

**To: New Jersey Law Revision Commission**  
**From: John Cannel**  
**Re: Hearsay Evidence in Child Abuse and Neglect Proceedings**  
**Date: March 4, 2020**

## M E M O R A N D U M

Since the Commission last considered draft reports on the issue of the hearsay exception allowing statements of children in child abuse and neglect proceedings, the Legislature has acted on the issue. The enactment follows the position of the Department of Human Services that children's out-of-court statements should be admissible in every kind of related proceeding, abuse and neglect and termination of parental rights proceedings.

**AN ACT** concerning child abuse and neglect and supplementing P.L.1951, c.138 (C.30:4C-1 et seq.).

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

C.30:4C-15.1a Certain prior statements of child, admissible as evidence.

1. a. Previous statements made by a child relating to any allegations of abuse or neglect of that child shall be admissible in evidence in any hearing: to terminate parental rights pursuant to section 15 of P.L.1951, c.138 (C.30:4C-15); to provide judicial review and approval of a permanency plan pursuant to section 26 of P.L.1999, c.53 (C.30:4C-11.4); to determine care and supervision or custody pursuant to section 12 of P.L.1951, c.138 (C.30:4C-12); for guardianship pursuant to section 8 of P.L.1991, c.275 (C.30:4C-15.2); to determine placement pursuant to section 5 of P.L.1977, c.424 (C.30:4C-54); or in any other hearing that may be held during the course of child placement, permanency, or guardianship proceedings, or during the course of proceedings to terminate parental rights, pursuant to chapter 4C of Title 30 of the Revised Statutes.

b. No such statement, if uncorroborated, shall be sufficient to make a determination that termination of parental rights is in the best interests of the child, or to make a fact finding of abuse or neglect.

2. This act shall take effect immediately.

Approved January 21, 2020.

That statute supersedes *New Jersey Division of Child Protection and Permanency v. T.U.B.*<sup>1</sup>, and settles the issue as to current law. As a result, we have removed the parts of the Draft Final Report on this subject that proposed amendment to current law. In addition, the statute

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<sup>1</sup> *New Jersey Division of Child Protection and Permanency v. T.U.B.*, 450 N.J. Super. 210 (App. Div. 2017).

represents the recent, expressed view of the Legislature on the subject. The Commission Report also dealt with the hearsay issue in the context of the earlier report recommending revision of all of the laws concerning Child Abuse and Neglect. At its last meeting on the subject, the Commission was divided on how the issue should be handled. The recent enactment would seem to settle the issue.

As a result, a new Revised Draft Final Report has been prepared that removes the recommendation concerning current law, accepts the Legislature's approach, and adds it to the general Report on Child Abuse and Neglect.