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No. 282

H.P. 243

House of Representatives, February 3, 2011

An Act To Limit Charges for Fingerprinting Performed for Certain Criminal History Background Checks

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PRESCOTT of Topsham.
Cosponsored by Senator GERZOFSKY of Cumberland and
Representatives: CEBRA of Naples, EDGECOMB of Caribou, GIFFORD of Lincoln,
HAMPER of Oxford, KNIGHT of Livermore Falls, McKANE of Newcastle, MORISSETTE
of Winslow, SANDERSON of Chelsea.

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

2 **Sec. 1. 18-A MRSA §9-304, sub-§(a-1)**, as amended by PL 2003, c. 575, §1, is
3 further amended to read:

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

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

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

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

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

20 (i) The criminal history record information obtained from the Maine Criminal
21 Justice Information System must include a record of Maine conviction data.

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

25 (iii) Each prospective parent who is not the biological parent of the child shall
26 submit to having fingerprints taken. The State Police, upon receipt of the
27 fingerprint card, may charge the court for the expenses incurred in processing
28 state and national criminal history record checks. The State Police shall take or
29 cause to be taken the applicant's fingerprints and shall forward the fingerprints to
30 the State Bureau of Identification so that the bureau can conduct state and
31 national criminal history record checks. Except for the portion of the payment, if
32 any, that constitutes the processing fee charged by the Federal Bureau of
33 Investigation, all money received by the State Police for purposes of this
34 paragraph must be paid over to the Treasurer of State. The money must be
35 applied to the expenses of administration incurred by the Department of Public
36 Safety. If a prospective parent who is fingerprinted pursuant to this subparagraph
37 must be fingerprinted a 2nd or subsequent time, the court shall pay for that
38 fingerprinting.

39 (iv) The subject of a Federal Bureau of Investigation criminal history record
40 check may obtain a copy of the criminal history record check by following the
41 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.

1 The subject of a state criminal history record check may inspect and review the
2 criminal history record information pursuant to Title 16, section 620.

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

6 (vi) Information obtained pursuant to this paragraph is confidential. The results
7 of background checks received by the court are for official use only and may not
8 be disseminated outside the court except as required under Title 22, section
9 4011-A.

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

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

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

20 **Sec. 2. 18-A MRSA §9-304, sub-§(a-2)**, as enacted by PL 2003, c. 575, §2, is
21 amended to read:

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

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

29 (i) The criminal history record information obtained from the Maine Criminal
30 Justice Information System must include a record of Maine conviction data.

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

34 (iii) Each prospective parent who is not the biological parent of the child shall
35 submit to having fingerprints taken. The State Police, upon receipt of the
36 fingerprint card, may charge the department for the expenses incurred in
37 processing state and national criminal history record checks. The State Police
38 shall take or cause to be taken the applicant's fingerprints and shall forward the
39 fingerprints to the State Bureau of Identification so that the bureau can conduct
40 state and national criminal history record checks. Except for the portion of the
41 payment, if any, that constitutes the processing fee charged by the Federal Bureau
42 of Investigation, all money received by the State Police for purposes of this

1 paragraph must be paid over to the Treasurer of State. The money must be
2 applied to the expenses of administration incurred by the Department of Public
3 Safety. If a prospective parent who is fingerprinted pursuant to this subparagraph
4 must be fingerprinted a 2nd or subsequent time, the department shall pay for that
5 fingerprinting.

6 (iv) The subject of a Federal Bureau of Investigation criminal history record
7 check may obtain a copy of the criminal history record check by following the
8 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.
9 The subject of a state criminal history record check may inspect and review the
10 criminal history record information pursuant to Title 16, section 620.

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

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

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

20 **Sec. 3. 25 MRSA §1541, sub-§7**, as enacted by PL 1999, c. 110, §3, is amended
21 to read:

22 **7. Fees to obtain fingerprints for noncriminal justice background checks.**
23 Unless otherwise provided by law, an applicant shall pay a one-time processing fee of
24 \$25 to the Department of Public Safety to offset the expenses incurred by the department
25 to obtain fingerprints to be used for conducting state and national criminal history record
26 checks for noncriminal justice purposes when the State Bureau of Identification is
27 required to retain the fingerprints; except that, if a prospective adoptive parent who has
28 been fingerprinted under Title 18-A, section 9-304 or an applicant for a license for a
29 family foster home as defined in Title 22, section 8101, subsection 3 must be
30 fingerprinted a 2nd or subsequent time, the state entity requiring the subsequent
31 fingerprinting shall pay for the costs of that fingerprinting.

32 **Sec. 4. 25 MRSA §1542-A, sub-§1, ¶H**, as amended by PL 2001, c. 52, §5, is
33 further amended to read:

34 H. Charged with the commission of a juvenile crime; ~~or~~

35 **Sec. 5. 25 MRSA §1542-A, sub-§1, ¶I**, as enacted by PL 2001, c. 52, §6, is
36 amended to read:

37 I. Who is a prospective adoptive parent not the biological parent as required under
38 Title 18-A, section 9-304, subsection (a-1); ~~or~~

39 **Sec. 6. 25 MRSA §1542-A, sub-§1, ¶J** is enacted to read:

