

Parents= Education Act (*N.J.S.A. 2A:34-12.1 to 2A:34-12.8*)

Directive #11-99
Issued by:

November 8, 1999
Richard J. Williams
Acting Administrative Director

The following procedures are to be used for the administration of the Parents= Education Program pursuant to the provisions of the Parents= Education Act, *N.J.S.A. 2A:34-12.1 to 2A:34-12.8.*, P.L. 1999, c. 111, effective November 15, 1999 [hereinafter **AAct@**] (Attachment I). A Notice to the Bar is being distributed and published along with this Directive.

I. Overview of the Act

The Act requires all parties who have filed an action for divorce, nullity or separate maintenance where the custody, visitation (parenting time), or support of the minor child(ren) is an issue to attend the **AParents= Education Program@** (hereinafter **Aprogram@**) and to pay a \$25.00 registration fee.

The court shall not refer a party to the program, however, if a temporary or final order restraining either party from contact with the other has been issued pursuant to the Prevention of Domestic Violence Act or if either party is restrained from contact with the other party, or a child of the other party, under the criminal or civil laws of this or any other state. Moreover, the court may exempt a party from attending the program if the court finds good cause for exemption.

The registration fee must be forwarded by the Clerk of the Superior Court for deposit into the **AParents= Education Program Fund,@** which is to be administered by the Administrative Office of the Courts for the development, establishment, operation, and maintenance of the program.

The program must be made available twice a month and each party is to attend separate sessions. The parties must complete the program prior to the entry of judgment. The court shall consider failure of a party to attend the program session as a factor when making any custody or visitation determinations.

The program shall be designed to assist and advise divorcing parents on issues concerning divorce, separation, and custody. The statute specifically requires the program to assist the attendees in:

- (1) Understanding the legal process and cost of divorce or separation, including arbitration and mediation;
- (2) Understanding the financial responsibilities for the children;
- (3) Understanding the interaction between parent and child, the family relationship and any other areas of adjustment and concern during the process of divorce and separation;
- (4) Understanding how children react to divorce or separation, how to spot problems, what to tell them about divorce or separation, how to keep communication open and how to answer questions and concerns the children may have about the process;
- (5) Understanding how parents can help their children during the divorce or separation, specific strategies, ideas, tools, and resources for assistance;
- (6) Understanding how parents can help their children after the divorce or

separation and how to deal with new family structures and different sets of rules; and
(7) Understanding that cooperation may sometimes be inappropriate in cases of domestic violence.

The Act provides that the Governor, with the advice and consent of the Senate, is to appoint a nine member advisory committee which must include a former judge who specialized in family law matters, an attorney who specializes in family law matters, a mediator, the Administrative Director of the Courts or his designee, two mental health professionals with experience in the field of child care, an educator, one custodial parent, and one non-custodial parent. The committee members are themselves to select a chair from among the membership.

The advisory committee is to develop a curriculum, guidelines, program representative qualifications and requirements to be used in the Parents= Education Program. The committee must report its recommendations to the Administrative Office of the Courts three months following the organization of the committee. The Administrative Office of the Courts shall use the advisory committee's recommendations to develop a comprehensive education program.

The Assignment Judge of each county must designate appropriate staff to serve as program representative(s). A person serving as a program representative will not be liable for damages resulting from any exercise of judgment or discretion in connection with the person's duties unless the actions are fraudulent or evidence a reckless disregard for the duties imposed by the position. There will be no immunity, however, for damage caused by a wilful, wanton, or grossly negligent act of commission or omission. Program representatives are forbidden from soliciting, accepting employment from or counseling a program participant for a period of one year after the program participant has completed the program.

All communications made by any program participant during the course of attending the program are confidential and shall not be admissible as evidence in any court proceeding.

II. Proceedings in the Superior Court

A. Screening of Pleadings for Applicability/Payment of Registration Fee

(1) All Complaints, Counterclaims, Answers or other first papers in an action for divorce, nullity or separate maintenance shall be screened by a Family or Finance Division staff member at the time of filing to see if the filing party has listed custody, visitation (parenting time), or support of the minor child(ren) as an issue(s) (i.e., relief requested). If so, the staff member will then check to see if there is a domestic violence restraining order between the parties. If there is no active restraining order at the time of filing and the party falls within the applicable population, that party must attend the program and must include a \$25.00 Parents= Education Registration Fee along with the filing fee. If there exists at the time of docketing a domestic violence restraining order or if the party does not fall within the above referenced population that party is not required to attend the program or pay the \$25.00 Parents= Education Program Registration Fee.

