ASSEMBLY, No. 3298

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
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District 37 (Bergen)
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SYNOPSIS

Requires resource family parent, relative, preadoptive parent, or caretaker to be party to reviews or hearings involving a child under the Division of Child Protection and Permanency in the Department of Children and Families' care.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 8/10/2020)

AN ACT concerning resource family care and amending P.L.1999, c.53 and P.L.1977, c.424.

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

1. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as follows:

3. In any case in which the Division of Child Protection and Permanency accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of, **[**and**]** shall have a right to be heard at, and shall be made party to, any review or hearing held with respect to the child**[**, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and right to be heard**]**.

(cf: P.L.2012, c.16, s.17)

2. Section 5 of P.L.1999, c.53 (C.9:6-8.19a) is amended to read as follows:

5. In any case in which the Division of Child Protection and Permanency accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of **[**and**]**, have an opportunity to be heard at, and shall be made party to, any review or hearing held with respect to the child**[**, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and opportunity to be heard**]**.

(cf: P.L.2012, c.16, s.30)

3. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to read as follows:

28. In any case in which the Division of Child Protection and Permanency accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of, **[**and**]** shall have a right to be heard at, and shall be made party to, any review or hearing held with respect to the child**[**, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and right to be heard**]**.

(cf: P.L.2012, c.16, s.64)

4. Section 5 of P.L.1977, c.424 (C.30:4C-54) is amended to read as follows:

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.

5. The court shall, within 15 days following receipt of the notice of the initial placement pursuant to a voluntary agreement, determine, based solely upon the petition and other affidavits and written materials submitted to the court, whether or not reasonable efforts have been made to prevent the placement and whether or not the continuation of the child in his home would be contrary to the welfare of the child, and either approve the placement or order the return of the child to his home, except that, lack of reasonable efforts to prevent placement shall not be the sole basis for the court's order of a return of the child to his home.

If the division has documented an exception to the requirement to provide reasonable efforts towards family reunification, the court shall make a finding of whether reasonable efforts are required in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). The child's health, safety, and need for permanency shall be of paramount concern to the court when it makes its finding.

The court also may require the submission of supplementary material or schedule a summary hearing if:

a. The court has before it conflicting statements of material fact;

b. The court determines that it is in the best interest of the child; or

c. The child's parents or legal guardian requests the hearing.

The court shall provide written notice to the parties involved in the hearing at least five days prior to the hearing. The court shall provide written notice of the date, time and place of **[**such**]** the hearing to the parents or legal guardian of the child, the child or the child's counsel, the child's temporary caretaker, the division, and any other party the court deems appropriate. If the child's caretaker is a resource family parent, preadoptive parent, or relative, the caretaker shall receive written notice of, **[**and**]** shall have a right to be heard at, and shall be made a party to, the hearing**[**, but the caretaker shall not be made a party to the hearing solely on the basis of the notice and right to be heard**]**.

(cf: P.L.2007, c.228, s.5)

5. Section 10 of P.L.1977, c.424 (C.30:4C-59) is amended to read as follows:

10. Each board shall provide written notice of the date, time and place of each review at least 15 days in advance to the following, each of whom shall be entitled to attend the review and to submit information in writing to the board:

a. The division or agency;

b. The child;

c. The parents including a non-custodial parent or legal guardian;

d. The temporary caretaker;

e. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child;

f. The counsel for a parent, child, or other interested party who has provided or is providing representation in the case before the board; and

If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of, [and] shall have a right to be heard at, and shall be made party to, the review[, but the caretaker shall not be made a party to the review solely on the basis of the notice and right to be heard]. The board may determine who may be in attendance at any particular portion of its meeting. Nothing herein shall be interpreted to exclude judges and court support staff from attending review board meetings.

The written notice shall inform the person of his right to attend the review and to submit written information and shall be prepared in a manner which will encourage the person's attendance at the review.

Notice to the child may be waived by the court on a case by case basis either on its own motion or on the petition of any of the above persons in cases where the court determines that notice would be harmful to the child. A waiver of notice to the child shall not waive the notice requirement to counsel for the child or other representatives of the child.

The review board may seek information from any agency which has been involved with the child, parents or legal guardian, or temporary caretaker. If the agency fails to provide the requested information, the court may, upon the request of the board, issue a [subpena] subpoena to the agency for the information.

The board shall conduct a review and make recommendations based upon the written materials; provided, however, that the board shall afford any party or person entitled to notice pursuant to this section a reasonable opportunity to appear and to present his views and recommendations. Upon the request of the board, the Family Part of the Chancery Division of the Superior Court may [subpena] subpoena a person to attend the review board meeting.

A designated agency shall provide relevant and necessary information to the board regarding a child who is reviewed by the board.

(cf: P.L.2007, c.228, s.6)

6. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to read as follows:

12. a. Upon review of the board's report, the Family Part of the Chancery Division of the Superior Court shall issue an order concerning the child's placement which it deems will best serve the health, safety, and interests of the child. The court shall issue the order within 21 calendar days of the court's receipt of the board's

report unless the court schedules a summary hearing. The court shall either:

(1) Order the return of the child to his parents or legal guardian within two weeks and order the division or designated agency, as appropriate, to provide any reasonable and available services which are necessary to implement the return home;

(2) Order continued placement on a temporary basis until the long-term goal is achieved; or

(3) Order continued placement on a temporary basis but that the division shall provide further information within two weeks to the court, which information shall be reviewed by the board within 30 days of its receipt.

