

9:3-37 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 9:3-37 et al (Revision of adoption law)

Laws of 1977 Chapter 367

Bill No. S1631

Sponsor(s) Menza

Date Introduced August 12, 1976

Committee: Assembly Institutions, Health & Welfare

Senate Law, Public Safety, & Defense

Amended during passage Yes ~~Yes~~ Amendments during passage denoted by asterisks

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Following statements are attached if available:

Sponsor statement Yes ~~Yes~~

Committee Statement: Assembly Yes ~~Yes~~

Senate Yes ~~Yes~~

Fiscal Note Yes ~~Yes~~ No

Veto message Yes ~~Yes~~ No

Message on signing Yes ~~Yes~~

Following were printed:

Reports Yes ~~Yes~~ No

Hearings Yes ~~Yes~~

974.90 N.J. Legislature. Senate.  
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1977a Public hearing on  
S1631. Held 2-23-77. Trenton.

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CHAPTER 367 LAWS OF N. J. 19 77  
APPROVED 2-6-78

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SENATE, No. 1631

STATE OF NEW JERSEY

INTRODUCED AUGUST 12, 1976

By Senator MENZA

Referred to Committee on Judiciary

AN ACT concerning the adoption of children and revising and  
repealing various parts of the law relating to adoption.

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

1 1. This act shall be liberally construed to the end that the  
2 best interests of children be promoted. Due regard shall be given  
3 to the rights of all persons affected by an adoption.

1 2. For the purposes of this act:

2 a. "Approved agency" shall mean a nonprofit corporation,  
3 association or agency, including any public agency, approved by  
4 the Department of \***[Institutions and Agencies]**\* *\*Human*  
5 *Services\** for the purpose of placing children for adoption in New  
5A Jersey;

6 b. "Child" shall mean a person under 18 years of age\***[**, pro-  
7 vided, however, that any person under 21 years of age may be  
8 adopted under the provisions of this act**]**\*;

9 c. "Custody" shall mean \***[**exercise of continuing control over  
10 the person of a child;**]**\* *\*the general right to exercise continuing*  
11 *control over the person of a child derived from court order or*  
12 *otherwise;\**

13 d. "Guardianship" shall mean \***[**responsibility for and au-  
14 thority over the person and property of a child as established by  
15 a court order;**]**\* *\*the right to exercise continuing control over the*  
16 *person or property or both of a child which includes any specific*  
17 *right of control over an aspect of the child's upbringing derived*  
18 *from court order;\**

19 *\*e. Guardian ad litem shall mean a qualified person, not neces-*  
20 *sarily an attorney, appointed by the court under the provisions of*

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

21 *this act or at the discretion of the court to represent the interests*  
 22 *of the child whether or not the child is a named party in the action;\**

23 \***[e.]**\* \*f.\* “Parent” shall mean a natural parent or natural  
 24 parents, \*\***[without regard to the marital status of either at the**  
 25 **time of the child’s birth or conception]**\*\* *\*\*including the natural*  
 26 *father of the child born out of wedlock who has acknowledged the*  
 26A *child or to whom the court has ordered notice to be given\*\**, or a  
 26B parent or parents by adoption;

27 \***[f.]**\* \*g.\* “Placement for adoption” shall mean the transfer  
 28 of custody of a child to a person for the purpose of adoption by  
 29 such person; and

30 \***[g.]**\* \*h.\* “Plaintiff” shall mean a prospective parent or  
 31 parents who have filed a complaint for adoption.

1 3. a. No person, firm, partnership, corporation, association or  
 2 agency shall place, offer to place or materially assist in the place-  
 3 ment of any child for adoption in New Jersey unless such person  
 4 shall be the parent *\*or guardian\** of the child, or such firm, partner-  
 5 ship, corporation, association or agency shall be an approved  
 6 agency; provided, however, that this prohibition shall not apply to  
 7 the placement for adoption of a child with a brother, sister, aunt,  
 8 uncle, grandparent, natural father or stepparent of such child. For  
 9 the purposes of this section, material assistance in the placement  
 10 for adoption of any child shall include but shall not be limited to  
 11 acting as an agent, finder or intermediary for or between any  
 12 parent and any prospective parent or a person acting on behalf of  
 13 either in connection with a placement for adoption of such parent’s  
 14 child. The Superior Court, in an action by the Commissioner of  
 15 the Department of \***[Institutions and Agencies]**\* *\*Human*  
 16 *Services\**, may enjoin any party found by the court to have violated  
 17 this section from any further violation of this section.

