§ 115-a. Special provisions relating to children to be brought into the state for private-placement adoption. 1. In the case of a child whose admission to the United States as an eligible orphan with non-quota immigrant status pursuant to the federal immigration and nationality act is sought for the purpose of adoption in the state of New York, the following pre-adoption requirements shall be observed: (a) The adoptive parents or parent must present to a judge or surrogate having jurisdiction of adoption proceedings, in the county of residence of such adoptive parents or parent, a verified written application containing the information set forth in subdivision two of this section, in such form as the judge or surrogate may prescribe for an order of pre-adoption investigation, to determine whether the adoption may be in the best interests of the child.

(b) The adoptive parents or parent must appear for examination before the judge or surrogate of the court where the pre-adoption proceedings are instituted.

(c) The application must be accompanied by duly authenticated documentary evidence: (1) that the child is a noncitizen under the age of sixteen and (2) that he or she is an orphan because of the death or disappearance of both parents, or because of abandonment, or desertion by, or separation or loss from, both parents, or who has only one parent due to the death or disappearance of, abandonment, or desertion by, or separation or loss from the other parent, and the remaining parent is incapable of providing care for such orphan and has in writing irrevocably released him or her for emigration and adoption, and has consented to the proposed adoption. In all cases where the orphan has no remaining parent under the circumstances set forth above, documentary evidence must be presented that the person, public authority or duly constituted agency having lawful custody of the orphan at the time of the making of the application, hereunder, has in writing irrevocably released him or her for immigration and adoption and has consented to the proposed adoption and (3) that the adoptive parents agree to adopt and treat the adoptive child as their or his or her own lawful child.

(d) In addition thereto such additional releases and consents as the court may in its sound discretion require.

2. The verified written application shall contain the following

information: the names and place of residence of the adoptive parent or parents; whether they are of full age; whether they are married or unmarried and, if married, whether they are living together as husband and wife; the name, date and place of birth of the adoptive child as nearly as the same can be ascertained; the religious faith of the adoptive parent or parents; the religious faith of the adoptive child and his parents as nearly as the same can be ascertained; the medical history of the adoptive child as nearly as the same can be ascertained; the occupation and approximate income of the adoptive parent or parents, and the name by which the adoptive child is to be known; that no previous application has been made to any court or judge for the relief sought or if so made, the disposition of it and a statement as to whether the adoptive child has been previously adopted, if such fact is known to the adoptive parent or parents; the facts which establish that the child is an eligible orphan who would be entitled to enter the United States with non-quota immigrant status for the purpose of adoption in New York state, pursuant to the provisions in the federal immigration and nationality act, in such case made; the circumstances whereby, and names and addresses of the intermediaries, if any, through whom the adoptive parent or parents learned of the existence and eligibility of the child and the names and addresses of the person or persons, public authority or duly constituted agency in the land of the child's residence executing the written release of the child for emigration and adoption, and the consent to such adoption, the circumstances under which the release and consent were obtained, insofar as they are known to the adoptive parent or parents.

2-a. The verified written application shall contain the following information: the heritage of the parents as nearly as the same can be ascertained, which shall include nationality, ethnic background and race; education, which shall be the number of years of school completed by the parents at the time of the birth of the adoptive child; general physical appearance of the parents at the time of the birth of the adoptive child, which shall include height, weight, color of hair, eyes, skin; occupation of the parents at the time of the birth of the adoptive child; health and medical history of the parents at the time of the birth of the adoptive child, including all available information setting

forth conditions or diseases believed to be hereditary, any drugs or medication taken during the pregnancy by the child's mother; and any other information which may be a factor influencing the child's present or future health, talents, hobbies and special interests of parents.

