

NOTICE TO THE BAR

Proposed Amendment to Rule 5:10-4 -- Proposed Revised Notices of Rights in an Adoption Proceeding – Comments Sought

This Notice publishes for written comment a proposed amendment to R. 5:10-4 and revisions to forms contained in the Report of the Supreme Court Family Practice Committee on Legal Representation for Indigent Birth Parents in Contested Adoptions. That report was previously published by October 12, 2016 notice and can be found at <http://www.judiciary.state.nj.us/notices/2016/n161012c.pdf>.


The proposed new subparagraph (b)(3) to R. 5:10-4 (published with this notice) is intended to memorialize the current practice and add to that practice the procedure relating to the two new Notice of Rights in Adoption Proceeding forms, one for use in a non-agency placement and the other for use in an agency placement (both forms also published with this notice). In adoption matters, after the court executes the order fixing a date for preliminary or final hearing in private placement adoptions, the County Surrogate returns the executed order to the plaintiff so that the plaintiff may notice the birth parent of the adoption and hearing date. Pursuant to proposed R. 5:10-4(b)(3), the County Surrogate would append to the court's order fixing the hearing date in the private placement adoptions a form promulgated by the Administrative Director of the Courts informing the child's parents of the procedure to object to the adoption, the right to counsel and how to apply for a court-appointed attorney. The signed order and form would be returned to the plaintiff in this manner for service of the form and notice of the hearing on the child's parents.

Please send any comments on this report and its recommendations in writing **by Friday, April 28, 2017** to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments – Indigent Birth Parents in Adoptions
Hughes Justice Complex, P.O. Box 037
Trenton, NJ 08625-0037

Comments may also be submitted by e-mail to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by email should include their name and email address. Comments submitted in response to this notice are subject to public disclosure.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: March 24, 2017

Rule 5:10-4. Surrogate Action

(a) Review of Complaint Prior to Docketing. . . no change.

(b) Jurisdiction.

(1) Upon the filing of a complaint for the adoption of a child, if it appears therefrom that there is jurisdiction and that each plaintiff is qualified, as required by statute, and that the complaint is substantially complete in all respects, the complaint shall be docketed. At the time of docketing, the Surrogate's staff shall conduct a party look-up in the Judiciary case management system to determine if any of the parties exist in the court's system. If a party exists in the system, the party's demographic information shall be copied into the adoption case using the process in the Judiciary's case management system.

(2) The court shall fix a day for preliminary or final hearing as provided by statute. The Surrogate shall provide the entire adoption file to the court for review no later than five business days before the first adoption proceeding.

(3) Upon the court fixing a day for preliminary or final hearing in private placement adoptions, the Surrogate shall append to the court's order a form promulgated by the Administrative Director of the Courts informing the child's parents of the procedure to object to the adoption, the right to legal counsel and how to apply for a court-appointed attorney. The signed order and form shall be returned to the plaintiff for service of the form and notice of the hearing on the child's parents pursuant to N.J.S. 9:3-45.

[(3)] (4) If there is a lack of jurisdiction or lack of qualification on the part of a plaintiff the court shall dismiss the complaint forthwith. If a complaint is not substantially

complete in all respects, the court shall order the plaintiff to file an amended complaint or shall dismiss the complaint without prejudice, as the situation requires.

Note: Source - R. (1969) 4:94-3. Adopted December 20, 1983, to be effective December 31, 1983; caption amended, former text redesignated as paragraph (b), paragraph (b) caption adopted, paragraph (b) amended, and new paragraph (a) adopted July 21, 2011 to be effective September 1, 2011; former subparagraph (b)(3) redesignated as subparagraph (b)(4) and new subparagraph (b)(3) adopted _____ to be effective _____.

NOTICE OF RIGHTS IN ADOPTION PROCEEDING
(Non-Agency Placement)

You should speak with an attorney about completing this form.

You have been identified as the parent of _____ (name of child), born on _____, 20__ at _____ (location of birth). This child is the subject of an adoption proceeding as set forth in the attached notice. If _____ (name of child) is adopted, you will **permanently** lose your parental rights to _____ (name of child).

You have the RIGHT TO OBJECT to the adoption of _____ (name of child) by completing this form. If you do not object to the adoption, you will **permanently** lose your parental rights to _____ (name of child). Once the adoption is finalized, any promises made by the adoptive parents for future contact or information about _____ (name of child) are not enforceable in court.