18 b. Any person, firm, partnership, corporation, association or  
 19 agency violating this section shall be guilty of a misdemeanor.

1 4. The Commissioner of the Department of \***[Institutions and**  
 2 **Agencies]**\* *\*Human Services\** shall promulgate rules and regula-  
 3 tions relating to the qualification of agencies for approval to make  
 4 placements for adoption in New Jersey. Such rules and regulations  
 5 shall include, but shall not be limited to standards of professional  
 6 training and experience of staff and requirements relating to  
 7 responsibilities of trustees, officers or other persons supervising or  
 8 conducting the placement for adoption program, adequacy of  
 9 facilities, maintenance and confidentiality of casework records and  
 10 furnishing of reports. *\*No approved agency shall discriminate*  
 11 *with regard to the selection of adoptive parents for any child on the*

12 *basis of age, sex, race, national origin, religion or marital status*  
13 *provided, however, that these factors may be considered in deter-*  
14 *mining whether the best interests of a child would be served by a*  
15 *particular placement for adoption or adoption.\**

1 5. a. Surrender of a child to an approved agency for the purpose  
2 of adoption shall be by a signed instrument acknowledged by the  
3 person executing the same before an officer authorized to take  
4 acknowledgments or proofs in the State in which the instrument is  
5 executed, such officer first having made known the contents of the  
6 instrument to the person making the acknowledgment and having  
7 been satisfied as to the identity of the person executing the sur-  
8 render, which the officer shall certify on the instrument of surrender  
9 or on a paper attached thereto. Such surrender shall constitute  
10 relinquishment of such person's parental rights in or guardianship  
11 or custody of the child named therein and consent by such person  
12 to adoption of the child. Such surrender shall be valid and binding  
13 without regard to the age of the person executing the surrender.

14 b. Any approved agency may accept custody of a child by a duly  
15 executed instrument of surrender from a parent or guardian of  
16 the child or from another approved agency or any agency for the  
17 care and protection of children approved by any other state, by the  
18 United States or by any foreign country, which has duly obtained  
19 the authority to place such child for adoption.

1 6. An action for adoption shall be instituted in either the  
2 Superior Court or the County Court of the county in which the  
3 prospective parent resides; provided, however, that:

4 a. Whenever the child to be adopted has been received into the  
5 home of the prospective parent from an approved agency, the  
6 action may be instituted in the County Court of any county in which  
7 such approved agency has an office; and provided further that

8 b. Whenever a parent of the child to be adopted has been granted  
9 a divorce from the other parent by the Superior Court, the action  
10 shall be instituted in the Superior Court unless such court  
11 previously has awarded custody of the child to an approved agency  
12 or has consented to the institution of the action in a County Court.

1 7. a. Any person may institute an action for adoption, provided,  
2 however, that a married person **\*\*[living with his spouse]\*\*** may  
3 do so only with the written consent of his spouse or jointly with his  
4 spouse in the same action or after having lived separate and apart  
5 from his spouse for a continuous period of at least **\*[1 year]\***

5A **\*18 months\***.

6 b. Each plaintiff, at the time of the institution of the action,  
7 shall have attained the age of 18 years and shall be at least 10 years  
8 older than the child to be adopted, provided, however, that the  
9 court for good cause may waive either requirement, such waiver  
10 to be recited in any judgment of adoption thereafter entered.

1 8. Whenever any person shall receive a child into his home for  
2 the purpose of adoption other than from an approved agency, an  
3 action for adoption shall be instituted with reasonable promptness.  
4 Whenever any person shall receive a child into his home for  
5 purposes other than adoption and it is later determined that an  
6 adoption shall be sought, an action for adoption shall be instituted  
7 with reasonable promptness following such determination.  
8 *\*Failure to so act shall not be a sole basis for refusal of the*  
9 *adoption.\**

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

29 or illegitimate child.]\* \*\*[\*the natural father of a child born out  
30 of wedlock who has acknowledged paternity or has been determined  
31 to be the child's father by a court of law or has developed and  
32 maintained a relationship with the child or has regularly provided  
33 support for the child].\* \*\*

