

AMENDED IN SENATE JUNE 20, 2006

AMENDED IN ASSEMBLY APRIL 19, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2488

Introduced by Assembly Member Leno

February 23, 2006

An act to amend Section 9205 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 2488, as amended, Leno. Adoption.

Existing law authorizes the State Department of Social Services or an adoption agency, as defined, that joined in an adoption petition to release the names and addresses of biological siblings to one another if both siblings have attained 21 years of age and have filed a specified request and waiver of rights with respect to the disclosure with the department or agency.

This bill would further authorize the disclosure of the names and addresses of an adoptee and his or her half-sibling or step-sibling to one another, if the above-described requirements are met. The bill would also lower the age of consent to 18 years of age, and would authorize an adoptee or sibling, as defined, who is under 18 years of age to file that request with the consent of his or her adoptive parents or, if a sibling, with the consent of a parent or guardian, or the *dependency* court under specified circumstances. If an adoptee or sibling has not filed a waiver with the department or adoption agency, the bill would also authorize the adoptee or sibling to petition the

court to appoint the department or adoption agency that conducted the adoptee’s adoption as a confidential intermediary, *as specified*, which would have the authority to contact the adoptee and his or her adoptive parents or the sibling with regard to disclosure. *The bill would require the confidential intermediary to inform those persons that consent is optional, and, upon denial, would prohibit the intermediary from making any further attempt at disclosure.*

By imposing additional duties on, among others, licensed county adoption agencies to act as a confidential intermediary, as described above, and by increasing the number of sibling and adoptee requests, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. Section 9205 of the Family Code is amended to
- 2 read:
- 3 9205. (a) Notwithstanding any other law, the department or
- 4 adoption agency that joined in the adoption petition shall release
- 5 the names and addresses of siblings to one another if both of the
- 6 siblings have attained 18 years of age and have filed the
- 7 following with the department or agency:
- 8 (1) A current address.
- 9 (2) A written request for contact with any sibling whose
- 10 existence is known to the person making the request.
- 11 (3) A written waiver of the person’s rights with respect to the
- 12 disclosure of the person’s name and address to the sibling, if the
- 13 person is an adoptee.
- 14 (b) Upon inquiry and proof that a person is the sibling of an
- 15 adoptee who has filed a waiver pursuant to this section, the
- 16 department or agency may advise the sibling that a waiver has

1 been filed by the adoptee. The department or agency may charge
2 a reasonable fee, not to exceed fifty dollars (\$50), for providing
3 the service required by this section.

4 (c) An adoptee may revoke a waiver filed pursuant to this
5 section by giving written notice of revocation to the department
6 or agency.

7 (d) The department shall adopt a form for the request
8 authorized by this section. The form shall provide for an affidavit
9 to be executed by a person seeking to employ the procedure
10 provided by this section that, to the best of the person's
11 knowledge, the person is an adoptee or sibling of an adoptee. The
12 form also shall contain a notice of an adoptee's rights pursuant to
13 subdivision (c) and a statement that information will be disclosed
14 only if there is a currently valid waiver on file with the
15 department or agency. The department may adopt regulations
16 requiring any additional means of identification from a person
17 making a request pursuant to this section as it deems necessary.

18 (e) The department or agency may not solicit the execution of
19 a waiver authorized by this section. However, the department
20 shall announce the availability of the procedure authorized by
21 this section, utilizing a means of communication appropriate to
22 inform the public effectively.

23 (f) Notwithstanding the age requirement described in
24 subdivision (a), an adoptee or sibling who is under 18 years of
25 age may file a written request for the release of his or her contact
26 information pursuant to this section provided that, if an adoptee,
27 the adoptive parent consents, and, if a sibling, the sibling's legal
28 parent or guardian consents. If the sibling is under the
29 jurisdiction of the dependency court and has no legal parent or
30 guardian able or available to provide consent, the *dependency*
31 court may provide that consent.

32 (g) Notwithstanding subdivisions (a) and (e), an adoptee or
33 sibling who seeks contact with the other for whom no waiver is
34 on file may petition the court to appoint a confidential
35 intermediary, which shall be the department or adoption agency
36 that conducted the adoptee's adoption. *If the court finds that the*
37 *adoption agency that conducted the adoptee's adoption is*
38 *unable, due to economic hardship, to serve as the intermediary,*
39 *then the agency shall provide all records to the court and the*
40 *court shall appoint an alternate confidential intermediary. The*

1 court shall grant the petition unless it finds that it would be
2 detrimental to the adoptee or sibling with whom contact is
3 sought. The intermediary shall have access to all records of the
4 adoptee and shall *make all reasonable efforts to* locate and
5 attempt to obtain the consent of the adoptee, sibling, or adoptive
6 or birth parent, as required to make the disclosure authorized by
7 this section. *The confidential intermediary shall notify any*
8 *located adoptee, sibling, or adoptive or birth parent that consent*
9 *is optional, not required by law, and does not affect the status of*
10 *the adoption. If that individual denies the request for consent, the*
11 *confidential intermediary shall not make any further attempts to*
12 *obtain consent. The confidential intermediary shall use*
13 *information found in the records of the adoptee for authorized*
14 *purposes only, and may not disclose that information without*
15 *authorization.* If contact is sought with an adoptee or sibling who
16 is under 18 years of age, the confidential intermediary shall
17 contact and obtain the consent of that child’s legal parent before
18 contacting the child. If the sibling is under 18 years of age, under
19 the jurisdiction of the dependency court, and has no legal parent
20 or guardian able or available to provide consent, the intermediary
21 shall obtain that consent from the *dependency* court.

22 (h) For purposes of this section, “sibling” means a biological
23 sibling, half-sibling, or step-sibling of the adoptee.

24 SEC. 2. If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.