

**[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 Act<sup>1</sup> 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

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<sup>1</sup> 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.’”<sup>2</sup> *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.

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<sup>2</sup> 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.