

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 3
Titles 14 to 20



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 9

ADOPTION

Sec.

- 531. Persons who may adopt.
- 532. Consent.
- 533. Proceedings.
- 534. Records confidential.
- 535. Legal effect; descent of property.
- 536. Appeal to supreme court of probate.
- 537. Allowance to adopted child.
- 538. Annulment of adoption decree.

§ 531. Persons who may adopt

Any unmarried inhabitant of the State, or any husband and wife jointly, may petition the judge of probate for their county for leave to adopt a person, regardless of age, and for a change of his or her name. Any unmarried inhabitant of another state, or any nonresident husband and wife jointly, may present such petition in the probate court of the county where such person lives. The consent of the natural parents shall not be required for the adoption of a person who has reached the age of 21 years or over.

R.S.1954, c. 158, § 36.

§ 532. Consent

Before such petition is granted, written consent to such adoption must be given by the child, if of the age of 14 years, and by each of his living parents, if not hopelessly mentally ill or intemperate; or, when a divorce has been decreed to either parent, written consent of the parent or the Department of Health and Welfare, whichever is entitled to the custody of the child, personal notice of such petition to be given to the parent or parents not entitled to custody, if within the jurisdiction of the court, or if beyond the jurisdiction of the court or the residence is unknown, such notice as the judge deems proper; or such consent by one parent when, after such notice to the other parent as the judge deems proper and practicable, such other parent is considered by the judge unfit to have the custody of the child.

When any child has been committed to the custody of the Department of Health and Welfare under Title 22, section 3792, and the commitment order is still in effect, consent shall be given

by the department and no notice need be given to the parents. The consent of the parents and the child when required must be acknowledged before a justice of the peace or notary public. If there are no such parents or if the parents have abandoned the child and ceased to provide for its support or if the parents are considered by the judge unfit to have the custody of the child and the welfare of the child is in jeopardy, consent may be given by the legal guardian; if no such guardian, then by some person appointed by the judge to act in the proceedings as the next friend of such child. If an illegitimate child and under the age of 14 years, such consent may be given by the mother of such child. If only one of such parents has abandoned the child and ceased to provide for its support, consent may be given by the parent who has not abandoned said child. The parents or surviving parent of such child, or the mother if such child be illegitimate, with the approval of the judge of probate of any county within the State and after a determination by such judge of probate that a surrender and release is for the best interests of all parties, may surrender and release all parental rights in and to such child and the custody and control thereof to an incorporated and licensed society, asylum, child placing agency or home in this State, or to the State Department of Health and Welfare for the purpose of enabling such incorporated society, asylum or home, or State Department of Health and Welfare to have such child adopted by some suitable person, and its name changed when a change is desirable, and the child made an heir at law under this chapter. The effect of this surrender and release shall be fully explained by the judge of probate to the parent or parents executing the same. The surrender and release approved as aforesaid shall be filed with the petition of adoption of said child in the probate court. In such cases the consent to adoption may be given by such incorporated society, asylum or home, or State Department of Health and Welfare.

R.S.1954, c. 158, § 37; 1959, c. 242, § 8.

§ 533. Proceedings

Upon the filing of a petition for adoption of a minor child, unless one of the petitioners is a blood relative of the child or the petitioners have received the child from the Department of Health and Welfare or from a licensed adoption agency, the court shall notify the Department of Health and Welfare which shall, either through its own workers or through a licensed adoption agency when practicable, investigate the conditions and antecedents of

the child to determine whether he is a proper subject for adoption and to investigate whether the proposed home is suitable for the child. The court may refer any petition signed by a blood relative to said department. This information shall, within 45 days or within such further reasonable time as the court allows, be submitted to the court in writing and be available to counsel of record. In the event that the report of investigation is not submitted to the court within the time allowed, then the court may proceed with hearing upon the petition without such report. The aforesaid notification and investigation may be waived by the court and the reason therefor shall be stated in writing by the court and made a part of the record. Thereupon, if the judge is satisfied of the identity and relations of the parties, of the ability of the petitioners to bring up and educate the child properly, having reference to the degree and condition of his parents, and of the fitness and propriety of such adoption, he shall make a decree, setting forth the facts, and declaring that from that date such child is the child of the petitioners and that his name is thereby changed, without requiring public notice thereof. The court may require that the child shall have lived for one year in the home of the petitioners before the petition is granted, and may require that the child, during all or part of said probationary period, shall be under the supervision of the Bureau of Social Welfare or a licensed child placing agency.

