

Introduced by Senator Scott

February 12, 2003

An act to amend Section 8814.5 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 182, as introduced, Scott. Adoption: consent waivers.

Existing law provides that, in an independent adoption, after a consent to an adoption is signed by a birth parent, the birth parent signing the consent has 30 days to revoke consent, as specified, or sign a waiver of his or her right to revoke consent. In certain cases, after revoking consent, a written notarized statement reinstating the original consent may be signed and delivered, as specified. In that case, the revocation of consent is void and a new 30 day period to revoke consent commences. In the alternative, the birth parent may sign a waiver of the right to revoke consent in the presence of a representative of the State Department of Social Services or a delegated county adoption agency. If neither a representative of the State Department of Social Services nor a representative of a delegated county adoption agency is reasonably available, as defined, the waiver may be signed in the presence of a judicial officer of a court of record. Existing law provides that the waiver may not be signed until an interview has been completed by the department or delegated county adoption agency unless the waiver is signed in the presence of a judicial officer. In that case, the judicial officer is required to conduct the interview. Existing law also requires the department, the delegated county adoption agency, or the court, within 10 working days of receiving a request, as specified, to interview any birth parent requesting to be interviewed.

This bill would instead provide that if a written notarized statement reinstating the original consent is signed and delivered, as specified, the revocation of consent is void and the remainder of the 30-day period to revoke consent, rather than a new 30-day period, commences. The bill would provide that the birth parent may sign a waiver of the right to revoke consent in the presence of the adoption service provider, rather than the department. The bill would also require the adoption service provider, rather than the department, to interview a birth parent with respect to the signing of these waivers. The bill would make a conforming change.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8814.5 of the Family Code is amended
 2 to read:
 3 8814.5. (a) After a consent to the adoption is signed by the
 4 birth parent or parents pursuant to Section 8801.3 or 8814, the
 5 birth parent or parents signing the consent shall have 30 days to
 6 take one of the following actions:
 7 (1) Sign and deliver to the department or delegated county
 8 adoption agency a written statement revoking the consent and
 9 requesting the child to be returned to the birth parent or parents.
 10 After revoking consent, in cases where the birth parent or parents
 11 have not regained custody, or the birth parent or parents have failed
 12 to make efforts to exercise their rights under subdivision (b) of
 13 Section 8815, a written notarized statement reinstating the original
 14 consent may be signed and delivered to the department or
 15 delegated county adoption agency, in which case the revocation of
 16 consent shall be void and ~~a new~~ *the remainder of the* 30-day period
 17 shall commence. After revoking consent, in cases in which the
 18 birth parent or parents have regained custody, upon the delivery of
 19 a written notarized statement reinstating the original consent to the
 20 department or delegated county adoption agency, the revocation
 21 of consent shall be void and a new 30-day period shall commence.
 22 The birth mother shall be informed of the operational timelines
 23 associated with this section at the time of signing of the statement
 24 reinstating the original consent.



1 (2) (A) Sign a waiver of the right to revoke consent on a form
2 prescribed by the department in the presence of a representative of
3 ~~the department or~~ delegated county adoption agency *or the*
4 *adoption service provider*. ~~If neither a representative of the~~
5 ~~department nor a representative of a delegated county adoption~~
6 ~~agency is reasonably available, the waiver of the right to revoke~~
7 ~~consent may be signed in the presence of a judicial officer of a~~
8 ~~court of record if the birth parent is represented by independent~~
9 ~~legal counsel. “Reasonably available” means that a representative~~
10 ~~from either the department or the delegated county adoption~~
11 ~~agency is available to accept the signing of the waiver within 10~~
12 ~~days and is within 100 miles of the location of the birth mother.~~

13 (B) An adoption service provider may assist the birth parent or
14 parents in any activity where the primary purpose of that activity
15 is to facilitate the signing of the waiver with ~~the department~~, a
16 delegated county *adoption* agency; or a judicial officer. The
17 adoption service provider or another person designated by the
18 birth parent or parents may also be present at any interview
19 conducted pursuant to this section to provide support to the birth
20 parent or parents.

21 (C) The waiver of the right to revoke consent may not be signed
22 until an interview has been completed by ~~the department or~~
23 ~~delegated county adoption agency or an adoption service provider~~
24 unless the waiver of the right to revoke consent is signed in the
25 presence of a judicial officer of a court of record as specified in this
26 section, in which case the interview and the witnessing of the
27 signing of the waiver shall be conducted by the judicial officer.
28 Within 10 working days of a request made after ~~the department~~, the
29 delegated county adoption agency, *adoption service provider*, or
30 the court has received a copy of the petition for the adoption and
31 the names and addresses of the persons to be interviewed, ~~the~~
32 ~~department~~, the delegated county adoption agency, *the adoption*
33 *service provider*, or the court shall interview, at ~~the department or~~
34 ~~agency office~~, *the office of the adoption service provider*, or the
35 court, any birth parent requesting to be interviewed. However, the
36 interview, and the witnessing of the signing of a waiver of the right
37 to revoke consent of a birth parent residing outside of California
38 or located outside of California for an extended period of time
39 unrelated to the adoption may be conducted in the state where the
40 birth parent is located, by any of the following:



- 1 (i) A representative of a public adoption agency in that state.
- 2 (ii) A judicial officer in that state where the birth parent is
- 3 represented by independent legal counsel.
- 4 (iii) An adoption service provider.
- 5 (3) Allow the consent to become a permanent consent on the
- 6 31st day after signing.
- 7 (b) The consent may not be revoked after a waiver of the right
- 8 to revoke consent has been signed or after 30 days, beginning on
- 9 the date the consent was signed or as provided in paragraph (1) of
- 10 subdivision (a), whichever occurs first.

