§ 115-d. Petition for certification. 1. Except as provided for in subdivision eight of this section, a person or persons petitioning for certification as a qualified adoptive parent or parents shall upon a form, promulgated by the chief administrator of the courts, provide to the court:

(a) the applicant's name or applicants' names, residential address and telephone number;

(b) a statement by the applicant or applicants that they are seeking certification by the court as a person or persons qualified to take physical custody of an infant prior to or contemporaneous with the filing of a private-placement adoption petition;

(c) a statement by the applicant or applicants as to whether such applicant or applicants have been the subject of an indicated report of child abuse or maltreatment, pursuant to title six of article six of the social services law; and

(d) a statement that a pre-placement investigation will be undertaken by a disinterested person, as such term is defined in subdivision four of this section, and that a written report of such investigation will be furnished directly to the court by such disinterested person with a copy of such report to be delivered simultaneously to the applicant or applicants. Such disinterested person shall certify to the court that he or she is a disinterested person and has no interest in the outcome of the party's or parties' application. Such disinterested person shall further disclose to the court any fee paid or to be paid to such person for services rendered in connection with the pre-placement investigation.

Such petition shall also require information regarding:

(i) the marital and family status and history of the adoptive parent or parents;

(ii) the physical and mental health of the adoptive parent or parents;

(iii) the property owned by and the income of adoptive parent or parents;

(iv) whether the adoptive parent or either of the adoptive parents has ever been a respondent in any proceeding concerning allegedly abused, neglected, abandoned or delinquent children; and

(v) whether the applicant or applicants have made any prior

application for certification as a qualified adoptive parent or parents and, if so, the disposition of such application for certification.

2. In any case where the applicant or applicants do not intend to cause a pre-placement investigation to be undertaken pursuant to the provisions of paragraph (d) of subdivision one of this section, such applicant or applicants shall request the court to appoint a disinterested person to conduct such pre-placement investigation. The investigative written report shall be submitted to the judge or surrogate within thirty days, unless for good cause shown the judge or surrogate shall grant a reasonable extension of such period.

3. Such applicant or applicants shall be financially responsible for the costs of any pre-placement investigation conducted pursuant to subdivision one or two of this section.

3-a. (a) The court shall submit fingerprint cards and order a report from the division of criminal justice services setting forth any existing criminal history record of the applicant for certification as a qualified adoptive parent.

(b) Notwithstanding any other provision of law to the contrary, a petition for certification as a qualified adoptive parent shall be denied where a criminal history record of the applicant reveals a conviction for (i) a felony conviction at any time involving: (1) child abuse or neglect; (2) spousal abuse; (3) a crime against a child, including child pornography; or (4) a crime involving violence, including rape, sexual assault, or homicide, other than a crime involving physical assault or battery; or (ii) a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

(c) For the purposes of this subdivision, "spousal abuse" is an offense defined in section 120.05, 120.10, 121.12, or 121.13 of the penal law where the victim of such offense was the defendant's spouse; provided, however, spousal abuse shall not include a crime in which the applicant was the defendant, and the court finds in accordance with this subdivision that he or she was the victim of physical, sexual or psychological abuse by the victim of such offense and such abuse was a

factor in causing the applicant to commit such offense.

4. A pre-placement investigation conducted pursuant to the provisions of this section shall be made by a disinterested person who in the opinion of the judge or surrogate is qualified by training and experience to examine into the allegations set forth in the application and any other factors which may be relevant to the suitability of the applicant or applicants as a qualified adoptive parent or parents. For the purposes of this section, a disinterested person shall also include a licensed master social worker, licensed clinical social worker, the probation service of the family court or an authorized agency specifically designated by the court to conduct pre-placement investigations.

5. Such disinterested person shall file with the court a written report of his or her investigation into the truth and accuracy of the allegations set forth in the application and his or her investigation of the various factors which may be relevant to the suitability of the applicant or applicants as qualified adoptive parents. Such investigation shall include, but not be limited to, a personal interview and visit at the applicant's or applicants' home and an investigation of any other facts relating to the familial, social, religious, emotional and financial circumstances of the adoptive parent or parents which may be relevant to certification as a qualified adoptive parent or parents.

6. Certification and provisional certification. If after consideration of the report submitted by the disinterested person, and all other relevant and material factors, the court grants the application, the applicant or applicants may accept physical custody of a child for the purposes of adoption, either prior to or contemporaneous with the filing of an adoption petition. The order granting the petition shall be valid for a period not to exceed eighteen months and shall be accepted as proof of certification by any court of competent jurisdiction within the state. The court may in its discretion grant a conditional order of certification upon satisfactory completion and submission of a petition wherein the prospective adoptive parent or parents indicate no prior criminal convictions or founded findings of child abuse or neglect, and

after completion of a disinterested person investigation provided for in this section, pending completion of any further reports, investigations or inquiries ordered by the court or required by any other statute or court rule. A conditional order of certification shall be valid and remain in force and effect until replaced by an order of certification or by an order denying the petition, whichever shall first occur, but in no event shall such provisional certification continue beyond one hundred eighty days from the date of original issuance. If the court denies the petition, the reasons for such denial shall be stated on the record or in the order.

7. Nothing in this section shall be deemed to waive, limit or restrict the provisions of any other law requiring any inquiry, disinterested person investigation or court review of any persons seeking to adopt a child under any provision of law.

8. The provisions of this section shall not apply to petitions brought by a step-parent for the adoption of a step-child where the step-child has resided with the birth parent and the step-parent for a continuous period of at least one year.

9. Extension of certification. When a petition for adoption is filed by a qualified parent or parents previously certified and the balance of the time period remaining under such certification in accordance with subdivision six of this section is less than one year, the court may on its own motion or on the motion of the petitioners extend the time period of the original certification to a date eighteen months from the date of filing of the adoption petition. When a petition for adoption is filed by a qualified parent or parents who have previously been certified by an order which has expired within a year preceding the date of the adoption petition, the court may extend the termination date of the earlier certification until eighteen months from the filing of such petition, provided the petitioner apply for such extension and set forth any change of circumstances of the qualified parent or parents since issuance and expiration of the last certification which may be relevant and material to the extension of such certification and affix thereto written verification of any such changed circumstance or lack thereof by

a disinterested person as defined in subdivision four of this section. Except as is provided for by this subdivision, the court shall not extend a previously expired order of certification. Any further certification shall require the filing of a new petition for certification in accordance with subdivision six of this section.

In any instance when the court determines whether to extend a certification under this subdivision, the court, in its discretion, may order each or any of (a) a report from the statewide central registry of child abuse and maltreatment to determine whether the child or the petitioner is or has been the subject of or another person named in an indicated report, as such terms are defined in section four hundred twelve of the social services law, filed with such register, (b) a report from the division of criminal justice services setting forth any criminal record of such petitioner or petitioners, and (c) an additional pre-placement investigation to be undertaken by a disinterested person. Nothing herein shall be deemed to require that the court enter such an order.