1 10. a. Any parent who has not executed a surrender pursuant  
2 to section 5 and whose parental rights have not been terminated  
3 by court order shall have the right to object to the adoption of his  
4 child. \*[\*No judgment of adoption shall be entered over an objection  
5 of such parent communicated to the court by personal appearance  
6 or by letter unless the court finds that such parent has substantially  
7 failed to perform the regular and expected parental functions of  
8 care and support of the child, which shall include maintenance of  
9 an emotional relationship with the child.]\* \*\*No judgment of  
10 adoption shall be entered over an objection of such parent com-  
11 municated to the court by personal appearance or by letter  
12 unless the court finds that such parent has substantially failed to  
13 perform the regular and expected parental functions of care and  
14 support of the child, which shall include maintenance of an emo-  
15 tional relationship with the child.\*\* \*\* [\*A judgment of adoption  
16 shall only be entered over an objection of such parent who has  
17 filed an answer contesting the adoption or who has personally  
18 appeared at the hearing upon a finding by the court after a plenary  
19 hearing that such parent has failed willfully and substantially to  
20 perform the regular and expected parental functions of care and  
21 support of the child or whose actions would, in an appropriate  
22 action, have justified the terminatoin of his parental rights.\*]\*\*

23 b. Any guardian of a child to be adopted who has not executed  
24 a surrender pursuant to section 5 and any other person standing in  
25 loco parentis of such child shall be given notice of the action and  
26 in accordance with the Rules of Court shall have standing to object  
27 to the adoption, which objection shall be given due consideration  
28 by the court in determining whether the best interests of the child  
29 would be promoted by the adoption.

1 11. a. When the child to be adopted has been received from an  
2 approved agency, the prospective parent shall file with the court a  
3 complaint for adoption after the child has been in the home of such  
4 prospective parent for at least 6 months. The complaint shall be  
5 accompanied by a consent to the plaintiff's adoption of the child  
6 signed and acknowledged by an authorized officer or representative  
7 of the approved agency; provided, however, that failure or refusal  
8 on the part of such approved agency to give such consent, or with-

9 drawal of consent on the part of such approved agency, shall not  
10 preclude an action for adoption.

11 b. Upon the filing of the complaint, the court shall set a date  
12 for the adoption hearing not less than 10 nor more than 30 days  
13 from the date of institution of the action *\*unless a longer period*  
14 *shall be required in order to obtain service of notice upon one, or*  
15 *more of the parents\** and shall order the approved agency con-  
16 cerned to file at least 5 days prior to the hearing a two-part written  
17 report, part one of which shall describe the circumstances surround-  
18 ing the surrender of the child to the agency and part two of which  
19 shall set forth the results of the agency's evaluation of the child  
20 and of the plaintiff and his spouse, if any, and the agency's assess-  
21 ment of the care being received by the child and the adjustment of  
22 the child and the plaintiff as members of a family. If the agency's  
23 report contains any material findings or recommendations adverse  
24 to the plaintiff the agency shall serve a copy of part two of its  
25 report upon the plaintiff at least 5 days prior to the hearing *\*and*  
26 *the court shall appoint a guardian ad litem for the child in the adop-*  
27 *tion proceeding\* \*\*if the court determines that such guardian is*  
28 *necessary to represent the best interest of the child\*\**. If the ap-  
29 proved agency that placed the child with the plaintiff has not  
30 consented to the adoption, the court may appoint another approved  
31 agency to conduct an investigation and make recommendations in  
32 the matter. Such appointment shall not deprive the placing agency  
33 of standing to appear at the hearing and contest the adoption.  
34 Personal appearance at the hearing by a representative of the  
35 approved agency conducting the investigation may be dispensed  
36 with by the court if the agency's report favors the adoption. If  
37 such appearance is required, the approved agency shall be entitled  
38 to present testimony and to cross-examine witnesses and shall be  
38A subject to cross-examination with respect to its report and recom-  
38B mendations in the matter. The appearance of the child to be  
38C adopted shall not be required unless ordered by the court or unless  
38D the inquiry pursuant to section 13 indicates that the child is op-  
38E posed to the adoption.

39 c. The adoption hearing shall be held in camera. If a parent  
40 of the child has made an objection to the adoption, the court shall  
41 take evidence relating to such objection. If the court finds against  
42 the objecting parent in accordance with subsection (a) of section 10,  
43 it shall make an order terminating the parental rights of such  
44 parent and proceed with the hearing.

