

## LEGISLATIVE BILL 16

Approved by the Governor March 12, 1993

Introduced by Lynch, 13; Wesely, 26; Schimek, 27

AN ACT relating to adoption; to amend section 43-102, Reissue Revised Statutes of Nebraska, 1943, and section 43-107, Revised Statutes Supplement, 1992; to require adoptive home studies and other investigations as prescribed in certain adoption proceedings; and to repeal the original sections.

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

Section 1. That section 43-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-102. Except as otherwise provided in the Nebraska Indian Child Welfare Act, any person or persons desiring to adopt a minor child or an adult child of such person's spouse shall file, in the county court of the county in which the person or persons desiring to adopt such child reside, a petition for adoption, signed and sworn to by the person or persons desiring to adopt, ~~together with the consent or consents required by section 43-104 or 43-104.07, and the certificates and other documents~~ required by sections 43-104.02 to 43-104.06 or the documents required by section 43-104.07, and a completed preplacement adoptive home study if required by section 43-107.

Except as set out in subdivisions (1)(b)(ii), (iii), and (iv) of section 43-107, an adoption decree shall not be issued until at least six months after an adoptive home study has been completed by the department or a licensed child placement agency.

Sec. 2. That section 43-107, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(b)(i) For adoption placements occurring on or after

January 1, 1994, upon the filing of a petition for adoption, a preplacement adoptive home study shall be filed with the county court, which study is completed by the department or a licensed child placement agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be appropriate.

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

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

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

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

(vi) The preplacement or postplacement adoptive home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption. Such rules and regulations shall require an adoptive home study to include a Nebraska criminal history record information check and a check of the central register created in section 28-718 for any

history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

(2) Upon the filing of a petition for adoption, the county judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent the provision of a medical history shall be discretionary. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the Bureau of Vital Statistics and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the Bureau of Vital Statistics shall inform the county court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the Bureau of Vital Statistics. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

Sec. 3. That original section 43-102, Reissue Revised Statutes of Nebraska, 1943, and section 43-107, Revised Statutes Supplement, 1992, are repealed.