

[J-62-2024]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

TODD, C.J., DONOHUE, DOUGHERTY, WECHT, MUNDY, BROBSON, McCAFFERY, JJ.

IN THE INTEREST OF: S.W., A MINOR	:	No. 14 WAP 2024
	:	
APPEAL OF: S.W., MINOR, AND	:	Appeal from the Order of the
ALLEGHENY COUNTY OFFICE OF	:	Superior Court entered March 13,
CHILDREN, YOUTH AND FAMILIES	:	2024, at No. 22 WDA 2023,
	:	Vacating and Remanding the Order
	:	of the Court of Common Pleas
	:	Allegheny County Juvenile Division
	:	entered November 8, 2022, at No.
	:	CP-02-DP-0000729-2020.
	:	
	:	ARGUED: October 8, 2024

OPINION

JUSTICE McCAFFERY

DECIDED: APRIL 25, 2025

In *Mitch v. Bucks Cnty. Child. and Youth Soc. Serv. Agency*, 556 A.2d 419 (Pa. Super. 1989), the Pennsylvania Superior Court held that prospective adoptive parents had standing to challenge the removal of a foster child from their care. See *id.* at 423. Nearly ten years later, our Legislature enacted 42 Pa.C.S. § 6336.1, which currently provides that “[u]nless a foster parent, preadoptive parent, relative providing care for a child, or a kinship care resource for a child has been awarded legal custody ..., nothing in this section shall give the ... preadoptive parent ... legal standing” in a dependency proceeding.¹ *Id.* Today, we must decide whether, in light of Section 6336.1, *Mitch* is still

¹ Neither “prospective adoptive parent” nor “preadoptive parent” are explicitly defined in our law. *In the Interest of M.R.F., III*, 182 A.3d 1050, 1054 n.2 (Pa. Super. 2018). As in *M.R.F. III*, the parties before us have given no reason to distinguish between the two terms, and we will treat them as interchangeable. See *id.*

good law. A split panel of the Superior Court held that it is. See *Interest of S.W.*, 312 A.3d 345 (Pa. Super. 2024). We disagree and therefore reverse.

S.W. was born in September 2020. Approximately one month later, she was placed with A.E. and Ann.E. (Foster Parents) pursuant to a dependency petition filed by the Allegheny County Office of Children, Youth and Families (CYF). She remained in Foster Parents' physical, but not legal, custody until CYF filed a petition to remove her from Foster Parents' home in August 2022.

Although it is ultimately irrelevant to our analysis, Foster Parents allege that they were given insufficient notice of the hearing on CYF's motion to remove S.W. from their home. See Foster Parents' Brief at 3 ("Appellees did not have adequate time between the date of notice of the August 26, 2022 hearing and the hearing itself, in which to prepare a [m]otion to [i]ntervene."); see also N.T., 10/26/2022, at 6 (trial judge explaining that hearing was changed from addressing termination of biological mother's parental rights to addressing CYF's motion after CYF presented the motion to the court on August 16, 2022).

Nonetheless, Foster Parents appeared at the hearing represented by counsel. They did not seek to intervene in the proceeding. See N.T., 10/26/2022, at 9. Their counsel was permitted to present their testimony, but not examine any other witnesses. Foster Parents attempted to present documentary evidence to counter CYF's allegations, but the trial court refused to consider it.² See *id.* at 140. At the close of the hearing, the trial court granted CYF's petition, albeit with delayed enforcement to accommodate a planned vacation. See *id.* at 138-139. S.W. was placed with another foster family on September 6, 2022.

² The substance of CYF's allegations against Foster Parents is irrelevant to our disposition. Further, since Foster Parents were not allowed a full opportunity to respond to these allegations, we decline to reiterate CYF's allegations here.

On September 13, 2022, Foster Parents filed a motion to intervene in S.W.'s dependency proceedings. The trial court denied the motion without prejudice, observing that Foster Parents had failed to identify the grounds upon which they sought to intervene as required by Pa.R.J.C.P. 1133.³ Foster Parents subsequently filed an amended motion to intervene, arguing that they had standing as "prospective adoptive parents" and an interest in correcting factual misrepresentations that occurred at the hearing.

