

AMENDED IN SENATE JUNE 3, 2010
AMENDED IN ASSEMBLY APRIL 5, 2010
AMENDED IN ASSEMBLY MARCH 15, 2010
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2020

Introduced by Assembly Member Fletcher

February 17, 2010

An act to amend Sections 7630, 7662, 7667, ~~and 8620~~, 8710, 8814.5, and 9001 of, and to repeal Section 7631 of, the Family Code, *and to amend Section 1516.5 of the Probate Code*, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 2020, as amended, Fletcher. Family law.

~~Under existing law, a man is presumed to be a child's father if he marries or attempts to marry the child's mother or if he holds the child out as his own, as specified. Existing law also provides that the presumption of paternity arising under these circumstances is rebuttable, and is rebutted by a judgment establishing paternity by another man.~~

Existing law provides that a man may bring an action at any time to determine that he is the father of a child having no presumed father. Under existing law, a man who is not a presumed father may bring an action to establish that he is the natural father of a child having a presumed father if the mother has relinquished for, or consents to, the adoption of the child, and requires that he bring this action within 30 days after (1) he is served with notice that he is or could be the father or (2) the birth of the child, whichever is later.

This bill would delete the latter provisions relating to *the* time periods in which a man may bring an action to establish paternity and would

instead provide that a man may bring an action at any time to establish that he is the father of a child, subject to a specified exception.

Existing law provides that if a mother consents to, or relinquishes for, the adoption of a child, a petition to terminate the parental rights of the father is required, subject to specified exceptions, and an action to terminate the parental rights of ~~a~~ *the* father shall be set for a hearing.

This bill would authorize the court in an action to terminate parental rights to dispense with a hearing and issue an ex parte order terminating parental rights if the identity or whereabouts of the alleged father is unknown, he has been served with a written notice of his alleged paternity and the potential adoption and has failed to respond, or he has signed a waiver of his right to notice or a denial of paternity.

Existing law provides that if a child is being considered for adoption, the State Department of Social Services or licensed adoption agency is required to first consider adoptive placement in the home of a relative, unless it is not in the child's best interest, or if other specified conditions exist.

This bill would *make these provisions applicable to children who are being considered for voluntary adoption placement, and would specify that a parent's refusal to place the child with relatives or siblings is a sufficient basis for the department or licensed adoption agency to determine that the placement is not in the child's best interest, except as provided.*

Under existing law, if a parent is seeking to relinquish a child or execute an adoption placement agreement, the State Department of Social Services, licensed adoption agency, or adoption service provider is required to ask the child and the child's parent or custodian whether the child is, or may be, a member of an Indian tribe. Existing law provides that these entities are required to send a specified notice and a request for confirmation of the child's Indian status to any parent or custodian of the child, and to any Indian tribe of which the child is, or may be, a member.

This bill would additionally include an attorney for the prospective adoptive parents among the entities that are required to send this notice and request for confirmation of a child's Indian status.

Existing law provides that in each case of stepparent adoption, the probation officer, qualified court investigator, licensed clinical social worker, licensed marriage family therapist, or the county welfare department is required to conduct an investigation.

This bill would additionally include a licensed adoption agency among the entities that are required to conduct the investigation.

Existing law provides that a court may appoint a guardian of the person or estate of a minor child if it appears necessary or convenient, as specified. Under existing law, a proceeding to have the child declared free from the custody and control of one or both parents may be brought in the guardianship proceeding if specified requirements are met, including a requirement that the child have been in the physical custody of the guardian for a period of not less than 2 years.

This bill would apply these requirements to a proceeding to have the child declared free from the custody and control of one or both parents that is brought within an adoption action or in a separate action filed for that purpose.

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

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

1 SECTION 1. Section 7630 of the Family Code is amended to
2 read:

3 7630. (a) A child, the child's natural mother, a man presumed
4 to be the child's father under subdivision (a), (b), or (c) of Section
5 7611, an adoption agency to whom the child has been relinquished,
6 or a prospective adoptive parent of the child may bring an action
7 as follows:

8 (1) At any time for the purpose of declaring the existence of the
9 father and child relationship presumed under subdivision (a), (b),
10 or (c) of Section 7611.

