

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

**PHILIP S. CARCHMAN, J.A.D.
ACTING ADMINISTRATIVE DIRECTOR
OF THE COURTS**



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[Questions or comments may
be directed to 609- 984-4228.]

**DIRECTIVE # 17-06
[SUPERSEDES DIRECTIVE # 7-06]**

To: ASSIGNMENT JUDGES

From: PHILIP S. CARCHMAN, J.A.D.

**Subj: ADOPTIONS -- (1) AGENCY INVESTIGATIONS IN STEPPARENT ADOPTIONS;
(2) TIMING OF BACKGROUND CHECKS IN ALL ADOPTIONS; (3) IMPLEMENTATION
PLANS**

Date: AUGUST 28, 2006

Directive #7-06 (issued May 8, 2006) promulgated the Supreme Court's 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. The Court had made those determinations at its May 1, 2006 administrative conference. That Directive requested that the vicinages submit written plans to implement those determinations, which were to become effective September 1, 2006.

However, during the development of vicinage implementation plans and the review of those implementation plans, a number of necessary procedural refinements to the Directive's provisions became apparent. This Directive reflects those several refinements and, as such, supersedes Directive #7-06. Because of those changes, the effective date of these provisions has been extended to October 15, 2006.

Each vicinage by October 1, 2006 should submit to me a brief implementation plan or report indicating how the vicinage will effectuate the procedures provided for in this superseding directive. Those vicinages that previously had submitted an implementation plan in response to Directive #7-06 may simply provide me with an update to that report.

AGENCY INVESTIGATIONS IN STEPPARENT ADOPTIONS

The Court concluded that in all stepparent adoptions, the courts should review three separate information checks. Those checks are the Criminal History Record Information ("CHRI") fingerprint background checks, the Division of Youth and Family

Services (DYFS) system name checks, and the Domestic Violence (“DV”) Registry checks. The CHRI check, the DYFS system name check, and the DV Registry check 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. Stepparents seeking to adopt their stepchildren must follow the procedures established by the New Jersey State Police (NJSP) and the Federal Bureau of Investigation (FBI) for obtaining criminal history background checks of all adult members in their households. Those NJSP/FBI procedures are attached.

All CHRI checks must be dated 12 months or less before the filing date of the adoption complaint and must be submitted by the stepparent with the adoption complaint. Upon the stepparent's filing of the adoption complaint, the County Surrogate's Office either will conduct the required DV registry checks and DYFS system name checks or will provide a copy of the complaint to the court to enable court staff to perform these two checks. The judge will consider the results of the CHRI check, the DYFS name check, and the DV registry check in determining whether to order or waive an agency investigation. If those checks reveal any criminal activity, child abuse, or domestic violence, the judge must be so advised immediately and may order a full or limited agency investigation and report. The investigation and report will include Child Abuse Record Information (“CARI”) background checks.

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 checks, DYFS system name checks, and DV registry checks to screen a case before ordering an 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 checks in adoptions, whether part of the agency's home study services in an agency adoption or in a private adoption, must be dated 12 months or less before the filing date of the adoption complaint.

In a private adoption through an approved adoption agency or in an adoption through the Division of Youth and Family Services, the agency must have conducted the CHRI and CARI checks 12 months or less before the filing date of the adoption complaint. Upon the filing of the adoption complaint, court staff will conduct the DV check pursuant to N.J.S.A. 9:3-47.b. In a private adoption not through an approved adoption agency (exclusive of stepparent adoptions), after the filing of the adoption complaint, the court shall appoint an approved adoption agency to conduct an investigation and report, which shall include the CHRI and CARI checks. Court staff will conduct the DV registry check pursuant to N.J.S.A. 9:3-48.a(5).

As to a relative adoption (that is, where the plaintiff is a brother, sister, grandparent, aunt, uncle, or birth father of the child), the statute provides for a limited investigation, described as "an inquiry concerning the status of the parents of the child and an evaluation of the plaintiff." N.J.S.A. 9:3-48.a(4). Such investigation should include, but not be limited to, a CHRI fingerprint check, a CARI check and a DV registry check on the relative.

For purposes of this directive, domestic partners as defined in N.J.S.A. 26:8A-1 et seq. are treated the same as stepparents.

A judgment of adoption entered in a country other than the United States will not require a complaint to be filed in New Jersey as long as the adopting parent is a resident of New Jersey and the United States Citizenship and Immigration Services office has verified the adoption by granting an IR-3 immigrant visa. N.J.S.A. 9:3-43.1.

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 system (child abuse) databases. If these searches reveal any recent criminal activity, child abuse, or domestic violence, the judge 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 the DYFS system).

Implementation Plans

The Administrative Director will advise the Commissioner of the Department of Children and Families of the policies set forth herein by providing the Commissioner with a copy of this Superseding Directive.

As noted above, the effective date of this Superseding Directive is October 15, 2006. Also as noted, each vicinage by October 1, 2006 should submit to me a brief implementation plan or report indicating how the vicinage will effectuate the procedures provided for herein. Those vicinages that previously had submitted an implementation plan in response to now-superseded Directive #7-06 may simply provide me with an update to that plan.

Attachment

cc: Chief Justice Deborah T. Poritz
Family Presiding Judges
Surrogates
Kevin M. Ryan, Commissioner, DCF
Eileen Crummy, Director, DYFS
Theodore J. Fetter, Deputy Admin. Director
AOC Directors and Assistant Directors
Trial Court Administrators
Family Division Managers
Joanne M. Dietrich, Chief, Family Practice Division
Kevin M. Wolfe, Chief, Civil Practice Division
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

Stepparent Adoptions

Procedures to Apply for Criminal History Background Checks

1. The stepparent and other adults in the household should make an appointment to go to police department of township of residence.
 - a. You can use the FBI fingerprint card from www.fbi.gov website for the federal check. For specific instructions, go to <http://www.fbi.gov/hq/cjisd/fprequest.htm>
 - b. Contact State Police State Bureau of Investigation (SBI) to obtain State Applicant Fingerprint Card.
 - c. Go to police department to get fingerprinted on the two fingerprint cards (federal card and State Police card).

2. **State Check (www.njsp.org)**
 - a. Required materials:
 - original completed fingerprint card,
 - \$30 money order or certified check payable to State of New Jersey,
 - cover letter
 - b. Cover letter must contain the purpose of the request (Adoption), the applicant's name, signature, telephone number and mailing address to receive the background check.
 - c. Mail (with Delivery Confirmation) all required items to:
Division of State Police
Attn: CIU
PO Box 7068
West Trenton, NJ 08628-0068
 - d. Typical turnaround time is five to ten working days.

3. **FBI Check (www.fbi.gov)**
 - a. Required materials:
 - original completed fingerprint card,
 - \$18 money order or certified check payable to US Treasury,
 - cover letter
 - b. Cover letter must contain the purpose of the request (Adoption), the applicant's name, signature, telephone number and mailing address to receive the background check. If an attorney is requesting the check for the adoptive parent, the adoptive parent must sign the cover letter and his/her signature must be notarized. (You can use the form letter from the www.fbi.gov website)
 - c. On both sides of the envelope, write in large letters: "ADOPTION"
 - d. Mail (with Delivery Confirmation) all required items to:
FBI Record Request

**1000 Custer Hollow Rd.
Clarksburg, WV 26306**

- e. Typical turnaround time is 10-12 **weeks**. (If you wrote "ADOPTION" on the envelope as indicated above, then turnaround time could be three to four weeks.)