

MAINE STATE LEGISLATURE

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L.D. 1400

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DATE: June 27, 1995 (Filing No. S- 350)

JUDICIARY

Reported by: Senator MILLS of Somerset for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 515, L.D. 1400, Bill, "An Act to Amend the Adoption Laws"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, many adoptions have been unnecessarily delayed because of differing interpretations of the effect of Public Law 1993, chapter 686; and

Whereas, some adoptions will be not finalized until the meaning of the laws is clarified through legislation; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 19 MRSA §1102, sub-§4, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

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2 **4. Birth parent; biological parent.** "Birth parent" or
"biological parent" means a person who is the biological parent
of a child.

4 A. "Birth father" means the male birth parent of a child.

6 B. "Birth mother" means the female birth parent of a child.

8 **Sec. 2. 19 MRSA §1102, sub-§8-A** is enacted to read:

10 **8-A. Parent.** "Parent" means the legal parent or the legal
12 guardian when no legal parent exists.

14 **Sec. 3. 19 MRSA §1103, sub-§2,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

16 **2. District Court.** The District Court has jurisdiction to
18 conduct hearings pursuant to section ~~1104~~, ~~sub-section-4~~ 1115.

20 **Sec. 4. 19 MRSA §1104, sub-§2,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

22 **2. Independent adoption.** If the adoptee is not placed by a
24 licensed child placing agency or the department, the petition for
adoption must be filed in the county where the adoptee resides,
26 where the petitioners reside or where the consent has been filed.

28 **Sec. 5. 19 MRSA §1104, sub-§4,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is repealed.

30 **Sec. 6. 19 MRSA §§1107 and 1108** are enacted to read:

32 **§1107. Indian Child Welfare Act**

34 The Indian Child Welfare Act, United States Code, Title 25,
36 Section 1901 et seq. governs all proceedings under this chapter
38 that pertain to an Indian child as defined in that Act.

40 **§1108. Application of prior laws**

42 The laws in effect on July 31, 1994 apply to proceedings for
which any of the following occurred before August 1, 1994:

44 **1. Consent.** The filing of a consent;

46 **2. Surrender and release.** The filing of a surrender and
release;

48 **3. Waiver of notice.** The filing of a waiver of notice by a
50 father or putative father under former section 532-C;

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2 **4. Termination of parental rights.** The issuance of an
4 order terminating parental rights; or

6 **5. Adoption petition.** The filing of an adoption petition.

8 **Sec. 7. 19 MRSA §1111, sub-§2,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

10 **2. Notification.** If the judge finds from the affidavit of
12 the birth mother that the putative father's whereabouts are
14 known, the judge shall order that notice of the mother's intent
16 to consent to adoption or to execute a surrender and release, or
18 the mother's actual consent or surrender and release, for the
20 purpose of adoption of the child, be served upon the putative
22 father of the child. If the judge finds that the putative
24 father's whereabouts are unknown, then the court shall order
26 notice by publication in accordance with the Maine Rules of Civil
Procedure. If the birth mother does not know or refuses to tell
the court who the birth father is, the court may order
publication in accordance with the Maine Rules of Civil Procedure
in a newspaper of general circulation in the area where the
petition is filed, where the birth mother became pregnant or
where the putative father is most likely to be located. The
notice must specify the names of the birth mother and the child.

28 **Sec. 8. 19 MRSA §1111, sub-§2-A** is enacted to read:

30 **2-A. Waiver of notice by putative father or legal father**
who is not the biological father. A putative father or a legal
32 father who is not the biological father may waive his right to
34 notice in a document acknowledged before a notary public or a
36 judge of probate. The document must indicate that the putative
38 father or legal father understands the consequences of the waiver
40 of notice. The legal father must attach to the waiver of notice
document an affidavit stating that, although he is the legal
father, he is not the biological father. The notary public may
not be an attorney who represents either the mother or any person
who is likely to become the legal guardian, custodian or parent
of the child.

42 **Sec. 9. 19 MRSA §1111, sub-§6,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

44 **6. Notice.** Notice of the hearing must be given to the
46 putative father, the birth mother, the attorney for the child and
48 any other parties the judge determines appropriate. Notice need
not be given to a putative father or a legal father who is not
the biological father and who has waived his right to notice as
50 provided in subsection 2-A.