11 (2) For the purpose of declaring the nonexistence of the father
12 and child relationship presumed under subdivision (a), (b), or (c)
13 of Section 7611 only if the action is brought within a reasonable
14 time after obtaining knowledge of relevant facts. After the
15 presumption has been rebutted, paternity of the child by another
16 man may be determined in the same action, if he has been made
17 a party.

18 (b) Any interested party may bring an action at any time for the
19 purpose of determining the existence or nonexistence of the father
20 and child relationship presumed under subdivision (d) or (f) of
21 Section 7611.

1 (c) Except as to cases coming within Chapter 1 (commencing
2 with Section 7540) of Part 2, an action to determine the existence
3 of the father and child relationship may be brought by the child or
4 personal representative of the child, the Department of Child
5 Support Services, the mother or the personal representative or a
6 parent of the mother if the mother has died or is a minor, a man
7 alleged or alleging himself to be the father, or the personal
8 representative or a parent of the alleged father if the alleged father
9 has died or is a minor.

10 (d) (1) If a proceeding has been filed under Chapter 2
11 (commencing with Section 7820) of Part 4, an action under
12 subdivision (a) or (b) shall be consolidated with that proceeding.
13 The parental rights of the presumed father shall be determined as
14 set forth in Sections 7820 to 7829, inclusive.

15 (2) If a proceeding pursuant to Section 7662 has been filed under
16 Chapter 5 (commencing with Section 7660), an action under
17 subdivision (c) shall be consolidated with that proceeding. The
18 parental rights of the alleged natural father shall be determined as
19 set forth in Section 7664.

20 (3) The consolidated action under paragraph (1) or (2) shall be
21 heard in the court in which the proceeding under Section 7662 or
22 Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless
23 the court finds, by clear and convincing evidence, that transferring
24 the action to the other court poses a substantial hardship to the
25 petitioner. Mere inconvenience does not constitute a sufficient
26 basis for a finding of substantial hardship. If the court determines
27 there is a substantial hardship, the consolidated action shall be
28 heard in the court in which the paternity action is filed.

29 (e) (1) If any prospective adoptive parent who has physical
30 custody of the child, or any licensed California adoption agency
31 that has legal custody of the child, has not been joined as a party
32 to an action to determine the existence of a father and child
33 relationship under subdivision (a), (b), or (c), or an action for
34 custody by the alleged natural father, the court shall join the
35 prospective adoptive parent or licensed California adoption agency
36 as a party upon application or on its own motion, without the
37 necessity of a motion for joinder. A joined party shall not be
38 required to pay a fee in connection with this action.

39 (2) If a man brings an action to determine paternity and custody
40 of a child who he has reason to believe is in the physical or legal

1 custody of an adoption agency, or of one or more persons other
2 than the child's mother who are prospective adoptive parents, he
3 shall serve his entire pleading on, and give notice of all proceedings
4 to, the adoption agency or the prospective adoptive parents, or
5 both.

6 (f) A party to an assisted reproduction agreement may bring an
7 action at any time to establish a parent and child relationship
8 consistent with the intent expressed in that assisted reproduction
9 agreement.

10 SEC. 2. Section 7631 of the Family Code is repealed.

11 SEC. 3. Section 7662 of the Family Code is amended to read:

12 7662. (a) If a mother relinquishes for or consents to, or
13 proposes to relinquish for or consent to, the adoption of a child,
14 or if a child otherwise becomes the subject of an adoption
15 proceeding, the agency or person to whom the child has been or
16 is to be relinquished, or the mother or the person having physical
17 or legal custody of the child, or the prospective adoptive parent,
18 shall file a petition to terminate the parental rights of the father,
19 unless one of the following occurs:

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

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

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

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

36 (c) All proceedings affecting a child under Divisions 8
37 (commencing with Section 3000) to 11 (commencing with Section
38 6500), inclusive, and Parts 1 (commencing with Section 7500) to
39 3 (commencing with Section 7600), inclusive, of this division,
40 other than an action brought pursuant to this section, shall be stayed

1 pending final determination of proceedings to terminate the parental
 2 rights of the father pursuant to this section.