(2) The Supreme Court, by Order dated November 8, 1999, has relaxed and supplemented *Rule 1:5-6(c)(1)* such that if a party required to attend the Parents= Education Program does not submit the \$25.00 registration fee at the time his or

her Complaint, Counterclaim, or Answer is presented for filing, the pleading must be returned to the litigant stamped **Received** but not **Filed** (date) with notice that if the paper is retransmitted together with the registration fee within ten days after the date of the clerk's notice, filing will be deemed to have been made on the stamped receipt date. This notice will be in the form of a Notice of Deficiency (Attachment II) sent to the litigant by the Family Division.

(3) The registration fee will be collected and recorded by the Family or Finance Division in conjunction with the filing fee. The fee will be credited to a central dedicated Parents= Education Fund by the Office of the Clerk of the Superior Court. Transaction codes and document codes for recordation in FACTS-FM have been established.

(4) If a party applies for a waiver of filing or other court fees due to indigency, the waiver of the Parents= Education Program fee will be considered at the same time.

(5) If a party has paid the \$25.00 registration fee in error, any refund shall be at the request of the party and will be handled according to procedures established by the Clerk of the Superior Court.

B. Scheduling the Program Session

(1) As soon as practicable after the \$25.00 registration fee is paid and the pleading is filed the party is to be scheduled for a Parents= Education Program session. A Scheduling Notice to Litigants shall be sent to the litigant indicating the date, time, and location of the session. The form for such scheduling notice is appended hereto as Attachment III. Each party shall be scheduled for separate program sessions.

(2) If, after scheduling, a party is excused by the court from attending the session or any type of order is entered restraining either party from contacting the other or the child of the other, the party or parties must contact the Family Division to remove their names from the list of parties scheduled to attend. The Scheduling Notice to Litigants will advise of this requirement and the fact that failure to attend the program will be considered as a factor by the court in making custody and visitation decisions.

C. Program Session

(1) The program sessions should be made available two times per month if volume and convenience to the litigants requires it.

(2) The advisory committee which, pursuant to the Act, is to develop a recommended curriculum and guidelines concerning program representative qualifications and requirements for submission to the Administrative Office of the Courts, has not yet been appointed by the Governor. Accordingly, as a temporary measure, the counties will continue with the parent education programs they currently have in place, making whatever changes are necessary in order to ensure that all of the issues set forth in the Act (*N.J.S.A. 2A:34-12.3.c.(1) through (7)*) are addressed (Attachment IV). Once the qualifications and responsibilities of the program representative(s) are likewise determined, the Family Division Manager and Presiding Judge will recommend to the Assignment Judge which staff member(s) should be appointed the program representative(s) for that county. The Assignment Judge will confirm this appointment with the Administrative Director of the Courts. Once the committee is appointed and their proposed curriculum is approved by the Administrative Office of the Courts, an

addendum to this Directive will be issued.

(3) An individual record documenting attendance or non-attendance must be maintained at each session. This attendance record will be placed in the litigant-s court file.

III. Confidentiality

All communications made by any program participant during the course of attending the program are confidential and shall not be admissible as evidence in any court proceeding.

IV. Training

Once a recommendation regarding curriculum and program representative qualifications and requirements has been submitted by the appointed committee pursuant to the Act, a comprehensive training program will be established by the Administrative Office of the Courts. In the interim, the Family Division Managers will be given guidance from the Administrative Office of the Courts in amending their vicinage-s existing parents- education plans to ensure that all of the issues set forth in the Act are addressed in the program.

ATTACHMENT I

P.L. 1999, c.111 - Parents- Education Act

AN ACT establishing a mandatory education program and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:34-12.1 Short title.

1. This act shall be known and may be cited as the "Parents' Education Act."

C.2A:34-12.2 "Parents' Education Fund."