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Sec. 10. 19 MRSA §1112, sub-§1, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

1. Surrender and release or consent to adopt. With the approval of the judge of probate of any county within the State and after a determination by the judge that a surrender and release or a consent is in the best ~~interests~~ interest of all ~~parties~~ the child, the parents or surviving parent of a child may:

- A. Surrender and release all parental rights to the child and the custody and control of the child to a licensed child placing agency or the department to enable the licensed child placing agency or the department to have the child adopted by some suitable person; or
- B. Consent to have the child adopted by a specified petitioner.

The parents or surviving parent must execute the surrender and release or consent in the presence of the judge. The waiver of notice by the father or putative father is governed by section 1111, subsection 2-A.

Sec. 11. 19 MRSA §1112, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. Conditions. The court may approve a consent or a surrender and release only if the following conditions are met:

A. A licensed child placing agency or the department certifies to the court that counseling was provided or was offered and refused; This requirement does not apply if:

- (1) One of the petitioners is a blood relative; or
- (2) The adoptee is an adult;

B. ~~The court has, at least 3 days prior to receiving the parent's signature,~~ explained the individual's parental rights and responsibilities and, the effects of the consent or the surrender and release, that the individual has the right to revoke the consent or surrender and release within 3 days and the existence of the adoption registry and the services available under Title 22, section 2706-A; and

C. The court determines that the consent or the surrender and release has been duly executed and was given freely after the parent was informed of the parent's rights; and

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2 D. At least 3 days have elapsed since the parents or parent
4 executed the surrender and release or consent and the
6 parents or parent did not withdraw or revoke the consent or
8 surrender and release before the judge or, if the judge was
10 not available, before the register.

12 **Sec. 12. 19 MRSA §1112, sub-§3**, as enacted by PL 1993, c. 686,
14 §5 and affected by §13, is repealed and the following enacted in
16 its place:

18 **3. Records.** The consent or surrender and release must be
20 executed in duplicate. One original consent or surrender and
22 release must be filed in the Probate Court where the consent or
24 the surrender and release is executed. The other original
26 consent or the surrender and release must be filed in the Probate
28 Court in which the petition is filed. The court in which the
30 consent or surrender and release is executed shall provide an
32 attested copy to each consenting or surrendering party and 2
34 attested copies to the transferee agency, attorney or adoptive
36 parents. The copy given to the consenting or surrendering party
38 must contain a statement explaining the importance of keeping the
40 court informed of a current name and address.

42 **Sec. 13. 19 MRSA §1112, sub-§4**, as enacted by PL 1993, c. 686,
44 §5 and affected by §13, is amended to read:

46 **4. Validity.** ~~To be valid, a~~ A consent or a surrender and
48 release executed in this State must be in accordance with this
chapter is not valid until 3 days after it has been executed.

Sec. 14. 19 MRSA §1112, sub-§8 is enacted to read:

8. Reciprocity. The court shall accept a consent or
surrender and release by a court of comparable jurisdiction in
another state if that court has complied with the requirements of
that state. The court shall accept a waiver of notice by a
putative father or a legal father who is not the biological
father that was executed in another state and in compliance with
that state's requirements.

Sec. 15. 19 MRSA §1114, sub-§3, ¶A, as enacted by PL 1993, c.
686, §5 and affected by §13, is amended to read:

A. The court shall ~~may~~ may appoint a guardian ad litem for the
child. The court shall pay reasonable costs and expenses
for the guardian ad litem. The appointment must be made as
soon as possible after the petition for termination of
parental rights is initiated.

2 **Sec. 16. 19 MRSA §1115, sub-§2**, as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

4 **2. Determinations.** If the court determines that adoption
6 is still a viable plan for the child, the court shall schedule
another judicial review within 2 years. If the court determines
8 that adoption is no longer a viable plan, the court shall attempt
to notify the birth parents, who must be given an opportunity to
10 present an acceptable plan for the child. If either or both
parents are able and willing to assume physical custody of the
12 child, then the court shall declare the consent or the surrender
and release void.