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

7 SEC. 4. Section 7667 of the Family Code is amended to read:

8 7667. (a) Notwithstanding any other provision of law, an action
 9 to terminate the parental rights of a father of a child as specified
 10 in this part shall be set for hearing not more than 45 days after
 11 filing of the petition therefor and completion of service thereon or
 12 the entry of an order dispensing with notice of the proceedings.
 13 The petition shall either specify the date of the hearing or state
 14 that a hearing will be held on a date as determined pursuant to this
 15 section, which shall be separately noticed.

16 (b) The matter so set shall have precedence over all other civil
 17 matters on the date set for trial, except an action to terminate
 18 parental rights pursuant to Part 4 (commencing with Section 7800).

19 (c) The court may dispense with a hearing and issue an ex parte
 20 order terminating parental rights if any of the following apply:

21 (1) The identity or whereabouts of the father are unknown.
 22 (2) The alleged father has validly executed a waiver of the right
 23 to notice or a waiver or denial of paternity.

24 (3) The alleged father has been served with written notice of
 25 his alleged paternity and the proposed adoption, and he has failed
 26 to bring an action pursuant to subdivision (c) of Section 7630
 27 within 30 days of service of the notice or the birth of the child,
 28 whichever is later.

29 SEC. 5. Section 8620 of the Family Code is amended to read:

30 8620. (a) (1) If a parent is seeking to relinquish a child
 31 pursuant to Section 8700 or execute an adoption placement
 32 agreement pursuant to Section 8801.3, the department, licensed
 33 adoption agency, or adoption service provider, as applicable, shall
 34 ask the child and the child's parent or custodian whether the child
 35 is, or may be, a member of, or eligible for membership in an Indian
 36 tribe or whether the child has been identified as a member of an
 37 Indian organization. The department, licensed adoption agency,
 38 or adoption service provider, as applicable, shall complete the
 39 forms provided for this purpose by the department and shall make
 40 this completed form a part of the file.

1 (2) If there is any oral or written information that indicates that
2 the child is, or may be, an Indian child, the department, licensed
3 adoption agency, or adoption service provider, as applicable, shall
4 obtain the following information:

5 (A) The name of the child involved, and the actual date and
6 place of birth of the child.

7 (B) The name, address, date of birth, and tribal affiliation of the
8 birth parents, maternal and paternal grandparents, and maternal
9 and paternal great-grandparents of the child.

10 (C) The name and address of extended family members of the
11 child who have a tribal affiliation.

12 (D) The name and address of the Indian tribes or Indian
13 organizations of which the child is, or may be, a member.

14 (E) A statement of the reasons why the child is, or may be, an
15 Indian.

16 (3) (A) The department, licensed adoption agency, *attorney for*
17 *the prospective adoptive parents*, or adoption service provider, ~~as~~
18 ~~applicable~~, shall send a notice, which shall include information
19 obtained pursuant to paragraph (2) and a request for confirmation
20 of the child's Indian status, to any parent and any custodian of the
21 child, and to any Indian tribe of which the child is, or may be, a
22 member or eligible for membership. If any of the information
23 required under paragraph (2) cannot be obtained, the notice shall
24 indicate that fact.

25 (B) The notice sent pursuant to subparagraph (A) shall describe
26 the nature of the proceeding and advise the recipient of the Indian
27 tribe's right to intervene in the proceeding on its own behalf or on
28 behalf of a tribal member relative of the child.

29 (b) The department shall adopt regulations to ensure that if a
30 child who is being voluntarily relinquished for adoption, pursuant
31 to Section 8700, is an Indian child, the parent of the child shall be
32 advised of his or her right to withdraw his or her consent and
33 thereby rescind the relinquishment of an Indian child for any reason
34 at any time prior to entry of a final decree of termination of parental
35 rights or adoption, pursuant to Section 1913 of Title 25 of the
36 United States Code.

37 (c) If a child who is the subject of an adoption proceeding after
38 being relinquished for adoption pursuant to Section 8700, is an
39 Indian child, the child's Indian tribe may intervene in that
40 proceeding on behalf of a tribal member relative of the child.

1 (d) Any notice sent under this section shall comply with Section
2 180.