2. There is hereby established a separate, nonlapsing, revolving fund in the General Fund to be known as the "Parents' Education Fund." The Clerk of the Superior Court shall forward the \$25 registration fee collected pursuant to section 5 of P.L.1999, c.111(C.2A:34-12.5) for deposit in the fund. The fund shall be administered by the Administrative Office of the Courts and dedicated to the development, establishment, operation and maintenance of the "Parents' Education Program" created pursuant to section 3 of P.L.1999, c.111(C.2A:34-12.3).

C.2A:34-12.3 "Parent's Education program."

3. a. There is hereby established a mandatory education program to be known as the "Parents' Education Program."

- b. The program shall be designed to assist and advise divorced parents on issues concerning divorce, separation and custody. The program shall be made available twice a month. The program shall be administered by the Administrative Office of the Courts. The Assignment Judge shall appoint appropriate staff to act as a program representative or representatives, as necessary, for each county.

- c. The purpose of the program shall be to promote cooperation between the parties and to assist parents in resolving issues which may arise during the divorce or separation process, including, but not limited to:

- (1) Understanding the legal process and cost of divorce or separation, including arbitration and mediation;

- (2) Understanding the financial responsibilities for the children;

- (3) Understanding the interaction between parent and child, the family relationship and any other areas of adjustment and concern during the process of divorce or separation;

- (4) Understanding how children react to divorce or separation, how to spot problems, what to tell them about divorce or separation, how to keep communication open and how to answer questions and concerns the children may have about the process;

- (5) Understanding how parents can help their children during the divorce or

separation, specific strategies, ideas, tools, and resources for assistance;

(6) Understanding how parents can help children after the divorce or separation and how to deal with new family structures and different sets of rules; and

(7) Understanding that cooperation may sometimes be inappropriate in cases of domestic violence.

C.2A:34-12.4 Advisory committee, duties; report.

4. a. There is hereby established an advisory committee consisting of nine members appointed by the Governor with the advice and consent of the Senate. The members shall include a former judge who specialized in family law matters, an attorney who specializes in family law matters, a mediator, the Administrative Director of the Courts, or his designee, two mental health professionals with experience in the field of child care, an educator, one custodial parent and one non-custodial parent.

b. The committee members shall select a chairman from among the members. The committee shall develop a curriculum, guidelines, program representative qualifications and requirements to be used in the "Parents' Education Program" established pursuant to section 3 of P.L.1999, c.111(C.2A:34-12.3). The committee shall report its recommendations to the Administrative Office of the Courts three months following the organization of the committee. The Administrative Office of the Courts shall use the recommendations of the committee to develop a comprehensive education program.

C.2A:34-12.5 Attendance at program required; fee; exceptions.

5. a. The court shall order every person who has filed an action for divorce, nullity or separate maintenance where the custody, visitation or support of the minor child is an issue to attend the "Parents' Education Program" established pursuant to section 3 of P.L.1999, c.111(C.2A:34-12.3). Each party shall attend separate sessions of the program.

b. Each party shall be required to pay a fee of \$25 for registration in the "Parents' Education Program" which shall be forwarded by the Clerk of the Superior Court for deposit in the "Parents' Education Program Fund" established pursuant to section 2 of P.L.1999, c.111(C.2A:34-12.2).

c. Except as provided in subsections d. and e. of this section, the court shall require all parties who have filed an action for divorce, nullity or separate maintenance where the custody, visitation or support of the minor child is an issue to complete the program prior to entry of judgment. Failure of a party to participate in the program shall be considered as a factor by the court in making any custody and visitation determinations.

d. The court may exempt a party from attending the program, if the court finds good cause for an exemption.

e. The court shall not refer a party to the program if a temporary or final order restraining either party from contact with the other has been issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L. 1991, c. 261 (C.2C:25-17 *et seq.*), or if either party is restrained from contact with the other party, or a child of the other party, under the criminal or civil laws of this or any other state.

C.2A:34-12.6 Program representatives, immunity, employment restrictions.

6. a. Notwithstanding any other provision of law to the contrary, no person

serving as a program representative in the "Parents' Education Program" established pursuant to section 3 of P.L.1999, c.111(C.2A:34-12.3) shall be liable for damages resulting from any exercise of judgment or discretion in connection with the person's duties unless the actions are fraudulent or evidence a reckless disregard for the duties imposed by the position. Nothing in this section shall be deemed to grant immunity to any program representative causing damage by that person's wilful, wanton or grossly negligent act of commission or omission.

b. No person serving as a program representative in the program shall solicit, accept employment from or counsel a program participant for a period of one year after the program participant has completed the program.