14 If the birth parents are not notified or are unable or unwilling
to assume physical custody of the child or if the court
16 determines that placement of the child with the birth parents
would constitute jeopardy as defined by Title 22, section 4002,
18 subsection 6, then the case must be transferred to the District
Court for a hearing pursuant to Title 22, section 4038-A.

20 **Sec. 17. 19 MRSA §1122, sub-§2, ¶A**, as enacted by PL 1993, c.
22 686, §5 and affected by §13, is repealed and the following
enacted in its place:

24 A. A putative father or a legal father who is not the
26 biological father:

28 (1) Who received notice and who failed to respond to
30 the notice within the prescribed time period;

32 (2) Who waived his right to notice under section 1111,
subsubsection 2-A; or

34 (3) Who failed to meet the standards of section 1111,
36 subsubsection 8;

38 **Sec. 18. 19 MRSA §1123, sub-§1, ¶E**, as enacted by PL 1993, c.
686, §5 and affected by §13, is repealed.

40 **Sec. 19. 19 MRSA §1124**, as enacted by PL 1993, c. 686, §5 and
42 affected by §13, is repealed.

44 **Sec. 20. 19 MRSA §1125, sub-§1**, as enacted by PL 1993, c.686,
§5 and affected by §13, is amended to read:

46 **1. Adoption study; investigation.** Upon the filing of a
petition for adoption of a minor child, ~~unless--one--of--the~~
48 ~~petitioners-is-a-blood-relative-of-the-child-or-the-petitioners~~
~~have-received-the-child-from-the-department-or-from-a-licensed~~
50 ~~child-placing-agency~~, the court shall notify the department or a

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2 ~~licensed child placing agency, which shall,--either--through--its~~
3 ~~own-workers--or--through--a--licensed--adoption--agency,~~ investigate
4 the conditions and antecedents of the child to determine whether
5 the child is a proper subject for adoption and whether the
6 proposed home is suitable for the child. The department or
7 agency shall submit the report to the court. The court may order
8 an adoption study, investigation and home study if one of the
9 petitioners is a blood relative.

10 **Sec. 21. 19 MRSA §1127, sub-§1**, as enacted by PL 1993, c. 686,
11 §5 and affected by §13, is amended to read:

12 **1. Allowable payments.** Only Except when one of the
13 petitioners is a blood relative or the adoptee is an adult, only
14 the following expenses may be paid by or on behalf of a
15 petitioner in any proceeding under this chapter:

16 **A.** The actual cost of legal services related to the
17 consent or the surrender and release and to the adoption
18 process;

19 **B.** Prenatal and postnatal counseling expenses for the birth
20 mother;

21 **C.** Prenatal, birthing and other related medical expenses
22 for the birth mother;

23 **D.** Necessary transportation expenses to obtain the services
24 listed in paragraphs A, B and C;

25 **E.** Foster care expenses for the child;

26 **F.** Necessary living expenses for the birth mother and the
27 child; and

28 **G.** For the birth father, legal and counseling expenses
29 related to the consent, the surrender and release and the
30 adoption process; and

31 **H.** Fees to a licensed child placing agency providing
32 services in connection with the pending adoption.

33 **Sec. 22. 19 MRSA §1127, sub-§2**, as enacted by PL 1993, c. 686,
34 §5 and affected by §13, is amended to read:

35 **2. Accounting.** Prior to the dispositional hearing pursuant
36 to section 1129, the petitioner shall file a full accounting of
37 all disbursements of anything of value made or agreed to be made
38 by or on behalf of the petitioner in connection with the
39 adoption. The accounting report must be signed under penalty of
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perjury and must be submitted to the court on or before the final
2 decree is granted. The accounting report must be itemized and
show the services related to the adoption or to the placement of
4 the adoptee for adoption that were received by the adoptee's
parents, by the adoptee, or on behalf of the petitioner. The
6 accounting must include the dates of each payment and the names
and addresses of each attorney, physician, hospital, licensed
8 adoption agency or other person or organization who received any
funds or anything of value from the petitioner in connection with
10 the adoption or the placement of the adoptee with the petitioner,
or participated in any way in the handling of the funds, either
12 directly or indirectly. This subsection does not apply when one
of the petitioners is a blood relative or the adoptee is an adult.

