

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 737

Introduced by Gloor, 35.

Read first time January 04, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to adoption; to amend section 43-107, Revised
2 Statutes Supplement, 2011; to provide procedures for
3 submitting national criminal history record information
4 checks with respect to home studies; and to repeal the
5 original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-107, Revised Statutes Supplement,
2 2011, 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 by submitting the request accompanied by two
8 sets of fingerprint cards or an equivalent electronic submission and
9 the appropriate fee to the Nebraska State Patrol for a Federal Bureau
10 of Investigation background check and to request the department to
11 conduct and file a check of the central register created in section
12 28-718 for any history of the petitioner of behavior injurious to or
13 which may endanger the health or morals of a child. An adoption
14 decree shall not be issued until such records are on file with the
15 court. The petitioner shall pay the cost of the national criminal
16 history record information check and the check of the central
17 register.

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

1 (iv) A voluntary placement for purposes other than
2 adoption made by a parent or guardian of a child without assistance
3 from an attorney, physician, or other individual or agency which
4 later results in a petition for the adoption of the child shall be
5 exempt from the requirements of a preplacement adoptive home study.
6 The petitioner or petitioners who meet such criteria shall have a
7 postplacement adoptive home study completed by the department or a
8 licensed child placement agency and filed with the court at least one
9 week prior to the hearing for adoption.

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

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

23 (vii) The preplacement or postplacement adoptive home
24 study shall be performed as prescribed in rules and regulations of
25 the department and shall include at a minimum an examination into the

1 facts relating to the petitioner or petitioners as may be relevant to
2 the propriety of such adoption. Such rules and regulations shall
3 require an adoptive home study to include a national criminal history
4 record information check and a check of the central register created
5 in section 28-718 for any history of the petitioner or petitioners of
6 behavior injurious to or which may endanger the health or morals of a
7 child.

8 (2) Upon the filing of a petition for adoption, the judge
9 shall require that a complete medical history be provided on the
10 child, except that in the adoption of a child by a stepparent the
11 provision of a medical history shall be discretionary. On and after
12 August 27, 2011, the complete medical history or histories required
13 under this subsection shall include the race, ethnicity, nationality,
14 Indian tribe when applicable and in compliance with the Nebraska
15 Indian Child Welfare Act, or other cultural history of both
16 biological parents, if available. A medical history shall be
17 provided, if available, on the biological mother and father and their
18 biological families, including, but not limited to, siblings,
19 parents, grandparents, aunts, and uncles, unless the child is foreign
20 born or was abandoned. The medical history or histories shall be
21 reported on a form provided by the department and filed along with
22 the report of adoption as provided by section 71-626. If the medical
23 history or histories do not accompany the report of adoption, the
24 department shall inform the court and the State Court Administrator.
25 The medical history or histories shall be made part of the court

1 record. After the entry of a decree of adoption, the court shall
2 retain a copy and forward the original medical history or histories
3 to the department. This subsection shall only apply when the
4 relinquishment or consent for an adoption is given on or after
5 September 1, 1988.

6 (3) After the filing of a petition for adoption and
7 before the entry of a decree of adoption for a child who is committed
8 to the Department of Health and Human Services, the person or persons
9 petitioning to adopt the child shall be given the opportunity to read
10 the case file on the child maintained by the department or its duly
11 authorized agent. The department shall not include in the case file
12 to be read any information or documents that the department
13 determines cannot be released based upon state statute, federal
14 statute, federal rule, or federal regulation. The department shall
15 provide a document for such person's or persons' signatures verifying
16 that he, she, or they have been given an opportunity to read the case
17 file and are aware that he, she, or they can review the child's file
18 at any time following finalization of the adoption upon making a
19 written request to the department. The department shall file such
20 document with the court prior to the entry of a decree of adoption in
21 the case. This subsection shall only apply to adoptions when the
22 petition for adoption is filed on or after August 27, 2011.

23 Sec. 2. Original section 43-107, Revised Statutes
24 Supplement, 2011, is repealed.