The trial court refused a hearing on the amended petition, but entertained argument, ultimately denying it for several reasons. First, the court pointed out that "prospective adoptive parent" standing was limited to challenges concerning the removal of the dependent child from the prospective adoptive parent's home. Trial Court Opinion, 2/17/2023, at 11 (*citing In the Interest of M.R.F., III*, 182 A.3d 1050 (Pa. Super. 2018)). The court noted that Foster Parents' "failure to request Child's return is fatal to their appeal." *Id.* at 10. Since Foster Parents had failed to request the return of S.W. to their care, the court concluded Foster Parents did not qualify for "prospective adoptive parent" standing. *See id.* The court further stated: "Thus, even assuming [Foster Parents] have attained the status of prospective adoptive parents, they have not identified sufficient grounds to intervene." *Id.* at 11-12. Second, the trial court found that Foster Parents' allegations, even if accepted as true, demonstrated only that they "were seeking the

³ Rule 1133, entitled "Motion to Intervene," provides:

A. Contents. The motion to intervene shall include:

- (1) the name and address of the person moving to intervene;
- (2) the relationship of the intervening person to the child;
- (3) the contact between the child and the intervening person;
- (4) the grounds upon which intervention is sought; and
- (5) the request sought;

B. Action by court. Upon the filing of a motion to intervene and after a hearing, the court shall enter an order granting or denying the motion.

Pa.R.J.C.P. 1133 (A – B).

status of prospective adoptive parents, not that they had achieved it.” *Id.* at 14. Finally, the trial court refused to address whether Foster Parents had waived or technically defaulted on their claim. *See id.* at 15. Foster Parents filed a timely appeal to the Superior Court.⁴

On appeal, each Superior Court Judge on the panel wrote separately. Judge Kunselman, writing the lead opinion, characterized the trial court as “being persuaded by CYF’s position that the prospective adoptive parent exception was abrogated by Section 6336.1(a),” and that *M.R.F., III* was “inapposite in light of” an intervening unpublished memorandum decision of the Superior Court. *S.W.*, 312 A.3d at 355. Judge Kunselman thus determined that “the essential question [on appeal] ... is whether *M.R.F., III*” was binding precedent. *Id.*

Ultimately, Judge Kunselman concluded that *M.R.F., III* bound the panel. *See S.W.*, 312 A.3d at 355. Thus, she found Foster Parents had standing to intervene, vacated the trial court’s order, and remanded for further proceedings. *Id.* at 361. Nonetheless, she expressed misgivings about the state of the law. *See id.* at 355-356. First, she questioned whether standing for prospective adoptive parents could be squared with the plain text of Section 6336.1. *See id.* at 355-356. Second, she expressed doubt that the rights of prospective adoptive parents could ever surpass the rights of biological parents or a local protective services agency. *See id.* at 356.

⁴ As noted in the Superior Court’s lead opinion:

Meanwhile, [S.W.’s] dependency proceedings had pressed on. The Child never returned to [biological] Mother’s care but remained with the new pre-adoptive foster parents. The court held a termination hearing in January 2023 and terminated [biological] Mother’s rights. ... [Biological] Mother appealed the termination. ... [The Superior Court] affirmed the termination of [biological] Mother’s rights on November 8, 2023.

S.W., 312 A.3d at 349-350.

Despite her misgivings, Judge Kunselman stated she is “profoundly sympathetic to the emotional bonds that develop between foster parents and the children in their care.”

S.W., 312 A.3d at 357. Further, she noted the irony that

foster parents sacrifice their own sense of stability so that the children might have the same. They must love the children as any parent would love their child, without reservation, while knowing full well that the court may order reunification with the biological parent at any point. Foster parents may exist in this limbo for years. Given the shortage of foster parents, providing these individuals a modicum of assurance might be for the betterment of all.

Id.

Now-President Judge Lazarus penned a concurring opinion. While she joined Judge Kunselman’s resolution of this appeal, Judge Lazarus expressed a desire to extend standing to challenge the removal of a foster child from their foster home to **all** foster parents, not just those classified as pre-adoptive:

We ask foster parents, who may ultimately become adoptive resources for dependent children, to invest in the relationship with those children and become akin to parents for them — loving them unconditionally, caring for them, and dealing with their physical and mental ailments. However, we deny these same individuals “standing” to be heard at a proceeding that challenges CYS’ removal of the child from their home. This is so even if they have become “pre-adoptive parents” in all aspects but the formality thereof.

...

Creating an artificial distinction between foster parents and prospective adoptive parents with regard to their expectation of permanency with a child is not only unrealistic, but flies in the face of the intent behind the Juvenile Act (the Act) and our foster care system.

S.W., 312 A.3d at 362 (Lazarus, J., concurring). She therefore urges the Legislature to modify the Act to provide all foster parents standing to challenge the removal of a foster child from their home. See *id.* at 362-363.

President Judge Emeritus Bender dissented. He acknowledged that binding Superior Court precedent required the panel to recognize the “prospective adoptive parent” exception. See *S.W.*, 312 A.3d at 363. Nonetheless, Judge Bender concluded that Foster Parents waived this issue by not raising it during the hearing or even before the trial court issued its decision removing *S.W.* from their home. See *id.* at 365.

