

AMENDED IN SENATE AUGUST 3, 2010

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, 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.

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 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, *in which case the foster parent of the child shall be considered along with all other prospective adoptive parents, if certain criteria are met.*

~~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 include the birth parent's refusal to consider a relative or sibling placement for the child as a condition upon which the foster parent of the child shall be considered for placement, if certain criteria are met.~~

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 *private* licensed adoption agency among the entities that are required to conduct the investigation, *and would require the adoption agency to assign the investigation to a licensed clinical social worker or licensed marriage and family therapist associated with the agency. The bill would also require that any grievance regarding the investigation be directed to the licensing authority of the clinical social worker or marriage and family therapist.*

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~~ *provide that a proceeding to have a child who is the subject of a guardianship declared free from the custody and control of one or both parents may be brought in the guardianship proceeding, in an adoption action, or in a separate action filed for the 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)

1 of Section 7611 only if the action is brought within a reasonable
2 time after obtaining knowledge of relevant facts. After the
3 presumption has been rebutted, paternity of the child by another
4 man may be determined in the same action, if he has been made
5 a party.

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

10 (c) Except as to cases coming within Chapter 1 (commencing
11 with Section 7540) of Part 2, an action to determine the existence
12 of the father and child relationship may be brought by the child or
13 personal representative of the child, the Department of Child
14 Support Services, the mother or the personal representative or a
15 parent of the mother if the mother has died or is a minor, a man
16 alleged or alleging himself to be the father, or the personal
17 representative or a parent of the alleged father if the alleged father
18 has died or is a minor.

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

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

29 (3) The consolidated action under paragraph (1) or (2) shall be
30 heard in the court in which the proceeding under Section 7662 or
31 Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless
32 the court finds, by clear and convincing evidence, that transferring
33 the action to the other court poses a substantial hardship to the
34 petitioner. Mere inconvenience does not constitute a sufficient
35 basis for a finding of substantial hardship. If the court determines
36 there is a substantial hardship, the consolidated action shall be
37 heard in the court in which the paternity action is filed.

38 (e) (1) If any prospective adoptive parent who has physical
39 custody of the child, or any licensed California adoption agency
40 that has legal custody of the child, has not been joined as a party

1 to an action to determine the existence of a father and child
2 relationship under subdivision (a), (b), or (c), or an action for
3 custody by the alleged natural father, the court shall join the
4 prospective adoptive parent or licensed California adoption agency
5 as a party upon application or on its own motion, without the
6 necessity of a motion for joinder. A joined party shall not be
7 required to pay a fee in connection with this action.

8 (2) If a man brings an action to determine paternity and custody
9 of a child who he has reason to believe is in the physical or legal
10 custody of an adoption agency, or of one or more persons other
11 than the child's mother who are prospective adoptive parents, he
12 shall serve his entire pleading on, and give notice of all proceedings
13 to, the adoption agency or the prospective adoptive parents, or
14 both.

15 (f) A party to an assisted reproduction agreement may bring an
16 action at any time to establish a parent and child relationship
17 consistent with the intent expressed in that assisted reproduction
18 agreement.

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

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

21 7662. (a) If a mother relinquishes for or consents to, or
22 proposes to relinquish for or consent to, the adoption of a child,
23 or if a child otherwise becomes the subject of an adoption
24 proceeding, the agency or person to whom the child has been or
25 is to be relinquished, or the mother or the person having physical
26 or legal custody of the child, or the prospective adoptive parent,
27 shall file a petition to terminate the parental rights of the father,
28 unless one of the following occurs:

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

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

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

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

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

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

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

17 7667. (a) Notwithstanding any other provision of law, an action
18 to terminate the parental rights of a father of a child as specified
19 in this part shall be set for hearing not more than 45 days after
20 filing of the petition therefor and completion of service thereon or
21 the entry of an order dispensing with notice of the proceedings.
22 The petition shall either specify the date of the hearing or state
23 that a hearing will be held on a date as determined pursuant to this
24 section, which shall be separately noticed.

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

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

30 (1) The identity or whereabouts of the father are unknown.

31 (2) The alleged father has validly executed a waiver of the right
32 to notice or a waiver or denial of paternity.

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

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

39 8620. (a) (1) If a parent is seeking to relinquish a child
40 pursuant to Section 8700 or execute an adoption placement

1 agreement pursuant to Section 8801.3, the department, licensed
2 adoption agency, or adoption service provider, as applicable, shall
3 ask the child and the child's parent or custodian whether the child
4 is, or may be, a member of, or eligible for membership in an Indian
5 tribe or whether the child has been identified as a member of an
6 Indian organization. The department, licensed adoption agency,
7 or adoption service provider, as applicable, shall complete the
8 forms provided for this purpose by the department and shall make
9 this completed form a part of the file.

