

AMENDED IN SENATE APRIL 9, 2008

SENATE BILL

No. 1726

Introduced by Senator Scott

February 22, 2008

An act to amend Sections 7660.5, 7662, ~~8700~~, 8714.5, 8802, and 8814.5 of the Family Code, to amend Section 1510 of the Probate Code, and to amend Section 361 of, ~~and to repeal and add Section 305.6 of,~~ the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1726, as amended, Scott. Adoption.

(1) Existing law governs juvenile court proceedings and adoption and foster care proceedings. Among other things, these provisions provide for the confidentiality of juvenile court records, require that notice of hearings in dependency proceedings be given to specified persons, and govern the rights of parents in adoption proceedings. Existing law generally provides that if a presumed father waives the right to notice in writing before a notary public, no notice of, voluntary relinquishment for, or consent to adoption shall be required from him for the adoption to proceed.

This bill would revise the latter provision to provide that a presumed father may waive the right to notice of any adoption proceeding before or after the birth of the child and in front of either an authorized representative of the State Department of Social Services, an authorized representative of a public or private adoption agency, or a notary public.

(2) The Uniform Parentage Act governs the determination of parent and child relationships. Among other things, the act authorizes proceedings to terminate the parental rights of an alleged father when the child is the subject of an adoption proceeding and the alleged father

has not, in writing, denied paternity or waived his right to notice of, voluntarily relinquished the child for, or consented to, the adoption.

This bill would revise and recast the provision relating to the termination of the rights of an alleged father of a child that is the subject of an adoption proceeding, as specified. The bill would provide, in addition, that a birth father may validly execute a waiver of notice or denial of paternity before or after the birth of the child, and once signed, no notice of, voluntary relinquishment for, or consent to the adoption of the child shall be required from the birth father for the adoption to proceed.

~~(3) Existing law authorizes a birth parent to relinquish a child to the State Department of Social Services or a licensed adoption agency for adoption by a written statement, that has been signed and acknowledged, as specified. The relinquishment has no effect until a certified copy is sent to and filed with, the department. The relinquishment becomes final 10 business days after receipt of the filing by the department unless the department sends written acknowledgment of receipt of the relinquishment prior to the expiration of that 10-day period, or a longer period of time is necessary due to a pending court action or other cause beyond the control of the department.~~

This bill would reduce that period from 10 days to 5 days.

~~(4) Existing law provides that if a relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of that named person or persons and the child is removed from the home prior to the granting of the adoption, the department or agency must mail a notice by certified mail to the birth parent who signed the relinquishment within 72 hours of the decision not to place the child or to remove the child. Existing law provides that a relinquishing parent has 30 days from the date on which that notice was mailed to rescind the relinquishment.~~

This bill would reduce that period from 30 days to 5 days.

~~(5)~~

~~(3) Existing law provides that if a child is the subject of an adoption and a guardianship petition, the guardianship proceeding shall be consolidated with the adoption proceeding.~~

This bill would provide that both the guardianship case and the adoption case shall be heard and decided by the court in which the adoption is pending.

~~(6)~~

(4) Existing law provides that, after a consent to an adoption is signed by the birth parent or parents, the birth parent or parents signing the consent have 30 days to take one of specified actions, *including signing a waiver of the right to revoke consent*. Existing law requires a waiver to be signed in the presence of a representative of the department or the delegated county adoption agency. If those persons are not available within 10 days, the waiver may be signed in the presence of a judicial officer. Existing law also requires the department, the agency, or the court to interview a birth parent requesting to be interviewed within 10 working days of receiving the request, as specified. Existing law also provides for the waiver to be signed in the presence of a judicial officer, as specified.

This bill would reduce the 30-day period during which a birth parent may take one of specified actions to 5 days. The bill would also authorize delete the provision authorizing the waiver to be signed in the presence of a judicial officer if neither a representative of the department or agency is available within an unspecified number of days, as specified. The bill would also require the interview to be conducted within an unspecified number of working days of a request authorize a birth parent to sign the waiver in the presence of an adoption service provider if the birth parent is represented by independent legal counsel. The bill would also delete the role of the judicial officer in proceedings related to the signing of the waiver, as specified, and would instead set forth the role of independent legal counsel, as specified. The bill would set forth a specified certificate for that counsel to use in those proceedings. The bill would make other, related changes.

