

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1754

H.P. 1276

House of Representatives, December 22, 2003

An Act To Permit Background Checks on Prospective Adoptive Parents

Submitted by the Department of Human Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CURLEY of Scarborough.

Cosponsored by Representatives: EARLE of Damariscotta, SIMPSON of Auburn, WALCOTT of Lewiston, Senator: BRENNAN of Cumberland.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 18-A MRSA §9-304, sub-§(a-1), as amended by PL 2001, c. 546, §1, is further amended to read:

(a-1) Upon the filing of a petition for adoption of a minor child, the court shall request a background check and shall direct the department or a licensed child-placing agency to conduct a study and make a report to the court.

(1) The study must include an investigation of the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or licensed child-placing agency shall submit the report to the court within 60 days.

(i) If the court has a report that provides sufficient, current information, the court may waive the requirement of a study and report.

(ii) If the petitioner is a blood relative of the child, the court may waive the requirement of a study and report.

(2) The court shall request a background check for each prospective adoptive parent who is not the biological parent of the child. The background check must include a screening for child abuse cases in the records of the department and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of Maine conviction data.

(ii) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(iii) Each prospective parent who is not the biological parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the court for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau

2 of Identification so that the bureau can conduct state
and national criminal history record checks. Except
4 for the portion of the payment, if any, that
constitutes the processing fee charged by the Federal
6 Bureau of Investigation, all money received by the
State Police for purposes of this paragraph must be
8 paid over to the Treasurer of State. The money must be
applied to the expenses of administration incurred by
the Department of Public Safety.

10 (iv) The subject of a Federal Bureau of Investigation
12 criminal history record check may obtain a copy of the
criminal history record check by following the
14 procedures outlined in 28 Code of Federal Regulations,
Sections 16.32 and 16.33. The subject of a state
16 criminal history record check may inspect and review
the criminal history record information pursuant to
18 Title 16, section 620.

20 (v) State and federal criminal history record
information may be used by the court for the purpose of
22 screening prospective adoptive parents in determining
whether the adoption is in the best interests of the
24 child.

26 (vi) Information obtained pursuant to this paragraph
is confidential. The results of background checks
28 received by the court are for official use only and may
not be disseminated outside the court except as
30 required under Title 22, section 4011-A.

32 (vii) The expense of obtaining the information
required by this paragraph is incorporated in the
34 adoption filing fee established in section 9-301. The
Probate Court shall collect the total fee and transfer
36 the appropriate funds to the Department of Public
Safety and the department.

38 The department may, at any time before the filing of the petition
40 for adoption, conduct background checks pursuant to this
42 subsection for each prospective adoptive parent of a minor child
44 in its custody. The department may adopt rules governing
background checks for prospective adoptive parents of minor
children in its custody. Rules adopted pursuant to this
46 subsection are routine technical rules as defined in Title 5,
chapter 375, subchapter 2-A.

48 The court may waive the background check of a prospective
adoptive parent if a previous background check was completed by a
50 court or by the department under this subsection within a

2 reasonable period of time and the court is satisfied that nothing
new that would be included in the background check has transpired
since the last background check.

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6 This subsection does not authorize the court to request a
background check for the biological parent who is also the
current legal parent of the child.

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10 **SUMMARY**

12 This bill authorizes the Department of Human Services to
14 conduct background checks for each prospective adoptive parent at
any time before the filing of a petition for adoption.