The net result of this fractured decision was a remand to the trial court to allow Foster Parents to intervene “until court supervision has been terminated.” *S.W.*, 312 A.3d at 361. Nonetheless, the lead opinion recognized that intervention is nearly moot, as it “assumed adoption proceedings between CYF, the Child, and her new prospective adoptive foster parents will transpire immediately.” *Id.* Appellants, CYF and *S.W.*’s Guardian ad Litem (GAL), sought review in this Court, which we granted, limited to a single issue:

Whether the judicially created “prospective adoptive parent” exception to the general prohibition against foster parents participating in dependency cases was abrogated by the Legislature’s subsequent enactment of Section 6336.1(a) of the Juvenile Act, which provides that preadoptive foster parents shall not have standing in the matter absent an award of legal custody of the child?

Order dated 5/22/2024.⁵

As an initial matter, we must acknowledge that further developments in the trial court, occurring after oral argument before this Court,⁶ have mooted the present case.

⁵ *W.W.*, *S.W.*’s biological mother was a party to the dependency proceedings when the trial court denied Foster Parents’ motion to intervene. The Superior Court held its decision in this appeal until it affirmed termination of *W.W.*’s parental rights. Appellants here assert that *W.W.* is no longer a proper party to this appeal; *W.W.* disagrees and filed an Appellee’s Brief. Nonetheless, *W.W.* sides with Appellants on the issue before us. We do not address whether *W.W.* is a proper party to this appeal as that issue is not reasonably suggested by the question we accepted for review.

⁶ Oral argument was held before this Court on October 8, 2024.

The GAL for S.W. and CYF alerted this Court to the fact that Foster Parents have withdrawn their motion to intervene as well as their motion for return of S.W. See Joint Application for Leave to File Post-Submission Communication Pursuant to Pa.R.A.P. 2501(a), 10/22/2024, at ¶ 7.⁷ As there is no longer any actual controversy between the parties, this appeal is moot.

Nevertheless, the GAL urges this Court to address the substantive claim before us because it is an issue of public importance. The GAL observes that the Superior Court opinion is published and that absent a decision from this Court, the Superior Court's fractured decision remains precedential. Since the case has been fully briefed and argued to this Court, the GAL asks this Court to proceed in order to clarify the law on the prospective adoptive parent exception to the prohibition of foster parent standing.

"This Court generally will not decide moot questions." See *Pap's A.M. v. City of Erie*, 812 A.2d 591, 599 (Pa. 2002). To avoid being mooted, an actual controversy must be present at all stages of review of a case. See *id.* at 600. Here, there is no longer a controversy between the parties, and our decision will no longer have any effect on the resolution of this case.

In certain situations, however, we will consider moot issues. One such situation is where the issue presented is one of "great public importance." *Ass'n of Pa. State Coll. and Univ. Fac. V. Pa. Labor Rel. Bd.*, 8 A.3d 300, 305 (Pa. 2010). The great public importance exception "is generally confined to a narrow category of cases." *Bottomer v. Progressive Cas. Ins. Co.*, 859 A.2d 1282, 1285 (Pa. 2004). The present circumstances, where the appellate courts themselves have recognized a possible conflict between existing judicial precedents and the language of an intervening amendment enacted by

⁷ The only reference in the record to a motion for return of S.W. to Foster Parents' care is contained in the trial court's order taking the motion to intervene under review. See Status Review Order, dated 10/26/2022 ("Per [Foster Parents'] counsel, their ultimate request is that [S.W.] be returned to their home.").

the Legislature, and which concern the operation of the juvenile dependency system, qualify as a matter of great public importance. We therefore turn to the merits of the issue before us.

We begin with an explanation of how dependency proceedings are implemented under the Juvenile Act. Dependency proceedings under the Juvenile Act are designed to achieve several goals:

(1) To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained.

(1.1) To provide for the care, protection, safety, and wholesome mental and physical development of children coming within the provisions of this chapter.

...

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety, doing all of the following:

(i) employing evidence-based practices whenever possible[.]

...