45 d. If, based upon the approved agency's report and the evidence  
46 presented at the hearing, the court is satisfied that the best interests  
47 of the child would be promoted by the adoption, the court shall  
48 enter a judgment of adoption. If, based upon the approved  
49 agency's report and the evidence presented at the hearing, the  
50 court is not satisfied that the best interests of the child would be  
51 promoted by the adoption, the court shall deny the adoption and  
52 make such further order concerning the custody and guardianship  
53 of the child as may be deemed proper in the circumstances.

1 12. a. When the child to be adopted has not been received from  
2 an approved agency, the prospective parent shall file with the  
3 court a complaint for adoption. Upon receipt of the complaint, the  
4 court shall by its order

5 (1) Declare the child to be a ward of the court and declare that  
6 the plaintiff shall have custody of such child subject to further  
7 order of the court;

8 (2) Appoint an approved agency to make an investigation and  
9 submit a written report to the court concerning the facts and cir-  
10 cumstances surrounding the surrender of custody by the child's  
11 parents and the placement of the child in the home of the plaintiff  
12 and an evaluation of the child and of the plaintiff and  
12A the spouse of the plaintiff if not the child's parent and if not a  
13 party to the action, provided, however, that whenever the plaintiff  
14 is a stepparent of the child, the court may dispense with the  
15 agency investigation and report and take direct evidence at the  
16 preliminary hearing of the facts and circumstances surrounding  
17 the adoption;

18 (3) Direct the plaintiff to cooperate with the approved agency  
19 making such investigation and report; and

20 (4) Fix a day for preliminary hearing not less than 2 or more  
21 than 3 months from the date of the institution of the action; pro-  
22 vided, however, that such hearing may be accelerated upon the  
23 application of the approved agency and upon notice to the plaintiff  
24 where the agency determines that removal of the child from the  
25 plaintiff's home is required\*, *in which case the court shall appoint*  
25A *a guardian ad litem to represent the child at all future proceedings*  
25B *regarding the adoption.\**

26 Whenever a plaintiff is a brother, sister, grandparent, aunt,  
27 uncle, natural father or stepparent of the child, the order may limit  
28 the investigation to an inquiry concerning the status of the parents  
29 of the child and an evaluation of the plaintiff. At least 10 days  
30 prior to the day fixed for the preliminary hearing the approved  
31 agency shall file its report with the court and serve a copy thereof  
32 on the plaintiff.



33 b. The preliminary hearing shall be in camera and shall have for  
34 its purpose the determination of the circumstances under which  
35 the child was relinquished by his parents and received into the  
36 home of the plaintiff, the status of the parental rights of the par-  
37 ents, the fitness of the child for adoption and the fitness of the  
38 plaintiff to adopt the child and to provide a suitable home. If the  
39 report of the approved agency pursuant to subsection a. contains  
40 any material findings or recommendations adverse to the plaintiff,  
41 the presence of a representative of the approved agency who has  
42 personal knowledge of the investigation shall be required at the  
43 preliminary hearing. If in the course of the preliminary hearing  
44 the court shall determine that there is lack of jurisdiction or that  
45 there is lack of qualification on the part of the plaintiff, the action  
46 shall be dismissed forthwith. If in the course of the preliminary  
47 hearing the court shall determine that the best interests of the  
48 child would not be promoted by the adoption, the court shall deny  
49 the adoption and make such further order concerning the custody  
50 and guardianship of the child as may be deemed proper in the  
51 circumstances.

52 c. If upon completion of the preliminary hearing the court finds  
53 that:

54 (1) The parents of the child do not have rights as to custody of  
55 the child by reason of their rights previously having been termi-  
56 nated by court order, their failure to make timely objection to the  
57 adoption pursuant to section 10 or \*~~their substantial failure to per-~~  
58 form the regular and expected parental functions of care and  
59 support of the child;]\* *\*intentional abandonment or very sub-*  
59A *stantial neglect of parental duties without a reasonable expectation*  
59B *of a reversal of that conduct in the future;\**

60 (2) The guardian, if any, should have no further control or  
61 authority over the child;

62 (3) The child is fit for adoption; and

63 (4) The plaintiff is fit to adopt the child, it shall issue an order  
64 stating its findings, declaring that no parent or guardian of the  
65 child has any right to custody or guardianship of the child, *\*termi-*  
66 *nating the parental rights of such person,\** fixing a date for final  
67 hearing not less than 6 nor more than 9 months from the date of the  
68 preliminary hearing and appointing an approved agency to evaluate  
69 the placement in accordance with subsection d. If the plaintiff is a  
70 brother, sister, grandparent, aunt, uncle, natural father, step-  
71 parent or foster parent of the child, or if the child has been in the  
72 home of the plaintiff for at least 2 years immediately preceding the  
73 commencement of the adoption action, *\*and if the court is satisfied*

74 *that the best interests of the child would be promoted by the adop-*  
74A *tion\** the court may dispense with such evaluation and final hear-  
74B ing and enter a judgment of adoption *\*immediately upon comple-*  
74C *tion of the preliminary hearing\**.

