



# **123rd MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2007

Legislative Document

No. 1734

H.P. 1217

House of Representatives, March 26, 2007

### An Act To Provide Adult Adoptees Access to Information

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative BRYANT of Windham. Cosponsored by Senator BRYANT of Oxford and Representative: PATRICK of Rumford.

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

#### 2 Sec. 1. 18-A MRSA §9-202, sub-§(i) is enacted to read:

3 (i). Before the surrender and release is executed, the parents shall complete a family
 4 history form to provide the medical, genetic, cultural and social history information as set
 5 forth in section 9-304, subsection (b), paragraph (1).

6 Sec. 2. 18-A MRSA §9-304, sub-§(b), ¶(1), as enacted by PL 1995, c. 694, Pt.
7 C, §7 and affected by Pt. E, §2, is amended to read:

8 (1). The department, the licensed child-placing agency or any other person who acts 9 to place or assist in placing the child for adoption shall obtain medical and, genetic, 10 <u>cultural and social history</u> information on the biological parents and the child <u>by</u>, 11 <u>among other methods, requiring the biological parents to complete the family history</u> 12 <u>form as required in section 9-202, subsection (i)</u>. Specifically, the department, the 13 licensed child-placing agency or other person who acts to place or assist in placing 14 the child for adoption shall attempt to obtain:

(i) A current medical, psychological and developmental history of the child,
including an account of the child's prenatal care and medical condition at birth,
results of newborn screening, any drug or medication taken by the child's
biological mother during pregnancy, any subsequent medical, psychological or
psychiatric examination and diagnosis, any physical, sexual or emotional abuse
suffered by the child and a record of any immunizations and health care received
since birth; and

(ii) Relevant information concerning the medical, psychological and, social
history and cultural history of the biological parents, including any known
disease or hereditary disposition to disease, the history of use of drugs and
alcohol, the health of the biological mother during her pregnancy and the health
of the biological parents at the time of the child's birth.

27 Sec. 3. 18-A MRSA §9-304, sub-§(b), ¶(5), as enacted by PL 1995, c. 694, Pt.
28 C, §7 and affected by Pt. E, §2, is amended to read:

29 (5). If, after a child is placed for adoption and either before or after the adoption is 30 final, the child suffers a serious medical or mental illness for which the specific 31 medical, psychological or social history of the biological parents or the child may be useful in diagnosis or treatment, the prospective adoptive or adoptive parents may 32 33 request that the department, the licensed child-placing agency or other person who placed or assisted to place the child attempt to obtain additional information. The 34 35 department, licensed child-placing agency or other person shall attempt to obtain the information promptly and shall disclose any information collected to the prospective 36 adoptive or adoptive parents as soon as reasonably possible. The department, the 37 38 licensed child-placing agency or other person may charge a fee to the prospective 39 adoptive or adoptive parents to cover the cost of obtaining and providing the 40 additional information. Fees collected by the department must be dedicated to defray 41 the costs of obtaining and providing the additional information. Fees may be reduced 42 or waived for low-income prospective adoptive or adoptive parents.

1 This paragraph applies to a request for information by an adoptee who has reached 18 2 years of age if the adoptee or a direct descendant of the adoptee suffers from a serious 3 medical or mental illness for which the specific medical, psychological or social 4 history of the biological parents or the adoptee may be useful in diagnosis or 5 treatment.

6 Sec. 4. 18-A MRSA §9-310, as enacted by PL 1995, c. 694, Pt. C, §7 and affected 7 by Pt. E, §2, is repealed and the following enacted in its place:

#### 8 §9-310. Records confidential

9 (a). This subsection applies to adoptions decreed on or after August 8, 1953 and 10 before September 1, 2007.

(1). Notwithstanding any other provision of law, all Probate Court records relating to
 adoptions under this subsection are confidential. The Probate Court shall keep
 records of those adoptions segregated from all other court records.

(2). If a Judge of Probate Court determines that examination of records pertaining to
 a particular adoption under this subsection is proper, the judge may authorize that
 examination by specified persons; authorize the register of probate to disclose to
 specified persons any information contained in the records by letter, certificate or

18 copy of the record; or authorize a combination of both examination and disclosure.

