

9:3-45

LEGISLATIVE HISTORY CHECKLIST

NJSA: 9:3-45

(Adoption - procedure for notice)

LAWS OF: 1982

CHAPTER: 105

Bill No: A207

Sponsor(s): Hardwick

Date Introduced: Pre-filed

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: ///

No Substituted for S1074
(attached)

Date of Passage:

Assembly: March 1, 1982

Senate: June 7, 1982

Date of Approval: August 2, 1982

Following statements are attached if available:

Sponsor statement:		Yes	//
Committee statement:	Assembly	Yes	//
	Senate	Yes	//
Fiscal Note:		///	No
Veto Message:		///	No
Message on Signing:		Yes	//
Following were printed:			
Reports:		///	No
Hearings:		///	No

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JUL 15 1982
LEGISLATIVE COUNCIL
TREASURY

ASSEMBLY, No. 207

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblyman HARDWICK

AN ACT to amend "An act concerning the adoption of children and revising and repealing various parts of the law relating to adoption," approved February 6, 1978 (P. L. 1977, c. 367).

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

1 1. Section 9 of P. L. 1977, c. 367 (C. 9:3-45) is amended to read
2 as follows:

3 9. *a.* In any adoption proceeding pursuant to this act, notice of
4 the complaint may not be waived and *a notice of hearing* shall be
5 served in accordance with the Rules of Court on each parent of the
6 child to be adopted~~],~~ except that notice shall not be served on any
7 parent who has executed a valid surrender to an approved agency
8 pursuant to section 5 or whose parental rights have been termi-
9 nated in a separate judicial proceeding by court order. If at any
10 time during the proceedings it appears from the report of the
11 agency or in any other way that the putative father has maintained
12 a relationship with the child, financial or otherwise, the court shall
13 order that notice be given to such putative father personally and
14 that the hearing will not be held until 20 days after notice is given
15 in the case of a resident and 35 days in the case of a nonresident.
16 Such notice shall inform the parent or putative father of the
17 purpose, date, place of hearing, of such person's right to appear
18 and object to the adoption, of his right to counsel and of his right
19 to have counsel appointed to represent him if he cannot afford to
20 retain counsel. For the purposes of this section the defined term
21 "parent" shall include the husband of the mother of a child born
22 or conceived during the marriage~~].~~ *The notice shall inform each*
23 *parent of the purpose of the action and of the parent's right to*
24 *file written objections to the adoption within 20 days after notice*

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

25 *is given in the case of a resident and 35 days in the case of a non-*
26 *resident. For purposes of this section, "parent" shall include (1)*
27 *the husband of the mother of a child born or conceived during the*
28 *marriage and (2) a putative or alleged natural mother or father*
29 *of a child.*

30 *b. Notice pursuant to subsection a. shall not be served on any*
31 *parent:*

32 *(1) Who has executed a valid surrender to an approved agency*
33 *pursuant to section 5;*

34 *(2) Whose parental rights have been terminated in a separate*
35 *judicial proceeding by court order;*

36 *(3) Who has, prior to the placement of the child for adoption,*
37 *received notice of the intention to place the child, which notice shall*
38 *inform the parent of the purpose of the placement and of the par-*
39 *ent's right to file with the court, in accordance with the Rules of*
40 *Court, written objections to the proposed placement within 20 days*
41 *after notice is given, in the case of a resident, and 35 days in the*
42 *case of a nonresident; and who has either failed to file written*
43 *objections or denied paternity;*

44 *(4) Who has surrendered the child for adoption to the adopting*
45 *parent in accordance with the provisions of section 3 and the court*
46 *determines that the surrender is valid; or*

47 *(5) Whose child has been made available for adoption in a for-*
48 *ign state or country. If the United States Immigration and Natu-*
49 *ralization Service has determined that the child has been approved*
50 *for adoptive placement, that finding shall be presumptive and no*
51 *notice as to the availability of the child for adoption shall be served.*

52 *c. If personal service of the notice cannot be effected because the*
53 *whereabouts of any parent of the child to be adopted are unknown,*
54 *the court shall determine that an adequate effort has been made to*
55 *serve notice upon the parent if the plaintiff immediately prior to or*
56 *during the placement and not more than 9 months prior to the filing*
57 *of a complaint has:*

58 *(1) Sent the notice by regular mail and by certified mail return*
59 *receipt requested, to the parent's last known address;*

60 *(2) Made a discreet inquiry among any known relations, friends*
61 *and current or former employers of the parent;*