75 d. The approved agency appointed pursuant to subsection c.  
76 shall from time to time visit the home of the plaintiff and make such  
77 further inquiry as may be necessary to observe and evaluate the  
78 care being received by the child and the adjustment of the child  
79 and the plaintiff as members of a family. At least 15 days prior to  
80 the final hearing such approved agency shall file with the court a  
81 written report of its findings, including a recommendation concern-  
82 ing the adoption, and shall mail a copy of the report to the plaintiff.

83 If at any time following the preliminary hearing such approved  
84 agency shall conclude that the best interests of the child would not  
85 be promoted by the adoption, the court, *\*shall appoint a guardian*  
86 *ad litem for the child and\** after a hearing held upon the applica-  
87 tion of such approved agency and upon notice to the plaintiff, may  
88 modify or revoke any order entered in the action and make such  
89 further order concerning the custody and guardianship of the child  
89A as may be deemed proper in the circumstances.

90 e. At the final hearing the court shall proceed in camera; pro-  
91 vided, however, that if the approved agency in its report pursuant  
92 to subsection d. has recommended that the adoption be granted,  
93 the final hearing may be dispensed with and, if the court is satisfied  
94 that the best interests of the child would be promoted by the  
95 adoption, a judgment of adoption may be entered forthwith.

96 The appearance of the approved agency at the final hearing shall  
97 not be required unless its recommendations are adverse to the  
98 plaintiff or unless ordered by the court. If such appearance is  
99 required, the approved agency shall be entitled to present testimony  
100 and to cross-examine witnesses and shall be subject to cross-  
101 examination with respect to its report and recommendations in the  
102 matter. \*\*\*[The appearance of the child to be adopted shall not be  
103 required unless ordered by the court or unless the inquiry, pursuant  
104 to section 13, indicates that the child is opposed to the adoption.]\*\*\*

105 f. If, based upon the report and the evidence presented, the  
106 court is satisfied that the best interests of the child would be  
107 promoted by the adoption, the court shall enter a judgment of  
108 adoption. If, based upon such evidence, the court is not satisfied  
109 that the best interests of the child would be promoted by the  
110 adoption, the court shall deny the adoption and make such further  
111 order concerning the custody and guardianship of the child as  
112 may be deemed proper in the circumstances.

1     \*\*\*[13. Each report of an approved agency pursuant to section 11  
2 or 12 shall set forth the understanding and wishes of the child to  
3 be adopted with respect to the proposed adoption, and no judgment  
4 shall be entered pursuant to this act without the court's having  
5 given due consideration to such understanding and wishes. The  
6 foregoing requirement shall not apply in the case of a child under  
7 the age of 8 years who, in the judgment of the approved agency, is  
8 incapable of understanding and expressing an opinion regarding  
9 the proposed adoption.]\*\*\*

10     \*\*\*13. *If the child sought to be adopted is of the age of 10 years or*  
11 *over, the appearance of such child shall be required at the adoption*  
12 *hearing, and the child's wishes concerning the adoption shall be*  
13 *solicited by the court and given consideration if the child is of*  
14 *sufficient capacity to form an intelligent preference regarding the*  
15 *adoption.*\*\*\*

1     14. a. The entry of a judgment of adoption shall terminate all  
2 relationships between the adopted child and his parents and all  
3 rights, duties and obligations of any person that are founded upon  
4 such relationships, including rights of inheritance under the  
5 intestate laws of this State, except such rights as may have vested  
6 prior to entry of the judgment of adoption; provided, however,  
7 that when the plaintiff is a stepfather or stepmother of the adopted  
8 child and the adoption is consummated with the consent and  
9 approval of the mother or father, respectively, such adoption shall  
10 not affect or terminate any relationship between the child and such  
11 mother or father or any rights, duties or obligations based there-  
12 upon. For good cause, the court may in the judgment provide that  
13 the rights of inheritance from or through a deceased parent will  
14 not be affected or terminated by the adoption.

