

MAINE STATE LEGISLATURE

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SILK
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Date 6/20/23

Majority

L D 1906

(Filing No H-602)

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JUDICIARY

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STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

131ST LEGISLATURE

8

FIRST SPECIAL SESSION

9

COMMITTEE AMENDMENT "A" to HP 1221, L D 1906, "An Act to Enable
10 Confirmatory Adoption"

11

Amend the bill by striking out everything after the enacting clause and inserting the
12 following

13

'Sec. 1. 18-C MRSA §9-316 is enacted to read

14

§9-316. Confirmatory adoptions

15

1. Definitions. As used in this section, unless the context otherwise indicates, the
16 following terms have the following meanings

17

A "Assisted reproduction" has the same meaning as in Title 19-A, section 1832,
18 subsection 3

19

B "Confirmatory adoption" means an adoption proceeding governed by this section
20 through which a child born as a result of assisted reproduction may be adopted by an
21 individual who is a parent or presumed parent of that child

22

C "Donor" has the same meaning as in Title 19-A, section 1832, subsection 5

23

D "Marriage" means the legally recognized union of 2 people or any legal relationship
24 that provides substantially the same rights, benefits and responsibilities as marriage
25 and is recognized as valid in the state or jurisdiction in which it was entered

26

E. "Parentage" has the same meaning as in Title 19-A, section 1832, subsection 14

27

F "Presumed parent" has the same meaning as in Title 19-A, section 1832, subsection
28 16

29

2. Petitioner or joint petitioners. Notwithstanding any provision of law to the
30 contrary, a petition for a confirmatory adoption of a child born as a result of assisted
31 reproduction may be filed

32

A By a single petitioner who gave birth to the child, or

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1 B Jointly by a petitioner who gave birth to the child and a petitioner who is a parent
2 or presumed parent of the child.

3 **3. Petition contents.** Notwithstanding sections 9-301 and 9-303 or any other provision
4 of law to the contrary, a petition for confirmatory adoption must be signed by the single
5 petitioner under oath or by each of the joint petitioners under oath and must include the
6 following.

7 A A copy of the child's birth certificate,

8 B An explanation of the circumstances of the child's birth through assisted
9 reproduction,

10 C An attestation that each petitioner consented to the child's birth through assisted
11 reproduction,

12 D An attestation that, other than the claim of the single petitioner or the claims of the
13 joint petitioners, no competing claims of parentage exist,

14 E If the petition is filed jointly, a copy of the joint petitioners' marriage certificate, if
15 any, and

16 F A filing fee of \$65.

17 **4. Notice to and consent of donor not required.** Notwithstanding section 9-302, any
18 provision of Part 2 or any other provision of law to the contrary, if a petitioner under this
19 section conceived through assisted reproduction using a donor who is not a parent pursuant
20 to Title 19-A, section 1922, the court may not require notice of the confirmatory adoption
21 to that donor or the consent of that donor to the confirmatory adoption.

22 **5. No other consent of petitioner required.** Notwithstanding section 9-302, any
23 provision of Part 2 or any other provision of law to the contrary, submission of a complete
24 petition under subsection 3 constitutes notice of and written consent to the confirmatory
25 adoption by the single petitioner or joint petitioners, and the court may not require any
26 additional notice to or consent by any petitioner.

27 **6. Procedures.** Except as specified in this section, the requirements and procedures
28 for adoption proceedings in this Article do not apply to a confirmatory adoption proceeding.

29 A The following procedures apply to a confirmatory adoption proceeding.

30 (1) The requirement in section 9-302, subsection 1, paragraph A for written consent
31 to the adoption by the adoptee, if the adoptee is 12 years of age or older, and

32 (2) The confidentiality provisions of section 9-308, subsection 3 and section 9-310.

33 B Notwithstanding any provision of law to the contrary, for purposes of evaluating a
34 petition for confirmatory adoption, unless required by federal law or ordered by the
35 court for good cause demonstrated in written findings by the court, the court may not
36 require

37 (1) A hearing, unless requested by a petitioner,

38 (2) A home study, screening for child abuse cases or other investigation of a
39 petitioner by the department or any other agency,

40 (3) A federal or state criminal history record check of any person,

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- (4) Verification that the child is not registered with a registry for missing children.
- (5) Appointment of a guardian ad litem.
- (6) An interview of the adoptee, or
- (7) A minimum period of time during which the child must have lived in the home of a petitioner or the petitioners before the petition is granted
- 7. Final decree.** Notwithstanding section 9-308 and any other provision of law to the contrary, the court shall grant a petition for confirmatory adoption if it finds
 - A For a single petitioner, that the petitioner is the individual who gave birth to the child, the child was born through assisted reproduction and there are no competing claims of parentage, or
 - B For joint petitioners, either
 - (1) That the child was born through assisted reproduction, one of the petitioners gave birth to the child and, at the time of the child's birth, was married to the other petitioner and there are no competing claims of parentage, or
 - (2) That the child was born through assisted reproduction with the consent of both petitioners, one of the petitioners gave birth to the child, the other petitioner is a parent or presumed parent of the child and there are no competing claims of parentage
- The court may not deny a petition solely on the grounds that the single petitioner's or the joint petitioners' parentage is already presumed or legally recognized
- 8. Timing of decision.** The court shall issue an order under this section within 60 days of receipt of a petition that complies with subsection 3
- 9. Appeal.** Appeals from a decision to deny a confirmatory adoption are governed by section 9-309
- 10. Effect on other laws.** When adjudicating competing claims of parentage of a child or determining the best interest of a child in a circumstance in which parentage is presumed or legally recognized, a court may not consider as evidence information that a party did not petition for confirmatory adoption under this section'
- Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill. The amendment clarifies that either a single petitioner who gave birth to a child through assisted reproduction or joint petitioners, one of whom gave birth to a child through assisted reproduction and the other of whom is the presumed parent of the child, may file a petition for a confirmatory adoption. It also clarifies which procedures applicable to adoptions generally under state law apply to confirmatory adoption proceedings. In addition, the

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to HP 1221, L D 1906

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1 amendment extends from 30 days to 60 days the time by which the court must issue a
2 decision in a confirmatory adoption proceeding

3 **FISCAL NOTE REQUIRED**

4 **(See attached)**

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 1906

LR 2151(02)

An Act to Enable Confirmatory Adoption

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-602)
Committee: Judiciary
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

This bill may increase the number of petitions filed in the court system. The additional workload associated with the minimal number of new petitions filed does not require additional funding at this time. The collection of additional filing fees may increase General Fund revenue by minor amounts.