(4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

42 Pa.C.S. § 6301; see *also* 42 Pa.C.S. § 6303 (providing that the Act applies to, among others, proceedings where a child is alleged to be dependent). Dependency proceedings are commenced, among others, by the filing of a petition alleging the child is dependent. See 42 Pa.C.S. § 6321(a)(3); see *also* 42 Pa.C.S. § 6334(a) (allowing “**any person**” to bring a petition before the dependency court and requiring the petition to allege the facts which bring the child under the jurisdiction of the court and the Act as well as a statement

that it is in the best interest of the child and the public to proceed) (emphasis added). A dependent child is one who:

- (1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent's, guardian's or other custodian's use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk;
- (2) has been placed for care or adoption in violation of law;
- (3) has been abandoned by his parents, guardian, or other custodian;
- (4) is without a parent, guardian, or legal custodian;
- (5) while subject to compulsory school attendance is habitually and without justification truant from school;
- (6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;
- (7) has committed a delinquent act or crime, other than a summary offense, while under the age of ten years;
- (8) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6);
- (9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6); or
- (10) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to

grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

42 Pa.C.S. § 6302. A hearing on the petition is conducted with the court acting as a finder of fact. See 42 Pa.C.S. § 6336(a). The hearing is informal but orderly and must be separate from any proceedings not governed by the Act. See *id.*

If the court determines the child is dependent, it must choose from several options to effectuate the best interests of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

(2) Subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following:

(i) Any individual resident within or without this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child.

(ii) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.

(iii) A public agency authorized by law to receive and provide care for the child.

(2.1) Subject to conditions and limitations as the court prescribes, transfer permanent legal custody to an individual resident in or outside this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child. A court order under this paragraph may set forth the temporary visitation rights of the parents. The court shall refer issues related to support and continuing visitation by the parent to the section of the court of common pleas that regularly determines support and visitation.

(3) Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 6363 (relating to ordering foreign supervision).

42 Pa.C.S. § 6351(a). If the court chooses an option that removes the child from her existing home, it must make explicit findings on the record justifying removal of the child from the home. See 42 Pa.C.S. § 6351(b). Most importantly, the court must explicitly find that “continuation of the child in his home would be contrary to the welfare, safety or health of the child[.]” *Id.* at (1).

If the court grants a person legal **custody** of the child pursuant to the Act, that person

has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child. An award of legal custody shall be subject to the conditions and limitations of the order and to the remaining rights and duties of the parents or guardian of the child as determined by the court. The court may award legal custody under this section on a temporary basis to an individual or agency under section 6351(a)(2) (relating to disposition of dependent child) or permanent basis to an individual under section 6351(a)(2.1).

42 Pa.C.S. § 6357.

While the child is subject to court-ordered temporary legal custody under the Act (*i.e.* an order entered pursuant to section 6351(a)(2)), the court must hold permanency hearings every six months. See 42 Pa.C.S. § 6351(e). At the hearing, the court must review the permanency plan for the child, the date by which permanency can allegedly be achieved, and determine whether placement outside the home continues to be in the best interest of the child. See *id.* at (1).

The present controversy arises from Superior Court precedent dealing with the question of **standing** in dependency proceedings. In 1989, the Superior Court first addressed the question of whether prospective adoptive parents have standing to contest the removal of a child placed with them for adoption. See *Mitch, supra*. The *Mitch* panel recognized that there was an apparent conflict in existing precedent on the issue of foster

parent standing. See *id.* at 421. In one prior case, the Superior Court held that foster parents have standing to contest the removal of a foster child from their home. See *id.* (citing *Stapleton v. Dauphin Cnty. Child Care Svc.*, 324 A.2d 562 (Pa. Super. 1974)). The *Stapleton* panel relied on the contemporaneous provisions of the Juvenile Act, which provided that “any person” could commence a proceeding under the Act, see *Stapleton*, 324 A.2d at 566-567 (citing 11 P.S. §§ 50-302 and 50-314),⁸ to conclude that “[i]t is difficult to see how standing could have been defined any more broadly[,]” to grant foster parents such standing. See *id.* at 567. Of note, there is no indication that the foster parents in *Stapleton* were prospective adoptive foster parents.

In contrast, a later case “reached a different conclusion.” *Mitch*, 556 A.2d at 422 (citing *Priester v. Fayette Cnty. Child. and Youth Svcs.*, 512 A.2d 683 (Pa. Super. 1986)). In *Priester*, the foster child lived in the foster parents’ home for two years before the child welfare agency transferred the child to a different foster home where his brother lived. See *Priester*, 512 A.2d at 683. The *Priester* panel concluded that the foster parents did not have standing to contest the removal. See *id.* at 685. Notably, *Priester* did not reference either *Stapleton* or the Act’s provision that “any person” could commence a dependency proceeding.

