

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 818

STATE OF NEW JERSEY

DATED: MAY 9, 1996

The Senate Women's Issues, Children and Family Services Committee reports favorably Senate Bill No. 818.

The purpose of this bill is to secure permanence in adoption placements by requiring certain unmarried parents to acknowledge parentage prior to or within six months of the birth of the child in order to be entitled to notice of adoption. Because the law provides that those who are entitled to notice may object to an adoption, and the bill imposes the six-month time frame, objections should occur at an early point in the child's life. To serve the State's interest and the child's need for early permanence and stability, the time period is measured in terms of the child's life. If there is an objection, the bill provides that the standard to be used in resolving the dispute shall be the best interest of the child, which requires a parent to affirmatively assume the role of parent. In addition, to provide notice to the public of the new requirement to acknowledge parentage, the bill requires publicizing the requirement throughout the State.

Specifically, in order to be entitled to notice of an adoption, the bill amends section 9 of P.L.1977, c.367 (C.9:3-45) by requiring a person who:

- is presumed to be the natural father of the child pursuant to paragraph (2) of subsection a. of section 6 of P.L.1983, c.17 (C.9:17-43) to execute a Certificate of Parentage acknowledging paternity, prior to or within six months of the birth of the child, or to file an action for paternity in court within six months of the child's birth; or
- has been named as a parent on a Certificate of Parentage but has not executed the certificate, to sign the Certificate of Parentage within six months of the birth.

The bill further provides that if, within six months of the birth of the child, the identity of a parent cannot be determined or where the known parent is unable or refuses to identify the other parent, service on that parent is waived by the court.

The law which established the Certificate of Parentage, section 7 of P.L.1994, c.164 (C.26:8-28.1), is amended to require that if a parent has been named but has not executed a Certificate of Parentage,

the State IV-D agency or its designee shall attempt to locate that person and provide him with the opportunity to execute the certificate within six months of the birth of the child. If that person cannot be located and the child is the subject of an adoption proceeding, the State IV-D agency or its designee shall contact the approved agency, intermediary or other person who is placing the child for adoption and that person or entity shall attempt to locate that person in accordance with subsection c. of section 9 of P.L.1977, c.367 (C.9:3-45).

In a case in which a parent must execute a Certificate of Parentage in order to be entitled to notice of adoption, or where the identity of the parent cannot be determined, the approved agency, intermediary or other person placing the child for adoption shall make a written request to the State IV-D agency or its designee to determine if a Certificate of Parentage was completed prior to or within six months of the birth of the child. Within 20 days of receiving the written request, an affidavit shall be submitted to the requestor advising the particulars of the execution of the Certificate of Parentage. The affidavit shall be filed with the court.

To notify unmarried parents of the requirement to execute a Certificate of Parentage within six months of the birth of the child in order to be entitled to notice of adoption, the bill requires that written information provided to parents include a statement that failure to sign the Certificate of Parentage prior to or within six months of the birth of the child constitutes a waiver of the right to notice of an adoption. Also, the bill requires the personnel at the hospital or birth facility to orally inform a parent of this requirement. In addition, the Department of Human Services, in consultation with the Department of Health, shall adopt rules and regulations to publicize throughout the State the requirement to acknowledge paternity by executing a Certificate of Parentage prior to or within six months of the birth of the child, in order to be entitled to notice of adoption.

The bill further provides that when there is an objection to an adoption, pursuant to section 10 of P.L.1977, c.367 (C.9:3-46), the time period for filing the objection is 20 days after the filing of the complaint for adoption for a State resident and 35 days after the filing for a nonresident. In resolving the dispute, the standard shall be the best interest of the child. Under current law, the parent first must be found to have substantially failed to perform or be unable to perform regular and expected parental functions. The bill provides that the best interest of the child requires that each parent affirmatively assume the role of being a parent. Factors to be considered are whether that parent has fulfilled financial obligations for the birth and care of the child, demonstrated continued interest in the child, demonstrated a genuine effort to maintain communication with the child and demonstrated the establishment and maintenance of a place of importance in the child's life.

Further amendments to section 10 of P.L.1977, c.367 (C.9:3-46) include a six-month time period prior to the placement of the child for

adoption as the time frame on which the court shall focus when determining whether a parent has substantially failed to perform or is unable to perform regular and expected parental functions. In the case where the objecting parent is incarcerated, the amendments codify factors that the New Jersey Supreme Court considered in Matter of LAS, 134 N.J.127 (1993), namely, the extent of the relationship which existed between the parent and child prior to incarceration, the efforts to continue a relationship, the ability to communicate and visit with the child, and the effect of the communication and visitation on the child's development.