(7) Existing law provides that any peace officer may, without a warrant, take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety. Existing law also prohibits a peace officer, without a warrant, from taking a minor into temporary custody if the minor is a newborn who tested positive for illegal drugs, an adoption petition is pending, and other specified conditions exist.

This bill would revise the latter provision to prohibit a peace officer, without a warrant, from taking into temporary custody a minor who is in a hospital if the minor is a dependent child who is or is proposed to be the subject of a petition for adoption and other specified requirements are met. By imposing new duties on county officers, this bill would impose a state-mandated local program.

~~(8) Existing law generally provides that in specified cases in which a minor is adjudged a dependent child of the juvenile court, the court may limit the control to be exercised over the dependent child by any parent or guardian in order to protect the dependent child. Existing law provides that this power of the juvenile court to limit control by a parent over a dependent child of the juvenile court does not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services or to a licensed county adoption agency at any time while the child is a dependent child of the juvenile court, if the department or agency is willing to accept the relinquishment.~~

~~This bill would furthermore provide that the power of the juvenile court to limit control by a parent over a dependent child of the juvenile court does not limit the ability of a parent, at any time while the child is a dependent child of the juvenile court, to voluntarily consent to an independent adoption or to voluntarily relinquish his or her child to a licensed private adoption agency if the agency is willing to accept the relinquishment.~~

~~(9) 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-no*.

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

1 SECTION 1. Section 7660.5 of the Family Code is amended
2 to read:
3 7660.5. Notwithstanding any other provision of law, a
4 presumed father may waive the right to notice of any adoption
5 proceeding by executing a form developed by the department
6 before an authorized representative of the department, an authorized
7 representative of a licensed public or private adoption agency, or
8 a notary public or other person authorized to perform notarial acts.
9 The waiver of notice form may be validly executed before or after
10 the birth of the child, and once signed no notice, relinquishment
11 for, or consent to adoption of the child shall be required from the

1 father for the adoption to proceed. This shall be a voluntary and
2 informed waiver without undue influence. If the child is an Indian
3 child as defined under the Indian Child Welfare Act (ICWA), any
4 waiver of consent by an Indian presumed father shall be executed
5 in accordance with the requirements for voluntary adoptions set
6 forth in Section 1913 of Title 25 of the United States Code. The
7 waiver shall not affect the rights of any known federally recognized
8 Indian tribe or tribes from which the child or the presumed father
9 may be descended to notification of, or participation in, adoption
10 proceedings as provided by the ICWA. Notice that the waiver has
11 been executed shall be given to any known federally recognized
12 Indian tribe or tribes from which the child or the presumed father
13 may be descended, as required by the ICWA.

14 SEC. 2. Section 7662 of the Family Code is amended to read:

15 7662. (a) If a mother relinquishes for or consents to, or
16 proposes to relinquish for or consent to, the adoption of a child
17 who does not have a presumed father under Section 7611, or if a
18 child otherwise becomes the subject of an adoption proceeding,
19 the agency or person to whom the child has been or is to be
20 relinquished, or the mother or the person having physical or legal
21 custody of the child, or the prospective adoptive parent, shall file
22 a petition to terminate the parental rights of the father, unless either
23 of the following occurs:

24 (1) The father's relationship to the child has been previously
25 terminated or determined not to exist by a court.

26 (2) The father has been served as prescribed in Section 7666
27 with a written notice alleging that he is or could be the natural
28 father of the child to be adopted or placed for adoption and has
29 failed to bring an action for the purpose of declaring the existence
30 of the father and child relationship pursuant to subdivision (c) of
31 Section 7630 within 30 days of service of the notice or the birth
32 of the child, whichever is later.

33 (3) The alleged father has executed a written form developed
34 by the department to waive notice, to deny his paternity, relinquish
35 the child for adoption, or consent to the adoption of the child.

36 (b) The birth father may validly execute a waiver or denial of
37 paternity before or after the birth of the child, and once signed, no
38 notice of, relinquishment for, or consent to adoption of the child
39 shall be required from the birth father for the adoption to proceed.

