

## CHAPTER 286

AN ACT concerning domestic violence and amending P.L.1999, c.421 and P.L.1977, c.367.

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

1. Section 1 of P.L.1999, c.421 (C.2C:25-34) is amended to read as follows:

C.2C:25-34 Domestic violence restraining orders, central registry.

1. The Administrative Office of the Courts shall establish and maintain a central registry of all persons who have had domestic violence restraining orders entered against them, all persons who have been charged with a crime or offense involving domestic violence, and all persons who have been charged with a violation of a court order involving domestic violence. All records made pursuant to this section shall be kept confidential and shall be released only to:

- a. A public agency authorized to investigate a report of domestic violence;
- b. A police or other law enforcement agency investigating a report of domestic violence, or conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer or for any other purpose authorized by law or the Supreme Court of the State of New Jersey;
- c. A court, upon its finding that access to such records may be necessary for determination of an issue before the court; or
- d. A surrogate, in that person's official capacity as deputy clerk of the Superior Court, in order to prepare documents that may be necessary for a court to determine an issue in an adoption proceeding.

Any individual, agency, surrogate or court which receives from the Administrative Office of the Courts the records referred to in this section shall keep such records and reports, or parts thereof, confidential and shall not disseminate or disclose such records and reports, or parts thereof; provided that nothing in this section shall prohibit a receiving individual, agency, surrogate or court from disclosing records and reports, or parts thereof, in a manner consistent with and in furtherance of the purpose for which the records and reports or parts thereof were received.

Any individual who disseminates or discloses a record or report, or parts thereof, of the central registry, for a purpose other than investigating a report of domestic violence, conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer, making a determination of an issue before the court, or for any other purpose other than that which is authorized by law or the Supreme Court of the State of New Jersey, shall be guilty of a crime of the fourth degree.

2. Section 11 of P.L.1977, c.367 (C.9:3-47) is amended to read as follows:

C.9:3-47 Action on complaint for adoption of child received from approved agency.

11. a. When the child to be adopted has been received from an approved agency, the prospective parent shall file with the court a complaint for adoption after the child has been in the home of the prospective parent for at least six months. In the discretion of the approved agency, a complaint may be filed prior to that time and the court may schedule a hearing to resolve all matters except finalization of the adoption. The adoption shall not be finalized under this section unless the child has been in the home of the adoptive parent for at least six months. The complaint shall be accompanied by a consent to the plaintiff's adoption of the child signed and acknowledged by an authorized officer or representative of the approved agency; except that failure or refusal on the part of the approved agency to give consent, or withdrawal of consent on the part of the approved agency, shall not preclude an action for adoption.

b. Upon the filing of the complaint, the court shall set a date for the adoption hearing not less than 10 nor more than 30 days from the date of institution of the action unless a longer period shall be required in order to obtain service of notice upon one or more of the people entitled thereto and shall order the approved agency concerned to file at least five days prior to the hearing a written report which shall describe the circumstances surrounding the surrender of the child and shall set forth the results of the agency's evaluation of the child, the plaintiff and any other person residing in the proposed adoptive home; and the agency's assessment of the care being received by the child and the adjustment of the child and the plaintiff as members of

a family.

Upon the request of a surrogate and not more than 30 days prior to the hearing, the court shall conduct a search of the records of the central registry established pursuant to section 1 of P.L.1999, c.421 (C.2C:25-34) to determine whether a prospective adoptive parent or any member of the parent's household has:

- (1) ad a domestic violence restraining order entered against them; or
- (2) been charged with a violation of a court order involving domestic violence.

The court shall provide the results of the search to the surrogate for inclusion in the court's adoption file. If the results of the search contain any material findings or recommendations adverse to the plaintiff, the surrogate shall provide the material findings or recommendations to the approved agency.

If the agency's report contains or the results of the court's search of the central registry contain any material findings or recommendations adverse to the plaintiff, the agency shall serve a copy of that part of the agency's report or the results of the court's search upon the plaintiff at least five days prior to the hearing and the court shall appoint a guardian ad litem for the child in the adoption proceeding if the court determines that a guardian is necessary to represent the best interests of the child. If the approved agency that placed the child with the plaintiff has not consented to the adoption, the court may appoint another approved agency to conduct an investigation and make recommendations in the matter. The appointment shall not deprive the placing agency of standing to appear at the hearing and contest the adoption. Personal appearance at the hearing by a representative of the approved agency conducting the investigation may be dispensed with by the court if the agency's report favors the adoption. If an appearance is required, the approved agency shall be entitled to present testimony and to cross-examine witnesses and shall be subject to cross-examination with respect to its report and recommendations in the matter. The appearance of the child to be adopted shall not be required unless ordered by the court or unless the inquiry pursuant to section 13 of P.L.1977, c.367 (C.9:3-49) indicates that the child is opposed to the adoption.

c. The adoption hearing shall be held in camera. If a parent of the child has made an objection to the adoption, in accordance with section 10 of P.L.1977, c.367 (C.9:3-46), the court shall take evidence relating to the objection. If the court finds against the objecting parent in accordance with subsection a. of section 10 of P.L.1977, c.367 (C.9:3-46), it shall make an order terminating the parental rights of the parent and proceed with the hearing.

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

3. Section 12 of P.L.1977, c.367 (C.9:3-48) is amended to read as follows:

C.9:3-48 Action on complaint for adoption of child not received from approved agency.

