

9:3-24; 9:3-27

LEGISLATIVE HISTORY CHECKLIST

NJSA 2:3-24, 2:3-27

Laws of 1977 Chapter 241 (Adoption--Consideration of child's wishes)

BILL No. 990 S900

Sponsor(s) Menas and others

Date Introduced pre-filled

Committee: Assembly Law, Public Safety and Defense

Senate Judiciary

Amended during passage  Yes  No

Date of passage: Assembly July 11, 1977

Senate July 22, 1976

Date of approval Sept. 7, 1977

Following statements are attached if available:

Sponsor statement  Yes  No

Committee Statement: Assembly  Yes  No

Senate  Yes  No

Fiscal Note  Yes  No

Veto message  Yes  No

Message on signing  Yes  No

Following were printed:

Reports  Yes  No

Hearings  Yes  No

FEB 1973  
10/4/76

SENATE, No. 900

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senators MENZA, SKEVIN, AMMOND, LIPMAN and  
SCARDINO

AN ACT to amend "An act concerning the adoption of children, their custody, control and rights of inheritance, and repealing subtitle 2 of Title 9 of the Revised Statutes," approved July 23, 1953 (P. L. 1953, c. 264).

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

1 1. Section 8 of P. L. 1953, c. 264 (C. 9:3-24) is amended to read  
2 as follows:

3 8. Preliminary hearing.

4 A. A preliminary hearing, when required by subsection A. of  
5 section 7, shall be in camera, and shall have for its purpose the  
6 determination of: (1) the circumstances under which the child was  
7 received into the home of the plaintiff; (2) the status of the  
8 parents of the child with respect to further rights as to custody  
9 of the child; (3) the potential fitness of the child for adoption;  
10 and (4) the potential fitness of the plaintiff to adopt the child and  
11 to provide a home suitable for his rearing.

12 B. If in the course of the preliminary hearing the court shall  
13 determine that there is lack of jurisdiction, or that there is lack  
14 of qualification on the part of a plaintiff, or that the child is in the  
15 custody of an approved agency and such agency has not consented  
16 to the adoption, the action shall be dismissed forthwith.

17 C. If the court shall determine, from the report of the approved  
18 agency and the evidence presented at the preliminary hearing,  
19 that a parent of the child sought to be adopted is dead, or mentally  
20 incompetent, or has forsaken parental obligations, or has been  
21 divorced by the other parent on grounds of adultery or desertion  
22 or extreme cruelty, the court may declare that such parent has no

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

23 further right to custody of the child. If the court shall determine  
24 that the child sought to be adopted is illegitimate, the court shall  
25 declare that the father, and the husband of the mother if she be  
26 married, has no right as to custody of the child. If the court shall  
27 determine that a custodian or guardian has been appointed for the  
28 child sought to be adopted, but that such custodian or guardian  
29 has willfully and continuously neglected or failed to discharge the  
30 responsibilities of such appointment, the court may declare that  
31 such custodian or guardian has no further control and authority  
32 over the person of the child.

33 D. If in the course of the preliminary hearing the court shall  
34 determine that there has not been a personal appearance by or  
35 personal service upon each person having custody of the child as  
36 required by subsection A. of section 7 hereof, or that the best  
37 interests of the child would not be promoted by the adoption, the  
38 court shall deny the adoption and make such further order con-  
39 cerning the custody of the child as may be deemed proper in the  
40 circumstances. *However, the court shall not make any grant of*  
41 *custody unless it has considered and given due weight to the child's*  
42 *wishes as to custody, if the child is of sufficient age and capacity*  
43 *to form an intelligent preference concerning custody.*

1 2. Section 11 of P. L. 1953, c. 264 (C. 9:3-27) is amended to read  
2 as follows.

3 11. Final hearing; judgment of adoption.

4 A. Upon the final hearing, the court shall proceed in camera;  
5 provided, however, that if there has been a preliminary hearing  
6 and the next friend shall have recommended the adoption, the final  
7 hearing may be dispensed with and judgment may be entered  
8 forthwith.

