

LEGISLATIVE HISTORY CHECKLIST  
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(Termination of parental rights)

NJSA: 30:4C-12.1

LAWS OF: 1995 CHAPTER: 416

BILL NO: A2336

SPONSOR(S): Heck and Solomon

DATE INTRODUCED: November 21, 1994

COMMITTEE: ASSEMBLY Judiairy

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by superscript numbers  
reprint enacted  
Third

DATE OF PASSAGE: ASSEMBLY: June 19, 1995

SENATE: January 9, 1996

DATE OF APPROVAL: January 10, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:  
"Bill on ending parental rights goes to governor," 1-10-96, The Record.

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[THIRD REPRINT]  
ASSEMBLY, No. 2336

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 21, 1994

By Assemblywoman HECK and Assemblyman SOLOMON

1 AN ACT concerning termination of parental rights and amending  
2 P.L.1991, c.275 and P.L.1951, c.138.

3

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

6 1. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to  
7 read as follows:

8 6. 1a.<sup>1</sup> In any case in which the Division of Youth and Family  
9 Services accepts a child in its care or custody, 1including  
10 placement,<sup>1</sup> the division shall initiate a search for relatives who  
11 may be willing and able to provide the care and support required  
12 by the child. <sup>1</sup>[A home evaluation study of the relative's home  
13 shall be conducted in accordance with procedures established by  
14 the division.]<sup>1</sup> The search shall be initiated within 30 days of the  
15 division's acceptance of the child in its care or custody. The  
16 search will be completed when all sources contacted have either  
17 responded to the inquiry or failed to respond within 45 days.  
18 <sup>1</sup>[The results shall be valid for six months after the date it was  
19 completed. If the division informed a relative, who was unable or  
20 unwilling to provide the care and support required by the child,  
21 that termination of parental rights may occur, the division is not  
22 required to recontact the relative after the six month period has  
23 expired.] The division shall complete an assessment of each  
24 interested relative's ability to provide the care and support,  
25 including placement, required by the child.

26 b. If the<sup>3</sup>division determines that the<sup>3</sup>relative is unwilling or  
27 unable to assume the care of the child<sup>3</sup>[or if the division  
28 determines that the relative is inappropriate]<sup>3</sup>, the division shall  
29 not be required to re-evaluate the relative. The division shall  
30 inform the relative in writing of:

31 (1) the reasons for the division's determination;

32 (2) the responsibility of the relative to inform the division if  
33 there is a change in the circumstances upon which the  
34 determination was made;

35 (3) the possibility that termination of parental rights may  
36 occur if the child remains in foster care for more than six  
37 months;<sup>3</sup> and

38 (4) the right to seek review by the division of such  
39 determination<sup>3</sup>.

40 <sup>3c.</sup><sup>3</sup> The division may decide to pursue the termination of  
41 parental rights<sup>3</sup>[despite any change in the relative's  
42 circumstances]<sup>3</sup> if the division determines that termination 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.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AJL committee amendments adopted June 1, 1995.

<sup>2</sup> Assembly floor amendments adopted June 12, 1995.

<sup>3</sup> Senate SJU committee amendments adopted December 18, 1995.

1 parental rights is in the child's best interests.<sup>1</sup>  
2 (cf: P.L.1991, c.275, s.6)

3 2. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to  
4 read as follows:

5 15. Whenever (a) it appears that a court wherein a complaint  
6 has been proffered as provided in chapter 6 of Title 9 of the  
7 Revised Statutes, has entered a conviction against the parent or  
8 parents, guardian, or person having custody and control of any  
9 child because of abuse, abandonment, neglect of or cruelty to  
10 such child; or (b) (Deleted by amendment, P.L.1991, c.275); (c) it  
11 appears that the best interests of any child under the care or  
12 custody of the Division of Youth and Family Services require that  
13 he be placed under guardianship; or (d) it appears that a parent or  
14 guardian of a child, following the acceptance of such child by the  
15 division pursuant to section 11 or 12 of P.L.1951, c.138  
16 (C.30:4C-11 or 12), or following the placement or commitment of  
17 such child in the care of an authorized agency, whether in an  
18 institution or in a foster home, and notwithstanding the diligent  
19 efforts of such agency to encourage and strengthen the parental  
20 relationship, has failed for a period of one year to remove  
21 the circumstances or conditions that led to the removal or  
22 placement of the child, although physically and financially able to  
23 do so, notwithstanding the division's diligent efforts to assist the  
24 parent or guardian in remedying the conditions[, and that  
25 additional services available from the division within program and  
26 fiscal constraints will not enable the child to be reunited with the  
27 parent or guardian]; or (e) the parent has abandoned the child; a  
28 petition, setting forth the facts in the case, may be filed with the  
29 Family Part of the Chancery Division of the Superior Court in the  
30 county where such child may be at the time of the filing of such  
31 petition. A petition as provided in this section may be filed by  
32 any person or any association or agency, interested in such child,  
33 or by the division in the circumstances set forth in items (c)  
34 [and], (d) and (e) hereof.

35 (cf: P.L.1991, c.275, s.3)

36 3. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to  
37 read as follows:

38 7. a. The division shall initiate a petition to terminate  
39 parental rights on the grounds of the "best [interest] interests of  
40 the child" pursuant to subsection (c) of section 15 of P.L.1951,  
41 c.138 (C.30:4C-15) if the following standards are met:

42 [a.] (1) The child's health and development have been or will  
43 continue to be endangered by the parental relationship;

44 [b.] (2) The parent is unwilling or unable to eliminate the harm  
45 facing the child or is unable or unwilling to provide a safe and  
46 stable home for the child and the delay of permanent placement  
47 will add to the harm. Such harm may include evidence that  
48 separating the child from his foster parents would cause serious  
49 and enduring emotional or psychological harm<sup>1</sup>to the child<sup>1</sup>;

50 [c.] (3) The division has made diligent efforts to provide  
51 services to help the parent correct the circumstances which led  
52 to the child's placement outside the home and the court has  
53 considered alternatives to termination of parental rights; and

54 [d.] (4) Termination of parental rights will not do more harm  
55 than good.

1     b. The division shall initiate a petition to terminate parental  
2 rights on the ground that the "parent has abandoned the child"  
3 pursuant to subsection (e) of section 15 of P.L.1951, c.138  
4 (C.30:4C-15) if the following standards are met:

5     <sup>1</sup>[(1) The parent has substantially failed to perform the regular  
6 and expected parental functions of care and support of the child,  
7 although able to do so; or

8     (2) The parent is unable to perform the regular and expected  
9 parental functions of care and support of the child and the  
10 parent's inability to perform those functions is unlikely to change  
11 in the immediate future.

12     (3) The regular and expected functions of care and support of a  
13 child shall include the following:

14     (a) The maintenance of a relationship with the child such that  
15 the child perceives the person as his parent;

16     (b) Communicating with the child or person having legal  
17 custody of the child and visiting the child unless visitation is  
18 impossible because of the parent's confinement in an institution,  
19 or unless prevented from so doing by the custodial parent or other  
20 custodian of the child or a social service agency over the  
21 parent's objection; or

22     (c) Providing financial support for the child unless prevented  
23 from doing so by the custodial parent or other custodian of the  
24 child or a social service agency.

25     A parent shall be presumed to have failed to perform the  
26 regular and expected parental functions of care and support of  
27 the child if the court finds that the situation set forth in  
28 paragraphs (1) or (2) has occurred for six or more months]

29     <sup>3</sup>[(1) the parent has <sup>2</sup>[willfully and without good cause]<sup>2</sup>  
30 substantially failed for a period of one year to:

31     (a) maintain regular and consistent <sup>2</sup>[contact or]<sup>2</sup> visitation  
32 with the child <sup>2</sup>[despite the division's diligent efforts to  
33 facilitate contact or visitation]<sup>2</sup>; and

