Bolstering the statutory civil remedies available to a judge
36 hearing these types of matters may provide an indication of
37 legislative intent to promote the enforcement of these matters; and

38 e. It is in the best interests of the children to facilitate parents'
39 access to the courts with regard to the enforcement of visitation and
40 parenting time when it has been unreasonably denied.

41 (cf: P.L.1997, c.300, s.1)

42

43 3. Section 2 of P.L.1997, c.300 (C.2A:34-23.3) is amended to
44 read as follows:

45 2. **[A judge who sanctions a party for failure to]** a. When a
46 parent has been granted visitation or parenting time and visiting or
47 parenting time is denied or otherwise interfered with by the other
48 parent, the aggrieved parent may file with the court a motion for

1 enforcement of visitation or parenting time. The motion shall be
2 filed on a form provided by the court. Upon filing, the court shall
3 immediately set a hearing on the motion. The hearing shall be not
4 more than 21 days after the filing of the motion. Final disposition of
5 a motion filed pursuant to this section shall take place no later than
6 45 days after filing of the motion.

7 b. Notice of a hearing pursuant to subsection a. of this section
8 shall be given to all interested parties.

9 c. If the court finds that visitation or parenting time has been
10 unreasonably denied or otherwise interfered with by the parent who
11 has failed to comply with an order of visitation or parenting time,
12 the court shall [have these remedies available] enter an order
13 providing for one or more of the following:

14 **【a.】** (1) A specific visitation schedule;

15 (2) Supervised visitation or parenting time;

16 (3) [The awarding of counsel of] Reasonable attorney fees and
17 court costs to the aggrieved party against the party who violated the
18 terms of the order;

19 **【b.】** (4) Community service;

20 **【c. The awarding of compensatory】** (5) Compensatory time for
21 the time with the child for which the party was deprived, which
22 time shall be of the same type as the visitation or parenting time
23 denied, such as holiday, weekday or weekend;

24 **【d. The awarding of monetary】** (6) Monetary compensation for
25 additional costs incurred when a parent fails to appear for scheduled
26 visitation or parenting time; [and]

27 **【e.】** (7) Posting of a bond, either cash or with sufficient sureties,
28 conditioned upon compliance with the order granting visitation or
29 parenting time;

30 (8) Requiring one or both parents to undergo counseling or
31 education sessions which focus on the impact of visitation or
32 parenting time disputes on children; and

33 (9) Other economic sanctions which may be decided on a case-
34 by-case basis.

35 d. Any order of the court providing for visitation or parenting
36 time shall include a provision stating that the custodial parent has a
37 duty to facilitate visitation or parenting time of a minor child with
38 the noncustodial parent.

39 e. Any order of a court involving visitation or parenting time
40 shall include a written notice advising the persons affected as to the
41 penalties provided in N.J.S.2C:13-4 for violating that order.

42 (cf: P.L.1997, c.300, s.2)

43
44 4. (New section) The Director of the Administrative Office of
45 the Courts may prepare and make available both in print and in an
46 easily printable format on the Judiciary's Internet website a form, in
47 accordance with the Rules of Court, to be used by a parent to file a

1 motion to enforce visitation or parenting time orders. The
2 Judiciary's website shall contain, in addition to the appropriate
3 form, instructional material to assist the public in petitioning the
4 court for enforcement of visitation and parenting time.

5
6 5. (New section) The Supreme Court of New Jersey may adopt
7 rules appropriate and necessary to effectuate the purpose of this act.

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9 6. This act shall take effect on the 60th day following enactment
10 and shall apply to any action filed on or after the effective date.

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13 STATEMENT

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15 This bill amends the current law concerning enforcement of
16 visitation and parenting time to facilitate access to the courts when
17 visitation or parenting time has been unreasonably denied.

18 Under the provisions of the bill, when a noncustodial parent has
19 been granted visitation or parenting time and it is denied or
20 otherwise interfered with by the custodial parent, the noncustodial
21 parent may file with the court a motion for enforcement of
22 visitation or parenting time. The motion would be filed on a form
23 provided by the court which would be easily accessible on the
24 Judiciary's website.

25 Upon filing of the motion, the court would immediately set a
26 hearing on the motion. The hearing would not be more than 21 days
27 after the filing of the motion. Final disposition of this motion would
28 take place no later than 45 days after filing of the motion.

29 The bill provides that if the court finds that the visitation or
30 parenting time of a parent has been unreasonably denied or
31 otherwise interfered with by the other parent, the court could enter
32 an order providing for one or more of the following: (1) a specific
33 visitation schedule; (2) supervised visitation or parenting time; (3)
34 reasonable attorney fees and court costs of the aggrieved party
35 against the party who violated the terms of the order; (4)
36 community service; (5) compensatory time for the time with the
37 child for which the party was deprived, which time shall be of the
38 same type as the visitation or parenting time denied, such as
39 holiday, weekday or weekend; (6) monetary compensation for
40 additional costs incurred when a parent fails to appear for scheduled
41 visitation or parenting time; (7) posting of a bond, either cash or
42 with sufficient sureties, conditioned upon compliance with the order
43 granting visitation or parenting time; (8) requiring one or both
44 parents to undergo counseling or education sessions which focus on
45 the impact of visitation or parenting time disputes on children; and
46 (9) any other economic sanctions which may be decided on a case-
47 by-case basis.

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1 The bill would also require any order of the court providing for
2 visitation or parenting time to include a provision stating that the
3 custodial parent has a duty to facilitate visitation or parenting time
4 of a minor child with the noncustodial parent. In addition, any court
5 order would also include a written notice advising the persons
6 affected as to the penalties provided in N.J.S.2C:13-4 (interference
7 with custody) for violating that order.

8 The bill requires the director of the Administrative Office of the
9 Courts to create an easily printable form on the Judiciary's Internet
10 website a form, to be used by any parent to file a motion to the
11 court to enforce visitation or parenting time rights. The website
12 would contain instructional material to assist the public in
13 petitioning the court for enforcement of visitation and parenting
14 time.

15 This bill is based on a recently enacted Oklahoma statute (43
16 Okl. St. §111.3 (Senate Bill No. 1612, enacted June 3, 2014). That
17 law modified the procedures for enforcing visitation orders and
18 imposed a duty upon the custodial parent to facilitate the visitation
19 rights of the noncustodial parent.