15     b. The entry of a judgment of adoption shall establish the same  
16 relationships, rights, duties and obligations between the child and  
17 the adopting parent as if such child were born to such adopting  
18 parent in lawful wedlock. For good cause, the court may direct the  
19 entry of judgment nunc pro tunc as of the date the action was  
20 instituted. In applying the intestate laws of this State, an adopted  
21 child shall have the same rights of inheritance as if born to the  
22 adopting parent in lawful wedlock. In the construction of any  
23 testamentary or other document executed subsequent to the effec-  
24 tive date of this act, an adopted child shall be deemed lawful issue  
25 of the adopting parents unless such document shall otherwise  
26 provide.

1     15. The clerk of each County Court shall file promptly with the  
2 Superior Court a copy of each judgment of adoption entered pur-  
3 suant to this act. The clerk of the Superior Court shall docket the

4 copies of such judgments and shall maintain an alphabetical index  
5 of all judgments of adoption entered each year pursuant to this  
6 act in the County Courts and the Superior Court of the State,  
7 all of which records shall be sealed and thereafter shall be made  
8 accessible only by court order.

1 16. a. All records of proceedings relating to adoption, including  
2 the complaint, judgment and all petitions, affidavits, testimony,  
3 reports, briefs, orders and other relevant documents, shall be filed  
4 under seal by the clerk of the court and shall at no time be open to  
5 inspection or copying unless the court, upon good cause shown,  
6 shall otherwise order. An index to all adoption proceedings shall  
7 be maintained by the clerk of the court, but no index of adoption  
8 proceedings shall be open to inspection or copying or be made  
9 public except upon order of the court.

10 b. Upon entry of a judgment of adoption, the clerk of the court  
11 shall certify to the State Bureau of Vital Statistics, any successor  
12 agency or any similar agency in the State or country of the child's  
13 birth, the date of entry of the judgment, the names of the adopting  
14 parent or parents, the name of the child, the date and place of birth  
15 of the child and the new name of the child if changed by the judg-  
16 ment of adoption.

1 17. The costs of all proceedings pursuant to this act shall be  
2 borne by the plaintiff, including the costs incurred by an approved  
3 agency acting pursuant to an order of the court; provided, however,  
4 that such approved agency may waive part of or all such costs.  
5 Payment of costs hereunder shall not be a condition precedent to  
6 entry of judgment. *\*Such costs shall not include the provision of*  
7 *counsel for any person, other than the plaintiff, entitled to the*  
8 *appointment of counsel hereunder.\**

1 18. a. No person, firm, partnership, corporation, association or  
2 agency shall make, offer to make or assist or participate in any  
3 placement for adoption and in connection therewith

4 (1) Pay, give or agree to give any money or any valuable con-  
5 sideration, or assume or discharge any financial obligation; or

6 (2) Take, receive, accept or agree to accept any money or any  
7 valuable consideration.

8 b. The prohibition of subsection a. shall not apply to the fees  
9 or services of any approved agency in connection with a placement  
10 for adoption, nor shall such prohibition apply to the payment or  
11 reimbursement of medical, hospital or other similar expenses  
12 incurred in connection with the birth or any illness of the child,  
13 or to the acceptance of such reimbursement by a parent of the child.

14 c. Any person, firm, partnership, corporation, association or

15 agency violating this section shall be guilty of a high misdemeanor.

1 19. a. Any prospective parent who is not a brother, sister, aunt,  
 2 uncle, grandparent, foster parent, natural father or stepparent of  
 3 the child to be adopted shall file before the complaint is heard, in  
 4 accordance with court rules, a detailed report which shall be signed  
 5 and verified by each such prospective parent and shall disclose all  
 6 sums of money or other valuable consideration paid, given or  
 7 agreed to be given to any person, firm, partnership, corporation,  
 8 association or agency by or on behalf of the prospective parent in  
 9 connection with the adoption, and the names and addresses of each  
 10 such person, firm, partnership, corporation, association or agency  
 11 to whom such consideration was given or promised. The report,  
 12 a copy of which shall be provided to the \*[approved agency  
 13 appointed pursuant to section 12]\* \*\**approved agency appointed*  
 13A *pursuant to section 12 and the*\*\* \**Division of Youth and Family*  
 14 *Services*\*, shall include but shall not be limited to any expenses in-  
 15 curred or to be incurred by or on behalf of such prospective parent  
 15A in connection with

16 (1) The birth of the child;

17 (2) The placement for adoption of the child with the prospective  
 18 parent;

19 (3) Medical or hospital care received by the mother or the child  
 20 during the mother's pre- and postnatal period; and

21 (4) Services relating to the adoption or to the placement for  
 22 adoption, including legal services, which were rendered or are to  
 23 be rendered to or for the benefit of the prospective parent, either  
 24 parent of the child or any other person or agency.