34     (b) maintain regular and consistent contact with the division;  
35 and

36     (c) follow through with the division's case plan or court order  
37 if the parent is involved in litigation with the division; or

38     (2)] (1)<sup>3</sup> a court finds that for a period of six or more months:

39     (a) the parent <sup>3</sup>,although able to have contact,<sup>3</sup> has had no  
40 contact with the child, the child's foster parent or the division;  
41 and

42     (b) the parent's whereabouts are unknown, notwithstanding the  
43 division's diligent efforts to locate the parent; or

44     <sup>3</sup>[(3)] (2)<sup>3</sup> where the identities of the parents are unknown and  
45 the division has exhausted all reasonable methods of attempting  
46 identification, the division may immediately file for termination  
47 of parental rights upon the completion of the law enforcement  
48 investigation<sup>1</sup>.

49     c. As used in this section and in section 15 of P.L.1951, c.138  
50 (C.30:4C-15) "diligent efforts" mean reasonable attempts by an  
51 agency authorized by the division to assist the parents in  
52 remedying the circumstances and conditions that led to the  
53 placement of the child and in reinforcing the family structure,  
54 including, but not limited to:

- 1 (1) consultation and cooperation with the parent in developing  
2 a plan for appropriate services;  
3 (2) providing services that have been agreed upon, to the  
4 family, in order to further the goal of family reunification;  
5 (3) informing the parent at appropriate intervals of the child's  
6 progress, development and health; and  
7 (4) facilitating appropriate visitation.  
8 (cf: P.L.1991, c.275, s.7)  
9 4. This act shall take effect immediately.

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14 Clarifies conditions under which termination of parental rights  
15 may be sought.

1 custodian of the child or a social service agency over the  
 2 parent's objection; or

3 (c) Providing financial support for the child unless prevented  
 4 from doing so by the custodial parent or other custodian of the  
 5 child or a social service agency.

6 A parent shall be presumed to have failed to perform the  
 7 regular and expected parental functions of care and support of  
 8 the child if the court finds that the situation set forth in  
 9 paragraphs (1) or (2) has occurred for six or more months.

10 c. As used in this section and in section 15 of P.L.1951, c.138  
 11 (C.30:4C-15) "diligent efforts" mean reasonable attempts by an  
 12 agency authorized by the division to assist the parents in  
 13 remedying the circumstances and conditions that led to the  
 14 placement of the child and in reinforcing the family structure,  
 15 including, but not limited to:

16 (1) consultation and cooperation with the parent in developing  
 17 a plan for appropriate services;

18 (2) providing services that have been agreed upon, to the  
 19 family, in order to further the goal of family reunification;

20 (3) informing the parent at appropriate intervals of the child's  
 21 progress, development and health; and

22 (4) facilitating appropriate visitation.

23 (cf: P.L.1991,c.275, s.7)

24 4. This act shall take effect immediately.

25

26 SPONSORS' STATEMENT  
 27

28 **This** bill clarifies the conditions under which termination of  
 29 parental rights may be sought. The bill adds language to place  
 30 some limits on how often the Division of Youth and Family  
 31 Services must recontact a relative to determine potential  
 32 interest in a child.

33 **The** bill also deletes language from section 15 of P.L.1951  
 34 (C.30:4C-15) which says that "additional services available from  
 35 the division within program and fiscal constraints will not enable  
 36 the child to be reunited with the parent or guardian," as this is  
 37 contrary to the intent of the statute.

38 **The** bill also adds language to section 7 of P.L.1991, c.275  
 39 (C.30:4C-15.1) which defines what is meant by best interest of  
 40 the child to clarify that "harm to the child" may include evidence  
 41 that separating the child from his foster parents would cause  
 42 serious or enduring emotional or psychological harm. The bill  
 43 also adds an additional ground to this section that allows  
 44 termination to be sought if the parent has abandoned the child,  
 45 which is defined to be failure to "perform the regular and  
 46 expected parental functions of care and support of the child."  
 47 Regular and expected functions of care and support are defined  
 48 as the maintenance of a relationship with the child,  
 49 communication with the child and payment of support, if able to  
 50 do so.

