

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
108TH LEGISLATURE  
FIRST REGULAR SESSION

(Filing No. H-703)

COMMITTEE AMENDMENT "A" to H.P. 416, L.D. 523, Bill,  
"AN ACT to Require that Persons or Agencies Placing Unrelated  
Children for Adoption be Licensed."

Amend the Bill by striking out all of the title and inserting  
in its place the following:

'AN ACT Relating to the Adoption Procedures for Children who  
are not Related to Adopting Parents.'

Further amend the Bill by striking out everything after  
the enacting clause and inserting in its place the following:

'Sec. 1. 19 MRSA §532, as last amended by PL 1973, c. 791,  
§1, is further amended by inserting at the end the following  
new paragraph:

Notwithstanding any other provisions of this section, any  
written consent for a child to be adopted shall be given in  
front of a judge of probate, unless one of the petitioners to  
adopt the child is a blood relative of the child or unless the  
petitioners have received the child from the Department of  
Human Services or from a licensed adoption agency. Before  
this consent is given, the effect of the consent shall be fully  
explained by the judge to the person giving the consent. Before  
allowing the consent, the judge shall make a determination that  
the consent is freely and knowledgeably given.

Sec. 2. 19 MRSA §533, first ¶, as amended by PL 1977,  
c. 16, is repealed and the following enacted in its place:

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 Human Services or from a licensed adoption agency, the  
court shall notify the department which shall, either through its  
own workers or through a licensed adoption agency, investigate  
the conditions and antecedents of the child to determine whether  
he is a proper subject for adoption and whether the proposed home  
is suitable for the child. The court may refer any petition  
signed by a blood relative of the child to this 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. 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  
this probationary period, shall be under the supervision of  
the Department of Human Services or a licensed child placing agency.

Sec. 3. 22 MRS §8204 is enacted to read:

§8204. Individuals placing children for adoption

1. License required. Any individual who operates a child placing agency shall be subject to the licensing requirements of the department, as specified under this chapter and under chapter 1663. Any individual who advertises himself or holds himself out as placing or finding homes for children for the purpose of adoption, shall be deemed to operate a child placing agency.

2. License not required. Any individual who does not advertise himself or hold himself out as placing or finding homes for children for the purpose of adoption, but who places or assists in placing a child for adoption, shall not be deemed to operate a child placing agency and shall not be subject to the licensing requirements of the department, as specified under this chapter and under chapter 1663.

3. Fees; violation and penalty. No individual who places or assists in placing a child for adoption shall charge a fee which represents more than the reasonable costs of the services provided.

Violation of this subsection shall be a Class D crime.'

Statement of Fact

The Committee on Health and Institutional Services considered both L.D. 523 and L.D. 524, which require individuals who place children for adoptions to be licensed by the Department of Human Services. During its Special Session, the 107th Legislature

passed a bill which rewrote the licensing statutes for various facilities, including child placing agencies. This bill, as enacted by PL 1975, c. 719, excluded individuals who help place unrelated children for adoption from the licensing requirements.

The members of the Committee have decided that such individuals should not have to be licensed. However, they do want to provide some safeguards for the natural parents, the child and the adopting parents when unrelated adoptions are handled by these unlicensed individuals.

This amendment is the Committee's way of providing these safeguards. Section 1 of the amendment attempts to protect both the natural parents and the child, by requiring that the parents of a child to be adopted by unrelated persons consent to the adoption in front of the probate judge, instead of in front of a justice of the peace or notary public. The intent of section 2 of the amendment is to protect the child by ensuring that there will be a home study in every case involving the adoption of an unrelated child. The purpose of section 3 of the amendment is to protect adopting parents from having to pay a lot of money to an unlicensed person in order to get an unrelated child.

Reported by the Committee on Health and Institutional Services.

Reproduced and distributed under the direction of the Clerk of the House.

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