14
16 **Sec. 23. 19 MRSA §1129, sub-§1, ¶C**, as enacted by PL 1993, c.
686, §5 and affected by §13, is repealed.

18 **Sec. 24. 19 MRSA §1129, sub-§2, ¶B**, as enacted by PL 1993, c.
686, §5 and affected by §13, is amended to read:

20
22 B. The capacity and disposition of the adopting person or
persons, the birth parent or birth parents or the putative
24 father to educate and give the adoptee love, affection and
guidance and ~~to educate and create a milieu that fosters the~~
26 religion, racial identity and culture of the adoptee to meet
the needs of the adoptee, taking into account the adoptee's
28 cultural, ethnic or racial background. An adoption may not
be delayed or denied solely because the adoptive parent and
30 the child do not share the same race, color or national
origin; and

32 **Sec. 25. 19 MRSA §1129, sub-§3**, as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

34
36 **3. Final decree.** The court shall enter its findings in a
written decree that includes the new name of the adoptee ~~and any~~
38 ~~other name by which the adoptee has been known.~~ The final decree
must further order that from the date of the decree the adoptee
40 is the child of the petitioner and must be accorded the status
set forth in section 1105. If the court determines that it is in
42 the best interest of the child, the court may require that the
names of the child and of the petitioners be kept confidential.

44 **Sec. 26. 19 MRSA §1129, sub-§4**, as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

46
48 **4. Notice upon completion.** Upon ~~finalization~~ completion of
an adoption proceeding, the birth parents who consented to an
50 adoption or who executed a surrender and release must be notified
of the ~~finalization~~ completion by ~~eertified~~ regular mail,

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2 ~~restricted-delivery-and-return-receipt-requested,~~ at their last
known address. When the birth parents' rights have been
4 terminated pursuant to Title 22, section 4055, the notice must be
given to the department and the department shall notify the birth
6 parents of the finalization completion by certified regular mail,
~~restricted-delivery-and-return-receipt-requested,~~ at their last
8 known address. Actual receipt of the notice is not a
precondition of finalization completion and does not affect the
rights or responsibilities of adoptees or adoptive parents.

10
12 **Sec. 27. 19 MRSA §1130, sub-§3,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is amended to read:

14 **3. Representation.** An attorney or guardian ad litem
appointed to represent a party in an adoption proceeding in
16 Probate Court continues to represent the interests of that client
party in any appeal unless otherwise ordered by the court.

18
20 **Sec. 28. 19 MRSA §1131,** as enacted by PL 1993, c. 686, §5 and
affected by §13, is amended to read:

22 **§1131. Records confidential**

24 ~~All Notwithstanding any other provision of law, all~~ Probate
Court records relating to any adoption decreed on or after August
26 8, 1953 are ~~declared-to-be~~ confidential. The Probate Court shall
keep records of those adoptions segregated from all other court
28 records. ~~The--adoption--records--may--be--examined--only--upon~~
~~authorization-by-the-judge-of-the-Probate-Court,--In-any-case~~
30 ~~where-it-is-considered-proper-that-an-examination-be-authorized,~~
~~the-judge-may-in-lieu-of-an-examination,--or-in-addition-to-an~~
32 ~~examination,--grant--authority--to~~ If a Probate Court Judge
determines that examination of records pertaining to a particular
34 adoption is proper, the judge may authorize that examination by
specified persons, authorize the register of probate to disclose
36 to specified persons any information contained in the records by
letter, certificate or copy of the record or authorize a
38 combination of both examination and disclosure.

40 Any medical or genetic information in the court records
relating to an adoption must be made available to the adopted
42 child upon reaching the age of 18, the adopted child's
descendants, adoptive parents or legal guardian on petition of
44 the court.