A certified copy of the birth record of the child proposed for adoption shall be presented with the petition for adoption, provided such a certified copy can be obtained or can be made available by filing a delayed birth registration. After the adoption has been decreed the register of probate shall forthwith file a certificate of adoption with the State Registrar of Vital Statistics on a form prescribed and furnished by the State Registrar of Vital Statistics.

The petitioners shall furnish with the petition such information as the state registrar shall require, on a form prescribed and furnished by the state registrar, and shall certify to the truth of such information.

The register of probate shall furnish such information from the official court record as the state registrar shall require and shall certify to the court action under the seal of his court.

When the state registrar shall receive a certificate of adoption, or an annulment or revocation of adoption or amendment thereof from a court for a person born outside this State he shall forward such certificate, annulment, revocation or amend-

ment to the appropriate registration authority in the state of birth.

R.S.1954, c. 158, § 38; 1959, c. 291, § 11; 1963, c. 314.

§ 534. Records confidential

All probate court records relating to any adoption decreed on or after August 8, 1953 are declared to be confidential. The probate courts shall keep the records of such adoptions segregated from all other court records. Such adoption records may be examined only upon authorization by the judge of the probate court. In any case where it is considered proper that such examination be authorized, the judge may in lieu of such examination, or in addition thereto, grant authority to the register of probate to disclose any information contained in such records by letter, certificate or copy of the record.

R.S.1954, c. 158, § 39.

§ 535. Legal effect; descent of property

By such decree the natural parents are divested of all legal rights in respect to such child and he is freed from all legal obligations of obedience and maintenance in respect to them. He is, for the custody of the person and right of obedience and maintenance, to all intents and purposes the child of his adopters, with right of inheritance when not otherwise expressly provided in the decree of adoption, the same as if born to them in lawful wedlock, except that he shall not inherit property expressly limited to the heirs of the body of the adopters nor property from their collateral kindred by right of representation, and he shall stand in regard to lineal descendants of his adopters in the same position as if born to them in lawful wedlock; but he shall not by reason of adoption lose his right to inherit from his natural parents or kindred. The adoption of a child made in any other state, according to the laws of that state, shall have the same force and effect in this State, as to inheritance and all other rights and duties as if said adoption had been made in this State according to the laws of this State. If the person adopted died intestate, his property acquired by himself or by devise, bequest, gift or otherwise before or after such adoption from his adopting parents or from the kindred of said adopting parents shall be distributed according to Title 18, the same as if born to said adopting parents in lawful wedlock; and property received by devise, bequest, gift or other-

wise from his natural parents or kindred shall be distributed according to Title 18, as if no act of adoption had taken place.

R.S.1954, c. 158, § 40.

§ 536. Appeal to supreme court of probate

Any petitioner or any such child by his next friend may appeal from such decree to the supreme court of probate, in the same manner and with the same effect as in other cases, but no bond to prosecute his appeal shall be required of such child or next friend, nor costs be awarded against either.

R.S.1954, c. 158, § 41.

§ 537. Allowance to adopted child

The judge of probate, on the death of either of said adopters, may make a reasonable allowance to such child from the personal estate of the deceased if the circumstances of the case demand it.

R.S.1954, c. 158, § 42.

§ 538. Annulment of adoption decree

Any judge of probate may, on petition of 2 or more persons, after notice and hearing and for good cause shown, reverse and annul any decree of the probate court in his county, whereby any child has been adopted under this chapter.

After any decree of adoption has been annulled, the register of probate shall forthwith transmit a certified copy of the annulment to the State Registrar of Vital Statistics.

R.S.1954, c. 158, § 43; 1959, c. 291, § 12.