

[First Reprint]
ASSEMBLY, No. 2135

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1996

By Assemblymen LeFEVRE and COHEN

1 AN ACT concerning ¹[time limitations on establishing]¹ the parent-
2 child relationship ¹and paternity¹ and amending N.J.S.3B:5-10¹ and
3 P.L.1983, c.17¹.

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

7
8 1. N.J.S.3B:5-10 is amended to read as follows:

9 3B:5-10. Establishment of Parent-Child Relationship.

10 If, for the purposes of intestate succession, a relationship of parent
11 and child must be established to determine succession by, through, or
12 from a person, in cases not covered by N.J.S.3B:5-9, a person is the
13 child of the person's parents regardless of the marital state of the
14 person's parents, and the parent and child relationship may be
15 established as provided by the "New Jersey Parentage Act," P.L.1983,
16 c.17 (C.9:17-38 et seq.). The parent and child relationship may be
17 established for purposes of this section regardless of the time
18 limitations set forth in subsection b. of section 8 of P.L.1983, c.17
19 (C.9:17-45).

20 (cf: P.L.1991, c.22, s.1).

21

22 ¹2. Section 8 of P.L.1983, c.17 (C.9:17-45) is amended to read as
23 follows:

24 8. a. A child, a legal representative of the child, the natural
25 mother, the estate or legal representative of the mother, if the mother
26 has died or is a minor, a man alleged or alleging himself to be the
27 father, the estate or legal representative of the alleged father, if the
28 alleged father has died or is a minor, the Division of **[Public Welfare]**
29 Family Development in the Department of Human Services, or the
30 county welfare agency, or any person with an interest recognized as
31 justiciable by the court may bring or defend an action or be made a

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted November 17, 1997.

1 party to an action at any time for the purpose of determining the
2 existence or nonexistence of the parent and child relationship.

3 b. No action shall be brought under this act more than 5 years after
4 the child attains the age of majority.

5 c. The death of the alleged father shall not cause abatement of any
6 action to establish paternity, and an action to determine the existence
7 or nonexistence of the parent and child relationship may be instituted
8 or continued against the estate or the legal representative of the
9 alleged father.

10 d. Regardless of its terms, an agreement, other than an agreement
11 approved by the court in accordance with subsection [11c.] c. of
12 section 11 of P.L.1983, c.17 (C.9:17-48) between an alleged or
13 presumed father and the mother of the child, shall not bar an action
14 under this section.

15 e. If an action under this section is brought before the birth of the
16 child, all proceedings shall be stayed until after the birth, except
17 service of process and the taking of depositions to perpetuate
18 testimony. The court may consider the issue of medical expenses and
19 may order the alleged father to pay the reasonable expenses of the
20 mother's pregnancy and postpartum disability.

21 f. This section does not extend the time within which a right of
22 inheritance or a right to succession may be asserted beyond the time
23 provided by law relating to distribution and closing of decedents'
24 estates or to the determination of heirship, or otherwise or limit any
25 time period for the determination of any claims arising under the laws
26 governing probate, including the construction of wills and trust
27 instruments.¹

28 (cf: P.L.1983, c.17, s.8)

29

30 ¹3. Section 4 of P.L.1983, c.17 (C.9:17-41) is amended to read as
31 follows:

32 4. The parent and child relationship between a child and:

33 a. The natural mother, may be established by proof of her having
34 given birth to the child, or under this act;

35 b. The natural father, may be established by proof that his paternity
36 has been adjudicated under prior law; under the laws governing
37 probate; by giving full faith and credit to a determination of paternity
38 made by any other state, whether established through voluntary
39 acknowledgment or through judicial or administrative processes; by a
40 Certificate of Parentage as provided in section 7 of P.L.1994, c.164
41 (C.26:8-28.1) that is executed by the father prior to or after the birth
42 of a child, and filed with the appropriate State agency; by a default
43 judgment or order of the court; by an order of the court based on a
44 blood test or genetic test that meets or exceeds the specific threshold
45 probability as set by [the State] subsection i. of section 11 of
46 P.L.1983, c.19 (C.9:17-48) creating a [conclusive] rebuttable

1 presumption of paternity; or under this act;

2 c. An adoptive parent, may be established by proof of adoption;

3 d. The natural mother or the natural father, may be terminated by
4 an order of a court of competent jurisdiction in granting a judgment of
5 adoption or as the result of an action to terminate parental rights.