9 B. If a next friend shall have been appointed pursuant to sub-  
10 section A. of section 9, such next friend shall be a necessary party  
11 at the final hearing, shall be entitled to present testimony and to  
12 cross-examine witnesses, and shall be subject to examination with  
13 respect to its report and recommendations in the matter. If the  
14 child sought to be adopted is of the age of 10 years or over, the  
15 appearance of such child shall be required at the final hearing, *and*  
16 *the child's wishes concerning the adoption shall be solicited by the*  
17 *court and given consideration, if the child is of sufficient age and*  
18 *capacity to form an intelligent preference regarding adoption; pro-*  
19 *vided that the court, in its discretion and for good cause shown,*  
20 may waive the requirement that such child appear.

21 C. If, from the report and the evidence presented, the court shall  
22 be satisfied that the best interests of the child would be promoted  
23 by the adoption, the court shall enter a judgment of adoption.

24 D. If, from the evidence presented, the court shall be satisfied  
25 that the best interests of the child would not be promoted by the  
26 adoption, the court shall enter a judgment denying the adoption.  
27 If the child is not in the custody of an approved agency, such judg-  
28 ment shall contain such further provisions concerning the custody  
29 of the child as may be proper in the circumstances.

30 E. The clerk of each juvenile and domestic relations court and  
31 of each County Court shall promptly file with the Superior Court  
32 a copy of each judgment of adoption entered pursuant to this act.  
33 The Clerk of the Superior Court shall docket the copies of such  
34 judgments and shall maintain an alphabetical index of all judg-  
35 ments of adoption entered each year pursuant to this act in the  
36 juvenile and domestic relations courts and County Courts and the  
37 Superior Court of this State.

1 3. This act shall take effect immediately.

SENATE JUDICIARY COMMITTEE

STATEMENT TO  
**SENATE, No. 900**

**STATE OF NEW JERSEY**

DATED: MAY 17, 1976

PROVISIONS

This bill amends P. L. 1953, c. 264 (C. 9:3-24 and 9:3-27) to require that if a child is of sufficient age and capacity, the court shall consider and give due weight to the child's wishes before awarding custody at a preliminary adoption hearing.

The bill also provides that at a final adoption hearing, the court shall solicit and take into account the wishes of a child of 10 years or over, if the court finds the child to have the capacity to form an intelligent preference regarding adoption.

PURPOSE

The bill's purpose is to provide that a child's wishes be considered in the awarding of his custody at a preliminary hearing; his preferences concerning his adoption would be considered at a final hearing.

BACKGROUND

The court is not now required to take into account the wishes of a child at a preliminary hearing. A child of 10 or more years is required to be present at a final adoption hearing, but the court is not required to solicit the child's wishes. This bill will mandate that the child's wishes be considered, although the court may waive the requirement for good cause shown.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

SEPTEMBER 7, 1977

ANNE BURNS

Governor Brendan Byrne today signed four bills into law. They are known as the "Childrens' Rights Bills."

A-541, sponsored by Assemblyman Albert Burstein (D-Bergen) amends the statutes governing the adoption of adults.

Prior to this legisaltion the law provided that the adopting parent or parents be at least 15 years older than the person being adopted. A-541 changed the age requirement to 10 years older.

In addition, this bill includes a provision that a court may waive the age requirement and the provision that the adoptee file a written statement that he requests the adoption and if desired, he can change his name, if the court is satisfied that the best interests of the adoptee would be served by granting the adoption.

S-900, sponsored by Senator Alexander Menza (D-Union) amends the present law governing the adoption of children to provide that where the child sought to be adopted is 10 years of age or over, the child's wishes concerning the adoption be solicited by the court. The bill requires the court to consider the child's views provided that the child is of sufficient age and capacity to form an intelligent preference regarding the adoption.

The bill also provides that where, in a preliminary hearing, the court determines that the best interests of the child would not be promoted by adoption, that it not make a disposition of custody unless it has considered and given due weight to the child's wishes regarding custody.

S-889, sponsored by Senator Menza, supplements the existing statutes governing child abuse or neglect to provide that the Division of Youth and Family Services immediately report all instances of suspected child abuse and neglect to the county prosecutor of the county in which the child resides.