46 **Sec. 29. 19 MRSA §1136, sub-§1,** as enacted by PL 1993, c. 686,
§5 and affected by §13, is repealed and the following enacted in
48 its place:

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2 1. Grounds. A judge of probate may, on petition of 2 or
3 more persons, after notice and hearing, reverse and annul a
4 decree of the Probate Court for the following reasons:

6 A. The court finds that the adoption was obtained as a
7 result of fraud, duress or illegal procedures; or

8 B. Other good cause shown consistent with the best interest
9 of the child.

10 **Sec. 30. 19 MRSA §1136, sub-§3** is enacted to read:

12 3. Certificate of annulment. After the Probate Court
13 annuls a decree of adoption, the Register of Probate shall
14 transmit immediately a certified copy of the annulment to the
15 State Registrar of Vital Statistics.

18 **Sec. 31. Application.** This Act applies to adoption petitions
19 filed on or after the effective date of this Act. The Probate
20 Court shall apply either Public Law 1993, chapter 686 or this Act
21 to adoptions for which any of the documents listed in the Maine
22 Revised Statutes, Title 19, section 1108, were executed on or
23 after August 1, 1994, but before the effective date of this Act,
24 whichever Act reduces delay in the adoption process for that
25 particular adoption, consistent with the best interest of the
26 child.

28 **Sec. 32. Forms.** The Advisory Committee on Probate Rules
29 shall adopt by rule a form that Maine Probate Courts will mail to
30 a court of comparable jurisdiction in another jurisdiction to
31 provide to parents executing consents or surrender and releases
32 when the adoption is anticipated to be completed in the State.
33 The form must provide an explanation of Maine adoption law and
34 must provide a place for the parents to sign certifying that they
35 received the form. The court in the other jurisdiction shall
36 send a copy of the executed form to the Maine Probate Court.

38 **Emergency clause.** In view of the emergency cited in the
39 preamble, this Act takes effect when approved.'

42 **STATEMENT OF FACT**

44 This amendment replaces the bill and incorporates certain
45 proposals included in L.D. 629 and L.D. 1182.

46 This amendment makes the following changes to the adoption
47 laws.

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1. The definition of "birth parent" is amended to clarify that birth parent or biological parent means the same thing.

2. The term "parent" is defined to include a guardian when no parent exists. A guardian is not authorized to execute a consent or a surrender and release if one or both parents are alive and retain their legal rights as parents.

3. The number of places where the petition for adoption may be filed is expanded to include the county in which the petitioners reside.

4. The chapter is made consistent concerning the transfer to the District Court of cases in which the adoption is not finalized within a specific period of time.

5. A reference is added to the Indian Child Welfare Act to state that the federal laws apply as defined.

6. An application section is added to the Maine Revised Statutes, Title 19, chapter 21 to cover the cases in which preliminary steps toward adoption were taken before August 1, 1994, the effective date of Public Law 1993, chapter 686, but for which an adoption petition was not filed until after that date.

7. The provisions concerning notice to a putative father by publication is amended to cover situations in which the mother has already signed a consent or a surrender and release. It also requires that publication be made in accordance with the Maine Rules of Civil Procedure.

8. A putative father or the legal father who is not the biological father is given the opportunity to waive his right to notice of the proceedings by executing a document before a notary public or judge. Once the waiver of notice document is executed and filed with the Probate Court, the putative father or the legal father who is not the biological father will not be notified of further proceedings, and his consent will not be required. The legal father must attach to the waiver of notice document a signed and sworn statement that although he is the legal father, he is not the biological father. A man who is married to a woman at the time her child is conceived or born is legally presumed to be the father. If the husband is not the biological father of the child, these changes allow him to state under oath that he is not the biological father and waive the right to receive notice of proceedings. After doing so, his consent or surrender and release is no longer required.

9. The law is clarified to require the consent or the surrender and release to be executed in the presence of the

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2 judge. The judge can reject the consent or the surrender and
release if it is not in the best interest of the child.

4 10. Current law requires that the birth parents receive
6 counseling or provide a certificate showing they were offered and
refused counseling. This requirement is amended so that it does
8 not apply to adoptions in which one of the petitioners is a blood
relative of the adoptee, such as stepparent adoptions, and
adoptions in which the adoptee is an adult.