25 b. Whenever based upon a report filed pursuant to this section it  
 26 shall appear to the court \*or to the *Division of Youth and Family*  
 27 *Services*\* that any person may have violated sections 3 or 18 hereof,  
 28 the court \*[shall]\* \*or the *division may*\* refer the matter to the  
 29 appropriate county prosecutor.

1 20. P. L. 1953, c. 264 (C. 9:3-17 to 9:3-36), P. L. 1953, c. 265  
 2 (C. 2A:96-6 to 2A:96-8), P. L. 1954, c. 112 (C. 9:3-19.1), and P. L.  
 3 1955, c. 140 (C. 9:3-22.1) are hereby repealed subject to section 22.

1 21. If any provision of this act, or any application of any provi-  
 2 sion, is held invalid, the invalidity shall not affect other applications  
 3 of the provision, or other provisions of the act, which reasonably  
 4 can be given effect despite the invalidity. To this end, the provi-  
 5 sion of this act are declared severable.

1 22. This act shall take effect 30 days after enactment but it shall  
 2 not apply to any action for adoption commenced prior to such  
 3 effective date, for purposes of which P. L. 1953, c. 264 (C. 9:3-17 to  
 4 9:3-36) as amended, shall remain in effect until final disposition.

SENATE LAW, PUBLIC SAFETY AND DEFENSE  
COMMITTEE

STATEMENT TO  
**SENATE, No. 1631**  
with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: APRIL 28, 1977

This bill is a revision of the law regarding adoption. Its general purpose is to clarify and simplify adoption proceedings and procedures. In doing so it enumerates important differences between independent and approved agency adoption.

First, the bill would prohibit anyone from offering to place or materially assisting in the placement of any child for adoption by anyone other than an enumerated relative, unless they are an approved agency by the Department of Human Services. Any violation of this section is a misdemeanor.

The Department of Human Services is given regulatory authority regarding the qualification of agencies. An amendment to this section prohibits such agencies from discriminating in the selection process on the basis of age, sex, race, national origin, religion or marital status, though these may be considered as factors in determining the best interests of a child.

Surrender to an approved agency for adoption is accomplished by a written instrument and agencies are authorized to accept children pursuant to the surrender. Jurisdiction over actions for adoption is in either the Superior Court or the County Court, depending on the circumstances.

Unless waived for good cause, a person must be at least 18 years old and 10 years older than the child to be adopted, in order to maintain an action for adoption. A married person living with his spouse must either have the written consent of such spouse, or the spouse must join in the action.

Notice is required to go to each parent of the child unless they have executed a valid surrender or their rights have been terminated. Only if a parent cannot be identified or found, may the court waive notice. An amendment to this section was included to define "parent" to include

a natural father who has acknowledged paternity, has been adjudicated as such, or who has developed a relationship with the child, or provided support for the child.

By amendment, the bill now provides that no judgment of adoption can be entered over a parental objection duly entered unless the court finds after a hearing, (1) a willful and substantial failure to perform regular and expected parental functions of care and support or (2) a finding that the parents actions would have justified, in an appropriate action, termination of parental rights.

The test for judgment of adoption over objection by a guardian is what is in the best interests of the child.

The bill provides for cases where the child has been received from an approved agency. This procedure includes filing requirements for a complaint to adopt and further requires that the court must appoint a guardian ad litem to protect the interests of the child. The hearing itself is to be held in camera. The test for an order of adoption is whether the best interests of the child would be promoted by the adoption.

The bill also establishes the procedures for independently placed children for adoption which require an approved agency investigation unless the plaintiff is a stepparent, in which case the court may dispense with the requirement. The court may limit the requirement to a status investigation in other cases with relatives. Pursuant to these adoption proceedings, a preliminary hearing is to be held in camera. If the plaintiff is not an enumerated relative, the court must appoint a guardian ad litem. By amendment parental rights may be terminated by a finding of intentional abandonment or very substantial neglect without a reasonable expectation of reversal.