C.2A:34-12.7 Confidentiality of communications.

7. All communications made by any program participant during the course of attending the "Parents' Education Program," established pursuant to section 3 of P.L.1999, c.111(C.2A:34-12.3) are confidential and shall not be admissible as evidence in any court proceeding.

C.2A:34-12.8 Adoption of Rules by Court.

8. The Supreme Court of New Jersey may adopt Rules of Court appropriate or necessary to effectuate the purpose of this act.

9. This act shall take effect 180 days after enactment except for section 4 which shall take effect immediately.

Approved May 19, 1999.

ATTACHMENT II

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION/FAMILY PART
_____ COUNTY

Notice of Deficiency

We have received, but have not filed your _____ (Complaint for Divorce /Counterclaim /Answer) on _____ (Date) _____.

Pursuant to *N.J.S.A. 2A:34-12.1* to *N.J.S.A. 2A:34-12.8.*, P.L. 1999, c. 111, effective November 15, 1999, with certain exceptions as set forth below, all individuals who have filed a Complaint, Counterclaim or Answer in a divorce action where custody, visitation (parenting time), or child support is listed as an issue must attend a Parents= Education Program session. This session will provide information on the divorce process and parents= financial responsibilities. The session will also encourage cooperation and give parents an understanding of the impact of divorce on children. All parties who are required to attend must pay a \$25.00 registration fee.

Our records indicate that you are required to attend the session. You have not paid the \$25.00 registration fee. If you resubmit your (Complaint/ Answer/ Counterclaim) along with the \$25.00 fee within ten days of the date of this notice, it will be considered ~~filed~~ on the stamped receipt date. Your check is to be made payable to the Clerk of the Superior Court and forwarded to (_____ County, Family Division).

You are not required to attend the parents= education program if: You are either the plaintiff or defendant in an active domestic violence restraining order with your spouse or either you or your spouse have a restraining order involving the other spouse or the child of the other spouse, in any other proceeding (for example, if a domestic violence restraining order has been dismissed, but the restraints are being continued in your matrimonial action).

You also are not required to attend if the court, after finding good cause, has issued an order exempting you from attending.

If you believe you fall into one of the exemptions under the legislation and are not required to attend the Parents= Education Program you must contact the Family Division at _____ (address and telephone number) _____ and inform them of your circumstances.

DATE:

cc: Attorney for Litigant

ATTACHMENT III

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION/FAMILY PART
_____ COUNTY

Scheduling Notice to Litigants

Pursuant to *N.J.S.A. 2A:34-12.1 to 2A:34-12.8*, P.L. 1999, c. 111, effective November 15, 1999, with certain exceptions as set forth below, all individuals who have filed a Complaint, Counterclaim or Answer in a divorce action where custody, visitation (parenting time), or child support is listed as an issue must attend a Parents= Education Program. This session will provide information on the divorce process and parents= financial responsibilities. The session will also encourage cooperation and give parents an understanding of the impact of divorce on children.

Your Parents= Education Program session is scheduled for _____ (date) _____ at _____ (time) a.m./p.m. The program will be held at _____ (address) _____. If you cannot attend at the scheduled date and time, you must contact the Family Division immediately at _____ (telephone number) _____.

Please note that your spouse will be scheduled for a session at a different time.

You are not required to attend the parents= education program if: You are either the plaintiff or defendant in an active domestic violence restraining order with your spouse **or** either you or your spouse have a restraining order involving the other spouse or the child of the other spouse, in any other proceeding (for example, if a domestic violence restraining order has been dismissed, but the restraints are being continued in your matrimonial action).

You are also not required to attend if the court, after finding good cause, has issued an order exempting you from attending.

If you believe you fall into one of the exemptions under the legislation and are not required to attend the Parents= Education Program for you must contact the Family Division and inform them of your circumstances.

The legislation provides that if anyone required to attend the Parents= Education Program does not attend, the court will consider that party-s non-attendance when making decisions regarding custody and parenting time.

