

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 684

FINAL READING

Introduced by Bolz, 29; Kolterman, 24.

Read first time January 06, 2016

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to adoption; to amend section 43-107, Revised
2 Statutes Cumulative Supplement, 2014; to change provisions relating
3 to adoptive home studies and medical histories as prescribed; and to
4 repeal the original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-107, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

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

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

26 (ii) An adoptive home study shall not be required when the
27 petitioner is a stepparent of the adoptee unless required by the court.
28 An adoptive home study may be waived by the court upon a showing of good
29 cause by the petitioner when the petitioner is a biological grandparent
30 or a step-grandparent who is married to the biological grandparent at the
31 time of the adoption if both are adopting the child. For all ,—except

1 ~~that for~~ petitions filed on or after January 1, 1994, the judge shall
2 order the petitioner or his or her attorney to request the Nebraska State
3 Patrol to file a national criminal history record information check by
4 submitting the request accompanied by two sets of fingerprint cards or an
5 equivalent electronic submission and the appropriate fee to the Nebraska
6 State Patrol for a Federal Bureau of Investigation background check and
7 to request the department to conduct and file a check of the central
8 registry created in section 28-718 for any history of the petitioner of
9 behavior injurious to or which may endanger the health or morals of a
10 child. An adoption decree shall not be issued until such records are on
11 file with the court. The petitioner shall pay the cost of the national
12 criminal history record information check and the check of the central
13 registry.

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

22 (iv) A voluntary placement for purposes other than adoption made by
23 a parent or guardian of a child without assistance from an attorney,
24 physician, or other individual or agency which later results in a
25 petition for the adoption of the child shall be exempt from the
26 requirements of a preplacement adoptive home study. The petitioner or
27 petitioners who meet such criteria shall have a postplacement adoptive
28 home study completed by the department or a licensed child placement
29 agency and filed with the court at least one week prior to the hearing
30 for adoption.

31 (v) The adoption of an adult child as provided in subsection (2) of

1 section 43-101 shall be exempt from the requirements of an adoptive home
2 study unless the court specifically orders otherwise. The court may order
3 an adoptive home study, a background investigation, or both if the court
4 determines that such would be in the best interests of the adoptive party
5 or the person to be adopted.

6 (vi) Any adoptive home study required by this section shall be
7 conducted by the department or a licensed child placement agency at the
8 expense of the petitioner or petitioners unless such expenses are waived
9 by the department or licensed child placement agency. The department or
10 licensed agency shall determine the fee or rate for the adoptive home
11 study.

12 (vii) The preplacement or postplacement adoptive home study shall be
13 performed as prescribed in rules and regulations of the department and
14 shall include at a minimum an examination into the facts relating to the
15 petitioner or petitioners as may be relevant to the propriety of such
16 adoption. Such rules and regulations shall require an adoptive home study
17 to include a national criminal history record information check and a
18 check of the central registry created in section 28-718 for any history
19 of the petitioner or petitioners of behavior injurious to or which may
20 endanger the health or morals of a child.

21 (2) Upon the filing of a petition for adoption, the judge shall
22 require that a complete medical history be provided on the child, except
23 that in the adoption of a child by a stepparent, biological grandparent,
24 or step-grandparent who is married to the biological grandparent at the
25 time of the adoption if both are adopting the child, the provision of a
26 medical history shall be discretionary. On and after August 27, 2011, the
27 complete medical history or histories required under this subsection
28 shall include the race, ethnicity, nationality, Indian tribe when
29 applicable and in compliance with the Nebraska Indian Child Welfare Act,
30 or other cultural history of both biological parents, if available. A
31 medical history shall be provided, if available, on the biological mother

1 and father and their biological families, including, but not limited to,
2 siblings, parents, grandparents, aunts, and uncles, unless the child is
3 foreign born or was abandoned. The medical history or histories shall be
4 reported on a form provided by the department and filed along with the
5 report of adoption as provided by section 71-626. If the medical history
6 or histories do not accompany the report of adoption, the department
7 shall inform the court and the State Court Administrator. The medical
8 history or histories shall be made part of the court record. After the
9 entry of a decree of adoption, the court shall retain a copy and forward
10 the original medical history or histories to the department. This
11 subsection shall only apply when the relinquishment or consent for an
12 adoption is given on or after September 1, 1988.

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

28 Sec. 2. Original section 43-107, Revised Statutes Cumulative
29 Supplement, 2014, is repealed.