

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

H.P. 271 - L.D. 365

**An Act To Waive Background Checks for the Parent of a Child Who Is the
Subject of an Adoption Proceeding**

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

Sec. 1. 18-A MRSA §9-304, sub-§(a-1), as amended by PL 2013, c. 267, Pt. B, §12, is further amended to read:

(a-1). Upon the filing of a petition for adoption of a minor child, the court shall request a background check and shall direct the department or a licensed child-placing agency to conduct a study and make a report to the court.

(1). The study must include an investigation of the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or licensed child-placing agency shall submit the report to the court within 60 days.

(i) If the court has a report that provides sufficient, current information, the court may waive the requirement of a study and report.

(ii) If the petitioner is a blood relative of the child, the court may waive the requirement of a study and report.

(2). The court shall request a background check for each prospective adoptive parent who is not the ~~biological~~ parent of the child. The background check must include a screening for child abuse cases in the records of the department and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

(ii) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(iii) Each prospective parent who is not the ~~biological~~ parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the court for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

(iv) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

(v) State and federal criminal history record information may be used by the court for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interests of the child.

(vi) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the court are for official use only and may not be disseminated outside the court except as required under Title 22, section 4011-A.

(vii) The expense of obtaining the information required by this paragraph is incorporated in the adoption filing fee established in section 9-301. The Probate Court shall collect the total fee and transfer the appropriate funds to the Department of Public Safety and the department.

The court may waive the background check of a prospective adoptive parent if a previous background check was completed by a court or by the department under this subsection within a reasonable period of time and the court is satisfied that nothing new that would be included in the background check has transpired since the last background check.

This subsection does not authorize the court to request a background check for the ~~biological~~ parent who is also the current legal parent of the child.

Sec. 2. 18-A MRSA §9-304, sub-§(a-2), as amended by PL 2013, c. 267, Pt. B, §13, is further amended to read:

(a-2). The department may, pursuant to rules adopted by the department, at any time before the filing of the petition for adoption, conduct background checks for each prospective adoptive parent of a minor child in its custody.

(1). The department may request a background check for each prospective adoptive parent who is not the ~~biological~~ parent of the child. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

(ii) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(iii) Each prospective parent who is not the ~~biological~~ parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the department for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

(iv) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

(v) State and federal criminal history record information may be used by the department for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interests of the child.

(vi) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the department are for official use only and may not be disseminated outside the department except to a court considering an adoption petition under subsection (a-1).

(2). Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.