

CHAPTER 376

AN ACT concerning the parent-child relationship and paternity and amending N.J.S.3B:5-10 and P.L.1983, c.17.

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

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

Establishment of parent-child relationship.

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

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

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

C.9:17-45 Action to determine existence of parent-child relationship.

8. a. A child, a legal representative of the child, the natural mother, the estate or legal representative of the mother, if the mother has died or is a minor, a man alleged or alleging himself to be the father, the estate or legal representative of the alleged father, if the alleged father has died or is a minor, the Division of Family Development in the Department of Human Services, or the county welfare agency, or any person with an interest recognized as justiciable by the court may bring or defend an action or be made a party to an action at any time for the purpose of determining the existence or nonexistence of the parent and child relationship.

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

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

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

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

f. This section 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, or limit any time period for the determination of any claims arising under the laws governing probate, including the construction of wills and trust instruments.

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

C.9:17-41 Establishment of parent-child relationship; termination of natural parental rights; action.

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

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

- b. The natural father, may be established by proof that his paternity has been adjudicated under prior law; under the laws governing probate; by giving full faith and credit to a determination of paternity made by any other state, whether established through voluntary

acknowledgment or through judicial or administrative processes; by a Certificate of Parentage as provided in section 7 of P.L.1994, c.164 (C.26:8-28.1) that is executed by the father prior to or after the birth of a child, and filed with the appropriate State agency; by a default judgment or order of the court; by an order of the court based on a blood test or genetic test that meets or exceeds the specific threshold probability as set by subsection i. of section 11 of P.L.1983, c.17 (C.9:17-48) creating a rebuttable presumption of paternity; or under this act;

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

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

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

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

C.9:17-48 Consent conference; blood, genetic tests; presumption.

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

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

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

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

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

d. If a party refuses to accept a recommendation made under subsection b. of this section or the consent conference is terminated because it is unlikely that all parties would accept a recommendation pursuant to subsection b. of this section, and blood tests or genetic tests have not been taken, the court shall require the parties to submit to blood tests or genetic tests if the court determines that there is an articulable reason for suspecting that the alleged father is the natural father. The tests shall be scheduled within 10 days and shall be performed by qualified experts. Thereafter the Family Part intake service, with the approval of the court, shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

If the results of the blood test or genetic test indicate that the specific threshold probability as set by subsection i. of this section to establish paternity has been met or exceeded, the results shall be received in evidence as a rebuttable presumption of paternity and no additional foundation testimony or proof of authenticity or accuracy shall be required to establish paternity. In actions based on allegations of fraud or inaccurate analysis, the court shall require that the additional blood test or genetic test be scheduled within 10 days and be performed by qualified experts. The test shall be paid for by the moving party.

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

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

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

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

h. The refusal to submit to a blood test or genetic test required pursuant to subsection d. of this section, or both, shall be admitted into evidence and shall give rise to the presumption

that the results of the test would have been unfavorable to the interests of the party who refused to submit to the test. Refusal to submit to a blood test or genetic test, or both, is also subject to the contempt power of the court.

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

5. This act shall take effect immediately and shall apply to any matter pending before any trial or appellate court for which the time limitations established by Title 3B of the New Jersey Statutes or any rule or principle of equity have not expired.

Approved January 19, 1998.