62 *(3) Unless otherwise restricted by law, made direct inquiries,*
63 *using the party's name and last known or suspected address, to the*
64 *local post office, the Division of Motor Vehicles, county welfare*
65 *office, the municipal police department, the Division of State Police,*
66 *the county probation office, the Department of Corrections, and any*
67 *social service and law enforcement agencies known to have had*

68 *contact with the party, or the equivalents in other states, territories*
 69 *or countries. Failure to receive a response to the inquiries within*
 70 *45 days shall be a negative response.*

71 *d. In any case where the identity of a parent cannot be deter-*
 72 *mined or where the known parent of a child is unable or refuses to*
 73 *identify the other parent, and the court is unable from other infor-*
 74 *mation before the court to identify the other parent, service on that*
 75 *parent shall be waived by the court.*

1 2. This act shall take effect immediately.

STATEMENT

The constitutional rights of a natural or absent parent to receive notice and an opportunity to be heard at an adoption proceeding has been recognized by the U. S. Supreme Court in *Stanley v. Illinois* 405 U. S. 645 (1972). The purpose of this bill is to define the scope of the notice procedures that an approved adoption agency must make upon the institution of adoption proceedings. By statutorily defining the steps which an agency must take to locate natural or absent parents, it is hoped that delays in adoption proceedings caused by individual judges ordering different notice requirements would be ameliorated.

The major provisions of the bill are as follows:

1. That in any adoption proceeding, personal notice of the adoption hearing be sent to each parent of the child. That the notice inform the parent of his right to file objections to the proceeding. "Parent" for purposes of notice includes any putative or alleged natural mother or father.

2. That notice need not be sent: if the parent has executed a valid surrender; if parental rights have been terminated by court order; if the parent had received prior notice of intention to place the child for adoption; or if the child has validly been made available for adoption in another country.

3. That the notice requirement to a parent has been satisfied if the plaintiff in an adoption proceeding prior to or during the placement has: sent notice by regular and by certified mail to the parent's last address; made discreet inquiries among the parent's relatives, friends or employers; and made discreet inquiries to the post office, the Division of Motor Vehicles, the county welfare office, the local police department, the State Police, the county probation department, the Department of Corrections and any other social service or law enforcement agency, whether in New Jersey or elsewhere, known to have had contact with the parent.

4. That in any case where the identity of a parent cannot be determined or where the known parent of a child is unable or refuses to identify the other parent and the court is unable to identify the other parent from information before the court, that service of notice on that parent shall be waived.

68 *contact with the party, or the equivalents in other states, territories*
 69 *or countries. Failure to receive a response to the inquiries within*
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A207 (1982)

4. That in any case where the identity of a parent cannot be determined or where the known parent of a child is unable or refuses to identify the other parent and the court is unable to identify the other parent from information before the court, that service of notice on that parent shall be waived.

SENATE, No. 1074

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1982

By Senators LIPMAN, BASSANO, McMANIMON, BORNHEIMER,
STOCKMAN and ORECHIO

Referred to Committee on Judiciary

AN ACT to amend "An act concerning the adoption of children and revising and repealing various parts of the law relating to adoption," approved February 6, 1978 (P. L. 1977, c. 367).

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2 as follows:

3 9. *a.* In any adoption proceeding pursuant to this act, notice of
4 the complaint may not be waived and *a notice of hearing* shall be
5 served in accordance with the Rules of Court on each parent of the
6 child to be adopted[■], except that notice shall not be served on any
7 parent who has executed a valid surrender to an approved agency
8 pursuant to section 5 or whose parental rights have been termi-
9 nated in a separate judicial proceeding by court order. If at any
10 time during the proceedings it appears from the report of the
11 agency or in any other way that the putative father has maintained
12 a relationship with the child, financial or otherwise, the court shall
13 order that notice be given to such putative father personally and
14 that the hearing will not be held until 20 days after notice is given
15 in the case of a resident and 35 days in the case of a nonresident.
16 Such notice shall inform the parent or putative father of the
17 purpose, date, place of hearing, of such person's right to appear
18 and object to the adoption, of his right to counsel and of his right
19 to have counsel appointed to represent him if he cannot afford to
20 retain counsel. For the purposes of this section the defined term

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

Matter printed in italics *thus* is new matter.