3 (e) If all prior notices required by this section have been
4 provided to an Indian tribe, the Indian tribe receiving those prior
5 notices is encouraged to provide notice to the department and to
6 the licensed adoption agency or adoption service provider, not
7 later than five calendar days prior to the date of the hearing to
8 determine whether or not the final adoption order is to be granted,
9 indicating whether or not it intends to intervene in the proceeding
10 required by this section, either on its own behalf or on behalf of a
11 tribal member who is a relative of the child.

12 (f) The Legislature finds and declares that some adoptive
13 children may benefit from either direct or indirect contact with an
14 Indian tribe. Nothing in the adoption laws of this state shall be
15 construed to prevent the adopting parent or parents, the birth
16 relatives, including the birth parent or parents, an Indian tribe, and
17 the child, from voluntarily entering into a written agreement to
18 permit continuing contact between the Indian tribe and the child,
19 if the agreement is found by the court to have been entered into
20 voluntarily and to be in the best interest of the child at the time the
21 adoption petition is granted.

22 (g) With respect to giving notice to Indian tribes in the case of
23 voluntary placements of Indian children pursuant to this section,
24 a person, other than a birth parent of the child, shall be subject to
25 a civil penalty if that person knowingly and willfully:

26 (1) Falsifies, conceals, or covers up by any trick, scheme, or
27 device, a material fact concerning whether the child is an Indian
28 child or the parent is an Indian.

29 (2) Makes any false, fictitious, or fraudulent statement, omission,
30 or representation.

31 (3) Falsifies a written document knowing that the document
32 contains a false, fictitious, or fraudulent statement or entry relating
33 to a material fact.

34 (4) Assists any person in physically removing a child from the
35 State of California in order to obstruct the application of
36 notification.

37 (h) Civil penalties for a violation of subdivision (g) by a person
38 other than a birth parent of the child are as follows:

39 (1) For the initial violation, a person shall be fined not more
40 than ten thousand dollars (\$10,000).

1 (2) For any subsequent violation, a person shall be fined not
2 more than twenty thousand dollars (\$20,000).

3 ~~SEC. 5.~~

4 *SEC. 6.* Section 8710 of the Family Code is amended to read:

5 8710. (a) If a child is being considered for ~~adoption~~ *a voluntary*
6 *adoption placement*, the department or licensed adoption agency
7 shall first consider adoptive placement in the home of a relative
8 or, in the case of an Indian child, according to the placement
9 preferences and standards set out in subdivisions (c), (d), (e), (f),
10 (g), (h), and (i) of Section 361.31 of the Welfare and Institutions
11 Code. However, if a relative is not available, if placement with an
12 available relative is not in the child's best interest, or if placement
13 would permanently separate the child from other siblings who are
14 being considered for adoption or who are in foster care and an
15 alternative placement would not require the permanent separation,
16 the foster parent or parents of the child shall be considered with
17 respect to the child along with all other prospective adoptive
18 parents where all of the following conditions are present:

19 (1) The child has been in foster care with the foster parent or
20 parents for a period of more than four months.

21 (2) The child has substantial emotional ties to the foster parent
22 or parents.

23 (3) The child's removal from the foster home would be seriously
24 detrimental to the child's well-being.

25 (4) The foster parent or parents have made a written request to
26 be considered to adopt the child.

27 (b) In the case of an Indian child whose foster parent or parents
28 or other prospective adoptive parents do not fall within the
29 placement preferences established in subdivision (c) or (d) of
30 Section 361.31 of the Welfare and Institutions Code, the foster
31 parent or parents or other prospective adoptive parents shall only
32 be considered if the court finds, supported by clear and convincing
33 evidence, that good cause exists to deviate from these placement
34 preferences.

35 (c) Except as required by the Indian Child Welfare Act (25
36 U.S.C. Sec. 1901 et seq.), the refusal of a birth parent to place the
37 child with relatives or siblings shall be a sufficient basis for the
38 department or licensed adoption agency to find that the placement
39 is not in the best interest of the child.

1 (d) This section does not apply to a child who has been adjudged
2 a dependent of the juvenile court pursuant to Section 300 of the
3 Welfare and Institutions Code, or to a child whose prospective
4 adoptive parents were selected pursuant to subdivision (f) of
5 Section 8700.