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

- (1) Declare the child to be a ward of the court and declare that the plaintiff shall have custody of the child subject to further order of the court;
- (2) Appoint an approved agency to make an investigation and submit a written report to the court which shall include:

(a) the facts and circumstances surrounding the surrender of custody by the child's parents and the placement of the child in the home of the plaintiff, including the identity of any intermediary who participated in the placement of the child;

(b) an evaluation of the child and of the plaintiff and the spouse of the plaintiff if not the child's parent and any other person residing in the prospective home; and

(c) any fees, expenses or costs paid by or on behalf of the adopting parent in connection with the adoption.

The agency conducting the investigation shall, if it is able to, contact the birth parent and confirm that counseling, if required by section 18 of P.L.1993, c.345 (C.9:3-39.1), has either been provided or waived by the birth parent. If not previously provided, the agency shall advise the parent of the availability of such counseling through the agency and shall provide such counseling if requested by the birth parent or if the birth parent resides out of State or out of the country, such counseling should be made available by or through an agency approved to provide such counseling in the birth parent's state or country of domicile. The agency shall further confirm that the birth parent has been advised that the decision of the birth parent not to place the child for adoption or the return of the child to the birth parent can not be conditioned upon the repayment of expenses by the birth parent to the adoptive parent.

All expenses and fees for the investigation and any counseling provided shall be the responsibility of the plaintiff;

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

(4) Fix a day for a preliminary hearing not less than two or more than three months from the date of the filing of the complaint; except that the hearing may be accelerated upon the application of the approved agency and upon notice to the plaintiff if the agency determines that removal of the child from the plaintiff's home is required, in which case the court shall appoint a guardian ad litem to represent the child at all future proceedings regarding the adoption.

Whenever the plaintiff is a stepparent of the child, the court, in its discretion, may dispense with the agency investigation and report and take direct evidence at the preliminary hearing of the facts and circumstances surrounding the filing of the complaint for adoption.

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

(5) Conduct a search of the records of the central registry established pursuant to section 1 of P.L.1999, c.421 (C.2C:25-34), upon the request of a surrogate and not more than 30 days prior to the preliminary hearing, to determine whether a prospective adoptive parent or any member of the parent's household has:

(a) had a domestic violence restraining order entered against them; or

(b) been charged with a violation of a court order involving domestic violence.

The court shall provide the results of the search to the surrogate for inclusion in the court's adoption file. If the results of the search contain any material findings or recommendations adverse to the plaintiff, the surrogate shall provide the material findings or recommendations to the approved agency.

In a case in which the plaintiff is a stepparent of the child and the court dispenses with the agency investigation and report pursuant to paragraph (4) of this subsection and the results of the court's search contain any material findings or recommendations adverse to the plaintiff, the surrogate shall serve a copy of that part of the results of the search upon the plaintiff at least five days prior to the preliminary hearing.

b. The preliminary hearing shall be in camera and shall have for its purpose the determination of the circumstances under which the child was relinquished by his parents and received into the home of the plaintiff, the status of the parental rights of the parents, the fitness of the child for adoption and the fitness of the plaintiff to adopt the child and to provide a suitable home. If the report of the approved agency pursuant to subsection a. of this section contains or the results of the search of the central registry contain material findings or recommendations adverse to the plaintiff, the presence of a representative of the approved agency who has personal knowledge of the investigation shall be required at the preliminary hearing. If in the course of the preliminary hearing the court determines that there is lack of jurisdiction, lack of qualification on the part of the plaintiff or that the best interests of the child would not be promoted by the adoption, the court shall deny the adoption and make such further order concerning the custody and guardianship of the child as may be deemed proper in the

circumstances.

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

(1) The parents of the child do not have rights as to custody of the child by reason of their rights previously having been terminated by court order; or, the parents' objection has been contravened pursuant to subsection a. of section 10 of P.L.1977, c.367 (C.9:3-46);

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

(3) The child is fit for adoption; and

(4) The plaintiff is fit to adopt the child, the court shall: (a) issue an order stating its findings, declaring that no parent or guardian of the child has a right to custody or guardianship of the child; (b) terminate the parental rights of that person, which order shall be a final order; (c) fix a date for final hearing not less than six nor more than nine months from the date of the preliminary hearing; and (d) appoint an approved agency to supervise and evaluate the continuing placement in accordance with subsection d. of this section. If the plaintiff is a brother, sister, grandparent, aunt, uncle, birth father, stepparent or foster parent of the child, or if the child has been in the home of the plaintiff for at least two years immediately preceding the commencement of the adoption action, and if the court is satisfied that the best interests of the child would be promoted by the adoption, the court may dispense with this evaluation and final hearing and enter a judgment of adoption immediately upon completion of the preliminary hearing.

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

If at any time following the preliminary hearing the approved agency concludes that the best interests of the child would not be promoted by the adoption, the court shall appoint a guardian ad litem for the child and after a hearing held upon the application of the approved agency and upon notice to the plaintiff, may modify or revoke any order entered in the action and make such further order concerning the custody and guardianship of the child as may be deemed proper in the circumstances.

e. At the final hearing the court shall proceed in camera; except that if the approved agency in its report pursuant to subsection d. of this section has recommended that the adoption be granted, the final hearing may be dispensed with and, if the court is satisfied that the best interests of the child would be promoted by the adoption, a judgment of adoption may be entered immediately.

The appearance of the approved agency at the final hearing shall not be required unless its recommendations are adverse to the plaintiff or unless ordered by the court. If its appearance is required, the approved agency shall be entitled to present testimony and to cross-examine witnesses and shall be subject to cross-examination with respect to its report and recommendations in the matter.

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

4. This act shall take effect immediately.

Approved January 14, 2004.