Following the preliminary hearing the court establishes a date for a final hearing from 6 to 9 months if it finds that the plaintiff is fit to adopt. Pursuant to such proceedings the approved agency must visit the home and make inquiries concerning the proposed adoption and report to the court at least 15 days before the scheduled final hearing.

Again, the final hearing is to be held in camera unless the court, on recommendation to approve, dispenses with the hearing. The test for an order for adoption is the same as with the agency placement proceedings: whether the best interests of the child are promoted.

Entry of a judgment of adoption terminates all relationships between the adopted child and his parents, including inheritance rights which have not vested, unless with respect to inheritance the court, on good cause shown, orders otherwise.

An adopted child has the same rights as if he was born to his adopted parents.

All records of adoption proceeding are required to be sealed unless the court orders them opened on good cause shown.

A reporting procedure regarding financial aspects of the placement is required to be filed by prospective parents. The bill prohibits, as a high misdemeanor, the changing of a fee, except as specifically provided for approved agencies under the bill, by anyone for making or placing or assisting in the placing of any child for adoption.



25 b Whenever based upon a report filed pursuant to this section it  
 26 shall appear to the court that any person may have violated  
 27 sections 3 or 18 hereof, the court shall refer the matter to the  
 28 appropriate county prosecutor.

1 20. P. L. 1953, c. 264 (C. 9:3-17 to 9:3-36), P. L. 1953, c. 265  
 2 (C. 2A:96-6 to 2A:96-8), P. L. 1954, c. 112 (C. 9:3-19.1), and P. L.  
 3 1955, c. 140 (C. 9:3-22.1) are hereby repealed subject to section 22.

1 21. If any provision of this act, or any application of any provi-  
 2 sion, is held invalid, the invalidity shall not affect other applications  
 3 of the provision, or other provisions of the act, which reasonably  
 4 can be given effect despite the invalidity. To this end, the provi-  
 5 sion of this act are declared severable.

1 22. This act shall take effect 30 days after enactment but it shall  
 2 not apply to any action for adoption commenced prior to such  
 3 effective date, for purposes of which P. L. 1953, c. 264 (C. 9:3-17 to  
 4 9:3-36) as amended, shall remain in effect until final disposition.

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#### SPONSOR'S STATEMENT

The present law governing adoption dates back to 1953. The purpose of this legislation is to simplify and clarify the provisions governing adoption proceedings, shorten the period of time necessary to complete an adoption, modernize the law with respect to the rights of parents and bring it into conformity with recent United States Supreme Court decisions, and facilitate enforcement of the law against unauthorized persons who for profit act as intermediaries in adoption placements.

ASSEMBLY INSTITUTIONS, HEALTH AND  
WELFARE COMMITTEE

STATEMENT TO  
**SENATE, No. 1631**

[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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DATED: JULY 11, 1977

The Assembly committee released this bill which revises the State's adoption laws with several amendments.

The substantive amendments would:

1. Define "parent" to include the natural father of a child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given in an adoption proceeding;
2. Provide that putative fathers who have maintained a financial or other relationship with a child shall be given notice of an adoption proceeding and shall have court-appointed counsel at such proceeding if necessary;
3. Reinstate language which was removed by Senate Committee amendments so that a judgment for adoption could be entered over the objection of a parent when the court determines that such parent had "substantially failed to perform the regular and expected parental functions of care and support of the child, which shall include maintenance of an emotional relationship with the child.";
4. Allow the court discretion in the appointment of a guardian ad litem in certain cases; and,
5. Reinstate language which would allow approved adoption agencies to receive copies of financial reports required by court rule so that such reports shall become a part of agencies' case files.

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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

FEBRUARY 6, 1978

JOE SANTANGELO

Governor Brendan Byrne today signed the following bills into law:

S-1631, sponsored by former Senator Alexander J. Menza, (D-Union), which is a major revision and codification of state law on adoptions.

The bill is designed to simplify and clarify adoption proceedings. It also places stricter control in the hands of the State Department of Human Services to guard against illegal baby trade. The bill prohibits the placement or assistance in placement of a child for adoption other than by a relative or adoption agency approved by the Department of Human Services.

Unless waived for good cause, a person must be at least 18 years old and at least 10 years older than the child to be adopted in order to adopt a child.

Any parent who has not executed written surrender statement and whose parental rights have not been terminated by court order shall have the right to object to the adoption of his child.

The bill provides that no adoption can be made over parental objection unless the court finds the parent has failed to provide regular and expected parental functions of care and support including maintenance of an emotional relationship.

The measure was an administration bill.

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