

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1732

S.P. 656

In Senate, April 29, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TITCOMB of Cumberland

Cosponsored by Representative MELENDY of Rockland and Representative LARRIVÉE of Gorham.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Require Certain Disclosures in Adoptions and to Provide
Additional Protective Services for Children.**

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

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4 Sec. 1. 19 MRSA §533, as amended by PL 1989, c. 818, §2, is repealed and the following enacted in its place:

6 §533. Proceedings

8 1. Adoption study. Upon the filing of a petition for
10 adoption of a minor child, unless one of the petitioners is a
12 blood relative of the child or the petitioners have received the
14 child from the Department of Human Services or from a licensed
16 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 the child is a proper subject for
adoption and whether the proposed home is suitable for the child.

18 2. Child's background. The Department of Human Services or
20 licensed adoption agency shall obtain medical or genetic
22 information on the biological parents and child and whatever
24 information may be available regarding the child's background and
26 history that pertains to serious sexual, emotional or physical
28 abuse of the child. This information must be filed with the
30 court and, if it appears that the adoption will be granted and
this information has not previously been made available to the
adoptive parents pursuant to Title 22, section 4008, subsection
3, paragraph G or Title 22, section 8205, the court shall make
the information available to the adoptive parents, prior to
issuing the decree pursuant to subsection 6, with protection for
the identity of persons other than the child.

32 3. Probationary period. The court may require that the
34 child live for one year in the home of the petitioners before the
36 petition is granted and that the child, during all or part of
this probationary period, be under the supervision of the
Department of Human Services or a licensed adoption agency.

38 4. Guardian ad litem. The court may appoint a guardian ad
40 litem for the child at any time during the proceedings.

42 5. Adoption registry. Before the adoption is decreed, the
44 court shall ensure that the petitioners are informed of the
existence of the adoption registry and the services available
under Title 22, section 2706-A.

46 6. Approval of petition. If the judge is satisfied of the
48 identity and relations of the parties, of the ability of the
50 petitioners to bring up and educate the child properly, having
52 reference to the condition of the child's biological parents, and
of the fitness and propriety of the adoption, the judge shall
make a decree setting forth the facts and declaring that from
that date the child is the child of the petitioners and that the

2 child's name is changed, without requiring public notice of that
3 change.

4 7. Birth record. A certified copy of the birth record of
5 the child proposed for adoption must be presented with the
6 petition for adoption, provided the certified copy can be
7 obtained or made available by filing a delayed birth
8 registration. After the adoption has been decreed, the register
9 of probate shall file a certificate of adoption with the State
10 Registrar of Vital Statistics on a form prescribed and furnished
11 by the state registrar.

12 The petitioners shall furnish with the petition such
13 information as the State Registrar of Vital Statistics requires,
14 on a form prescribed and furnished by the state registrar, and
15 shall certify to the truth of that information.

16 The register of probate shall furnish such information from
17 the official court record as the State Registrar of Vital
18 Statistics requires and certify to the court action under the
19 seal of the Probate Court.

20 When the State Registrar of Vital Statistics receives a
21 certificate of adoption, an annulment or revocation of adoption
22 or an amendment thereof from a court for a person born outside
23 this State, the state registrar shall forward that certificate,
24 annulment, revocation or amendment to the appropriate
25 registration authority in the state of birth.

26 **Sec. 2. 22 MRSA §4004-A is enacted to read:**

27 **§4004-A. Financial assistance for placement in residential child**
28 **care facilities**

29 **1. Authorization. In order to further the objectives**
30 **stated in section 4004, subsection 1, paragraph B and section**
31 **4004, subsection 2 and avoid the need to remove custody of the**
32 **child from the parent, the department shall subsidize the cost of**
33 **placement of the child in a residential child care facility, as**
34 **defined in section 8101, subsection 4, under the following**
35 **circumstances.**

36 **A. The child or other members of the family are in**
37 **circumstances of jeopardy if the child remains in or returns**
38 **to the parent's home.**

39 **B. The parent is capable of formulating an appropriate plan**
40 **to protect the child or other members of the family from**
41 **jeopardy.**

42 **C. Maintaining the legal relationship between the child and**
43 **the parent is in the child's best interest.**

2 D. The parent lacks the financial means to implement an
4 appropriate plan.

6 E. There are no other financial resources available to pay
8 for or subsidize the child's placement or treatment in a
 residential child care facility.

10 2. Rules. The department shall adopt rules necessary to
12 implement this section, which include but are not limited to the
 following:

14 A. A method for calculating the amount of subsidy from the
16 department and the amount of contribution by the parent
 toward the cost of the child's care and treatment in a
 residential child care facility;

18 B. Criteria for initial and continued eligibility; and

20 C. Criteria for determining the duration of assistance.

22 Sec. 3. 22 MRSA §4008, sub-§3, ¶E, as repealed and replaced by
24 PL 1985, c. 506, Pt. A, §44, is amended to read:

26 E. ~~The Protection and Advocacy Agency for the~~
28 ~~Developmentally Disabled in Maine~~ protection and advocacy
30 agency for persons with disabilities, as designated pursuant
32 to Title 5, section 19502, in connection with investigations
 conducted in accordance with Title 5, chapter 961 511. The
 determination of what information and records are relevant
 to the investigation shall must be made by agreement between
 the department and the agency; and

34 Sec. 4. 22 MRSA §4008, sub-§3, ¶F, as amended by PL 1989, c.
36 700, Pt. A, §89, is further amended to read:

38 F. ~~When The Commissioner of Education when~~ When the information
40 concerns teachers and other professional personnel issued
42 certificates under Title 20-A, persons employed by schools
 approved pursuant to Title 20-A or any employees of schools
 operated by the Department of Education, the information
 shall be disclosed to the Commissioner of Education; and

44 Sec. 5. 22 MRSA §4008, sub-§3, ¶G is enacted to read:

46 G. The prospective adoptive parents. Prior to a child
48 being placed for the purpose of adoption, the department
50 shall disclose fully to the prospective adoptive parents
52 available information regarding the child's medical and
 genetic background and any available background or history
 that pertains to serious sexual, emotional or physical abuse
 of the child, with protection for the identity of persons
 other than the child.

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Sec. 6. 22 MRSA §8205 is enacted to read:

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§8205. Disclosure of child's background

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Prior to a child being placed for the purpose of adoption, a child placing agency shall disclose fully to the prospective adoptive parents available information regarding the child's medical and genetic background and any available background or history that pertains to serious sexual, emotional or physical abuse of the child, with protection for the identity of persons other than the child.

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STATEMENT OF FACT

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This bill requires that medical and genetic information be provided to prospective adoptive parents. Disclosure of previous serious physical, sexual or emotional abuse is also required. The Department of Human Services is instructed to provide funds in certain circumstances to assist parents in placing children in need of services in residential child care facilities without having the department assume legal custody of the children.

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