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54 Clarifies conditions under which termination of parental rights  
 55 may be sought.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2336

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 1, 1995

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2336.

This bill clarifies the conditions under which termination of parental rights may be sought. Prior to amendment the bill added language in section 1 to place limits on how often the Division of Youth and Family Services must recontact a relative to determine potential interest in a child. The committee amendments revise this section by setting forth certain notification to be made in writing to a relative following an assessment by the division of each interested relative's ability to provide care and support.

The bill in section 2 deletes language from section 15 of P.L.1951 (C.30:4C-15) which provides that "additional services available from the division within program and fiscal constraints will not enable the child to be reunited with the parent or guardian," as this is contrary to the intent of the statute.

The bill in section 3 adds language to section 7 of P.L.1991, c.275 (C.30:4C-15.1) which defines what is meant by best interest of the child to clarify that "harm to the child" may include evidence that separating the child from his foster parents would cause serious or enduring emotional or psychological harm. The committee amendments clarify that this harm is harm to the child. The bill adds an additional ground to this section that allows termination to be sought if the parent had abandoned the child. Prior to committee amendment this was defined to be failure to "perform the regular and expected parental functions of care and support of the child." The committee amendments revise this subsection to set forth three instances in which termination on the ground of abandonment may be sought:

1) the parent has wilfully and without good cause substantially failed for a period of one year to: maintain regular contact or visitation with the child despite the division's diligent efforts to facilitate contact or visitation; and to maintain regular and consistent contact with the division; and to follow through with the division's case plan or court order if the parent is involved in litigation with the division; or

(2) a court finds that, for a period of six or more months: the parent has had no contact with the child, the child's foster parent or the division; and the parent's whereabouts are unknown, notwithstanding the division's diligent efforts to locate the parent; or

(3) where the identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification, the division may immediately file for termination of parental rights upon the completion of the law enforcement investigation.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 2336

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 1995

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2336 (2R).

This bill proposes a number of amendments to the laws governing the termination of parental rights. The following is a summary of those amendments:

1. Under present law whenever DYFS accepts custody of a child, DYFS is required to initiate a search for relatives who may be willing and able to care for the child. This bill would provide that if a relative is unwilling or unable to assume custody of a child, DYFS shall not be required to reevaluate that relative.

2. Under this bill, DYFS is required to inform the relative in writing of the reasons for its determination; of the responsibility of the relative to inform DYFS of any change in the circumstances on which the determination was made and of the possibility that termination of parental rights may occur if the child remains in foster care for more than six months. By committee amendment, language was added to this provision indicating that DYFS also inform relatives of their right to seek review by the division of any adverse determination.

3. The bill also provides that DYFS may seek termination of parental rights if DYFS determines that termination is in the best interest of the child. Reference in this provision to a change in relative's circumstances was deleted as unnecessary by committee amendment.

4. Under the provisions of N.J.S.A.30:4C-15, one of the present grounds for which DYFS may seek termination of parental rights is "harm to the child." This bill would add language providing that "harm to the child" may include evidence that separating the child from his foster parents would cause serious and enduring emotional or psychological harm to the child.

5. This bill would add to N.J.S.A. 30:4C-15, an additional ground, "abandonment of a child" for which DYFS may seek termination of parental rights. Under this bill, as amended, a parent would be deemed to have abandoned the child if:

a. A court finds that, for a period of six months: the parent has had no contact with the child, the child's foster parent or the division; and the parent's whereabouts are unknown, notwithstanding the division's diligent efforts to locate the parent; or

b. Where the identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification, the division may immediately file for termination of parental rights upon the completion of the law enforcement investigation.



Language which would have permitted DYFS to seek termination of parental rights when a parent has failed for a period of one year to maintain regular contact or visitation with the child despite DYFS's diligent efforts to facilitate contact or visitation was determined to be inappropriate and deleted by amendment.

As amended, this bill is identical to S-2203 (1R).