1 (c) All proceedings affecting a child under Divisions 8
2 (commencing with Section 3000) to 11 (commencing with Section
3 6500), inclusive, and Parts 1 (commencing with Section 7500) to
4 3 (commencing with Section 7600), inclusive, of this division,
5 other than an action brought pursuant to this section, shall be stayed
6 pending final determination of proceedings to terminate the parental
7 rights of the father pursuant to this section.

8 (d) Nothing in this section may limit the jurisdiction of the court
9 pursuant to Part 3 (commencing with Section 6240) and Part 4
10 (commencing with Section 6300) of Division 10 with respect to
11 domestic violence orders.

12 ~~SEC. 3. Section 8700 of the Family Code is amended to read:~~

13 ~~8700. (a) Either birth parent may relinquish a child to the~~
14 ~~department or a licensed adoption agency for adoption by a written~~
15 ~~statement signed before two subscribing witnesses and~~
16 ~~acknowledged before an authorized official of the department or~~
17 ~~agency. The relinquishment, when reciting that the person making~~
18 ~~it is entitled to the sole custody of the child and acknowledged~~
19 ~~before the officer, is prima facie evidence of the right of the person~~
20 ~~making it to the sole custody of the child and the person's sole~~
21 ~~right to relinquish.~~

22 ~~(b) A relinquishing parent who is a minor has the right to~~
23 ~~relinquish his or her child for adoption to the department or a~~
24 ~~licensed adoption agency, and the relinquishment is not subject to~~
25 ~~revocation by reason of the minority.~~

26 ~~(c) If a relinquishing parent resides outside this state and the~~
27 ~~child is being cared for and is or will be placed for adoption by~~
28 ~~the department or a licensed adoption agency, the relinquishing~~
29 ~~parent may relinquish the child to the department or agency by a~~
30 ~~written statement signed by the relinquishing parent before a notary~~
31 ~~on a form prescribed by the department, and previously signed by~~
32 ~~an authorized official of the department or agency, that signifies~~
33 ~~the willingness of the department or agency to accept the~~
34 ~~relinquishment.~~

35 ~~(d) If a relinquishing parent and child reside outside this state~~
36 ~~and the child will be cared for and will be placed for adoption by~~
37 ~~the department or a licensed adoption agency, the relinquishing~~
38 ~~parent may relinquish the child to the department or agency by a~~
39 ~~written statement signed by the relinquishing parent, after that~~
40 ~~parent has satisfied the following requirements:~~

1 ~~(1) Prior to signing the relinquishment, the relinquishing parent~~
2 ~~shall have received, from a representative of an agency licensed~~
3 ~~or otherwise approved to provide adoption services under the laws~~
4 ~~of the relinquishing parent's state of residence, the same counseling~~
5 ~~and advisement services as if the relinquishing parent resided in~~
6 ~~this state.~~

7 ~~(2) The relinquishment shall be signed before a representative~~
8 ~~of an agency licensed or otherwise approved to provide adoption~~
9 ~~services under the laws of the relinquishing parent's state of~~
10 ~~residence whenever possible or before a licensed social worker on~~
11 ~~a form prescribed by the department, and previously signed by an~~
12 ~~authorized official of the department or agency, that signifies the~~
13 ~~willingness of the department or agency to accept the~~
14 ~~relinquishment.~~

15 ~~(e) (1) The relinquishment authorized by this section has no~~
16 ~~effect until a certified copy is sent to, and filed with, the~~
17 ~~department. The licensed adoption agency shall send that copy by~~
18 ~~certified mail, return receipt requested, or by overnight courier or~~
19 ~~messenger, with proof of delivery, to the department no earlier~~
20 ~~than the end of the business day following the signing thereof. The~~
21 ~~relinquishment shall be final five business days after receipt of the~~
22 ~~filing by the department, unless any of the following apply:~~

23 ~~(A) The department sends written acknowledgment of receipt~~
24 ~~of the relinquishment prior to the expiration of that five-day period,~~
25 ~~at which time the relinquishment shall be final.~~

