



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 147

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H.P. 122

House of Representatives, January 31, 2013

### An Act Regarding Consent for Adoption

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BECK of Waterville.  
Cosponsored by Senator LACHOWICZ of Kennebec and  
Representatives: ESPLING of New Gloucester, LONGSTAFF of Waterville.

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

2 **Sec. 1. 18-A MRSA §9-302, sub-§(a), ¶¶(3) and (4),** as enacted by PL 1995, c.  
3 694, Pt. C, §7 and affected by Pt. E, §2, are amended to read:

4 (3). The person or agency having legal custody or guardianship of the child or to  
5 whom the child has been surrendered and released, except that the person's or  
6 agency's lack of consent, if adjudged unreasonable by a judge of probate, may be  
7 overruled by the judge. In order for the judge to find that the person or agency acted  
8 unreasonably in withholding consent, the petitioner must prove, by a preponderance  
9 of the evidence, that the person or agency acted unreasonably. The court may hold a  
10 pretrial conference to determine who will proceed. The court may determine that  
11 even though the burden of proof is on the petitioner, the person or agency should  
12 proceed if the person or agency has important facts necessary to the petitioner in  
13 presenting the petitioner's case. The judge shall consider the following:

- 14 (i) Whether the person or agency determined the needs and interests of the child;  
15 (ii) Whether the person or agency determined the ability of the petitioner and  
16 other prospective families to meet the child's needs;  
17 (iii) Whether the person or agency made the decision consistent with the facts;  
18 (iv) Whether the harm of removing the child from the child's current placement  
19 outweighs any inadequacies of that placement; and  
20 (v) All other factors that have a bearing on a determination of the reasonableness  
21 of the person's or agency's decision in withholding consent; ~~and~~

22 (4). A guardian appointed by the court, if the adoptee is a child, when the child has  
23 no living parent, guardian or legal custodian who may consent; ~~and~~

24 **Sec. 2. 18-A MRSA §9-302, sub-§(a), ¶(5)** is enacted to read:

25 (5). If the adoptee has an adoptive parent, that adoptive parent.

26 **SUMMARY**

27 This bill requires that, if an adoptee already has an adoptive parent, before the  
28 petition of a 2nd adoptive parent may be granted, written consent to the adoption must be  
29 given by the existing adoptive parent.