HOW TO OBJECT TO THIS ADOPTION

Step 1 – Check this box:

I object to this adoption.

Step 2 – Immediately file this form with the _____ County Surrogate at _____ (address).

If you do not file this form objecting to the adoption, this will be the last notice you receive about the adoption.

RIGHT TO COUNSEL

You have the right to be represented by an attorney.

If you can afford an attorney but do not know one, you may call the Lawyer Referral Services of your local county Bar Association at _____.

Free legal advice may be available by contacting the New Jersey Legal Services system through the Legal Services of New Jersey Statewide Hotline, at LSNJLawHotline.org or 1-888-LSNJ-LAW (1-888-576-6529).

If you cannot afford an attorney and are qualified as indigent, the court will appoint an attorney from the Office of the Public Defender to represent you in the adoption proceeding.

HOW TO APPLY FOR A COURT-APPOINTED ATTORNEY

Step 1 – Check this box

I want to apply for a court-appointed attorney.

Step 2 – Complete the attached Application for Assignment of Counsel form.

Step 3 - File this form and Application for Assignment of Counsel form with the _____ County Surrogate at _____ (address).

You will be notified by the court about your application for a court-appointed attorney from the Office of the Public Defender.

SIGNATURE

I have completed this form by checking the above boxes that apply to my situation.

Signature: _____

Date: _____

Print name: _____

**NOTICE OF RIGHTS IN ADOPTION PROCEEDING
(Agency Placement)**

You should speak with an attorney about completing this form.

You have been identified as the parent of _____ (name of child), born on _____, 20__ at _____ (location of birth). _____ (name of child) has been placed for adoption through _____ (adoption agency). If _____ (name of child) is adopted, you will **permanently** lose your parental rights to _____ (name of child).

You have the RIGHT TO OBJECT to the adoption of _____ (name of child) by completing this form. If you do not object to the adoption, you will **permanently** lose your parental rights to _____ (name of child). Once the adoption is finalized, any promises made by the agency or adoptive parents for future contact or information about _____ (name of child) are not enforceable in court.

HOW TO OBJECT TO THIS ADOPTION

Step 1 – Check this box:

I object to this adoption.

Step 2 – File this form with the _____ County Surrogate at _____ (address) within

- a. 20 days of receiving this notice if you live in New Jersey, or
- b. 35 days of receiving this notice if you live outside of New Jersey.

If you do not file this form objecting to the adoption, this will be the last notice you receive about the adoption.

RIGHT TO COUNSEL

You have the right to be represented by an attorney.

If you can afford an attorney but do not know one, you may call the Lawyer Referral Services of your local county Bar Association at _____.

Free legal advice may be available by contacting the New Jersey Legal Services system through the Legal Services of New Jersey Statewide Hotline, at LSNJLawHotline.org or 1-888-LSNJ-LAW (1-888-576-6529).

If you cannot afford an attorney and are qualified as indigent, the court will appoint an attorney from the Office of the Public Defender to represent you in the adoption proceeding.

HOW TO APPLY FOR A COURT-APPOINTED ATTORNEY

Step 1 – Check this box

I want to apply for a court-appointed attorney.

Step 2 – Complete the attached Application for Assignment of Counsel form.

Step 3 - File this form and Application for Assignment of Counsel form with the _____ County Surrogate at _____ (address).

You will be notified by the court about your application for a court-appointed attorney from the Office of the Public Defender.

HOW TO CONSENT TO THIS ADOPTION

If you consent to this adoption, you may do nothing and the adoption will go forward uncontested.

If you consent to this adoption, you may sign a voluntary surrender form. You should contact the adoption agency for the form. The agency's telephone number is: _____. The adoption agency will provide you with instructions on how to complete the form. A voluntary surrender form cannot be withdrawn after it is signed.

RIGHT TO COUNSELING SESSIONS

If you are considering signing a voluntary surrender form, you are entitled to three face-to-face counseling sessions on three separate days with a social worker before you sign the form.

Do you wish to go through counseling?

Yes, I want to go through counseling

No, I do not want to go through counseling

IF YOU ARE NOT THE PARENT OF THIS CHILD

If you deny that you are a parent of this child, you may do nothing and the adoption will go forward uncontested.

If you deny that you are a parent of this child, you may sign a denial of parentage form. You should contact the adoption agency for this form. The adoption agency will provide you with instructions on how to complete it.

SIGNATURE

I have completed this form by checking the above boxes that apply to my situation.

Signature: _____

Date: _____

Print name: _____