26 ~~(B) A longer period of time is necessary due to a pending court~~
27 ~~action or some other cause beyond control of the department.~~

28 ~~(2) After the relinquishment is final, it may be rescinded only~~
29 ~~by the mutual consent of the department or licensed adoption~~
30 ~~agency to which the child was relinquished and the birth parent or~~
31 ~~parents relinquishing the child.~~

32 ~~(f) The relinquishing parent may name in the relinquishment~~
33 ~~the person or persons with whom he or she intends that placement~~
34 ~~of the child for adoption be made by the department or licensed~~
35 ~~adoption agency.~~

36 ~~(g) Notwithstanding subdivision (e), if the relinquishment names~~
37 ~~the person or persons with whom placement by the department or~~
38 ~~licensed adoption agency is intended and the child is not placed~~
39 ~~in the home of the named person or persons or the child is removed~~
40 ~~from the home prior to the granting of the adoption, the department~~

1 or agency shall mail a notice by certified mail, return receipt
2 requested, to the birth parent signing the relinquishment within 72
3 hours of the decision not to place the child for adoption or the
4 decision to remove the child from the home.

5 (h) The relinquishing parent has five days from the date on
6 which the notice described in subdivision (g) was mailed to rescind
7 the relinquishment.

8 (1) If the relinquishing parent requests rescission during the
9 five-day period, the department or licensed adoption agency shall
10 rescind the relinquishment.

11 (2) If the relinquishing parent does not request rescission during
12 the five-day period, the department or licensed adoption agency
13 shall select adoptive parents for the child.

14 (3) If the relinquishing parent and the department or licensed
15 adoption agency wish to identify a different person or persons
16 during the five-day period with whom the child is intended to be
17 placed, the initial relinquishment shall be rescinded and a new
18 relinquishment identifying the person or persons completed.

19 (i) If the parent has relinquished a child, who has been found
20 to come within Section 300 of the Welfare and Institutions Code
21 or is the subject of a petition for jurisdiction of the juvenile court
22 under Section 300 of the Welfare and Institutions Code, to the
23 department or a licensed adoption agency for the purpose of
24 adoption, the department or agency accepting the relinquishment
25 shall provide written notice of the relinquishment within five court
26 days to all of the following:

27 (1) The juvenile court having jurisdiction of the child.

28 (2) The child's attorney, if any.

29 (3) The relinquishing parent's attorney, if any.

30 (j) The filing of the relinquishment with the department
31 terminates all parental rights and responsibilities with regard to
32 the child, except as provided in subdivisions (g) and (h).

33 (k) The department shall adopt regulations to administer the
34 provisions of this section.

35 SEC. 4.

36 SEC. 3. Section 8714.5 of the Family Code is amended to read:

37 8714.5. (a) The Legislature finds and declares the following:

38 (1) It is the intent of the Legislature to expedite legal
39 permanency for children who cannot return to their parents and to
40 remove barriers to adoption by relatives of children who are already

1 in the dependency system or who are at risk of entering the
2 dependency system.

3 (2) This goal will be achieved by empowering families,
4 including extended families, to care for their own children safely
5 and permanently whenever possible, by preserving existing family
6 relationships, thereby causing the least amount of disruption to the
7 child and the family, and by recognizing the importance of sibling
8 and half-sibling relationships.

9 (b) A relative desiring to adopt a child may for that purpose file
10 a petition in the county in which the petitioner resides. Where a
11 child has been adjudged to be a dependent of the juvenile court
12 pursuant to Section 300 of the Welfare and Institutions Code, and
13 thereafter has been freed for adoption by the juvenile court, the
14 petition may be filed either in the county where the petitioner
15 resides or in the county where the child was freed for adoption.

16 (c) Upon the filing of a petition for adoption by a relative, the
17 clerk of the court shall immediately notify the State Department
18 of Social Services in Sacramento in writing of the pendency of the
19 proceeding and of any subsequent action taken.

20 (d) If the adopting relative has entered into a postadoption
21 contact agreement with the birth parent as set forth in Section
22 8616.5 the agreement, signed by the participating parties, shall be
23 attached to and filed with the petition for adoption under
24 subdivision (b).