The *Mitch* panel resolved this conflict by concluding that *Priester*’s rejection of standing for foster parents represented “a limited exception to the otherwise broad standing provisions in the Juvenile Act,” which did not apply to “prospective adoptive

⁸ By the time *Mitch* was decided, the Juvenile Act had been repealed and a new Juvenile Act enacted at 42 Pa.C.S. §§ 6301-6365. See *id.* at 421 n.5. The relevant language in Sections 50-302 and 50-314 had been reproduced at 42 Pa.C.S. §§ 6321(a) and 6334, respectively. See *id.* The current versions of Sections 6321(a) and 6334 retain the relevant language: “A proceeding under this chapter may be commenced ... by the filing of a petition as provided in this chapter[,]” 42 Pa.C.S. § 6321(a)(3), and a “petition ... may be brought by any person[.]” 42 Pa.C.S. § 6334(a).

parents.” *Mitch*, 566 A.2d at 422. The *Mitch* panel justified the *Priester* “exception” by stating that mere foster parents “have neither permanent custody of a child nor an expectation of permanent custody[.]” *Id.* at 423. In contrast, the *Mitch* panel explained that prospective adoptive parents “have an expectation of permanent custody which, though it may be contingent on the agency’s ultimate approval, is nevertheless genuine and reasonable.” *Id.* Due to this expectation, the panel found that prospective adoptive parents suffer a direct and substantial injury when a foster child is removed from their home. See *id.* In turn, due to the direct and substantial injury, the panel found “no reason in law or policy why we should limit [prospective adoptive parents’] standing to sue for custody.” *Id.*

From this, it is clear that the *Mitch* panel was engaged in an exercise of interpreting the Juvenile Act as it then existed. The panel did not cite to constitutional concerns and it explicitly premised its reasoning on the broad language used by the Juvenile Act concerning who is allowed to file a petition under the Act. See *Mitch*, 566 A.2d at 422.

As illustrated by Judge Kunselman below, however, intervening legislation has called *Mitch* into doubt. See *S.W.*, 312 A.3d at 355-356. In 1998, the General Assembly passed Act 126 of 1998, which, among other things, created 42 Pa.C.S. § 6336.1:

The court shall direct the county agency or juvenile probation department to provide the child’s foster parent, preadoptive parent or relative providing care for the child with timely notice of the hearing. The court shall provide the child’s foster parent, preadoptive parent or relative providing care for the child the opportunity to be heard at any hearing under this chapter. **Nothing in this section shall give the foster parent, preadoptive parent or relative providing care for the child legal standing in the matter being heard by the court.**

Act 126 of 1998, § 6 (emphasis added). With Act 215 of 2002, the General Assembly amended Section 6336.1, and specifically the language we highlighted above:

The court shall direct the county agency or juvenile probation department to provide the child's foster parent, preadoptive parent or relative providing care for the child with timely notice of the hearing. The court shall provide the child's foster parent, preadoptive parent or relative providing care for the child the opportunity to be heard at any hearing under this chapter. **Unless a foster parent, preadoptive parent or relative providing care for a child has been awarded legal custody pursuant to section 6357 (relating to rights and duties of legal custodian), nothing in this section shall give the foster parent, preadoptive parent or relative providing care for the child legal standing in the matter being heard by the court.**

Act 215 of 2002, § 3 (emphasis added). Section 6336.1 was further amended in 2007 and 2008, but those amendments are not relevant here. In 2023, Section 6336.1 was amended, in relevant part, to add "a kinship care resource" as a person entitled to be heard during dependency, but also added "kinship care resource" as a person that is not granted standing in the absence of legal custody of the child. Act 48 of 2023, § 2.

All parties before us focus their argument on the issue of whether, through the enactment of Section 6336.1, the Legislature precluded standing for prospective adoptive foster parents. This issue requires us to construe Section 6336.1. In construing a statute, we seek to "ascertain and effectuate the intention of the General Assembly." 1 Pa.C.S. § 1921(a). The primary indicator of the Legislature's intent is the statute's plain language. See *Commonwealth v. Lehman*, 311 A.3d 1034, 1044 (Pa. 2024) (citation omitted). To interpret the meaning of words that the statute does not explicitly define, "we turn to an examination of dictionary definitions." *Ursinus College v. Prevailing Wage Appeals Board*, 310 A.3d 154, 171 (Pa. 2024) (internal quotation marks and citation omitted). If the plain language is clear and unambiguous, that unambiguous interpretation controls. See *Lehman*, 311 A.3d at 1044.

On the other hand, if the plain language is ambiguous, we must go beyond the text and consider other factors. See *A.S. v. Pennsylvania State Police*, 143 A.3d 896, 903 (Pa. 2016). These factors include, but are not limited to:

the occasion and necessity for the statute or regulation; the circumstances under which it was enacted; the mischief to be remedied; the object to be attained; the former law, if any, including other statutes or regulations upon the same or similar subjects; the consequences of a particular interpretation; and administrative interpretations of such statute.

Id. (citation omitted).

