

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1070

H.P. 815

House of Representatives, February 22, 2001

An Act to Require Background Checks for Adoptions.

Reported by Representative LaVERDIERE for the Family Law Advisory Commission pursuant to the Maine Revised Statutes, Title 19-A, section 354, subsection 2.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

2 **Sec. 1. 18-A MRSA §9-301**, as amended by PL 1997, c. 18, §3
4 and affected by §6, is further amended to read:

6 **§9-301. Petition for adoption and change of name; filing fee**

8 A husband and wife jointly or an unmarried person, resident
10 or nonresident of the State, may petition the Probate Court to
12 adopt a person, regardless of age, and to change that person's
14 name. The fee for filing the petition is \$50, plus:

16 (a) The fee for a national criminal history record check
18 for noncriminal justice purposes set by the Federal Bureau of
20 Investigation for each prospective adoptive parent who is not the
22 biological parent of the child; and

24 (b) The fee for a state criminal history record check for
26 noncriminal justice purposes established pursuant to Title 25,
28 section 1541, subsection 6 for each prospective adoptive parent
30 who is not the biological parent of the child.

32 **Sec. 2. 18-A MRSA §9-304, sub-§(a)**, as amended by PL 1997, c.
34 239, §5 and affected by §6, is repealed.

36 **Sec. 3. 18-A MRSA §9-304, sub-§(a-1)** is enacted to read:

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

46 (1) The study must include an investigation of the
48 conditions and antecedents of the child to determine whether
50 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

2 criminal history record information obtained from the Maine
3 Criminal Justice Information System and the Federal Bureau
4 of Investigation.

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

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

12 (iii) Each prospective parent who is not the
13 biological parent of the child shall submit to having
14 fingerprints taken. The State Police, upon receipt of
15 the fingerprint card, may charge the court for the
16 expenses incurred in processing state and national
17 criminal history record checks. The State Police shall
18 take or cause to be taken the applicant's fingerprints
19 and shall forward the fingerprints to the State Bureau
20 of Identification so that the bureau can conduct state
21 and national criminal history record checks. Except
22 for the portion of the payment, if any, that
23 constitutes the processing fee charged by the Federal
24 Bureau of Investigation, all money received by the
25 State Police for purposes of this paragraph must be
26 paid over to the Treasurer of State. The money must be
27 applied to the expenses of administration incurred by
28 the Department of Public Safety.

29 (iv) The subject of a Federal Bureau of Investigation
30 criminal history record check may obtain a copy of the
31 criminal history record check by following the
32 procedures outlined in 28 Code of Federal Regulations,
33 Sections 16.32 and 16.33. The subject of a state
34 criminal history record check may inspect and review
35 the criminal history record information pursuant to
36 Title 16, section 620.

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

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

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

8 **Sec. 4. 25 MRSA §1542-A, sub-§1, ¶G**, as amended by PL 1999, c.
9 260, Pt. B, §7 and affected by §18, is further amended to read:

10 G. Who is a teacher or educational personnel applicant
11 subject to Title 20-A, section 6103; ~~or~~

12 **Sec. 5. 25 MRSA §1542-A, sub-§1, ¶H**, as enacted by PL 1999, c.
13 260, Pt. B, §8 and affected by §18, is amended to read:

14 H. Charged with the commission of a juvenile crime; ~~or~~

15 **Sec. 6. 25 MRSA §1542-A, sub-§1, ¶I** is enacted to read:

16 I. Who is a prospective adoptive parent not the biological
17 parent as required under Title 18-A, section 9-304,
18 subsection (a-1).

19 **Sec. 7. 25 MRSA §1542-A, sub-§3, ¶H** is enacted to read:

20 H. The State Police shall take or cause to be taken the
21 fingerprints of the person named in subsection 1, paragraph
22 I, at the request of that person and upon payment of the
23 expenses specified under Title 18-A, section 9-304,
24 subsection (a-1), paragraph (2), subparagraph (iii).

25 **Sec. 8. 25 MRSA §1542-A, sub-§4**, as amended by PL 1999, c.
26 791, §7, is further amended to read:

27 **4. Duty to submit to State Bureau of Identification.** It is
28 the duty of the law enforcement agency taking the fingerprints as
29 required by subsection 3, paragraphs A, B and G to transmit
30 immediately to the State Bureau of Identification the criminal
31 fingerprint record. Fingerprints taken pursuant to subsection 1,
32 paragraph C, D, E or F or pursuant to subsection 5 may not be
33 submitted to the State Bureau of Identification unless an express
34 request is made by the commanding officer of the State Bureau of
35 Identification. Fingerprints taken pursuant to subsection 1,
36 paragraph G must be transmitted immediately to the State Bureau
37 of Identification to enable the bureau to conduct state and
38 national criminal history record checks for the Department of
39 Education. The bureau may not use the fingerprints for any
40 purpose other than that provided for under Title 20-A, section
41 6103. The bureau shall retain the fingerprints, except as

2 provided under Title 20-A, section 6103, subsection 9.
3 Fingerprints taken pursuant to subsection 1, paragraph I must be
4 transmitted immediately to the State Bureau of Identification to
5 enable the bureau to conduct state and national criminal history
6 record checks for the court.

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SUMMARY

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This bill is a recommendation of the Family Law Advisory Commission.

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13 This bill requires prospective adoptive parents to undergo a
14 background check prior to finalization of the adoption. The
15 probate judge shall request the Department of Human Services to
16 review the child protective files and shall request the State
17 Bureau of Identification to run a criminal history background
18 check. The cost of reviewing the child protective services files
19 by the Department of Human Services will be included in the
20 adoption filing fee. The criminal history background check is
21 based on the prospective adoptive parent's fingerprints and
22 includes both Maine conviction data and national criminal history
23 information from the Federal Bureau of Investigation. The State
24 Police will identify appropriate local law enforcement agencies
25 to take the fingerprints. The cost of doing the background
26 checks will be included in the adoption petition filing fee.

28

The Department of Human Services and the State Police will report back to the probate judge with the results of the child protection records check and the criminal history background check. The probate judge will use the information obtained to determine if the adoption is in the best interests of the child. The information is confidential and can not be used for any other purposes, except in compliance with the mandatory child abuse reporting requirements.

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37 If one of the prospective adoptive parents is the child's
38 biological parent, that person is not required to undergo the
39 background check.

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