

## CHAPTER 51

## GENERAL PROVISIONS

**§1501. Definitions**

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**1. Allocated parental rights and responsibilities.** "Allocated parental rights and responsibilities" means that responsibilities for the various aspects of a child's welfare are divided between the parents, with the parent allocated a particular responsibility having the right to control that aspect of the child's welfare. Responsibilities may be divided exclusively or proportionately. Aspects of a child's welfare for which responsibility may be divided include primary physical residence, parent-child contact, support, education, medical and dental care, religious upbringing, travel boundaries and expenses and any other aspect of parental rights and responsibilities. A parent allocated responsibility for a certain aspect of a child's welfare may be required to inform the other parent of major changes in that aspect. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**2. Child support.** "Child support" means money paid directly to a parent, to another person or agency awarded parental rights and responsibilities with respect to a child or to the department on behalf of a child receiving public assistance and medical or dental insurance coverage provided on behalf of a child pursuant to court order.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**3. Domestic abuse.** "Domestic abuse" means abuse as defined in section 4002.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**4. Reasonable cost health insurance.**

[PL 2009, c. 290, §1 (RP).]

**4-A. Medical support.** "Medical support" means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise or for other medical costs not covered by insurance.

[PL 2009, c. 290, §2 (NEW).]

**4-B. Private health insurance.** "Private health insurance" means fee-for-service, health maintenance organization, preferred provider organization and other types of coverage available to either parent under which medical services could be provided to a child. "Private health insurance" does not include insurance that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care or other limited benefit health insurance policies and contracts.

[PL 2009, c. 290, §3 (NEW).]

**4-C. Reasonable cost.** "Reasonable cost" means the cost of private health insurance to the parent responsible for providing medical support that does not exceed amounts adopted by the Department of Health and Human Services in a rule implementing a cost-reasonableness standard. "Cost of private health insurance" means the cost of adding the child to existing coverage or the difference between self-only and family coverage, unless that cost is determined to be unjust by a court or the Department of Health and Human Services.

[PL 2009, c. 290, §4 (NEW).]

**5. Shared parental rights and responsibilities.** "Shared parental rights and responsibilities" means that most or all aspects of a child's welfare remain the joint responsibility and right of both parents, so that both parents retain equal parental rights and responsibilities, and both parents confer

and make joint decisions regarding the child's welfare. Matters pertaining to the child's welfare include, but are not limited to, education, religious upbringing, medical, dental and mental health care, travel arrangements, child care arrangements and residence. Parents who share parental rights and responsibilities shall keep one another informed of any major changes affecting the child's welfare and shall consult in advance to the extent practicable on decisions related to the child's welfare.

[PL 1997, c. 187, §1 (AMD); PL 1997, c. 187, §5 (AFF).]

**6. Sole parental rights and responsibilities.** "Sole parental rights and responsibilities" means that one parent is granted exclusive parental rights and responsibilities with respect to all aspects of a child's welfare, with the possible exception of the right and responsibility for support.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 187, §1 (AMD). PL 1997, c. 187, §5 (AFF). PL 2009, c. 290, §§1-4 (AMD).

#### **§1502. Either parent dead or guilty of abandonment, rights devolve on other**

If one of the parents of a minor child is dead or has abandoned the child, all parental rights respecting the child devolve upon the other parent. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF).

#### **§1503. Rights of children born out of wedlock**

**(REPEALED)**

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2015, c. 296, Pt. C, §8 (RP). PL 2015, c. 296, Pt. D, §1 (AFF).

#### **§1504. Person's duty of support**

A person shall support that person's child and that person's spouse when in need. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF).

#### **§1505. Extent of duties of support**

An obligor present or resident in this State has the duty of support as defined in this chapter regardless of the presence or residence of the obligee. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF).

#### **§1506. Public assistance recipients' rights of privacy**

When the department seeks to establish paternity of a dependent child, any inquiry about prior or current sexual activity of a recipient of public assistance must be limited to that necessary to resolve a genuine dispute about the parentage of a child. When a custodial mother has informed the department that a particular man is the father of her child, the department may make no further inquiry into her personal life unless the man so identified has denied that he is the father of that child or he refuses to cooperate. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

## SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF).

**§1507. Appointment of guardian ad litem in contested proceedings**

**1. Guardian ad litem; appointment.** In contested proceedings under sections 904, 1653 and 1803 in which a minor child is involved, the court may appoint a guardian ad litem for the child. The appointment may be made at any time, but the court shall make every effort to make the appointment as soon as possible after the commencement of the proceeding. The court may appoint a guardian ad litem when the court has reason for special concern as to the welfare of a minor child. In determining whether an appointment must be made, the court shall consider:

- A. The wishes of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. The age of the child; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- C. The nature of the proceeding, including the contentiousness of the hearing; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- D. The financial resources of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- E. The extent to which a guardian ad litem may assist in providing information concerning the best interest of the child; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- F. Whether the family has experienced a history of domestic abuse; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- G. Abuse of the child by one of the parties; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- H. Other factors the court determines relevant. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

At the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.