We begin with the language at issue: “Unless a ... preadoptive parent ... has been awarded legal custody pursuant to section 6357 ... nothing in this section shall give the ... preadoptive parent ... legal standing in the matter being heard by the court.” 42 Pa.C.S. § 6336.1. Several possible issues are not seriously disputed by the parties. First, “preadoptive parent” is not defined in the Juvenile Act, yet, for purposes of this appeal, none of the parties dispute that Foster Parents qualify as “preadoptive parents.” Similarly, there is no dispute that Foster Parents were not awarded legal custody of S.W. pursuant to Section 6357. Thus, we must simply determine whether “nothing in this section shall give the ... preadoptive parent ... legal standing in the matter being heard by the court[]” acts to preclude standing for preadoptive parents who lack legal custody of the child, such as Foster Parents.

Foster Parents argue that “[n]owhere[] in the plain language of the statute[] does it explicitly state that [preadoptive] parents do not have standing nor should they be granted standing if they meet the requirements of the exception created in *Mitch*.” Foster Parent’s Brief at 11. Foster Parents are undoubtedly correct in this assertion, as Section 6336.1 does not reference *Mitch* or purport to abrogate existing caselaw. Further, the statute does not explicitly state that preadoptive parents do **not** have standing in the absence of legal custody. Instead, the statute merely denies that “this section” confers preadoptive parents standing.

In contrast, Appellants contend that, when read as a whole, Section 6336.1(a)'s plain language is clear and unambiguous. See CYF's Brief at 13; GAL's Brief at 14. They note Section 6336.1(a) explicitly treats "foster parents" and "preadoptive parents" equally. CYF's Brief at 12; GAL's Brief at 12. Further, they assert neither "foster parents" nor "preadoptive parents" are entitled to standing in dependency matters if they do not have legal custody. CYF's Brief at 13; GAL's Brief at 13. Instead, "foster parents" and "preadoptive parents" have only a right to notice and a right to be heard at a hearing. CYF's Brief at 12-13; GAL's Brief at 12. Appellant's interpretation of Section 6336.1, much like Foster Parents' interpretation, is reasonable. Since the plain language of the statute does not resolve the issue, we must consider factors outside the plain language of Section 6336.1.

We thus seek to understand what the legislature sought to accomplish through enacting Section 6336.1. Through the Juvenile Act, the Legislature sought: "(1) [t]o preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained[; and (2) t]o provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter." 42 Pa.C.S. § 6301(b). The first explicit policy — preservation of the existing family unit whenever possible — cautions against extending standing to preadoptive foster parents, who are by their very nature hostile to the unity of the existing family unit.

The second explicit policy — providing for the best interests of the child — while less straightforward, does not support standing for preadoptive parents. Arguably, granting standing to preadoptive parents could serve the best interest of the child, as preadoptive parents often have the most contact with the child and thus have important insights and observations. Yet, granting standing to preadoptive parents is not an

unqualified boon to the best interest of the child. Instead, granting standing to preadoptive parents injects a new set of considerations to balance against the interests of the existing family unit. This Court has recognized that in seeking the best interests of the child, “courts must keep the ticking clock of childhood ever in mind. Children are young for a scant number of years, and we have an obligation to see to their healthy development **quickly**.” *In re T.S.M.*, 71 A.3d 251, 269 (Pa. 2013) (emphasis added). “Quickly” is generally defined as “in less than two years, absent compelling reasons.” *Id.* By granting standing to an additional party, the preadoptive foster parent exception countenances the possibility of additional motions, hearings, and appeals, which all but guarantee the process will drag on beyond two years.

Section 6336.1 provides preadoptive parents with the right to notice of any hearing and a right to be heard at such hearings. Thus, the legislature ensured that the important information held by preadoptive parents would be presented the judge, but did so in a way that did not grant preadoptive parents standing. Preadoptive parent standing is contrary to the explicit structure and goals of the Juvenile Act.

Accordingly, to the extent that *Mitch* and its progeny were construed to provide standing to preadoptive parents, those precedents are inconsistent with Section 6336.1. They are therefore overruled. Consequently, we reverse the Superior Court’s decision in accordance with this opinion.

Chief Justice Todd and Justices Dougherty and Wecht join the opinion.

Justice Brobson files a concurring opinion in which Justice Donohue joins.

