SENATE, No. 2171

STATE OF NEW JERSEY

219th LEGISLATURE

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Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Clarifies best interests of the child should be primary consideration in actions undertaken by State governmental entities and courts of law.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the best interests of the child, revising various parts of the statutory law, and supplementing Title 9 of the Revised Statutes.

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

1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to read as follows:

2. Purposes. This act shall be construed so as to effectuate the following purposes:

a. To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of juveniles coming within the provisions of this act;

b. Consistent with the protection of the public interest, to remove from children committing delinquent acts certain statutory consequences of criminal behavior, and to substitute therefor an adequate program of supervision, care and rehabilitation, and a range of sanctions designed to promote accountability and protect the public;

c. To separate juveniles from the family environment only when necessary for their health, safety, or welfare or in the interests of public safety;

d. To secure for each child coming under the jurisdiction of the court [such] the care, guidance, and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the State; and when[such] the child is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents;

e. To insure that children under the jurisdiction of the court are wards of the State, subject to the discipline and entitled to the protection of the State, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them;

f. Consistent with the protection of the public interest, to insure that any services and sanctions for juveniles provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim, and community, and the development of competencies to enable children to become responsible and productive members of the community; [and]

g. To insure protection and a safe environment for those sexually exploited juveniles who are charged with prostitution or who are alleged to be victims of human trafficking; and to provide these juveniles with the appropriate shelter, care, counseling, and

crisis intervention services from the time they are taken into custody and for the duration of any legal proceedings; and

h. To insure that in any action undertaken within the provisions of this act, the best interests of the child shall be a primary consideration.

(P.L.2011, c.195, s.1)

2. Section 1 of P.L.1971, c.437 (C.9:6-8.8) is amended to read as follows:

1. a. The purpose of this act 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 and the best interests of the child shall be a primary consideration. 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] the 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 and the best interests of the child shall be a primary consideration.

(2) 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.

(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.

(cf: P.L. 1999, c.53, s.4)

3. Section 1 of P.L.1951, c.138 (C.30:4C-1) is amended to read as follows:

1. This act is to be administered strictly in accordance with the general principles laid down in this section, which are declared to be the public policy of this State, whereby the safety of children shall be of paramount concern and the best interests of children shall be a primary consideration:

(a) That the preservation and strengthening of family life is a matter of public concern as being in the interests of the general welfare, but the health and safety of the child shall be the State's

paramount concern when making a decision on whether or not it is in the child's best interest to preserve the family unit;

(b) That the prevention and correction of dependency and delinquency among children should be accomplished so far as practicable through welfare services which will seek to continue the living of **[**such**]** the children in their own homes;

(c) That necessary welfare services to children should be strengthened and extended through the development of private and voluntary agencies qualified to provide **[**such**]** the services;

(d) That wherever in this State necessary welfare services are not available to children who are dependent or adjudged delinquent by proper judicial tribunal, or in danger of so becoming, then **[**such**]** the services should be provided by this State until such times as they are made available by private and voluntary agencies;

(e) That the State may assist private, public, and voluntary agencies to construct, purchase, upgrade, or renovate youth facilities for the residential care or day treatment of children in need of these services; and

(f) That each child placed outside his home by the State has the need for permanency: through return to the child's own home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative permanent placement, if termination of parental rights is not appropriate.

(cf: P.L.1999, c.53, s.20)

4. (New section) Notwithstanding any other provisions of law to the contrary, in any action concerning children undertaken by a State department, agency, commission, authority, court of law, or State or local legislative body, the best interests of the child shall be a primary consideration.

5. This act shall take effect immediately.

STATEMENT

Under current law, the best interests of the child is one of many factors that State governmental agencies and courts of law must take into account when taking any action concerning a child. This bill mandates that in any action concerning children undertaken by a State department, agency, commission, authority, court of law, or State or local legislative body, the best interests of the child would be a primary consideration.

Specifically, the bill amends section 2 of P.L.1982, c.77 (C.2A:4A-21) to expand the purposes of the “New Jersey Code of Juvenile Justice” to include insuring that in any action undertaken

within the provisions of the code, the best interests of the child would be a primary consideration.

The bill amends section 1 of P.L.1971, c.437 (C.9:6-8.8) (adjudication of allegations of child abuse and neglect) to clarify that in accordance with law, the best interests of the child would be a primary consideration when providing for the protection of children under the age of 18. Currently, under the provisions of the law, when providing protection to children under the age of 18, the safety of children is of paramount concern. The statute does not specify that the best interests the child should be a primary consideration.

Further, the bill amends section 1 of P.L.1971, c.437 to specify that the best interests of the child would be a primary consideration when determining and making reasonable efforts to: prevent, if possible, the out-of-home placement of a child; safely return a child home after an out-of-home placement; place a child for adoption, with a legal guardian, or in an alternative permanent placement while concurrently planning to preserve and reunify the child's family; and to place the child in a timely manner and complete the necessary steps to finalize the permanent placement of the child, if family reunification is not possible.

Currently, when determining and making reasonable efforts under the provisions of the law, the health and safety of a child is of paramount concern. The law does not specify that the best interests of the child should also be a primary consideration.

The bill also amends section 1 of P.L.1951, c.138 (C.30:4C-1) (child protective services) to stipulate that in accordance with the principles of the law and the public policy of the State, the best interests of the child would be a primary consideration. Currently, the principles outlined in the law and in State public policy stipulate that the safety of the child is of paramount concern and does not address the best interests of the child as a primary consideration.