

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 365

H.P. 271

House of Representatives, February 2, 2017

**An Act To Waive Background Checks for the Parent of a Child
Who Is the Subject of an Adoption Proceeding**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GUERIN of Glenburn.
Cosponsored by Representatives: BRADSTREET of Vassalboro, DUNPHY of Old Town,
McCREIGHT of Harpswell, MOONEN of Portland, SAMPSON of Alfred, SHERMAN of
Hodgdon, TIPPING of Orono, Senator: VOLK of Cumberland.

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

2 **Sec. 1. 18-A MRSA §9-304, sub-§(a-1)**, as amended by PL 2013, c. 267, Pt. B,
3 §12, is further amended to read:

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

7 (1). The study must include an investigation of the conditions and antecedents of the
8 child to determine whether the child is a proper subject for adoption and whether the
9 proposed home is suitable for the child. The department or licensed child-placing
10 agency shall submit the report to the court within 60 days.

11 (i) If the court has a report that provides sufficient, current information, the court
12 may waive the requirement of a study and report.

13 (ii) If the petitioner is a blood relative of the child, the court may waive the
14 requirement of a study and report.

15 (2). The court shall request a background check for each prospective adoptive parent
16 who is not the ~~biological~~ parent of the child. The background check must include a
17 screening for child abuse cases in the records of the department and criminal history
18 record information obtained from the Maine Criminal Justice Information System and
19 the Federal Bureau of Investigation.

20 (i) The criminal history record information obtained from the Maine Criminal
21 Justice Information System must include a record of public criminal history
22 record information as defined in Title 16, section 703, subsection 8.

23 (ii) The criminal history record information obtained from the Federal Bureau of
24 Investigation must include other state and national criminal history record
25 information.

26 (iii) Each prospective parent who is not the ~~biological~~ parent of the child shall
27 submit to having fingerprints taken. The State Police, upon receipt of the
28 fingerprint card, may charge the court for the expenses incurred in processing
29 state and national criminal history record checks. The State Police shall take or
30 cause to be taken the applicant's fingerprints and shall forward the fingerprints to
31 the State Bureau of Identification so that the bureau can conduct state and
32 national criminal history record checks. Except for the portion of the payment, if
33 any, that constitutes the processing fee charged by the Federal Bureau of
34 Investigation, all money received by the State Police for purposes of this
35 paragraph must be paid over to the Treasurer of State. The money must be
36 applied to the expenses of administration incurred by the Department of Public
37 Safety.

38 (iv) The subject of a Federal Bureau of Investigation criminal history record
39 check may obtain a copy of the criminal history record check by following the
40 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.
41 The subject of a state criminal history record check may inspect and review the
42 criminal history record information pursuant to Title 16, section 709.

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

4 (vi) Information obtained pursuant to this paragraph is confidential. The results
5 of background checks received by the court are for official use only and may not
6 be disseminated outside the court except as required under Title 22, section
7 4011-A.

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

12 The court may waive the background check of a prospective adoptive parent if a previous
13 background check was completed by a court or by the department under this subsection
14 within a reasonable period of time and the court is satisfied that nothing new that would
15 be included in the background check has transpired since the last background check.

16 This subsection does not authorize the court to request a background check for the
17 ~~biological~~ parent who is also the current legal parent of the child.

18 **Sec. 2. 18-A MRSA §9-304, sub-§(a-2)**, as amended by PL 2013, c. 267, Pt. B,
19 §13, is further amended to read:

20 **(a-2).** The department may, pursuant to rules adopted by the department, at any time
21 before the filing of the petition for adoption, conduct background checks for each
22 prospective adoptive parent of a minor child in its custody.

23 (1). The department may request a background check for each prospective adoptive
24 parent who is not the ~~biological~~ parent of the child. The background check must
25 include criminal history record information obtained from the Maine Criminal Justice
26 Information System and the Federal Bureau of Investigation.

27 (i) The criminal history record information obtained from the Maine Criminal
28 Justice Information System must include a record of public criminal history
29 record information as defined in Title 16, section 703, subsection 8.

30 (ii) The criminal history record information obtained from the Federal Bureau of
31 Investigation must include other state and national criminal history record
32 information.

33 (iii) Each prospective parent who is not the ~~biological~~ parent of the child shall
34 submit to having fingerprints taken. The State Police, upon receipt of the
35 fingerprint card, may charge the department for the expenses incurred in
36 processing state and national criminal history record checks. The State Police
37 shall take or cause to be taken the applicant's fingerprints and shall forward the
38 fingerprints to the State Bureau of Identification so that the bureau can conduct
39 state and national criminal history record checks. Except for the portion of the
40 payment, if any, that constitutes the processing fee charged by the Federal Bureau
41 of Investigation, all money received by the State Police for purposes of this
42 paragraph must be paid over to the Treasurer of State. The money must be

1 applied to the expenses of administration incurred by the Department of Public
2 Safety.

3 (iv) The subject of a Federal Bureau of Investigation criminal history record
4 check may obtain a copy of the criminal history record check by following the
5 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.
6 The subject of a state criminal history record check may inspect and review the
7 criminal history record information pursuant to Title 16, section 709.

8 (v) State and federal criminal history record information may be used by the
9 department for the purpose of screening prospective adoptive parents in
10 determining whether the adoption is in the best interests of the child.

11 (vi) Information obtained pursuant to this paragraph is confidential. The results
12 of background checks received by the department are for official use only and
13 may not be disseminated outside the department except to a court considering an
14 adoption petition under subsection (a-1).

15 (2). Rules adopted by the department pursuant to this subsection are routine technical
16 rules as defined in Title 5, chapter 375, subchapter 2-A.

17 **SUMMARY**

18 Current law requires the court to order a criminal background check of each
19 prospective adoptive parent of a child who is the subject of an adoption petition, except if
20 the petitioner is a biological parent of the child. This bill removes the requirement that
21 the court order a criminal background check of a parent of the child who is not the
22 biological parent.