[PL 2005, c. 360, §2 (AMD).]

**2. Qualifications.** A guardian ad litem appointed on or after March 1, 2000 must meet the qualifications established by the Supreme Judicial Court.

[PL 1999, c. 251, §1 (AMD).]

**3. Duties.** The guardian ad litem has both mandatory and optional duties.

A. A guardian ad litem shall:

- (1) Interview the child face-to-face with or without another person present; and
- (3) Make a written report of investigations, findings and recommendations as ordered by the court, with copies of the report to each party and the court. [PL 1997, c. 257, §3 (AMD); PL 1997, c. 257, §6 (AFF).]

B. The court shall specify the optional duties of the guardian ad litem. The optional duties of the guardian ad litem may include:

- (1) Interviewing the parents, teachers and other people who have knowledge of the child or family;
- (2) Reviewing mental health, medical and school records of the child;

- (3) Reviewing mental health and medical records of the parents;
- (4) Having qualified people perform medical and mental evaluations of the child;
- (5) Having qualified people perform medical and mental evaluations of the parents;
- (6) Procuring counseling for the child;
- (7) Retaining an attorney to represent the guardian ad litem in the pending proceeding, with approval of the court;
- (8) Subpoenaing witnesses and documents and examining and cross-examining witnesses;
- (9) Serving as a contact person between the parents and the child; or
- (10) Other duties that the court determines necessary, including, but not limited to, filing pleadings. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

If, in order to perform the duties, the guardian ad litem needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers. [PL 2005, c. 683, Pt. B, §9 (AMD).]

**4. Best interest of the child.** The guardian ad litem shall use the standard of the best interest of the child as set forth in section 1653, subsection 3. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem.

[PL 1997, c. 257, §4 (AMD); PL 1997, c. 257, §6 (AFF).]

**5. Written report.** A guardian ad litem shall make a final written report to the parties and the court reasonably in advance of the hearing. The report is admissible as evidence and subject to cross-examination and rebuttal, whether or not objected to by a party.

[PL 2001, c. 253, §3 (RPR).]

**6. Court's agent.** A person serving as a guardian ad litem under this section acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**7. Payment for services.** Payment for the services of the guardian ad litem is the responsibility of the parties, as ordered by the court. In determining the responsibility for payment, the court shall consider:

A. The income of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The marital and nonmarital assets of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. The division of property made as part of the final divorce; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. Which party requested appointment of a guardian ad litem; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

E. Other relevant factors. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**8. Notice.** A guardian ad litem must be given notice of all civil or criminal hearings and proceedings, including, but not limited to, grand juries, in which the child is a party or a witness. The

guardian ad litem shall protect the best interests of the child in those hearings and proceedings, unless otherwise ordered by the court.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 257, §§2-4 (AMD). PL 1997, c. 257, §6 (AFF). PL 1999, c. 251, §1 (AMD). PL 2001, c. 253, §3 (AMD). PL 2005, c. 360, §2 (AMD). PL 2005, c. 683, §B9 (AMD).

#### §1508. Actions

An action under this Part may be commenced by civil summons without an order of service from the court. The Supreme Judicial Court shall prescribe by general rule the procedure for that civil action.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF).

#### §1509. Locator information; presumption concerning notice

**1. Duty of parties to file and update locator information when a support order is issued.** Upon entry of a decision, order or judgment, each party to a paternity action or proceeding involving child support shall file with the tribunal that issued the decision, order or judgment and update as the information changes, the party's full name, social security number, residential and mailing addresses, home telephone number, driver's license number and the names, addresses and telephone numbers of the party's employers.

[PL 1997, c. 537, §14 (NEW); PL 1997, c. 537, §62 (AFF).]

**2. Presumption of adequate notice if mailed to last reported address.** In any subsequent child support enforcement action or proceeding involving one or more of the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party and upon delivery of written notice to the most recent residential or employer address filed with the tribunal, the tribunal may deem that the state due process requirements have been met for notice and service of process with respect to the party.

[PL 1997, c. 537, §14 (NEW); PL 1997, c. 537, §62 (AFF).]

#### SECTION HISTORY

PL 1997, c. 537, §14 (NEW). PL 1997, c. 537, §62 (AFF).

#### §1510. Statewide jurisdiction

In child support and paternity cases, the jurisdiction of the District Court and the department extends to all parts of the State. Once an action has been commenced, a case may be transferred between local jurisdictions in the State without need for an additional filing by the petitioner or service of process on the respondent to retain jurisdiction over the parties. [PL 1999, c. 731, Pt. ZZZ, §31 (AMD); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

#### SECTION HISTORY

PL 1997, c. 537, §15 (NEW). PL 1997, c. 537, §62 (AFF). PL 1999, c. 731, §ZZZ31 (AMD). PL 1999, c. 731, §ZZZ42 (AFF).

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