

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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Directive # 7-06

To: Assignment Judges

From: Philip S. Carchman, J.A.D.

**Subj: Family -- (1) Agency Investigations in Stepparent Adoptions;
(2) Timing of Background Checks in All Adoptions; (3)
Implementation Plan**

Date: May 8, 2006

At its May 1, 2006 Administrative Conference, the Supreme Court considered and made determinations on two items relating to adoptions: (1) whether to require agency investigations in all stepparent adoptions, and (2) the appropriate timing of the various background checks in all adoptions. As set forth below, the Court made both determinations on the recommendation of the Judicial Council. The determinations by the Court shall become effective September 1, 2006.

Agency Investigations in Stepparent Adoptions

The Court concluded that in all stepparent adoptions, the courts should review the Criminal History Record Information ("CHRI") fingerprint background checks, Child Abuse Record Information ("CARI") background checks, and domestic violence ("DV") registry checks. The CHRI, CARI, and DV registry checks must be performed on each adoptive applicant and on all persons residing in the adoptive applicant's home who are 18 years of age and older. Hard copies of these checks must be provided to the court when the adoption complaint is filed. If the CHRI, CARI or DV registry check reveals any criminal activity, child abuse, or domestic violence history, then the court may order an agency investigation and report.

N.J.S.A. 9:3-48 ("Action on Complaint for Adoption: Child Not Received from Approved Agency") states in part:

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: ... (2) Appoint an approved agency to make an investigation and submit a written report to the court

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. [N.J.S.A. 9:3-48(a).]

Dispensing with the agency investigation altogether in stepparent adoptions may put children at risk. Applying a narrow interpretation of that statute by requiring an agency investigation in all cases would provide children in stepparent adoptions with the highest level of protection, but at the cost of a slower adoption process and potentially impeding stepparents from adopting children. However, by using CHRI, CARI and DV registry checks to screen a case before ordering a full agency investigation and report, a significant level of protection is provided to an adoptive child without causing excessive delay. This approach should provide protection for children without creating an undue burden on the adoption process. This policy should not be read as limiting a court from ordering a full investigation at any time in the process, regardless of the results of the checks, if the court determines that a full investigation is necessary.

Timing of Background Checks in All Adoptions

Pursuant to N.J.S.A. 9:3-37, the adoption statute "shall be liberally construed to the end that the best interests of children be promoted and that the safety of children be of paramount concern." This statutory provision provides the courts with broad powers to promote the best interests and safety of the children who might be adopted in New Jersey. Thus, while the New Jersey Administrative Code (N.J.A.C. 10:121A-5.6(h)) provides for criminal background checks (CHRI) to be performed within 36 months of the adoption filing date and child abuse checks (CARI) within 18 months of filing, in order to provide maximum protection to adoptive children the CHRI and CARI checks must be as current as possible in all adoptions. Accordingly, it shall be Judiciary policy that CHRI and CARI checks in adoptions, whether part of the agency's home study services in an agency adoption or in a private adoption, must be conducted 12 months or less prior to the date of filing of the adoption complaint. Those checks must be filed with the adoption complaint.

Additionally, Family Division staff and Surrogate's Office staff (depending on which office has case management responsibility for adoptions in a particular county), at

the time of filing of the adoption complaint (whether it originated from the Division of Youth and Family Services or is from a private party), shall use available automated systems to conduct a name check of the Domestic Violence Registry, and updated name checks of the PROMIS-Gavel (criminal) and DYFS SIS (child abuse) databases. If these searches reveal any criminal activity, child abuse history, or domestic violence history, the court must be so advised immediately. Further, at the time of the adoption hearing, staff shall again update the criminal name check (using PROMIS-Gavel) and, in the discretion of the judge, may update the domestic violence check (using the DV Registry) and may again update the child abuse check (using DYFS SIS).

The Administrative Director will advise the Commissioner of the Department of Human Services of these policies by providing the Commissioner with a copy of this Directive.

Implementation of This Directive

As noted earlier, the management of adoption cases in some counties is the responsibility of Family Division staff and in other counties it is the responsibility of the Surrogate's Office staff. In view of that split of responsibility on a statewide basis, it is important that the Assignment Judges ensure that appropriate steps are taken in their respective vicinages to implement the provisions of this Directive. I would thus ask that each Assignment Judge provide me with a brief implementation plan in writing by June 1, 2006, in particular as to which component of the Judiciary will be taking which implementation steps.

P.S.C.

cc: Chief Justice Deborah T. Poritz
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