DATE:

cc: Attorney for Litigant

ATTACHMENT IV

Program Session

A. Pursuant to the Act, the issues set forth below must be covered in the Parents= Education Program curriculum:

- (1) Understanding the legal process and cost of divorce or separation, including arbitration and mediation;
- (2) Understanding the financial responsibilities for the children;
- (3) Understanding the interaction between parent and child, the family relationship and any other areas of adjustment and concern during the process of divorce and separation;
- (4) Understanding how children react to divorce or separation, how to spot problems, what to tell them about divorce or separation, how to keep communication open and how to answer questions and concerns the children may have about the process;
- (5) Understanding how parents can help their children during the divorce or separation, specific strategies, ideas, tools, and resources for assistance;
- (6) Understanding how parents can help their children after the divorce or separation and how to deal with new family structures and different sets of rules; and
- (7) Understanding that cooperation may sometimes be inappropriate in cases of domestic violence.

B. The first two criteria addressing financial issues may be addressed in the following manner:

- (1) A vicinage handout and/or lecture should be given to help guide litigants through the matrimonial process as it pertains to the county in which the divorce complaint was filed. Each county shall provide a description and explanation of all programs available to assist the litigants in the divorce process, including Matrimonial Early Settlement Panels, mediation, and arbitration. In addition, the Statement of Client Rights and Responsibilities will be provided with instructions for each party to consult with his or her attorney for specific fees and costs for representation. However, it should be emphasized to the participants that litigation can be expensive and it can be more cost efficient to resolve issues through the dispute resolution process.
- (2) The philosophy underlying the New Jersey child support guidelines and the financial responsibilities of supporting your children should be explained both during the session and a handout provided to the participants. Additionally, the child support videotape explaining child support laws in New Jersey is available from the Administrative Office of the Courts, Family Division.

C. Criterion number seven may be addressed by explaining to the participants that the dynamics of domestic violence may prevent equal participation in dispute resolution programs.

NOTICE TO THE BAR

IMPLEMENTATION OF THE PARENTS= EDUCATION ACT

N.J.S.A. 2A:34-12.1 to 2A:34-12.8

The Parents= Education Act (hereinafter *Act*), N.J.S.A. 2A:34-12.1 to 2A:34-12.8 (P.L. 1999, c.111) becomes effective on November 15, 1999. Directive #11-99 issued November 8, 1999, sets out the details for implementation of the Act. All parties in an action for divorce, nullity or separate maintenance who have listed custody, visitation (parenting time), or child support as an issue (i.e., relief requested) in their Complaint, Counterclaim or Answer must attend the Parents= Education Program unless there exists any type of restraining order involving the other spouse or the child of the other spouse or they are otherwise exempted from attending by the court.

The \$25.00 program registration fee must be paid at the time of filing of the Complaint, Counterclaim or Answer. The Supreme Court, by Order dated November 8, 1999, has relaxed and modified *Rule 1:5-6(c)(1)* so that if a party required to attend the Parents= Education Program does not submit the \$25.00 registration fee at the time his or her Complaint, Counterclaim or Answer is presented for filing, the pleading must be returned to the litigant stamped *Received but not Filed (date)* with notice that if the paper is retransmitted together with the registration fee within ten days after the date of the clerk's notice, filing will be deemed to have been made on the stamped receipt date.

The Supreme Court Family Practice Committee has been asked to include in its 1998-2000 report a recommendation for a rule amendment consistent with this rule relaxation.

If a \$25.00 registration fee is paid by a party in error, any refund shall be at the request of the party and will be handled according to the established vicinage finance refund procedures.

Richard J. Williams
Acting Administrative Director
of the Courts

Dated: November 8, 1999

SUPREME COURT OF NEW JERSEY

It is ORDERED that, effective November 15, 1999 and until further order, pursuant to *N.J. Const.* (1947), Art. VI, Sec. 2, par. 3, the provisions of *R. 1:5-6(c)(1)* of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to provide that if a party required to attend the Parents= Education Program in accordance with *N.J.S.A. 2A:34-12.1* to *2A:34-12.8* submits a pleading for filing without the statutorily required \$25.00 program registration fee, the clerk shall return the pleading stamped AReceived but not Filed [date]@with notice that if the pleading is retransmitted together with the registration fee within ten days after the date of the clerk-s notice, the pleading will be deemed to have been filed on the stamped receipt date.

For the Court,

C.J. /s/ Deborah T. Poritz

Dated: November 8, 1999