

ASSEMBLY, No. 1232

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

SYNOPSIS

Requires child's religion not be changed due to foster care or adoption.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning adoption and placement in resource family
 2 homes and amending P.L.1977, c.367, P.L.1974, c.119, and
 3 P.L.1951, c.138.

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

7
 8 1. Section 4 of P.L.1977, c.367 (C.9:3-40) is amended to read
 9 as follows:

10 4. The Commissioner of Children and Families shall
 11 promulgate rules and regulations relating to the qualification of
 12 agencies for approval to make placements for adoption in New
 13 Jersey. The rules and regulations shall include, but shall not be
 14 limited to, standards of professional training and experience of
 15 staff, requirements relating to responsibilities and the character of
 16 trustees, officers or other persons supervising or conducting the
 17 placement for adoption program, adequacy of facilities,
 18 maintenance and confidentiality of casework records and furnishing
 19 of reports. The requirements relating to the character of trustees,
 20 officers or other persons supervising or conducting the placement
 21 for adoption program at the agency shall include a prohibition on
 22 engaging in, or the permitting of, any conduct that is deemed
 23 inappropriate to the purposes of the agency.

24 In the selection of adoptive parents the standard shall be the best
 25 interests of the child; and an approved agency shall not discriminate
 26 with regard to the selection of adoptive parents for any child on the
 27 basis of age, sex, race, national origin, religion or marital status
 28 provided, however, that these factors may be considered in
 29 determining whether the best interests of a child would be served by
 30 a particular placement for adoption or adoption. An agency shall,
 31 to the maximum extent practicable, place a child in an adoptive
 32 home of the same religious faith as the child, except at the written
 33 request of the child's birth parent or legal guardian.

34 If a child is placed in a home of a different religious faith as the
 35 child, the agency shall prepare a statement of the facts which
 36 impelled the placement to be made contrary to the religious faith of
 37 the child, and this statement shall be subject to inspection by the
 38 division. In such an instance, provisions shall be made for the child
 39 to attend services conducted in the child's own religious faith,
 40 receive instruction in the child's faith, and freely observe the child's
 41 faith, unless the child's birth parent or legal guardian expressly
 42 requests otherwise in writing. An agency shall include in its policy
 43 manual a policy on matters pertaining to religious observance,
 44 instruction, and training.

45 (cf: P.L.2006, c.47, s.35)

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.

1 2. Section 34 of P.L.1974, c.119 (C.9:6-8.54) is amended to
2 read as follows:

3 34. a. For the purpose of section 31 of P.L.1974, c.119 (C.9:6-
4 8.51), the court may place the child in the custody of a relative or
5 other suitable person or the division for the placement of a child
6 after a finding that the division has made reasonable efforts to
7 prevent placement or that reasonable efforts to prevent placement
8 were not required in accordance with section 24 of P.L.1999, c.53
9 (C.30:4C-11.2). Whenever a court places a child in accordance
10 with this section to a person other than a brother, sister, aunt, uncle,
11 grandparent, birth father, or stepparent, the placement shall be
12 made, to the maximum extent practicable, to the custody of a person
13 or persons of the same religious faith as that of the child, except at
14 the written request of the child's birth parent.

15 If a child is placed in a home of a different religious faith as the
16 child, the court shall prepare a statement of the facts which impelled
17 the placement to be made contrary to the religious faith of the child.
18 This statement shall be a part of the minutes of the proceeding, and
19 subject to inspection by the division. In such an instance,
20 provisions shall be made for the child to attend services conducted
21 in the child's own religious faith, receive instruction in the child's
22 faith, and freely observe the child's faith, unless the child's birth
23 parent or legal guardian expressly requests otherwise in writing.

24 b. (1) Placements under this section may be for an initial
25 period of 12 months and the court, in its discretion, may at the
26 expiration of that period, upon a hearing make successive
27 extensions for additional periods of up to one year each. The court
28 on its own motion may, at the conclusion of any period of
29 placement, hold a hearing concerning the need for continuing the
30 placement.

31 (2) The court shall conduct a permanency hearing for the child
32 no later than 30 days after placement in cases in which the court has
33 determined that reasonable efforts to reunify the child with the
34 parent or guardian are not required pursuant to section 25 of
35 P.L.1999, c.53 (C.30:4C-11.3), or no later than 12 months after
36 placement in cases in which the court has determined that efforts to
37 reunify the child with the parent or guardian are required. The
38 hearing shall include, but not necessarily be limited to,
39 consideration and evaluation of information provided by the
40 division and other interested parties regarding such matters as those
41 listed in subsection c. of section 50 of P.L.1999, c.53 (C.30:4C-
42 61.2).

43 (3) The court shall review the permanency plan for the child
44 periodically, as deemed appropriate by the court, to ensure that the
45 permanency plan is achieved.

