CHAPTER 316

AN ACT concerning child custody, amending R.S.9:2-4, and supplementing Title 45 of the Revised Statutes.

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

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

Custody of child; rights of both parents considered.

9:2-4. The Legislature finds and declares that it is the public policy of this State to assure that the protection and welfare, both physically and emotionally, of minor children are held paramount. This can include, but is not limited to, continuing contact with both parents after the parents have separated or dissolved their marriage. Additionally, it is in the public interest to encourage parents to share the rights and responsibilities of child rearing, if that is in the best interest of the child, in order to effectuate the protection and welfare of minor children. The Legislature further finds and declares that it is the public policy of this State to ensure that decisions concerning child custody and parenting time are made on a case-by-case basis and that the expressed preferences of the child are considered. The Legislature recognizes that the safety of children is of paramount importance and is an integral element of the child's best interests. To that end, the Legislature finds and declares that judicial decisions regarding custody of, and access to, children shall promote the safety of children as a threshold issue. The Legislature also recognizes that children should also have their voices considered in contested custody cases and that any court-ordered therapy or treatment should be scientifically valid and have generally accepted proof of effectiveness and therapeutic value consistent with "Kayden's Law," a component of the federal Violence Against Women Act Reauthorization Act of 2022

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

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

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

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

In making an award of custody, the court shall consider, but not be limited to, the following factors: the parents' ability to agree, communicate, and cooperate in matters relating to the child; the parents' willingness to accept custody and any history of unwillingness to allow parenting time not based on substantiated abuse; the interaction and relationship of the child with the child's parents and siblings; the history of domestic violence and child abuse, if any; the safety of the child and the child's siblings, if any, and the safety of either parent from physical abuse by the other parent; the preference of the child when of sufficient age and capacity to reason so as to form an intelligent decision; the input and supporting documentation of a State-licensed mental health professional, if any, providing private therapy or other services to the child to the extent allowed under the professional's State licensure; the needs of the child; the stability of the home environment offered; the quality and continuity of the child's education; the fitness of the parents, taking into account assessments administered by court-appointed professionals; the geographical proximity of the parents' homes; the extent

and quality of the time spent with the child prior to or subsequent to the separation; the parents' employment responsibilities; and the age and number of the children. A parent shall not be deemed unfit unless that parent's conduct has a substantial adverse effect on the child.

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

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

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

f. (1) The court shall specifically place on the record the factors which justify any custody arrangement not agreed to by both parents.

(2) If the court orders any custody arrangement contrary to the expressed preferences of the child, the court shall specifically place on the record the factors which justify the arrangement and which justify the court's decision to disregard the child's expressed preferences.

g. (1) The court shall not order any therapy unless there is generally accepted and scientifically valid proof of the safety, effectiveness, and therapeutic value of the therapy. The court shall require a showing of good cause that therapy is appropriate prior to ordering such therapy. No treatment program intended to reunite a child with a party from whom that child is estranged and to whom that child resists or refuses contact shall be ordered by the court without the consent of both parties, and upon a determination that the child is of sufficient age. In determining good cause for ordering therapy, the court shall consider, but shall not be limited to, the following factors:

(a) the claimed reasons, extent, and duration of separation from the perspective of each parent and the child, if the court determines the child to be of sufficient age, capacity, and maturity to express the child's reasons. A child deemed to be of sufficient age and expressing a desire to speak to the court shall be granted an audience off the record and in private chambers. The record of the conversation shall be sealed. The child may also include letters from a treating State-licensed mental health professional to support the child's capacity and maturity to express the child's reasons;

(b) the child's age, capacity, and maturity level, including whether the child has special needs and whether those special needs affect the child's capacity and maturity level;

(c) the willingness of each parent and the child, if the court determines the child to be of sufficient age, capacity, and maturity to express a preference, to engage in scientifically valid therapy;

(d) any conduct claimed by one parent against the other parent that weighs in favor of or against the implementation of any scientifically valid therapy;

(e) in compliance with the privacy provisions of the federal Health Insurance Portability and Accountability Act, Pub.L.104-191 (HIPAA), a summary of the history of therapy in which the child was involved, including, but not limited to, individual or family therapy and any prior interventions or other efforts that were implemented and the results thereof;

(f) any history of domestic violence or child abuse, including sexual abuse, emotional or mental abuse, or evidence that either parent harmed or placed the child's health, safety, or welfare at substantial risk of harm; and

(g) any other relevant factor.

(2) If the court determines that therapy is appropriate, the court may appoint a State-licensed mental health professional to commence the therapeutic process and who may coordinate or consult with any treating therapists for the parents and the child. If there is

evidence of a history of domestic violence or child abuse, the appointed mental health professional must have substantial training in and experience working with those who have experienced that type of violence or abuse. The therapist shall report to the court, on a periodic basis as determined by the court, regarding the progress of therapy, including, but not limited to, the parties' and child's willingness to participate in therapy. In addition, children of sufficient age can request to report their experience in the therapy and may also include letters from a treating State-licensed mental health professional to support their capacity and maturity to express their reasons. Based on the therapist's and child's feedback, the court may, within its discretion, make modifications to ongoing therapy as appropriate, including, but not limited to, ceasing or suspending the therapy, with the reasons for such modifications placed on the record. Nothing set forth herein shall allow:

(a) therapy that cuts off a child from a safe parent who is not physically or sexually abusive and with whom the child is bonded or to whom the child is attached;

(b) the use of force, threat of force, or physical obstruction in circumstances that place the safety of the child at risk; or

(c) the use of undue coercion, verbal abuse, or isolation from the child's family, community, or other sources of support.

The court shall not presume that a child's reluctance to interact with a party was caused by the other party. When there is evidence of a history of domestic violence or child abuse, the offending party shall not be granted increased custody for the purpose of improving the relationship between the child and such party or in an attempt to address the child's reluctance to interact with such party. Nothing set forth herein shall prevent the parties from voluntarily agreeing to engage in therapy without the need for court intervention.

h. No later than three years after the effective date of P.L.2025, c.316, the Institute for Families at the Rutgers School of Social Work, in consultation with the Administrative Office of the Courts, shall submit to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report concerning the impact of the statutory amendments made pursuant to P.L.2025, c.316. The report shall study the family court system and shall include all necessary and appropriate information that would assist the Legislature in evaluating the effectiveness of P.L.2025, c.316 on family reunification and custody case resolution.

There is appropriated from the General Fund to the Administrative Office of the Courts the sum of $500,000, and to the Institute for Families at the Rutgers School of Social Work the sum of $500,000, to effectuate the provisions of subsection h. of this section.

2. This act shall take effect immediately.

Approved January 20, 2026.