

ASSEMBLY, No. 408

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman HECK

1 AN ACT concerning termination of parental rights and amending
2 P.L.1991, c.275 and P.L.1951, c.138.

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

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7 1. Section 6 of P.L.1991, c.275, (C.30:4C-12.1) is amended to
8 read as follows:

9 6. a. In any case in which the Division of Youth and Family
10 Services accepts a child in its care or custody, including placement, the
11 division shall initiate a search for relatives who may be willing and able
12 to provide the care and support required by the child. [A home
13 evaluation study of the relative's home shall be conducted in
14 accordance with procedures established by the division.] The search
15 shall be initiated within 30 days of the division's acceptance of the
16 child in its care or custody. The search will be completed when all
17 sources contacted have either responded to the inquiry or failed to
18 respond within 45 days. [The results shall be valid for six months after
19 the date it was completed.] The division shall complete an assessment
20 of each interested relative's ability to provide the care and support,
21 including placement, required by the child.

22 b. If the relative is unwilling or unable to assume the care of the
23 child or if the division determines that the relative is inappropriate, the
24 division shall not be required to re-evaluate the relative. The division
25 shall inform the relative in writing of:

26 (1) the reasons for the division's determination;

27 (2) the responsibility of the relative to inform the division if there
28 is a change in the circumstances upon which the determination was
29 made; and

30 (3) the possibility that termination of parental rights may occur if
31 the child remains in foster care for more than six months.

32 The division may decide to pursue the termination of parental rights

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 despite any change in the relative's circumstances if the division
2 determines that termination of parental rights is in the child's best
3 interests.

4 (cf: P.L.1991, c.275, s.6)

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6 2. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to read
7 as follows:

8 15. Whenever (a) it appears that a court wherein a complaint has
9 been proffered as provided in chapter 6 of Title 9 of the Revised
10 Statutes, has entered a conviction against the parent or parents,
11 guardian, or person having custody and control of any child because
12 of abuse, abandonment, neglect of or cruelty to such child; or (b)
13 (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best
14 interests of any child under the care or custody of the Division of
15 Youth and Family Services require that he be placed under
16 guardianship; or (d) it appears that a parent or guardian of a child,
17 following the acceptance of such child by the division pursuant to
18 section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following
19 the placement or commitment of such child in the care of an
20 authorized agency, whether in an institution or in a foster home, and
21 notwithstanding the diligent efforts of such agency to encourage and
22 strengthen the parental relationship, has failed for a period of one year
23 to remove the circumstances or conditions that led to the removal or
24 placement of the child, although physically and financially able to do
25 so, notwithstanding the division's diligent efforts to assist the parent
26 or guardian in remedying the conditions[, and that additional services
27 available from the division within program and fiscal constraints will
28 not enable the child to be reunited with the parent or guardian]; or (e)
29 the parent has abandoned the child; a petition, setting forth the facts
30 in the case, may be filed with the Family Part of the Chancery Division
31 of the Superior Court in the county where such child may be at the
32 time of the filing of such petition. A petition as provided in this
33 section may be filed by any person or any association or agency,
34 interested in such child, or by the division in the circumstances set
35 forth in items (c) [and], (d) and (e) hereof.

36 (cf: P.L.1991, c.275, s.3)

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38 3. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to read
39 as follows:

40 7. a. The division shall initiate a petition to terminate parental
41 rights on the grounds of the "best [interest] interests of the child"
42 pursuant to subsection (c) of section 15 of P.L.1951, c.138
43 (C.30:4C-15) if the following standards are met:

44 [a.](1) The child's health and development have been or will
45 continue to be endangered by the parental relationship;

46 [b.](2) The parent is unwilling or unable to eliminate the harm

1 facing the child or is unable or unwilling to provide a safe and stable
2 home for the child and the delay of permanent placement will add to
3 the harm. Such harm may include evidence that separating the child
4 from his foster parents would cause serious and enduring emotional or
5 psychological harm to the child;

6 [c.](3) The division has made diligent efforts to provide services
7 to help the parent correct the circumstances which led to the child's
8 placement outside the home and the court has considered alternatives
9 to termination of parental rights; and

10 [d.](4) Termination of parental rights will not do more harm than
11 good.

12 b. The division shall initiate a petition to terminate parental rights
13 on the ground that the "parent has abandoned the child" pursuant to
14 subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the
15 following standards are met:

16 (1) the parent has substantially failed for a period of one year
17 to:

18 (a) maintain regular and consistent visitation with the child [despite
19 the division's diligent efforts to facilitate contact or visitation]; and

20 (b) maintain regular and consistent contact with the division; and

21 (c) follow through with the division's case plan or court order if the
22 parent is involved in litigation with the division; or

23 (2) a court finds that, for a period of six or more months:

24 (a) the parent has had no contact with the child, the child's foster
25 parent or the division; and

26 (b) the parent's whereabouts are unknown, notwithstanding the
27 division's diligent efforts to locate the parent; or

28 (3) where the identities of the parents are unknown and the
29 division has exhausted all reasonable methods of attempting
30 identification, the division may immediately file for termination of
31 parental rights upon the completion of the law enforcement
32 investigation.

33 c. As used in this section and in section 15 of P.L.1951, c.138
34 (C.30:4C-15) "diligent efforts" mean reasonable attempts by an agency
35 authorized by the division to assist the parents in remedying the
36 circumstances and conditions that led to the placement of the child and
37 in reinforcing the family structure, including, but not limited to:

38 (1) consultation and cooperation with the parent in developing a
39 plan for appropriate services;

40 (2) providing services that have been agreed upon, to the family,
41 in order to further the goal of family reunification;

42 (3) informing the parent at appropriate intervals of the child's
43 progress, development and health; and

44 (4) facilitating appropriate visitation.

45 (cf: P.L.1991, c.275, s.7)

1 4. This act shall take effect immediately.

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STATEMENT

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6 This bill clarifies the conditions under which termination of parental
7 rights may be sought. In section 1, the bill sets forth certain
8 notification to be made in writing to a relative following an assessment
9 by the division of each interested relative's ability to provide care and
10 support.

11 The bill in section 2 deletes language from section 15 of P.L.1951
12 (C.30:4C-15) which provides that "additional services available from
13 the division within program and fiscal constraints will not enable the
14 child to be reunited with the parent or guardian," as this is contrary to
15 the intent of the statute.

16 The bill in section 3 adds language to section 7 of P.L.1991, c.275
17 (C.30:4C-15.1) which defines what is meant by best interest of the
18 child to clarify that "harm to the child" may include evidence that
19 separating the child from his foster parents would cause serious or
20 enduring emotional or psychological harm. The bill adds an additional
21 ground to this section that allows termination to be sought if the
22 parent had abandoned the child. The bill sets forth three instances in
23 which termination on the ground of abandonment may be sought.

24 The first of these provides that the parent has substantially failed for
25 a period of one year to: maintain regular visitation with the child;
26 maintain regular and consistent contact with the division; and follow
27 through with the division's case plan or court order if the parent is
28 involved in litigation with the division. The second involves a court
29 finding that, for a period of six or more months: (a) the parent has had
30 no contact with the child, the child's foster parent or the division; and
31 (b) the parent's whereabouts are unknown, notwithstanding the
32 division's diligent efforts to locate the parent. The third provides that
33 where the identities of the parents are unknown and the division has
34 exhausted all reasonable methods of attempting identification, the
35 division may immediately file for termination of parental rights upon
36 the completion of the law enforcement investigation.

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41 Clarifies conditions under which termination of parental rights may be
42 sought.