

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5517

STATE OF NEW JERSEY

DATED: JUNE 9, 2021

The Assembly Judiciary Committee reports favorably Assembly Bill No. 5517.

This bill provides for the protection of the custody and visitation rights of parents with a disability.

New Jersey recognizes that both parents in a child custody dispute have a constitutionally recognized equal, fundamental right to the control and upbringing of a child. The courts make the determination on custody arrangements by applying various statutory factors, such as the interaction of the child with the child's parents and the stability of the home environment, with the best interests of the child as the primary concern.

This bill provides that in any child custody proceeding, the disability of one or both parents shall not be the sole factor in the court's decision concerning child custody. The bill also provides that in any custody or visitation proceeding, the disability of a parent is relevant only to the extent that the court finds, by clear and convincing evidence, that the disability is detrimental to the best interest of the child. If the burden of proof is met by the parent alleging that the disability of the other party is detrimental to the best interest of the child, the parent with a disability has the opportunity to provide evidence that supportive parenting services would prevent a finding that the disability is detrimental to the best interest of the child. If the court finds that the disability of a parent is detrimental to the best interest of the child and denies or limits custody or visitation, the court is required to provide for the basis of denying or limiting custody or visitation in writing. The court would also be required to state in writing the reason that the provision of supportive parenting services would not be a reasonable accommodation to prevent the finding.

The bill defines "supportive parenting services" as appropriate family-based services, supports, and other reasonable modifications that would provide a parent with a disability a full and equal opportunity to maintain or restore custody of, or maintain, restore, or increase visitation with, the child. These services, supports, and other modifications may include adaptive equipment to maintain, increase, or strengthen the parenting capabilities of the parent with a disability and the provision of other accommodations and adaptive services.