

Maine Revised Statutes
Title 18-A: PROBATE CODE

Article :

§9-202. SURRENDER AND RELEASE; CONSENT

(a). With the approval of the judge of probate of any county within the State and after a determination by the judge that a surrender and release or a consent is in the best interest of the child, the parents or surviving parent of a child may at any time after the child's birth:

(1). Surrender and release all parental rights to the child and the custody and control of the child to a licensed child-placing agency or the department to enable the licensed child-placing agency or the department to have the child adopted by a suitable person; or [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(2). Consent to have the child adopted by a specified petitioner. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

The parents or the surviving parent must execute the surrender and release or the consent in the presence of the judge. The adoptee, if 14 years of age or older, must execute the consent in the presence of the judge. The waiver of notice by the legal father who is not the biological father or putative father is governed by section 9-201, subsection (c).

[1997, c. 239, §2 (AMD); 1997, c. 239, §6 (AFF) .]

(b). The court may approve a consent or a surrender and release only if the following conditions are met.

(1). A licensed child-placing agency or the department certifies to the court that counseling was provided or was offered and refused. This requirement does not apply if:

(i) One of the petitioners is a blood relative; or

(ii) The adoptee is an adult. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(2). The court has explained the individual's parental rights and responsibilities, the effects of the consent or the surrender and release, that in all but specific situations the individual has the right to revoke the consent or surrender and release within 3 days and the existence of the adoption registry and the services available under Title 22, section 2706-A. The individual does not have the right to revoke the consent when the individual is a consenting party and also a petitioner. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(3). The court determines that the consent or the surrender and release has been duly executed and was given freely after the parent was informed of the parent's rights. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(4). Except when a consenting party is also a petitioner, at least 3 days have elapsed since the parents or parent executed the surrender and release or the consent and the parents or parent did not withdraw or revoke the consent or surrender and release before the judge or, if the judge was not available, before the register. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(c). The original consent or surrender and release must be filed in the Probate Court where the consent or the surrender and release is executed. An attested copy of the consent or surrender and release must be filed in the Probate Court in which the petition is filed. The court in which the consent or the surrender and release is executed shall provide an attested copy to each consenting or surrendering party and an attested copy to the transferring agency. The copy given to the consenting or surrendering party must contain a statement explaining the importance of keeping the court informed of a current name and address.

[1997, c. 239, §3 (AMD); 1997, c. 239, §6 (AFF) .]

(d). A consent or a surrender and release is not valid until 3 days after it has been executed, except that consent by a parent petitioning to adopt that parent's own child with that parent's spouse is valid upon signature.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(e). Consent may be acknowledged before a notary public who is not an attorney for the adopting parents or a partner, associate or employee of an attorney for the adopting parents when consent is given by:

- (1). The department or a licensed child-placing agency; or [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- (2). A public agency or a duly licensed private agency to which parental rights have been transferred under the law of another state or country. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(f). Except as provided in subsection (g) and section 9-205, subsection (b), a consent or a surrender and release is final and irrevocable when duly executed.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(g). A consent is final only for the adoption consented to, and, if that adoption petition is withdrawn or dismissed or if the adoption is not finalized within 18 months of the execution of the consent, a review must be held pursuant to section 9-205.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(h). The court shall accept a consent or a surrender and release by a court of comparable jurisdiction in another state if the court receives an affidavit from a member of that state's bar or a certificate from that court of comparable jurisdiction stating that:

- (1). The party executing the consent or the surrender and release followed the procedure required to make a consent or a surrender and release valid in the state in which it was executed; and [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- (2). The court of comparable jurisdiction advised the person executing the consent or the surrender and release of the consequences of the consent or the surrender and release under the laws of the state in which the consent or the surrender and release was executed. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

The court shall accept a waiver of notice by a putative father or a legal father who is not the biological father that meets the requirements of section 9-201, subsection (c).

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §C7 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 239, §§2,3 (AMD). 1997, c. 239, §6 (AFF).

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