

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1906

H.P. 1221

House of Representatives, May 9, 2023

An Act to Enable Confirmatory Adoption

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative MOONEN of Portland.

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

2 **Sec. 1. 18-C MRSA Art. 9, Pt. 5** is enacted to read:

3 **PART 5**

4 **CONFIRMATORY ADOPTION**

5 **§9-501. Definitions**

6 As used in this Part, unless the context otherwise indicates, the following terms have
7 the following meanings.

8 **1. Assisted reproduction.** "Assisted reproduction" has the same meaning as in Title
9 19-A, section 1832, subsection 3.

10 **2. Confirmatory adoption.** "Confirmatory adoption" means an adoption proceeding
11 that involves a child born as a result of assisted reproduction and an individual who did not
12 give birth to that child and is a parent or presumed parent.

13 **3. Donor.** "Donor" has the same meaning as in Title 19-A, section 1832, subsection 5.

14 **4. Marriage.** "Marriage" means the legally recognized union of 2 people or any legal
15 relationship that provides substantially the same rights, benefits and responsibilities as
16 marriage and is recognized as valid in the state or jurisdiction in which it was entered.

17 **5. Parentage.** "Parentage" has the same meaning as in Title 19-A, section 1832,
18 subsection 14.

19 **6. Presumed parent.** "Presumed parent" has the same meaning as in Title 19-A,
20 section 1832, subsection 16.

21 **§9-502. Grounds for confirmatory adoption**

22 A parent who did not give birth to or a presumed parent of a child born as a result of
23 assisted reproduction may file a petition for confirmatory adoption of the child in
24 accordance with section 9-503.

25 **§9-503. Petition for confirmatory adoption**

26 This section establishes the requirements for filing a petition for confirmatory adoption.

27 **1. Complete petition.** A complete petition must include:

28 A. A petition for adoption signed by all of the petitioners;

29 B. A copy of a petitioner's marriage certificate, if applicable; and

30 C. A declaration signed by the petitioner giving birth and a petitioner who did not give
31 birth:

32 (1) Explaining the circumstances of the child's birth through assisted reproduction;

33 (2) Attesting to a petitioner's consent to assisted reproduction;

34 (3) Attesting that no competing claims of parentage exist; and

35 (4) A copy of the child's birth certificate.

1 **2. Notice to donor not required.** Notwithstanding any provision of law to the contrary,
2 if a petitioner under this section conceived through assisted reproduction using a donor, the
3 court may not require notice of the adoption to the donor.

4 **3. Consent to adoption.** This subsection establishes requirements regarding consent
5 to a confirmatory adoption.

6 A. If a petitioner under this section conceived through assisted reproduction using a
7 donor, the court may not require the donor's consent to a confirmatory adoption.

8 B. The submission of a complete petition under this section must be considered by the
9 court as notice and written consent to adoption and the court may not require any
10 additional notice to or consent by a petitioner.

11 **§9-504. Proceedings**

12 Unless otherwise ordered by the court, for good cause shown and supported by written
13 findings of the court demonstrating good cause, for purposes of evaluating and granting a
14 petition for confirmatory adoption pursuant to this Part, the court may not require:

15 **1. In-person appearance.** An in-person hearing or appearance;

16 **2. Child protection investigation.** An investigation by the Office of Child and Family
17 Services within the department;

18 **3. Criminal history record check.** A criminal history record check;

19 **4. Missing children registry.** Verification that the child is not registered with a
20 register for missing children; or

21 **5. Residency.** A minimum residency period in which the child has lived in the home
22 of the petitioners.

23 **§9-505. Court order**

24 In order to grant a petition under this Part, the court must find:

25 **1. Married petitioners.** For petitioners who are married, that the individual who gave
26 birth and that individual's spouse were married at the time of the child's birth and the child
27 was born through assisted reproduction; or

28 **2. Unmarried petitioners.** For petitioners who are unmarried, that:

29 A. The individual who gave birth and the other petitioner consented to the assisted
30 reproduction;

31 B. There are no competing claims of parentage;

32 C. Notice is not required to be provided to any other person with a claim to parentage
33 of the child; and

34 D. Consent to the adoption is not required by any other person with a claim to parentage
35 of the child.

36 The court may not deny a complete petition solely on the grounds that the petitioner's
37 parentage is already presumed or legally recognized.

38 The court shall issue an order under this section within 30 days of receipt of the complete
39 petition.

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§9-506. Construction

When adjudicating competing claims of parentage 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 the parties did not petition for confirmatory adoption under this Part.

SUMMARY

This bill establishes a confirmatory adoption proceeding that involves a child born as a result of assisted reproduction and an individual who did not give birth to that child and is a parent or presumed parent.