6 (e) Nothing in this section shall be construed to require a child
7 who has been placed for adoption to be removed from the adoptive
8 home for the purpose of placement with siblings or other relatives.

9 *SEC. 7. Section 8814.5 of the Family Code is amended to read:*

10 8814.5. (a) After a consent to the adoption is signed by the
11 birth parent or parents pursuant to Section 8801.3 or 8814, the
12 birth parent or parents signing the consent shall have 30 days to
13 take one of the following actions:

14 (1) Sign and deliver to the department or delegated county
15 adoption agency a written statement revoking the consent and
16 requesting the child to be returned to the birth parent or parents.
17 After revoking consent, in cases where the birth parent or parents
18 have not regained custody, or the birth parent or parents have failed
19 to make efforts to exercise their rights under subdivision (b) of
20 Section 8815, a written notarized statement reinstating the original
21 consent may be signed and delivered to the department or delegated
22 county adoption agency, in which case the revocation of consent
23 shall be void and the remainder of the original 30-day period shall
24 commence. After revoking consent, in cases in which the birth
25 parent or parents have regained custody or made efforts to exercise
26 their rights under subdivision (b) of Section 8815 by requesting
27 the return of the child, upon the delivery of a written notarized
28 statement reinstating the original consent to the department or
29 delegated county adoption agency, the revocation of consent shall
30 be void and a new 30-day period shall commence. The birth mother
31 shall be informed of the operational timelines associated with this
32 section at the time of signing of the statement reinstating the
33 original consent.

34 (2) (A) Sign a waiver of the right to revoke consent on a form
35 prescribed by the department in the presence of any of the
36 following:

37 (i) A representative of the department or delegated county
38 adoption agency.

39 (ii) A judicial officer of a court of record if the birth parent is
40 represented by independent legal counsel.

1 (iii) An adoption service provider, including, but not limited to,
2 the adoption service provider who advised the birth mother and
3 witnessed the signing of the consent, if the birth parent or parents
4 are represented by independent legal counsel. The adoption service
5 provider shall ensure that the waiver is delivered to the department,
6 the petitioners, or their counsel no earlier than the end of the
7 business day following the signing of the waiver. The adoption
8 service provider shall inform the birth parent that during this time
9 period he or she may request that the waiver be withdrawn and
10 that, if he or she makes that request, the waiver shall be withdrawn.

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

20 (C) The waiver of the right to revoke consent may not be signed
21 until an interview has been completed by the department or
22 delegated county adoption agency unless the waiver of the right
23 to revoke consent is signed in the presence of a judicial officer of
24 a court of record or an adoption service provider as specified in
25 this section. If the waiver is signed in the presence of a judicial
26 officer, the interview and the witnessing of the signing of the
27 waiver shall be conducted by the judicial officer. If the waiver is
28 signed in the presence of an adoption service provider, the
29 interview shall be conducted by the independent legal counsel for
30 the birth parent or parents. If the waiver is to be signed in the
31 presence of an adoption service provider, prior to the waiver being
32 signed the waiver shall be reviewed by the independent legal
33 counsel who (i) counsels the birth parent or parents about the nature
34 of his or her intended waiver and (ii) signs and delivers to the birth
35 parent or parents and the department a certificate in substantially
36 the following form:

37
38 I, (name of attorney), have counseled my client, (name of
39 client), on the nature and legal effect of the waiver of right to
40 revoke consent to adoption. I am so disassociated from the

1 interest of the petitioner(s)/prospective adoptive parent(s) as
 2 to be in a position to advise my client impartially and
 3 confidentially as to the consequences of the waiver. (Name of
 4 client) is aware that California law provides for a 30-day period
 5 during which a birth parent may revoke consent to adoption.
 6 On the basis of this counsel, I conclude that it is the intent of
 7 (name of client) to waive the right to revoke, and make a
 8 permanent and irrevocable consent to adoption. (Name of
 9 client) understands that he/she will not be able to regain
 10 custody of the child unless the petitioner(s)/prospective
 11 adoptive parent(s) agree(s) to withdraw their petition for
 12 adoption or the court denies the adoption petition. ~~Within 10~~
 13 ~~working days of a request made after the department or the~~
 14 ~~delegated county adoption agency has received a copy of the~~
 15 ~~petition for the adoption and the names and addresses of the~~
 16 ~~persons to be interviewed, the department or the delegated~~
 17 ~~county adoption agency shall interview, at the department or~~
 18 ~~agency office, any birth parent requesting to be interviewed.~~

