

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2135

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 17, 1997

The Assembly Judiciary Committee reports favorably and with committee amendments, Assembly Bill No. 2135.

This bill in section 1 amends N.J.S.3B:5-10 to clarify that the limitations on actions under the "New Jersey Parentage Act" (which is set at no more than 5 years after the child attains the age of majority) shall not apply to actions under the probate act for the purpose of establishing the parent and child relationship as permitted by N.J.S.3B:5-10. The parent and child relationship must be established to determine succession by, through or from a person. Thus, a person beyond the age of 23 years may be able to establish a relationship with a parent for the purpose of inheritance.

The committee amendments in section 2 provide that, similarly, the time limitation in the Parentage Act does not cut off rights to establish whether or not a parent and child relationship exists in other proceedings under the laws governing probate, such as proceedings to construe wills or trust documents. Thus, whether or not a relationship with a parent exists with respect to a child may be established beyond the child's age of 23 years for the purpose of probate and inheritance. The "New Jersey Parentage Act" already provides in subsection f. of N.J.S.A.9:17-45 that it does not extend the time within which a right of inheritance or a right to succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise. The committee amendments add that the provisions of the Parentage Act also do not limit any time period for probate claims.

The New Jersey Supreme Court in a decision issued May 19, 1997 in *Wingate, et al. v. Estate of Ryan* (A-83-96) held that the limitations period under the Parentage Act does not apply to claims filed under the Probate Code.

The bill was amended by the committee to include two additional sections (sections 3 and 4) to provide that the statutory threshold of the "New Jersey Parentage Act" establishes a rebuttable rather than conclusive presumption with regard to paternity. The bill provides that blood test or genetic test results indicating a 95% or greater

probability that the alleged father is the father of the child would create a presumption of paternity which may be rebutted only by clear and convincing evidence.

Other committee amendments are technical to correct the title to reflect the broader subject matter of the bill which now addresses the rebuttable presumption and testing for paternity.

This bill is identical to Senate Bill No. 1253 (2R).