1 c. No placement may be made or continued under this section
2 beyond the child's eighteenth birthday without **【his】** the child's
3 consent.

4 d. If the parent or person legally responsible for the care of any
5 such child or with whom such child resides receives public
6 assistance and care, any portion of which is attributable to such
7 child, a copy of the order of the court providing for the placement
8 of such child from **【his】** the child's home shall be furnished to the
9 appropriate county welfare board, which shall reduce the public
10 assistance and care furnished to such parent or other person by the
11 amount attributable to such child.

12 (cf: P.L.1999, c.213, s.2)

13

14 3. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to
15 read as follows:

16 26. a. Whenever the circumstances of a child are such that **【his】**
17 the child's needs cannot be adequately met in **【his】** the child's own
18 home, the division may effect **【his】** the child's placement in a
19 resource family home, with or without payment of board, in a group
20 home, or in an appropriate institution if such care is deemed
21 essential for **【him】** the child. The division shall **【make every**
22 **reasonable effort to】** , to the maximum extent practicable, select a
23 resource family home, a group home or an institution of the same
24 religious faith as the **【parent or parents of such】** child , except at
25 the written request of the child's birth parent or legal guardian.

26 If the child is placed in a resource family home, group home, or
27 an institution of a different religious faith as the child, the division
28 shall prepare a statement of the facts which impelled the placement
29 to be made contrary to the religious faith of the child, and this
30 statement shall be incorporated with the placement plan for the
31 child required by section 6 of P.L.1977, c.424 (C.30:4C-55). In
32 such an instance, provisions shall be made for the child to attend
33 services conducted in the child's own religious faith, receive
34 instruction in the child's faith, and freely observe the child's faith,
35 unless the child's birth parent or legal guardian expressly requests
36 otherwise in writing. The division shall include in its policy manual
37 a policy on matters pertaining to religious observance, instruction,
38 and training.

39 b. Whenever the division places any child, as provided by this
40 section, in any municipality and county of this State, the child shall
41 be deemed a resident of such municipality and county for all
42 purposes except school funding, and **【he】** the child shall be entitled
43 to the use and benefit of all health, recreational, vocational and
44 other facilities of such municipality and county in the same manner
45 and extent as any other child living in such municipality and
46 county.

1 c. Whenever the division shall place any child, as provided by
2 this section, in any school district, the child shall be entitled to the
3 educational benefits of the district determined pursuant to section 3
4 of P.L.2010, c.69 (C.30:4C-26b); provided, however, that the
5 district of residence, as determined by the Commissioner of
6 Education pursuant to law, shall be responsible for paying, as
7 applicable, tuition and transportation costs for such child to the
8 district in which **[he]** the child is placed.

9 d. No municipality shall enact a planning or zoning ordinance
10 governing the use of land by, or for, single family dwellings which
11 shall, by any of its terms or provisions or by any rule or regulation
12 adopted in accordance therewith, discriminate between children
13 who are members of such single families by reason of their
14 relationship by blood, marriage or adoption, children placed with
15 such families in such dwellings by the division or other entity
16 designated by the Commissioner of Children and Families, and
17 children placed pursuant to law with families in single family
18 dwellings known as group homes.

19 Any planning or zoning ordinance, heretofore or hereafter
20 enacted by a municipality, which violates the provisions of this
21 section, shall be invalid and inoperative.

22 (cf: P.L.2010, c.69, s.2)

23

24 4. This act shall take effect immediately.

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27 STATEMENT

28

29 This bill requires that a private adoption agency, a court, or the
30 Division of Child Protection and Permanency maintain the
31 continuity of a child's religious upbringing when placing a child in
32 the custody of a guardian, into foster care, or into an adoptive
33 home, so far as maintaining the continuity of the child's religious
34 upbringing is possible.

35 The bill permits agencies and courts to place a child in a setting
36 of a different religion only in the case of a written statement from
37 the child's birth parent or legal guardian, or in the case that such a
38 placement is not feasible or not in the child's best interest, in which
39 case a written statement is required that explains the placement
40 decision. In such cases, the bill requires that provisions be made
41 for the child to continue the his religious observance, education, and
42 training in the new setting.

43 A child's religious and cultural backgrounds are significant
44 aspects of determining the best interests of the child. The
45 placement of a child into foster care or into the adoption process
46 should be consistent with the child's religious and cultural
47 backgrounds unless it is proven by clear and convincing evidence

1 that such placement is not in keeping with the analysis of the best
2 interests of the child. The religion of a child should not be changed
3 irrespective of the placement into foster care or into the adoption
4 process. Reasonable, but tangible, effort should be made by an
5 agency or court placing a child in an adoptive home, a resource
6 family home, or the custody of any person or institution to ensure
7 the continuity of the child's religious upbringing.