21 “parent” shall include the husband of the mother of a child born
22 or conceived during the marriage]. *The notice shall inform each*
23 *parent of the purpose of the action and of the parent’s right to*
24 *file written objections to the adoption within 20 days after notice*
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31 *parent:*

32 *(1) Who has executed a valid surrender to an approved agency*
33 *pursuant to section 5 of P. L. 1977, c. 367 (C. 9:3-41);*

34 *(2) Whose parental rights have been terminated in a separate*
35 *judicial proceeding by court order;*

36 *(3) Who has, prior to the placement of the child for adoption,*
37 *received notice of the intention to place the child, which notice shall*
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40 *Court, written objections to the proposed placement within 20 days*
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42 *case of a nonresident; and who has either failed to file written*
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44 *(4) Who has surrendered the child for adoption to the adopting*
45 *parent in accordance with the provisions of section 3 of P. L. 1977,*
46 *c. 367 (9:3-29) and the court determines that the surrender is*
46A *valid; or*

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48 *ign state or country. If the United States Immigration and Natu-*
49 *ralization Service has determined that the child has been approved*
50 *for adoptive placement, that finding shall be presumptive and no*
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54 *the court shall determine that an adequate effort has been made to*
55 *serve notice upon the parent if the plaintiff immediately prior to or*
56 *during the placement and not more than 9 months prior to the filing*
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59 *receipt requested, to the parent’s last known address;*

60 *(2) Made a discreet inquiry among any known relations, friends*
61 *and current or former employers of the parent;*

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 63 *using the party's name and last known or suspected address, to the*
 64 *local post office, the Division of Motor Vehicles, county welfare*
 65 *office, the municipal police department, the Division of State Police,*
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the Division of Motor Vehicles, the county welfare office, the local police department, the State Police, the county probation department, the Department of Corrections and any other social service or law enforcement agency, whether in New Jersey or elsewhere, known to have had contact with the parent.

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ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 207

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 1982

The constitutional rights of a natural or absent parent to receive notice and an opportunity to be heard at an adoption proceeding has been recognized by the U. S. Supreme Court in *Stanley v. Illinois* 405 U. S. 645 (1972). The purpose of this bill is to define the scope of the notice procedures that an approved adoption agency must make upon the institution of adoption proceedings. By statutorily defining the steps which an agency must take to locate natural or absent parents, it is hoped that delays in adoption proceedings caused by individual judges ordering different notice requirements would be ameliorated.

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whether in New Jersey or elsewhere, known to have had contact with the parent.

4. That in any case where the identity of a parent cannot be determined or where the known parent of a child is unable or refuses to identify the other parent and the court is unable to identify the other parent from information before the court, that service of notice on that parent shall be waived.

This bill was released from the Assembly Judiciary Committee during the 1981 session with amendments. It passed the Assembly and was released from the Senate Judiciary Committee as a Committee Substitute. The Senate amendments involved largely technical changes and reordering of the sections.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 207

STATE OF NEW JERSEY

DATED: MAY 24, 1982

The constitutional rights of a natural or absent parent to receive notice and an opportunity to be heard at an adoption proceeding has been recognized by the U.S. Supreme Court in *Stanley v. Illinois*. The purpose of this bill is to define the scope of the notice procedures that an approved adoption agency must make upon the institution of adoption proceedings. By statutorily defining the steps which an agency must take to locate natural or absent parents, it is hoped that delays in adoption proceedings caused by individual judges ordering different notice requirements would be ameliorated.

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OFFICE OF THE GOVERNOR

901
661

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 2, 1982

CONTACT: KATHERINE BROKAW

Governor Thomas H. Kean today signed the following bills:

A-207, sponsored by Assemblyman Chuck Hardwick (R-Union), defines the notice procedures to be followed by an approved adoption agency when the identity or location of a natural parent is not known. Prospective parents or the adoption agency must make a reasonable effort to notify each parent of a child, including notice by mail to the parent's last known address and "discreet inquiries" among the parent's relatives, friends and employers. Inquiries should also be pursued through any social service or law enforcement agency known to have had contact with the parent, such as the post office, the Division of Motor Vehicles and the county welfare office.

Service of notice shall be waived when the identity of a parent cannot be determined.

Currently, the absence of defined notice requirements often results in judges setting inconsistent procedures for attempting to locate an adoptee's natural parents.

The new statutory notice provisions are intended to expedite adoption proceedings by eliminating the delays caused by absence of codified requirements.

Governor Kean also signed bill A-1338, sponsored by Assemblyman Martin Herman (D-Gloucester), which validates the bond proceedings of the Pittsgrove Fire District.

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