6 e. The establishment of the parent and child relationship pursuant
7 to subsections a., b., and c. of this section shall be the basis upon
8 which an action for child support may be brought by a party and acted
9 upon by the court without further evidentiary proceedings.¹

10 (cf: P.L.1994, c.164, s.1.)

11

12 ¹4. Section 11 of P.L.1983, c.17 (C.9:17-48) is amended to read
13 as follows:

14 11. a. As soon as practicable after an action to declare the
15 existence or nonexistence of the father and child relationship has been
16 brought, a consent conference shall be held by the Superior Court,
17 Chancery Division, Family Part intake service, the county probation
18 department or the county welfare agency. A court appearance shall be
19 scheduled in the event that a consent agreement cannot be reached.

20 b. On the basis of the information produced at the conference, an
21 appropriate recommendation for settlement shall be made to the
22 parties, which may include any of the following:

23 (1) That the action be dismissed with or without prejudice; or

24 (2) That the alleged father voluntarily acknowledge his paternity
25 of the child.

26 c. If the parties accept a recommendation made in accordance with
27 subsection b. of this section, which has been approved by the court,
28 judgment shall be entered accordingly.

29 d. If a party refuses to accept a recommendation made under
30 subsection b. of this section or the consent conference is terminated
31 because it is unlikely that all parties would accept a recommendation
32 pursuant to subsection b. of this section, and blood tests or genetic
33 tests have not been taken, the court shall require the parties to submit
34 to blood tests or genetic tests if the court determines that there is an
35 articulable reason for suspecting that the alleged father is the natural
36 father. The tests shall be scheduled within 10 days and shall be
37 performed by qualified experts. Thereafter the Family Part intake
38 service, with the approval of the court, shall make an appropriate final
39 recommendation. If a party refuses to accept the final
40 recommendation, the action shall be set for trial [, except when the
41 results of the blood test or genetic test indicate that the specific
42 threshold probability as set by the State to establish paternity has been
43 met or exceeded].

44 If the results of the blood test or genetic test indicate that the
45 specific threshold probability as set by [the State] subsection i. of this
46 section to establish paternity has been met or exceeded, the results

1 shall be received in evidence as a [conclusive] rebuttable presumption
2 of paternity and no additional foundation testimony or proof of
3 authenticity or accuracy shall be required to establish paternity. In
4 actions based on allegations of fraud or inaccurate analysis, the court
5 shall require that the additional blood test or genetic test be scheduled
6 within 10 days and be performed by qualified experts. The test shall
7 be paid for by the moving party.

8 If a party objects to the blood test or genetic test, the party shall
9 make the objection to the appropriate agency, in writing, within 10
10 days of receipt of the results.

11 e. The guardian ad litem may accept or refuse to accept a
12 recommendation under this section.

13 f. (Deleted by amendment, P.L.1994, c.164).

14 g. No evidence, testimony or other disclosure from the consent
15 conference shall be admitted as evidence in a civil action except by
16 consent of the parties. However, blood tests or genetic tests ordered
17 pursuant to subsection d. of this section may be admitted as evidence.

18 h. The refusal to submit to a blood test or genetic test required
19 pursuant to subsection d. of this section, or both, shall be admitted
20 into evidence and shall give rise to the presumption that the results of
21 the test would have been unfavorable to the interests of the party who
22 refused to submit to the test. Refusal to submit to a blood test or
23 genetic test, or both, is also subject to the contempt power of the
24 court.

25 i. Blood test or genetic test results indicating a 95% or greater
26 probability that the alleged father is the father of the child shall create
27 a presumption of paternity which may be rebutted only by clear and
28 convincing evidence that the results of the tests are not reliable in that
29 particular case.¹

30 (cf: P.L.1994, c.164, s.2.)

31
32 ¹[2] 5.¹ This act shall take effect immediately and shall apply to
33 any ¹[pending]¹ matter ¹pending before any trial or appellate court¹
34 for which the time limitations ¹[set forth in] established by¹ Title 3B
35 of the New Jersey Statutes ¹or any rule or principle of equity¹ have not
36 expired.

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41 Provides that time limitations in "New Jersey Parentage Act" do not
42 preclude the establishment of a parent and child relationship for
43 purposes of intestate succession.