S T A T E O F N E W Y O R K

5092

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. V. LOPEZ -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to requirements for the consent of the father of a child born out of wedlock to the adoption of such child

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (e) of subdivision 1 of section 111 of the domestic relations law, as added by chapter 575 of the laws of 1980, is amended to read as follows:

(e) Of the father, whether adult or infant, of a child born out-of-wedlock who is under the age of six months at the time he is placed [for adoption] IN THE HOME OF ADOPTIVE PARENTS, but only if: (i) [such father openly lived with the child or the child's mother for a continuous period of six months immediately preceding the placement of the child for adoption; and (ii) such father openly held himself out to be the father of such child during such period; and (iii)] such father paid a fair and reasonable sum, in accordance with his means, for the medical, hospital and nursing expenses incurred in connection with the mother's pregnancy or with the birth of the child AND TOWARD THE SUPPORT OF THE CHILD DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE PLACEMENT OF THE CHILD FOR ADOPTION OR OFFERS TO PAY SUCH SUM PROMPTLY THEREAFTER. SUCH OFFER TO PAY MAY BE INCLUDED WITH THE FATHER'S PETITION OR APPLICATION AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH; AND (II) SUCH FATHER HAS INITIATED JUDICIAL PROCEEDINGS IN A COURT OF COMPETENT JURISDICTION WHERE THE CHILD IS BORN OR THE MOTHER RESIDES TO ESTABLISH PATERNITY AND OBTAIN SOLE CUSTODY OF THE CHILD BY THE EARLIEST OF THE FOLLOWING DATES: FORTY-FIVE DAYS AFTER THE FATHER RECEIVES NOTICE THAT THE MOTHER HAS EXECUTED A CONSENT OR SURRENDER OF THE CHILD FOR ADOPTION PURSUANT TO THIS CHAPTER OR THE SOCIAL SERVICES LAW OR AFTER THE FATHER RECEIVES NOTICE THAT THE ADOPTIVE PARENTS HAVE APPLIED FOR TEMPORARY GUARDIANSHIP

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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OF THE CHILD, OR TWENTY DAYS AFTER THE FATHER RECEIVES NOTICE THAT AN ADOPTION PETITION HAS BEEN FILED, WHERE ANY SUCH NOTICE INFORMS THE FATHER OF THE PROVISIONS OF THIS PARAGRAPH; PROVIDED THAT SUCH JUDICIAL PROCEEDINGS SHALL BE COMMENCED BY A PETITION OR MOTION SETTING FORTH THE FATHER'S PRESENT INTENTION AND ABILITY TO ASSUME SOLE CUSTODY OF THE CHILD AND FURTHER PROVIDED THAT THE COURT HAS NOT DETERMINED THAT THE FATHER SEEKING SOLE CUSTODY IS UNFIT OR THAT THE FATHER IS NOT ABLE OR NOT WILLING TO ASSUME CUSTODY OF THE CHILD; OR (III) IN LIEU OF SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH SUCH FATHER MARRIED THE CHILD'S MOTHER PRIOR TO THE MOTHER EXECUTING A CONSENT OR SURRENDER OF THE CHILD FOR ADOPTION. FOR PURPOSES OF THIS PARAGRAPH, "ABILITY TO ASSUME SOLE CUSTODY" SHALL MEAN ABILITY TO ASSUME GUARDIANSHIP AND CUSTODY OF THE CHILD AND BECOME THE PRIMARY CARETAKER OF THE CHILD FOR THE FORESEEABLE FUTURE.

S 2. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to all adoptive placements on or after such date.