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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1221, L.D. 1906, “An Act to Enable Confirmatory Adoption”

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

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

§9-316. Confirmatory adoptions

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

- A. "Assisted reproduction" has the same meaning as in Title 19-A, section 1832, subsection 3.
- B. "Confirmatory adoption" means an adoption proceeding governed by this section through which a child born as a result of assisted reproduction may be adopted by an individual who is a parent or presumed parent of that child.
- C. "Donor" has the same meaning as in Title 19-A, section 1832, subsection 5.
- D. "Marriage" means the legally recognized union of 2 people or any legal relationship that provides substantially the same rights, benefits and responsibilities as marriage and is recognized as valid in the state or jurisdiction in which it was entered.
- E. "Parentage" has the same meaning as in Title 19-A, section 1832, subsection 14.
- F. "Presumed parent" has the same meaning as in Title 19-A, section 1832, subsection 16.

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

- 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;

- 1 (4) Verification that the child is not registered with a registry for missing children;
- 2 (5) Appointment of a guardian ad litem;
- 3 (6) An interview of the adoptee; or
- 4 (7) A minimum period of time during which the child must have lived in the home
- 5 of a petitioner or the petitioners before the petition is granted.

6 **7. Final decree.** Notwithstanding section 9-308 and any other provision of law to the
7 contrary, the court shall grant a petition for confirmatory adoption if it finds:

8 A. For a single petitioner, that the petitioner is the individual who gave birth to the
9 child, the child was born through assisted reproduction and there are no competing
10 claims of parentage; or

11 B. For joint petitioners, either:

12 (1) That the child was born through assisted reproduction, one of the petitioners
13 gave birth to the child and, at the time of the child's birth, was married to the other
14 petitioner and there are no competing claims of parentage; or

15 (2) That the child was born through assisted reproduction with the consent of both
16 petitioners, one of the petitioners gave birth to the child, the other petitioner is a
17 parent or presumed parent of the child and there are no competing claims of
18 parentage.

19 The court may not deny a petition solely on the grounds that the single petitioner's or the
20 joint petitioners' parentage is already presumed or legally recognized.

21 **8. Timing of decision.** The court shall issue an order under this section within 60 days
22 of receipt of a petition that complies with subsection 3.

23 **9. Appeal.** Appeals from a decision to deny a confirmatory adoption are governed by
24 section 9-309.

25 **10. Effect on other laws.** When adjudicating competing claims of parentage of a child
26 or determining the best interest of a child in a circumstance in which parentage is presumed
27 or legally recognized, a court may not consider as evidence information that a party did not
28 petition for confirmatory adoption under this section.'

29 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
30 number to read consecutively.

31 SUMMARY

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

COMMITTEE AMENDMENT “ ” to H.P. 1221, L.D. 1906

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

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(See attached)