19 Examination or disclosure of records is proper only if the birth parents listed on the

20 original birth certificate have consented to the release of identifying information.

21 (b). This subsection applies to adoptions decreed on or after September 1, 2007.

(1). Notwithstanding any other provision of law, the Probate Court records relating
 to adoptions under this subsection are confidential. The Probate Court shall keep
 records of those adoptions segregated from all other court records.

- (2). Information contained in the records maintained by the Probate Court is subject
   to examination or disclosure by letter, certificate or copy of the record or a
   combination of both examination and disclosure as follows.
- (i) Except as provided in subparagraph (iii), upon request of the adoptive parents
   all information in the Probate Court records pertaining to that adoption until the
   adoptee reaches 18 years of age is available to the adoptive parents of the
   adoptee.

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(ii) Except as provided in subparagraph (iii), upon request of the adoptee all
 information in the Probate Court records pertaining to that adoptee is available to
 the adoptee on or after the date on which the adoptee reaches 18 years of age.

(iii) If a birth parent identified on the original birth certificate submits to the
 Probate Court within 7 days of the effective date of the consent, surrender and
 release or termination of parental rights a sworn, notarized statement directing
 that the name and any personally identifying information about the birth parent
 on the original birth certificate are to be kept confidential, the register of probate
 may not disclose that information. The statement must include the following
 declaration by the birth parent: "I understand that I may provide additional

1 personal, family and medical information to the Probate Court at any time, except 2 that I must update the medical information every 10 years, until I reach 40 years of age, and every 5 years thereafter. The information will be available to the 3 adult adoptee, the adult adoptee's descendants, adoptive parents or legal guardian 4 5 upon request. I also understand that I may change my mind about keeping 6 information confidential. If I do so, I may provide to the Probate Court at any 7 time a sworn, notarized writing authorizing the Probate Court to release my name 8 and personally identifying information, as well as a noncertified copy of the 9 original birth certificate, to the adult adoptee, the adult adoptee's descendants, 10 adoptive parents or legal guardian upon request."

(c). A birth parent at any time may submit current medical information or any other
 relevant information, including current address, to the Probate Court to be made available
 to the adoptee when the adoptee reaches 18 years of age and to the adoptee's descendants,
 adoptive parents or legal guardian.

15 (d). Any medical or genetic information in the court records relating to an adoption 16 must be made available on petition to the Probate Court to the adoptee when the adoptee 17 reaches 18 years of age and to the adoptee's descendants, adoptive parents or legal 18 guardian.

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#### SUMMARY

20 This bill maintains the option of confidential adoption. It applies prospectively to 21 allow birth parents to choose to keep the personally identifying information confidential by so stating at the time of the consent, surrender and release or termination of parental 22 rights. The statement includes an acknowledgment that the birth parent knows that 23 medical and family information can be added to the Probate Court records at any time, 24 25 and such information will be available to the adoptive parents or the adoptee. The birth parent also acknowledges that the decision to keep the information confidential may be 26 27 changed and therefore made available.

This bill provides that a birth parent may, at any time, provide current medical or other relevant information to the Probate Court to be made available to the adoptee and the adoptee's adoptive parents, descendants or legal guardian.

This bill also requires a family history form to be completed before biological parents may surrender and release a child. If the biological parents choose to maintain their records in confidentiality, then they must update the family history form every 10 years, until they reach 40 years of age, and every 5 years thereafter.

35 Current law provides for the collection of information when an adopted child suffers 36 a serious medical or mental illness. The Department of Health and Human Services, the licensed child-placing agency or other person who assisted in placing the child must 37 38 attempt to obtain additional information and must provide that information to the 39 adoptive parents. This bill applies that requirement when the adoptee has reached 18 years of age and either the adoptee or the adoptee's descendant suffers a serious medical 40 41 or mental illness for which the specific medical, psychological or social history of the biological parents or the adoptee may be useful in diagnosis or treatment. 42