Justice Mundy files a dissenting opinion

**[J-62-2024] [MO: McCaffery, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

IN THE INTEREST OF: S.W., A MINOR	:	No. 14 WAP 2024
	:	
APPEAL OF: S.W., MINOR, AND	:	Appeal from the Order of the
ALLEGHENY COUNTY OFFICE OF	:	Superior Court entered March 13,
CHILDREN, YOUTH AND FAMILIES	:	2024, at No. 22 WDA 2023,
	:	Vacating and Remanding the
	:	Order of the Court of Common Pleas
	:	Allegheny County Juvenile Division
	:	entered November 8, 2022, at
	:	No. CP-02-DP-0000729-2020.
	:	
	:	ARGUED: October 8, 2024

CONCURRING OPINION

JUSTICE BROBSON

DECIDED: APRIL 25, 2025

I agree with the Majority insofar as it concludes that the General Assembly's enactment of Section 6336.1 of the Juvenile Act¹ abrogated the judicially created preadoptive-parent exception for standing in *Mitch v. Bucks County Children and Youth Social Service Agency*, 556 A.2d 419 (Pa. Super. 1989). I respectfully disagree, however, that Section 6336.1 is ambiguous on the issue of standing for preadoptive parents to intervene in a dependency hearing. Rather, I believe that Section 6336.1 limits standing to only those preadoptive parents who have been awarded legal custody of the child, and it denies standing to all other preadoptive parents.

"In Pennsylvania, the doctrine of standing is a judicially[]created tool intended to 'winnow out' litigants . . . and to otherwise protect against improper parties." *Interest of K.N.L.*, 284 A.3d 121, 136 (Pa. 2022) (quoting *In re Hickson*, 821 A.2d 1238, 1243

¹ 42 Pa. C.S. § 6336.1.

(Pa. 2003)). The General Assembly, however, “may further enlarge or distill th[is] judicially[] applied principle” through legislative enactments that “expressly prescribe[] the parties who may pursue a particular course of action.” *Id.* at 136-37 (citing *Hous. Auth. of Cnty. of Chester v. Pa. State Civ. Serv. Comm’n*, 730 A.2d 935, 941 (Pa. 1999)). This Court has previously “recognize[d] there is a particularly stringent test for standing in third-party suits” in certain family law matters “to prevent intrusion into fundamental parental rights and privacy interests ‘by those who are merely strangers.’”² *Id.* at 138 (discussing child custody matters) (quoting *J.A.L. v. E.P.H.*, 682 A.2d 1314, 1319 (Pa. Super. 1996)). Consequently, “courts generally find standing in [these] third-party . . . cases only where the legislature specifically authorizes the cause of action.” *Id.* at 139 (emphasis omitted) (quoting *T.B. v. L.R.M.*, 786 A.2d 913, 916 (Pa. 2001)). As always, when determining the General Assembly’s intent, the plain language of the statute “provides the best indication.” *Miller v. Cnty. of Centre*, 173 A.3d 1162, 1168 (Pa. 2017) (citing 1 Pa. C.S. § 1921(b)).

With these principles in mind, the relevant language of Section 6336.1 of the Juvenile Act provides: “Unless a . . . preadoptive parent . . . has been awarded legal custody . . . , nothing in this section shall give the . . . preadoptive parent . . . legal standing in the matter being heard by the court.” 42 Pa. C.S. § 6336.1(a). The Majority finds two reasonable interpretations of this language: (1) a preclusion of legal standing for those preadoptive parents without legal custody and (2) a mere clarifying statement that Section 6336.1 does not provide standing. Majority Op. at 15-16. Consequently, the Majority finds Section 6336.1 to be ambiguous. Simply put, I disagree with the Majority that Section 6336.1 can be construed reasonably as a mere clarifying statement.

² The General Assembly expressly limited “[s]tanding for any form of physical custody or legal custody” to certain individuals. See 23 Pa. C.S. § 5324.

In my view, Section 6336.1 of the Juvenile Act establishes statutory standing to intervene in a dependency proceeding. In so doing, Section 6336.1 does two things: it grants statutory standing to the subset of preadoptive parents with legal custody, 42 Pa. C.S. § 6336.1(a) (denying standing “unless a . . . preadoptive parent . . . has been awarded legal custody”), and it denies statutory standing to those preadoptive parents without legal custody. In fact, Section 6336.1 explicitly states the intent to exclude those preadoptive parents from its grant of standing. 42 Pa. C.S. § 6336.1(a) (“[N]othing in this section shall give the . . . preadoptive parent . . . legal standing.”). As a result of this intentional exclusion of only a subset of preadoptive parents, I believe that Section 6336.1 is unambiguous in its intent to preclude standing for preadoptive parents without legal custody.

