

ASSEMBLY, No. 5620

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

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District 1 (Atlantic, Cape May and Cumberland)

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District 31 (Hudson)

SYNOPSIS

Provides for additional considerations in child custody determinations and training for certain judicial employees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2021)

1 AN ACT concerning child custody determinations and training for
2 certain judicial employees; amending R.S.9:2-4 and P.L.1991,
3 c.261.

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. In making a parenting time
28 determination, the court shall consider any attempts of a parent to
29 turn the child against the other parent, which parent is likely to
30 permit continuing contact between the child and another parent, and
31 the past and present parental and caretaker duties performed by
32 each parent on behalf of the child, and which parent is more likely
33 to ensure the health and safety of the child; or

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

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

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

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

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

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

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

23 (cf: P.L.1997, c.299, s.9)
24

25 2. Section 4 of P.L.1991, c.261 (C.2C:25-20) is amended to
26 read as follows:

27 4. a. (1) The Division of Criminal Justice shall develop and
28 approve a training course and curriculum on the handling,
29 investigation and response procedures concerning reports of
30 domestic violence and abuse and neglect of the elderly and
31 disabled. This training course and curriculum shall be reviewed at
32 least every two years and modified by the Division of Criminal
33 Justice from time to time as need may require. The Division of
34 Criminal Justice shall distribute the curriculum to all local police
35 agencies.

36 (2) The Attorney General shall be responsible for ensuring that
37 all law enforcement officers attend initial training within 90 days of
38 appointment or transfer and annual inservice training of at least four
39 hours as described in this section.

40 b. (1) The Administrative Office of the Courts shall develop
41 and approve a training course, **[and]** a curriculum, and an ongoing
42 educational program for all judges and court personnel on the
43 handling, investigation and response procedures concerning
44 allegations of domestic violence and child abuse. The
45 Administrative Office of the Courts shall provide that all training
46 and educational material on domestic violence and child abuse
47 include information concerning the impact of child abuse and
48 domestic violence on children, current evidence-based and peer-

1 reviewed research by recognized experts in domestic violence and
2 child abuse, and statutory and case law concerning domestic
3 violence and child abuse. The domestic violence and child abuse
4 training and educational program shall include, but not be limited
5 to, maltreatment, sexual abuse, physical abuse, emotional abuse,
6 implicit and explicit bias, trauma, neglect and the impact of
7 domestic violence and child abuse on children. The Administrative
8 Office of the Courts shall provide the necessary elements of a
9 protection order, policies and procedures as promulgated or ordered
10 by the Attorney General or the Supreme Court, and the use of
11 available community resources, support services and available
12 sanctions and treatment options. This training course shall be
13 reviewed at least every two years and modified by the
14 Administrative Office of the Courts from time to time as need may
15 require.

16 (2) The Administrative Director of the Courts shall be
17 responsible for ensuring that all judges and judicial personnel attend
18 initial training within 90 days of appointment or transfer and annual
19 inservice training as described in this section.

20 (3) The Division of Criminal Justice and the Administrative
21 Office of the Courts shall provide that all training on the handling
22 of domestic violence matters shall include information concerning
23 the impact of domestic violence on society, the dynamics of
24 domestic violence, the statutory and case law concerning domestic
25 violence, the necessary elements of a protection order, policies and
26 procedures as promulgated or ordered by the Attorney General or
27 the Supreme Court, and the use of available community resources,
28 support services, available sanctions and treatment options. Law
29 enforcement agencies shall: (1) establish domestic crisis teams or
30 participate in established domestic crisis teams, and (2) shall train
31 individual officers in methods of dealing with domestic violence
32 and neglect and abuse of the elderly and disabled. The teams may
33 include social workers, clergy or other persons trained in
34 counseling, crisis intervention or in the treatment of domestic
35 violence and neglect and abuse of the elderly and disabled victims.
36 (cf: P.L.1999, c.433, s.1)

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38 3. This act shall take effect immediately.

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STATEMENT

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43 This bill will establish additional factors, which the court shall
44 consider in making a parenting time determination. The bill also
45 provides for a training and educational program for court personnel
46 in the signs and effects of child abuse. Under the bill a judge will
47 consider the following factors in awarding parenting time to a
48 noncustodial parent: any attempt by one parent to turn the child

1 against the other; the likeliness a parent will permit the child to see
2 the other parent; the past and present parental and caretaking duties
3 of each parent; and which parent is more likely to promote the
4 health and safety of the child.

5 This bill also requires the Administrative Office of the Court to
6 modify its existing training and educational programs to include
7 training related to child abuse and to cover all aspects of abuse,
8 including sexual abuse, physical abuse, emotional abuse, implicit
9 and explicit bias, trauma, neglect, maltreatment, and the impact of
10 child abuse and domestic violence on children. The program should
11 include best practices from evidence-based and peer-reviewed
12 research.

13 The education and training program will improve the ability of
14 judges and court personnel to recognize the impact of child abuse,
15 and make appropriate custody and parenting time decisions that are
16 in the best interest of the child.