3. Upon receiving the verified written application, required documentary evidence, agreement and consents, the judge or surrogate, upon finding that the applicable provisions of section one hundred fifteen-a have been complied with and that it appears that the proposed adoption may be in the best interests of the child, shall issue an order of pre-adoption investigation hereunder. The order of pre-adoption investigation shall require that the report of such investigation be made by a disinterested person who in the opinion of the judge or surrogate is qualified by training and experience, or by an authorized agency specifically designated by him to examine into the statements set forth in the application. The investigator shall make a written report of his investigation into the truth and accuracy of the statements in the application and where applicable, into the validity of the documentary evidence, submitted with the application, and he shall ascertain as fully as possible, and incorporate in his report the various factors which may bear upon the determination of the application for adoption including, but not limited to, the following information:

(a) the marital and family status, and history, of adoptive parents;

(b) the physical and mental health of the adoptive parents;

(c) the property owned by and the income of the adoptive parents;

(d) the compensation paid or agreed upon with respect to the placement of the child for adoption;

(e) whether either adoptive parent has ever been respondent in any proceeding concerning allegedly neglected, abandoned or delinquent children;

(f) the desirability of bringing the child into New York state for private-placement adoption;

(g) any other facts relating the familial, social, religious, emotional and financial circumstances of the adoptive parents which may be relevant to a determination of suitability of the adoption.

The written report of pre-adoption investigation shall be submitted to

the judge or surrogate within thirty days after the same is directed to be made, unless for good cause shown the judge or surrogate shall grant a reasonable extension of such period. The report shall be filed with the judge or surrogate, in any event, before the court shall issue its pre-adoption certificate that it appears that the adoption is in the best interests of the child.

4. On the return of the pre-adoption investigation order the judge or surrogate shall examine the written report of the pre-adoption investigation, and shall determine upon the basis of such written report and such further proof, if any, as he may deem necessary, whether to issue a pre-adoption certificate as provided for in this subdivision.

If the court is satisfied that the adoption may be in the best interests of the child, and that there has been compliance with all requirements hereof and is satisfied that the moral and temporal interests of the child will be promoted by the adoption, the judge or surrogate shall issue an original certificate under seal of the court and two certified copies thereof, setting forth the fact that a pre-adoption investigation has been conducted, and reciting the documents and papers submitted therewith and stating that in the opinion of the court there is compliance with all applicable laws and that it appears from such investigation that the moral and temporal interests of the child will be promoted by the proposed adoption. The original certificate shall be filed with the clerk of the court, one certified copy with the state commissioner of social services, and the adoptive parents shall receive the second certified copy. The fact that the adoptive child was born out of wedlock shall in no case appear in such certificate. The written report of pre-adoption investigation together with all other papers pertaining to the pre-adoption investigation and the original certificate shall be kept by the court as a permanent record and such papers must be sealed by the judge and withheld from inspection. No person shall be allowed access to such sealed records and original certificate and any index thereof except upon an order of the court in which the pre-adoption certificate was made or an order of a justice of the supreme court. No order for access and inspection shall be granted except on due notice to the adoptive parents and on good

cause shown. In like manner as a court of general jurisdiction exercises such powers, the court in which the pre-adoption certificate was made may open, vacate or set aside such certificate for fraud, newly discovered evidence or other sufficient cause.

5. The private-placement adoption of children who have been brought into the United States and the state for such purpose and placed with the adoptive parent or parents, shall be effected after issuance of the pre-adoption certificate, in the manner provided by this title, excepting that (a) the petition shall also recite the pre-adoption proceedings, and (b) the court may in its discretion for good cause shown, waive a subsequent investigation. In such case the order of adoption shall recite the reason for such action.

6. In any case where there has been a failure to comply with the requirements of this section, if applicable, no order of adoption shall be made until one year after the court shall have received the petition to adopt. The court may shorten such waiting period for good cause shown, and, in such case the order of adoption shall recite the reason for such action.

7. The provisions of this section, shall not be applicable to the adoption of children placed out or to be placed out for adoption by an authorized agency as defined in section three hundred seventy-one of the social services law.

8. Notwithstanding any provision of law to the contrary, where a child is placed with a couple or individual in New York state for the purpose of adoption, and where said adoption has theretofore been finalized in the country of birth, outside the United States, the couple or person may petition the court in their county of residence in New York state, for the readoption of said child in accordance with the provisions of this chapter, providing for adoptions originally commenced in this state. In any proceeding for readoption, proof of finalization of an adoption outside the United States shall be prima facie evidence of the consent of those parties required to give consent to an adoption pursuant to section one hundred eleven of this article.