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

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

**Sec. 1. 18-A MRS §9-202, sub-§(i)** is enacted to read:

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

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

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

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

(5). If, after a child is placed for adoption and either before or after the adoption is final, the child suffers a serious medical or mental illness for which the specific 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 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 department, licensed child-placing agency or other person shall attempt to obtain the information promptly and shall disclose any information collected to the prospective adoptive or adoptive parents

as soon as reasonably possible. The department, the licensed child-placing agency or other person may charge a fee to the prospective adoptive or adoptive parents to cover the cost of obtaining and providing the additional information. Fees collected by the department must be dedicated to defray the costs of obtaining and providing the additional information. Fees may be reduced or waived for low-income prospective adoptive or adoptive parents.

This paragraph applies to a request for information by an adoptee who has reached 18 years of age if the adoptee or a direct descendant of the adoptee suffers from a serious medical 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.

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

**§ 9-310. Records confidential**

(a). This subsection applies to adoptions decreed on or after August 8, 1953 and 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 copy of the record; or authorize a combination of both examination and disclosure. Examination or disclosure of records is proper only if the birth parents listed on the original birth certificate have consented to the release of identifying information.

(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.

(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 personal, family and medical information to the Probate Court at any time, except 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 adult adoptee, the adult adoptee's descendants, adoptive parents or legal guardian upon request. I also understand that I may change my mind about keeping information confidential. If I do so, I may provide to the Probate Court at any time a sworn, notarized writing authorizing the Probate Court to release my name and personally identifying information, as well as a noncertified copy of the original birth certificate, to the adult adoptee, the adult adoptee's descendants, 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.

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

## **SUMMARY**

This bill maintains the option of confidential adoption. It applies prospectively to 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 rights. The statement includes an acknowledgment that the birth parent knows that medical and family information can be added to the Probate Court records at any time, 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 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.

Current law provides for the collection of information when an adopted child suffers 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 attempt to obtain additional information and must provide that information to the 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 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.