10 11. The Probate Judge must inform the parents signing the
12 consent or the surrender and release that they have 3 days in
which to revoke that consent or surrender and release.

14 12. The consent or surrender and release must be executed
16 in duplicate. The original stays with the court in which it was
executed and the other is sent to the court in which the adoption
18 petition is filed. Attested copies will be available for all
other uses.

20 13. The current law contains no reciprocity provision
22 authorizing acceptance of adoption proceedings in other states.
A new subsection is added to require the acceptance of consents,
24 surrender and releases and waivers executed in another state in
accordance with that state's laws. An unallocated section is
26 added requiring the Advisory Committee on Probate Rules to
develop a form that the Probate Court may use to send to other
28 jurisdictions to explain to birth parents the effect of Maine
adoption law. This is important when the consent or surrender
30 and release is executed in another state and the adoption will be
completed in Maine, so Maine law will govern the adoption and its
32 confidential nature.

34 14. Current law requires the appointment of a guardian ad
litem. This amendment gives the court discretion to appoint one.

36 15. When a child is not adopted or an adoption is not
38 finalized after 18 months, the court is required to review the
case. If adoption is not a viable plan, the court is required to
40 notify the birth parents. This amendment requires the court to
attempt to notify the birth parents.

42 16. The requirement that the adoption petition contain a
44 timetable for adoption is repealed.

46 17. The amendment repeals Title 19, section 1124, requiring
service of notice of a petition to adopt. The requirement of
48 notice of finalization of an adoption is retained, although the
terminology is revised to refer to the completion of the adoption.

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2 18. The language governing the investigation of the birth
4 parents, the child and the adoptive parents is revised to allow a
6 child placing agency to provide the services directly rather than
8 through the Department of Human Services. The court is given
discretion on whether to order an adoption study and
investigation or a home study if one of the petitioners is a
blood relative.

10 19. The limits on expenses of the birth mother and the
12 adoption that may be paid by the adoptive parents does not apply
14 when one of the petitioners is a blood relative or if the adoptee
is an adult. The list of allowable expenses is expanded to
include fees to a licensed child placing agency.

16 20. The requirement that the petitioner file an accounting
18 of expenses paid does not apply to adoptions in which one of the
petitioners is a blood relative or in which the adoptee is an
adult.

20 21. In determining whether the best interests of the
22 adoptee will be served, the court is to consider the capacity and
24 disposition of the petitioners to provide an appropriate home
26 consistent with the background of the child. This provision is
28 amended to be consistent with the federal Multiethnic Placement
Act. It also prohibits the delay or denial of an adoption solely
because the adoptive parent and the child are not of the same
race, color or national origin.

30 22. The final adoption decree is no longer required to
32 contain every name by which the adoptee was formerly known.

34 23. Completion of the adoption may be sent by regular mail,
rather than certified mail, return receipt requested.

36 24. This amendment allows an attorney to continue to
represent a party through an appeal until otherwise notified.

38 25. The records confidentiality provisions are clarified to
40 reiterate that the records are confidential.

42 26. The reasons for annulment of an adoption are revised to
44 remove "error" and to add "for other good cause shown consistent
with the best interest of the child."

46 27. When an adoption is annulled, the Probate Court shall
48 issue a certificate of annulment and send a certified copy to the
State Registrar of Vital Statistics.

50 28. This amendment is made an "emergency" to take effect
immediately upon the Governor's signature.

2 29. An application section is added. This Act applies to
4 all adoption petitions filed on or after the effective date of
6 this Act with the following exception. The Probate Court Judge
8 may apply the law effective on August 1, 1994, as enacted by
10 Public Law 1993, chapter 686, to adoptions for which the petition
12 is filed on or after the effective date of this Act, but one or
14 more of the following has occurred under Public Law 1993, chapter
16 686:

- 18 A. The filing of a consent;
- 20 B. The filing of a surrender and release;
- 22 C. The filing of a waiver of notice by a father or putative
 father; or
- D. The issuance of an order terminating parental rights.

 The judge must decide what law to apply by examining which
law reduces delay in the adoption process for that particular
adoption, consistent with the best interest of the child.