(4) (Deleted by amendment, P.L.1987, c.252.)

In accordance with section 8 of P.L.1984, c.85 (C.30:4C-61.1), the court may order that the division shall not return a child to his home prior to review by the board and an order of the court. In addition, if the placement plan does not satisfy the criteria of section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that the placement plan be modified or that a new plan be developed within 30 days.

b. In reviewing the report, the court may request that, where available, any written or oral information submitted to the board be provided to the court. The court shall make a determination based upon the report and any other information before it; provided, however, that the court may schedule a summary hearing if:

(1) The court has before it conflicting statements of material fact which it cannot resolve without a hearing; or

(2) A party entitled to participate in the proceedings requests a hearing; or

(3) The court concludes that the interests of justice require that a hearing be held; or

(4) The board recommends that a hearing be held due to lack of compliance with the placement plan, including achievement of the permanent placement identified in the permanency plan; or

(5) The division has documented an exception to the requirement to provide reasonable efforts toward family reunification pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

(6) If the review is to serve as a permanency hearing.

c. Notice of such hearing, including a statement of the dispositional alternatives of the court, shall be provided at least 30 days in advance, unless the court finds that it is in the best interest of the child to provide less notice in order to conduct the hearing sooner. Notice shall be provided to the following persons unless the court determines it is not in the best interests of the child:

(1) The division;

(2) The child;

(3) The child's parents including a non-custodial parent or legal guardian;

(4) The review board;

(5) The temporary caretaker;

(6) The counsel for any parent, child, or other interested party who has provided or is providing representation in the case before the board; and

(7) If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of, [and] shall have a right to be heard at, and shall be made party to, the hearing[, but the caretaker shall not be made a party to the hearing solely on the basis of the notice and right to be heard].

The court may also request or order additional information from any other persons or agencies which the court determines have an interest in or information relating to the welfare of the child.

The court shall hold the hearing within 60 days of receipt of the board's report and shall issue its order within 15 days of the hearing.

d. The court shall send a copy of its order concerning the child's placement to all persons listed in subsection c. of this section, except that, if notice to the child of the board review was waived pursuant to section 10 of P.L.1977, c.424 (C.30:4C-59), the court may waive the requirement of sending a copy of its order to the child.

e. Any person who receives a copy of the court order shall comply with the confidentiality requirements established by the Supreme Court for the purposes of this act.

(cf: P.L.2007, c.228, s.7)

7. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to read as follows:

50. a. A permanency hearing shall be held that provides review and approval by the court of the placement plan:

(1) within 30 days after the determination of an exception to the reasonable effort requirement to reunify the child with the parent in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

(2) no later than 12 months after the child has been in placement.

b. Written notice of the date, time and place of the permanency hearing shall be provided at least 15 days in advance to the following, each of whom shall be entitled to attend the hearing and to submit written information to the court:

(1) the division or agency;

(2) the child;

(3) the parents, including a non-custodial parent or legal guardian;

(4) the temporary caretaker;

(5) any other person or agency whom the court determines has an interest in or information relating to the welfare of the child;

(6) the counsel for a parent, child, or other interested party who has provided or is providing representation in the case before the court; and

(7) the child's resource family parent or relative providing care for the child shall also receive written notice of, [and] shall have a right to be heard at, and shall be made party to, the hearing[, but the resource family parent or relative shall not be made a party to the hearing solely on the basis of the notice and right to be heard].

c. The hearing shall include, but not necessarily be limited to, consideration and evaluation of information provided by the division and other interested parties regarding such matters as:

(1) a statement of the goal for the permanent placement or return home of the child and the anticipated date that the goal will be achieved;

(2) the intermediate objectives relating to the attainment of the goal;

(3) a statement of the duties and responsibilities of the division, the parents or legal guardian, and the temporary caretaker, including the services to be provided by the division to the child and to the temporary caretaker;

(4) a statement of the services to be provided to the parent or legal guardian or an exception to the requirement to provide reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an alternative permanent placement may be provided concurrently with services to reunify the child with the parent or guardian;

(5) a permanency plan which includes whether and, if applicable, when:

(a) the child shall be returned to the parent or guardian, if the child can be returned home without endangering the child's health or safety;

(b) the division has determined that family reunification is not possible and the division shall file a petition for the termination of parental rights for the purpose of adoption; or

(c) the division has determined that termination of parental rights is not appropriate in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3) and the child shall be placed in an alternative permanent placement.

d. If the court approves a permanency plan for the child, the court shall make a specific finding of the reasonable efforts made thus far by the division and the appropriateness of the reasonable efforts to achieve the permanency plan.

(cf: P.L.2007, c.228, s.8)

8. This act shall take effect immediately.

STATEMENT

This bill amends various sections of P.L.1999, c.53 and P.L.1977 c.424 to require that a resource family parent, relative, preadoptive parent, or temporary caregiver, as applicable, providing care to a child under the care or custody of the Division of Child Protection and Permanency in the Department of Children and Families, be made party to any review or hearing held in regard to the child. Currently, a resource family parent, relative, preadoptive parent, or temporary caregiver can receive written notice of, and be heard at, any review or hearing in regard to the child but is not allowed to be made a party to the review or hearing.