25 (e) The caption of the adoption petition shall contain the name
26 of the relative petitioner. The petition shall state the child's name,
27 sex, and date of birth.

28 (f) If the child is the subject of a guardianship petition, the
29 adoption petition shall so state and shall include the caption and
30 docket number or have attached a copy of the letters of the
31 guardianship or temporary guardianship. The petitioner shall notify
32 the court of any petition for adoption. The guardianship proceeding
33 shall be consolidated with the adoption proceeding, and ~~both cases~~
34 *the consolidated case* shall be heard and decided in the court in
35 which the adoption is pending.

36 (g) The order of adoption shall contain the child's adopted name
37 and, if requested by the adopting relative, or if requested by the
38 child who is 12 years of age or older, the name the child had before
39 adoption.

1 (h) For purposes of this section, “relative” means an adult who
2 is related to the child or the child’s half-sibling by blood or affinity,
3 including all relatives whose status is preceded by the words “step,”
4 “great,” “great-great,” or “grand,” or the spouse of any of these
5 persons, even if the marriage was terminated by death or
6 dissolution.

7 ~~SEC. 5.~~

8 *SEC. 4.* Section 8802 of the Family Code is amended to read:

9 8802. (a) (1) Any of the following persons who desire to adopt
10 a child may, for that purpose, file a petition in the county in which
11 the petitioner resides or, if the petitioner is not a resident of this
12 state, in the county in which the placing birth parent or birth parents
13 resided when the adoption placement agreement was signed, or
14 the county in which the placing birth parent or birth parents resided
15 when the petition was filed:

16 (A) An adult who is related to the child or the child’s half sibling
17 by blood or affinity, including all relatives whose status is preceded
18 by the words “step,” “great,” “great-great,” or “grand,” or the
19 spouse of any of these persons, even if the marriage was terminated
20 by death or dissolution.

21 (B) A person named in the will of a deceased parent as an
22 intended adoptive parent where the child has no other parent.

23 (C) A person with whom a child has been placed for adoption.

24 (D) (i) A legal guardian who has been the child’s legal guardian
25 for more than one year.

26 (ii) If the child is alleged to have been abandoned pursuant to
27 Section 7822, a legal guardian who has been the child’s legal
28 guardian for more than six months. The legal guardian may file a
29 petition pursuant to Section 7822 in the same court and
30 concurrently with a petition under this section.

31 (iii) However, if the parent nominated the guardian for a purpose
32 other than adoption for a specified time period, or if the
33 guardianship was established pursuant to Section 360 of the
34 Welfare and Institutions Code, the guardianship shall have been
35 in existence for not less than three years.

36 (2) If the child has been placed for adoption, a copy of the
37 adoptive placement agreement shall be attached to the petition.
38 The court clerk shall immediately notify the department at
39 Sacramento in writing of the pendency of the proceeding and of
40 any subsequent action taken.

1 (3) If the petitioner has entered into a postadoption contact
2 agreement with the birth parent as set forth in Section 8616.5, the
3 agreement, signed by the participating parties, shall be attached
4 to and filed with the petition for adoption.

5 (b) The petition shall contain an allegation that the petitioners
6 will file promptly with the department or delegated county adoption
7 agency information required by the department in the investigation
8 of the proposed adoption. The omission of the allegation from a
9 petition does not affect the jurisdiction of the court to proceed or
10 the validity of an adoption order or other order based on the
11 petition.

12 (c) The caption of the adoption petition shall contain the names
13 of the petitioners, but not the child's name. The petition shall state
14 the child's sex and date of birth and the name the child had before
15 adoption.

16 (d) If the child is the subject of a guardianship petition, the
17 adoption petition shall so state and shall include the caption and
18 docket number or have attached a copy of the letters of the
19 guardianship or temporary guardianship. The petitioners shall
20 notify the court of any petition for guardianship or temporary
21 guardianship filed after the adoption petition. The guardianship
22 proceeding shall be consolidated with the adoption proceeding,
23 and ~~both cases~~ *the consolidated case* shall be heard and decided
24 in the court in which the adoption is pending.

25 (e) The order of adoption shall contain the child's adopted name,
26 but not the name the child had before adoption.

