

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 124
Final Reading

Introduced by Avery, 28.

Read first time January 06, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to adoption; to amend sections 43-107 and
2 43-123.01, Reissue Revised Statutes of Nebraska; to
3 include cultural history in the medical histories of the
4 biological parents; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-107, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-107 (1)(a) For adoption placements occurring or in
4 effect prior to January 1, 1994, upon the filing of a petition for
5 adoption, the county judge shall, except in the adoption of children
6 by stepparents when the requirement of an investigation is
7 discretionary, request the Department of Health and Human Services or
8 any child placement agency licensed by the department to examine the
9 allegations set forth in the petition and to ascertain any other
10 facts relating to such minor child and the person or persons
11 petitioning to adopt such child as may be relevant to the propriety
12 of such adoption, except that the county judge shall not be required
13 to request such an examination if the judge determines that
14 information compiled in a previous examination or study is
15 sufficiently current and comprehensive. Upon the request being made,
16 the department or other licensed agency shall conduct an
17 investigation and report its findings to the county judge in writing
18 at least one week prior to the date set for hearing.

19 (b)(i) For adoption placements occurring on or after
20 January 1, 1994, a preplacement adoptive home study shall be filed
21 with the court prior to the hearing required in section 43-103, which
22 study is completed by the Department of Health and Human Services or
23 a licensed child placement agency within one year before the date on
24 which the adoptee is placed with the petitioner or petitioners and
25 indicates that the placement of a child for the purpose of adoption

1 would be safe and appropriate.

2 (ii) An adoptive home study shall not be required when
3 the petitioner is a stepparent of the adoptee unless required by the
4 court, except that for petitions filed on or after January 1, 1994,
5 the judge shall order the petitioner or his or her attorney to
6 request the Nebraska State Patrol to file a national criminal history
7 record information check and to request the department to conduct and
8 file a check of the central register created in section 28-718 for
9 any history of the petitioner of behavior injurious to or which may
10 endanger the health or morals of a child. An adoption decree shall
11 not be issued until such records are on file with the court. The
12 petitioner shall pay the cost of the national criminal history record
13 information check and the check of the central register.

14 (iii) The placement of a child for foster care made by or
15 facilitated by the department or a licensed child placement agency in
16 the home of a person who later petitions the court to adopt the child
17 shall be exempt from the requirements of a preplacement adoptive home
18 study. The petitioner or petitioners who meet such criteria shall
19 have a postplacement adoptive home study completed by the department
20 or a licensed child placement agency and filed with the court at
21 least one week prior to the hearing for adoption.

22 (iv) A voluntary placement for purposes other than
23 adoption made by a parent or guardian of a child without assistance
24 from an attorney, physician, or other individual or agency which
25 later results in a petition for the adoption of the child shall be

1 exempt from the requirements of a preplacement adoptive home study.
2 The petitioner or petitioners who meet such criteria shall have a
3 postplacement adoptive home study completed by the department or a
4 licensed child placement agency and filed with the court at least one
5 week prior to the hearing for adoption.

6 (v) The adoption of an adult child as provided in
7 subsection (2) of section 43-101 shall be exempt from the
8 requirements of an adoptive home study unless the court specifically
9 orders otherwise. The court may order an adoptive home study, a
10 background investigation, or both if the court determines that such
11 would be in the best interests of the adoptive party or the person to
12 be adopted.

13 (vi) Any adoptive home study required by this section
14 shall be conducted by the department or a licensed child placement
15 agency at the expense of the petitioner or petitioners unless such
16 expenses are waived by the department or licensed child placement
17 agency. The department or licensed agency shall determine the fee or
18 rate for the adoptive home study.

19 (vii) The preplacement or postplacement adoptive home
20 study shall be performed as prescribed in rules and regulations of
21 the department and shall include at a minimum an examination into the
22 facts relating to the petitioner or petitioners as may be relevant to
23 the propriety of such adoption. Such rules and regulations shall
24 require an adoptive home study to include a national criminal history
25 record information check and a check of the central register created

1 in section 28-718 for any history of the petitioner or petitioners of
2 behavior injurious to or which may endanger the health or morals of a
3 child.

4 (2) Upon the filing of a petition for adoption, the judge
5 shall require that a complete medical history be provided on the
6 child, except that in the adoption of a child by a stepparent the
7 provision of a medical history shall be discretionary. On and after
8 the effective date of this act, the complete medical history or
9 histories required under this subsection shall include the race,
10 ethnicity, nationality, Indian tribe when applicable and in
11 compliance with the Nebraska Indian Child Welfare Act, or other
12 cultural history of both biological parents, if available. A medical
13 history shall be provided, if available, on the biological mother and
14 father and their biological families, including, but not limited to,
15 siblings, parents, grandparents, aunts, and uncles, unless the child
16 is foreign born or was abandoned. The medical history or histories
17 shall be reported on a form provided by the department and filed
18 along with the report of adoption as provided by section 71-626. If
19 the medical history or histories do not accompany the report of
20 adoption, the department shall inform the court and the State Court
21 Administrator. The medical history or histories shall be made part of
22 the court record. After the entry of a decree of adoption, the court
23 shall retain a copy and forward the original medical history or
24 histories to the department. This subsection shall only apply when
25 the relinquishment or consent for an adoption is given on or after

1 September 1, 1988.

2 Sec. 2. Section 43-123.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-123.01 Medical history shall mean medical history as
5 defined by the department in its rules and regulations and shall
6 include the race, ethnicity, nationality, Indian tribe when
7 applicable and in compliance with the Nebraska Indian Child Welfare
8 Act, or other cultural history of both biological parents, if
9 available.

10 Sec. 3. Original sections 43-107 and 43-123.01, Reissue
11 Revised Statutes of Nebraska, are repealed.