Effectively, through Section 6336.1 of the Juvenile Act, “[t]he General Assembly has rendered a legislative judgment” that only those preadoptive parents with legal custody have standing to intervene in a dependency proceeding. *Commonwealth v. Janssen Pharmaceutica, Inc.*, 8 A.3d 267, 277 (Pa. 2010); *see also Petty v. Hosp. Serv. Ass’n of Ne. Pa.*, 23 A.3d 1004, 1012, 1014 (Pa. 2011) (holding that defendant lacked standing where “the legislature sought to give standing only to those select individuals” and defendant did “not exhibit the necessary characteristics required by the legislature”). To that end, this Court is obligated to “reinforce the express statutory limitations” of the General Assembly. *Interest of K.N.L.*, 284 A.3d at 139. Accordingly, I would conclude that the General Assembly has clearly stated its intent that preadoptive parents without legal custody do not have standing to intervene in dependency proceedings. For this reason, I respectfully concur in the result of the Majority.

Justice Donohue joins this concurring opinion.

**[J-62-2024] [MO: McCaffery, J.]
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DISSENTING OPINION

JUSTICE MUNDY

DECIDED: APRIL 25, 2025

The question before the Court is one of pure statutory interpretation, namely whether Section 6336.1(a) of the Juvenile Act, 42 Pa.C.S. § 6336.1(a), abrogates the judicially created prospective adoptive parent exception. Finding the statute unambiguously does not abrogate this exception, I am constrained to dissent.

“The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” 1 Pa.C.S. § 1921(a); *see also Commonwealth v. Lehman*, 31 A.3d 1034, 1044 (Pa. 2024). “When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” 1 Pa.C.S. § 1921(b). “A statute is ambiguous when there are at least two reasonable interpretations of the text.” *A.S. v. Pa. State Police*, 143 A.3d 896, 905-06 (Pa. 2016). As such, our review of the issue must begin, and in my view end, with the language of Section 6336.1(a), which states

The court shall direct the county agency or juvenile probation department to provide the child's foster parent, preadoptive parent, relative providing care for the child or a potential kinship care resource ... with timely notice of the hearing. The court shall provide the child's foster parent, preadoptive parent or relative providing care for the child the right to be heard at any hearing under this chapter. The court shall provide a potential kinship care resource with the right to be heard during a scheduled hearing or a separate dispositional hearing, but only as to the individual's qualifications to provide kinship care. Once a potential kinship care resource has had an opportunity to address the court, the court shall render a decision as to whether the potential kinship care resource may receive notice or participate in future hearings under this chapter. **Unless a foster parent, preadoptive parent, relative providing care or a kinship care resource for a child has been awarded legal custody pursuant to section 6357 (relating to rights and duties of legal custodian), nothing in this section shall give the foster parent, preadoptive parent, relative providing care or a potential kinship care resource for the child legal standing in the matter being heard by the court.**

42 Pa.C.S. § 6336.1(a) (emphasis added).

The section begins by providing certain caregivers, including preadoptive parents, with the right to notice and to be heard at dependency proceedings. *Id.* It then provides potential kinship care resources with the right to a hearing, but only as to their qualifications for kinship care. In addition to setting forth these rights, Section 6336.1(a) provides that unless the caregivers have been awarded legal custody, “nothing in this section shall give” them legal standing. *Id.* When read in the context of Section 6336.1(a) as a whole, the only reasonable interpretation of the statement “nothing in this section,” is that it is referencing the section’s granting of the rights to notice and to be heard, which immediately proceeds it. See *Commonwealth v. Office of Open Records*, 103 A.3d 1276, 1285 (Pa. 2014) (“[S]tatutory language must be read in context, that is, in ascertaining legislative intent, every portion of statutory language is to be read together and in conjunction with the remaining statutory language[.]” (internal quotations omitted)). As such, reading the “nothing in this section” language to abrogate the judicially created

prospective adoptive parent exception, which is not referenced “in this section[.]” is unreasonable. Such an interpretation only serves to create an ambiguity where one does not exist in order to invoke other principles of statutory interpretation in an attempt to ascertain the General Assembly’s perceived intent. See *Hunt v. Pennsylvania State Police*, 983 A.2d 627, 631-32 (Pa. 20009) (“Only when words of a statute are ambiguous should a court seek to ascertain the intent of the General Assembly through consideration of the various factors found in Section 1921© [of the Statutory Construction Act].”).

Since I find Section 6336.1(a) unambiguously does not, in any way, impact the prospective adoptive parent exception, let alone abrogate the exception it fails to mention,¹ I respectfully dissent.

¹ My interpretation of Section 6336.1(a) should not be construed as an endorsement of the prospective adoptive parent exception or, more recently, the Superior Court’s application of this exception in *Interest of M.R.F., III*, 182 A.3d 1050 (Pa. Super. 2018) (finding placement parents had an expectation of adoption even though the trial court denied the petition to terminate mother’s parental rights, increased mother’s visitation with the child, and the permanency goal remained reunification).