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

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

16 (B) The name, address, date of birth, and tribal affiliation of the
17 birth parents, maternal and paternal grandparents, and maternal
18 and paternal great-grandparents of the child.

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

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

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

25 (3) (A) The department, licensed adoption agency, attorney for
26 the prospective adoptive parents, or adoption service provider shall
27 send a notice, which shall include information obtained pursuant
28 to paragraph (2) and a request for confirmation of the child's Indian
29 status, to any parent and any custodian of the child, and to any
30 Indian tribe of which the child is, or may be, a member or eligible
31 for membership. If any of the information required under paragraph
32 (2) cannot be obtained, the notice shall indicate that fact.

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

37 (b) The department shall adopt regulations to ensure that if a
38 child who is being voluntarily relinquished for adoption, pursuant
39 to Section 8700, is an Indian child, the parent of the child shall be
40 advised of his or her right to withdraw his or her consent and

1 thereby rescind the relinquishment of an Indian child for any reason
2 at any time prior to entry of a final decree of termination of parental
3 rights or adoption, pursuant to Section 1913 of Title 25 of the
4 United States Code.

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

9 (d) Any notice sent under this section shall comply with Section
10 180.

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

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

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

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

37 (2) Makes any false, fictitious, or fraudulent statement, omission,
38 or representation.

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

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

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

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

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

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

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

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

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

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

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

37 (b) In the case of an Indian child whose foster parent or parents
38 or other prospective adoptive parents do not fall within the
39 placement preferences established in subdivision (c) or (d) of
40 Section 361.31 of the Welfare and Institutions Code, the foster

1 parent or parents or other prospective adoptive parents shall only
 2 be considered if the court finds, supported by clear and convincing
 3 evidence, that good cause exists to deviate from these placement
 4 preferences.

5 ~~(e) Except as required by the Indian Child Welfare Act (25~~
 6 ~~U.S.C. Sec. 1901 et seq.), the refusal of a birth parent to place the~~
 7 ~~child with relatives or siblings shall be a sufficient basis for the~~
 8 ~~department or licensed adoption agency to find that the placement~~
 9 ~~is not in the best interest of the child.~~

10 ~~(d)~~

11 (c) This section does not apply to a child who has been adjudged
 12 a dependent of the juvenile court pursuant to Section 300 of the
 13 Welfare and Institutions Code, ~~or to a child whose prospective~~
 14 ~~adoptive parents were selected pursuant to subdivision (f) of~~
 15 ~~Section 8700.~~

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

19 (d) *Upon a request to move a child from a prospective adoptive*
 20 *home for the purpose of placement with siblings or other relatives,*
 21 *the court shall consider the best interests of the child.*

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

23 8814.5. (a) After a consent to the adoption is signed by the
 24 birth parent or parents pursuant to Section 8801.3 or 8814, the
 25 birth parent or parents signing the consent shall have 30 days to
 26 take one of the following actions:

- 27 (1) Sign and deliver to the department or delegated county
- 28 adoption agency a written statement revoking the consent and
- 29 requesting the child to be returned to the birth parent or parents.
- 30 After revoking consent, in cases where the birth parent or parents
- 31 have not regained custody, or the birth parent or parents have failed
- 32 to make efforts to exercise their rights under subdivision (b) of
- 33 Section 8815, a written notarized statement reinstating the original
- 34 consent may be signed and delivered to the department or delegated
- 35 county adoption agency, in which case the revocation of consent
- 36 shall be void and the remainder of the original 30-day period shall
- 37 commence. After revoking consent, in cases in which the birth
- 38 parent or parents have regained custody or made efforts to exercise
- 39 their rights under subdivision (b) of Section 8815 by requesting
- 40 the return of the child, upon the delivery of a written notarized

1 statement reinstating the original consent to the department or
2 delegated county adoption agency, the revocation of consent shall
3 be void and a new 30-day period shall commence. The birth mother
4 shall be informed of the operational timelines associated with this
5 section at the time of signing of the statement reinstating the
6 original consent.

7 (2) (A) Sign a waiver of the right to revoke consent on a form
8 prescribed by the department in the presence of any of the
9 following:

10 (i) A representative of the department or delegated county
11 adoption agency.

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

14 (iii) An adoption service provider, including, but not limited to,
15 the adoption service provider who advised the birth mother and
16 witnessed the signing of the consent, if the birth parent or parents
17 are represented by independent legal counsel. The adoption service
18 provider shall ensure that the waiver is delivered to the department,
19 the petitioners, or their counsel no earlier than the end of the
20 business day following the signing of the waiver. The adoption
21 service provider shall inform the birth parent that during this time
22 period he or she may request that the waiver be withdrawn and
23 that, if he or she makes that request, the waiver shall be withdrawn.