27 ~~SEC. 6.~~

28 *SEC. 5.* Section 8814.5 of the Family Code is amended to read:

29 8814.5. (a) After a consent to the adoption is signed by the
30 birth parent or parents pursuant to Section 8801.3 or 8814, the
31 birth parent or parents signing the consent shall have ~~five~~ 30 days
32 to take one of the following actions:

33 (1) Sign and deliver to the department or delegated county
34 adoption agency a written statement revoking the consent and
35 requesting the child to be returned to the birth parent or parents.
36 After revoking consent, in cases where the birth parent or parents
37 have not regained custody, or the birth parent or parents have failed
38 to make efforts to exercise their rights under subdivision (b) of
39 Section 8815, a written notarized statement reinstating the original
40 consent may be signed and delivered to the department or delegated

1 county adoption agency, in which case the revocation of consent
2 shall be void and the remainder of the original ~~five-day~~ *30-day*
3 period shall commence. After revoking consent, in cases in which
4 the birth parent or parents have regained custody or made efforts
5 to exercise their rights under subdivision (b) of Section 8815 by
6 requesting the return of the child, upon the delivery of a written
7 notarized statement reinstating the original consent to the
8 department or delegated county adoption agency, the revocation
9 of consent shall be void and a new ~~five-day~~ *30-day* period shall
10 commence. The birth mother shall be informed of the operational
11 timelines associated with this section at the time of signing of the
12 statement reinstating the original consent.

13 (2) (A) Sign a waiver of the right to revoke consent on a form
14 prescribed by the department in the presence of a representative
15 of the department or delegated county adoption agency. ~~If neither~~
16 ~~a representative of the department nor a representative of a~~
17 ~~delegated county adoption agency is reasonably available, the~~
18 ~~waiver of the right to revoke consent may be signed in the presence~~
19 ~~of a judicial officer of a court of record if the birth parent is~~
20 ~~represented by independent legal counsel. “Reasonably available”~~
21 ~~means that a representative from either the department or the~~
22 ~~delegated county adoption agency is available to accept the signing~~
23 ~~of the waiver within ___ days and is within 100 miles of the location~~
24 ~~of the birth mother. The birth parent or parents may also opt to~~
25 ~~sign the waiver of the right to revoke consent in the presence of~~
26 ~~an adoption service provider if the birth parent or parents are~~
27 ~~represented by independent legal counsel.~~

28 (B) An adoption service provider may assist the birth parent or
29 parents in any activity where the primary purpose of that activity
30 is to facilitate the signing of the waiver with the department, *or* a
31 delegated county agency, ~~or a judicial officer~~. The adoption service
32 provider or another person designated by the birth parent or parents
33 may also be present at any interview conducted pursuant to this
34 section to provide support to the birth parent or parents, *except*
35 *when the interview is conducted by independent legal counsel for*
36 *the birth parent or parents.*

37 (C) The waiver of the right to revoke consent may not be signed
38 until an interview has been completed by the department or
39 delegated county adoption agency unless the waiver of the right
40 to revoke consent is signed in the presence of ~~a judicial officer of~~

1 ~~a court of record~~ *an adoption service provider* as specified in this
2 section, in which case the ~~interview and the witnessing of the~~
3 ~~signing of the waiver shall be~~ *interview shall be* conducted by the
4 ~~judicial officer.~~ *independent legal counsel for the birth parent or*
5 *parents. The waiver shall be reviewed by the independent legal*
6 *counsel who (i) counsels the birth parent or parents about the*
7 *nature of his or her intended waiver and (ii) signs and delivers to*
8 *the birth parent or parents and the department a certificate in*
9 *substantially the following form:*