19
 20 *(D) Within 10 working days of a request made after the*
 21 *department or the delegated county adoption agency has received*
 22 *a copy of the petition for the adoption and the names and addresses*
 23 *of the persons to be interviewed, the department or the delegated*
 24 *county adoption agency shall interview, at the department or*
 25 *agency office, any birth parent requesting to be interviewed.*

26 ~~(D)~~

27 *(E) Notwithstanding subparagraphs (A) and (C), the interview,*
 28 *and the witnessing of the signing of a waiver of the right to revoke*
 29 *consent of a birth parent residing outside of California or located*
 30 *outside of California for an extended period of time unrelated to*
 31 *the adoption may be conducted in the state where the birth parent*
 32 *is located, by any of the following:*

- 33 (i) A representative of a public adoption agency in that state.
 - 34 (ii) A judicial officer in that state where the birth parent is
 - 35 represented by independent legal counsel.
 - 36 (iii) An adoption service provider.
- 37 (3) Allow the consent to become a permanent consent on the
 38 31st day after signing.
 39 (b) The consent may not be revoked after a waiver of the right
 40 to revoke consent has been signed or after 30 days, beginning on

1 the date the consent was signed or as provided in paragraph (1) of
2 subdivision (a), whichever occurs first.

3 *SEC. 8. Section 9001 of the Family Code is amended to read:*

4 9001. (a) The probation officer, qualified court investigator,
5 licensed clinical social worker, licensed marriage family therapist,
6 *licensed adoption agency*, or, at the option of the board of
7 supervisors, the county welfare department in the county in which
8 the adoption proceeding is pending shall make an investigation of
9 each case of stepparent adoption. The court may not make an order
10 of adoption until after the probation officer, qualified court
11 investigator, licensed clinical social worker, licensed marriage
12 family therapist, *licensed adoption agency*, or county welfare
13 department has filed its report and recommendation and they have
14 been considered by the court.

15 (b) Unless ordered by the court, no home study may be required
16 of the petitioner's home in a stepparent adoption. The agency
17 conducting the investigation or any interested person may request
18 the court to order a home study or the court may order a home
19 study on its own motion.

20 (c) "Home study" as used in this section means a physical
21 investigation of the premises where the child is residing.

22 *SEC. 9. Section 1516.5 of the Probate Code is amended to*
23 *read:*

24 1516.5. (a) A proceeding to have a child declared free from
25 the custody and control of one or both parents may be brought ~~in~~
26 ~~the guardianship proceeding~~ pursuant to Part 4 (commencing with
27 Section 7800) of Division 12 of the Family Code *within an existing*
28 *guardianship proceeding, in an adoption action, or in a separate*
29 *action filed for that purpose*, if all of the following requirements
30 are satisfied:

31 (1) One or both parents do not have the legal custody of the
32 child.

33 (2) The child has been in the physical custody of the guardian
34 for a period of not less than two years.

35 (3) The court finds that the child would benefit from being
36 adopted by his or her guardian. In making this determination, the
37 court shall consider all factors relating to the best interest of the
38 child, including, but not limited to, the nature and extent of the
39 relationship between all of the following:

40 (A) The child and the birth parent.

1 (B) The child and the guardian, including family members of
2 the guardian.

3 (C) The child and any siblings or half-siblings.

4 (b) The court shall appoint a court investigator or other qualified
5 professional to investigate all factors enumerated in subdivision
6 (a). The findings of the investigator or professional regarding those
7 issues shall be included in the written report required pursuant to
8 Section 7851 of the Family Code.

9 (c) The rights of the parent, including the rights to notice and
10 counsel provided in Part 4 (commencing with Section 7800) of
11 Division 12 of the Family Code, shall apply to actions brought
12 pursuant to this section.

13 (d) This section does not apply to any child who is a dependent
14 of the juvenile court or to any Indian child.