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

33 (C) The waiver of the right to revoke consent may not be signed
34 until an interview has been completed by the department or
35 delegated county adoption agency unless the waiver of the right
36 to revoke consent is signed in the presence of a judicial officer of
37 a court of record or an adoption service provider as specified in
38 this section. If the waiver is signed in the presence of a judicial
39 officer, the interview and the witnessing of the signing of the
40 waiver shall be conducted by the judicial officer. If the waiver is

1 signed in the presence of an adoption service provider, the
 2 interview shall be conducted by the independent legal counsel for
 3 the birth parent or parents. If the waiver is to be signed in the
 4 presence of an adoption service provider, prior to the waiver being
 5 signed the waiver shall be reviewed by the independent legal
 6 counsel who (i) counsels the birth parent or parents about the nature
 7 of his or her intended waiver and (ii) signs and delivers to the birth
 8 parent or parents and the department a certificate in substantially
 9 the following form:

10

11 I, (name of attorney), have counseled my client, (name of
 12 client), on the nature and legal effect of the waiver of right to
 13 revoke consent to adoption. I am so disassociated from the
 14 interest of the petitioner(s)/prospective adoptive parent(s) as
 15 to be in a position to advise my client impartially and
 16 confidentially as to the consequences of the waiver. (Name of
 17 client) is aware that California law provides for a 30-day period
 18 during which a birth parent may revoke consent to adoption.
 19 On the basis of this counsel, I conclude that it is the intent of
 20 (name of client) to waive the right to revoke, and make a
 21 permanent and irrevocable consent to adoption. (Name of
 22 client) understands that he/she will not be able to regain
 23 custody of the child unless the petitioner(s)/prospective
 24 adoptive parent(s) agree(s) to withdraw their petition for
 25 adoption or the court denies the adoption petition.

26

27 (D) Within 10 working days of a request made after the
 28 department or the delegated county adoption agency has received
 29 a copy of the petition for the adoption and the names and addresses
 30 of the persons to be interviewed, the department or the delegated
 31 county adoption agency shall interview, at the department or
 32 agency office, any birth parent requesting to be interviewed.

33 (E) Notwithstanding subparagraphs (A) and (C), the interview,
 34 and the witnessing of the signing of a waiver of the right to revoke
 35 consent of a birth parent residing outside of California or located
 36 outside of California for an extended period of time unrelated to
 37 the adoption may be conducted in the state where the birth parent
 38 is located, by any of the following:

39

- (i) A representative of a public adoption agency in that state.

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

3 (iii) An adoption service provider.

4 (3) Allow the consent to become a permanent consent on the
5 31st day after signing.

6 (b) The consent may not be revoked after a waiver of the right
7 to revoke consent has been signed or after 30 days, beginning on
8 the date the consent was signed or as provided in paragraph (1) of
9 subdivision (a), whichever occurs first.

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

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

22 *(b) If a private licensed adoption agency conducts the*
23 *investigation, it shall assign the investigation to a licensed clinical*
24 *social worker or licensed marriage and family therapist associated*
25 *with the agency. Any grievance regarding the investigation shall*
26 *be directed to the licensing authority of the clinical social worker*
27 *or marriage and family therapist, as applicable.*

28 ~~(b)~~

29 (c) Unless ordered by the court, no home study may be required
30 of the petitioner's home in a stepparent adoption. The agency
31 conducting the investigation or any interested person may request
32 the court to order a home study or the court may order a home
33 study on its own motion.

34 ~~(e)~~

35 (d) "Home study" as used in this section means a physical
36 investigation of the premises where the child is residing.

37 (e) *Nothing in this section shall be construed to require the State*
38 *Department of Social Services to issue regulations for stepparent*
39 *adoptions.*

1 SEC. 9. Section 1516.5 of the Probate Code is amended to
2 read:

3 1516.5. (a) A proceeding to have a child declared free from
4 the custody and control of one or both parents may be brought
5 ~~pursuant to~~ *in accordance with the procedures specified in Part 4*
6 (commencing with Section 7800) of Division 12 of the Family
7 Code within an existing guardianship proceeding, in an adoption
8 action, or in a separate action filed for that purpose, if all of the
9 following requirements are satisfied:

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

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

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

19 (A) The child and the birth parent.

20 (B) The child and the guardian, including family members of
21 the guardian.

22 (C) The child and any siblings or half siblings.

23 (b) The court shall appoint a court investigator or other qualified
24 professional to investigate all factors enumerated in subdivision
25 (a). The findings of the investigator or professional regarding those
26 issues shall be included in the written report required pursuant to
27 Section 7851 of the Family Code.

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

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

34

35 _____

36 **CORRECTIONS:**

37 **Text—Pages 9 and 13.**

38

O