10 *I, (name of attorney), have counseled my client, (name of*
11 *client), on the nature and legal effect of the waiver of right to*
12 *revoke consent to adoption. I am so disassociated from the*
13 *interest of the petitioner(s)/prospective adoptive parent(s) as*
14 *to be in a position to advise my client impartially and*
15 *confidentially as to the consequences of the waiver. (Name of*
16 *client) is aware that California law provides for a 30-day*
17 *period during which a birth parent may revoke consent to*
18 *adoption. On the basis of this counsel, I conclude that it is the*
19 *intent of (name of client) to waive the right to revoke, and*
20 *make a permanent and irrevocable consent to adoption. (Name*
21 *of client) understands that he/she will not be able to regain*
22 *custody of the child unless the petitioner(s)/prospective*
23 *adoptive parent(s) agree(s) to withdraw their petition for*
24 *adoption or the court denies the adoption petition. Within—*
25 *10 working days of a request made after the department, or*
26 *the delegated county adoption agency, or the court has received*
27 *a copy of the petition for the adoption and the names and*
28 *addresses of the persons to be interviewed, the department, or*
29 *the delegated county adoption agency, or the court shall*
30 *interview, at the department or agency office or the court, any*
31 *birth parent requesting to be interviewed. However, the*
32 *interview, and the witnessing of the signing of a waiver of the*
33 *right to revoke consent of a birth parent residing outside of*
34 *California or located outside of California for an extended*
35 *period of time unrelated to the adoption may be conducted in*
36 *the state where the birth parent is located, by any of the*
37 *following:*

- 38 (i)
39 (I) A representative of a public adoption agency in that state.
40 (ii)

1 (II) A judicial officer in that state where the birth parent is
2 represented by independent legal counsel.

3 (iii)

4 (III) An adoption service provider.

5 (3) Allow the consent to become a permanent consent on the
6 ~~sixth~~ 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 ~~five~~ 30 days, beginning
9 on the date the consent was signed or as provided in paragraph (1)
10 of subdivision (a), whichever occurs first.

11 ~~SEC. 7.~~

12 SEC. 6. Section 1510 of the Probate Code is amended to read:

13 1510. (a) A relative or other person on behalf of the minor, or
14 the minor if 12 years of age or older, may file a petition for the
15 appointment of a guardian of the minor.

16 (b) The petition shall request that a guardian of the person or
17 estate of the minor, or both, be appointed, shall specify the name
18 and address of the proposed guardian and the name and date of
19 birth of the proposed ward, and shall state that the appointment is
20 necessary or convenient.

21 (c) The petition shall set forth, so far as is known to the
22 petitioner, the names and addresses of all of the following:

23 (1) The parents of the proposed ward.

24 (2) The person having legal custody of the proposed ward and,
25 if that person does not have the care of the proposed ward, the
26 person having the care of the proposed ward.

27 (3) The relatives of the proposed ward within the second degree.

28 (4) In the case of a guardianship of the estate, the spouse of the
29 proposed ward.

30 (5) Any person nominated as guardian for the proposed ward
31 under Section 1500 or 1501.

32 (6) In the case of a guardianship of the person involving an
33 Indian child, any Indian custodian and the Indian child’s tribe.

34 (d) If the proposed ward is a patient in or on leave of absence
35 from a state institution under the jurisdiction of the State
36 Department of Mental Health or the State Department of
37 Developmental Services and that fact is known to the petitioner,
38 the petition shall state that fact and name the institution.

39 (e) The petition shall state, so far as is known to the petitioner,
40 whether or not the proposed ward is receiving or is entitled to

1 receive benefits from the Veterans Administration and the
2 estimated amount of the monthly benefit payable by the Veterans
3 Administration for the proposed ward.

4 (f) If the petitioner has knowledge of any pending adoption,
5 juvenile court, marriage dissolution, domestic relations, custody,
6 or other similar proceeding affecting the proposed ward, the
7 petition shall disclose the pending proceeding.

8 (g) If the petitioners have accepted or intend to accept physical
9 care or custody of the child with intent to adopt, whether formed
10 at the time of placement or formed subsequent to placement, the
11 petitioners shall so state in the guardianship petition, whether or
12 not an adoption petition has been filed.

13 (h) If the proposed ward is or becomes the subject of an adoption
14 petition, the court shall order the guardianship petition consolidated
15 with the adoption petition, and ~~both cases~~ *the consolidated case*
16 shall be heard and decided in the court in which the adoption is
17 pending.

18 (i) If the proposed ward is or may be an Indian child, the petition
19 shall state that fact.

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate February 22, 2008. (JR11)**