

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1337

Introduced by Assembly Member Alejo

February 18, 2011

~~An act to amend Section 201 of the Education Code, relating to educational equity.~~ *An act to amend Section 7630 of the Family Code, relating to family law.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as amended, Alejo. ~~Educational equity.~~ *Parent and child relationship.*

Existing law authorizes any interested party to bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship that is presumed under certain circumstances.

This bill would require notice of the proceeding to be given, as specified, to the child's relatives within the second degree and to the person having physical custody of the child, if the child's natural mother has died and there are no existing court orders or pending court actions involving custody or guardianship of the child.

~~Existing law provides that it is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in a specified definition of hate crimes, equal rights and opportunities in the educational institutions of the state. Existing law also provides that all pupils have the right to participate fully in the educational process, free from discrimination and harassment. Existing law further provides that California's public~~

~~schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.~~

~~This bill would make technical, nonsubstantive changes in a provision relating to legislative declarations and intent with respect to educational equity.~~

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.

22 (c) Except as to cases coming within Chapter 1 (commencing
23 with Section 7540) of Part 2, an action to determine the existence
24 of the father and child relationship may be brought by the child or
25 personal representative of the child, the Department of Child
26 Support Services, the mother or the personal representative or a
27 parent of the mother if the mother has died or is a minor, a man
28 alleged or alleging himself to be the father, or the personal

1 representative or a parent of the alleged father if the alleged father
2 has died or is a minor.

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

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

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

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

32 (2) If a man brings an action to determine paternity and custody
33 of a child who he has reason to believe is in the physical or legal
34 custody of an adoption agency, or of one or more persons other
35 than the child's mother who are prospective adoptive parents, he
36 shall serve his entire pleading on, and give notice of all proceedings
37 to, the adoption agency or the prospective adoptive parents, or
38 both.

39 (f) A party to an assisted reproduction agreement may bring an
40 action at any time to establish a parent and child relationship

1 consistent with the intent expressed in that assisted reproduction
2 agreement.

3 (g) (1) *In an action to determine the existence of the father and*
4 *child relationship brought pursuant to subdivision (b), if the child's*
5 *natural mother has died and there are no existing court orders or*
6 *pending court actions involving custody or guardianship of the*
7 *child, then the relatives within the second degree of the child and*
8 *persons having physical custody of the child shall be served with*
9 *notice of the proceeding.*

10 (2) *A person having physical custody of the child shall be given*
11 *notice of the proceeding in accordance with the provisions of the*
12 *Code of Civil Procedure for the service of process in a civil action*
13 *in this state at least 15 days prior to the date stated in the notice*
14 *of the proceeding.*

15 (3) *Relatives within the second degree of the child shall be given*
16 *notice of the proceeding at least 15 days prior to the hearing,*
17 *either by mail or in any manner authorized by the court. If a person*
18 *identified as a relative of the second degree of the child cannot be*
19 *located, or his or her whereabouts are unknown or cannot be*
20 *ascertained, the court may prescribe the manner of giving notice,*
21 *or shall dispense with giving notice to that person.*

22 (4) *Proof of notice pursuant to this subdivision shall be filed*
23 *with the court before the proceeding to determine the existence of*
24 *the father and child relationship is heard.*

25 SECTION 1. ~~Section 201 of the Education Code is amended~~
26 ~~to read:~~

27 ~~201. (a) All pupils have the right to participate fully in the~~
28 ~~educational process, free from discrimination and harassment.~~

29 ~~(b) California's public schools have an affirmative obligation~~
30 ~~to combat racism, sexism, and other forms of bias, and a~~
31 ~~responsibility to provide equal educational opportunity.~~

32 ~~(c) Harassment on school grounds directed at an individual on~~
33 ~~the basis of personal characteristics or status creates a hostile~~
34 ~~environment, and jeopardizes equal educational opportunity as~~
35 ~~guaranteed by the California Constitution and the United States~~
36 ~~Constitution.~~

37 ~~(d) There is an urgent need to prevent and respond to acts of~~
38 ~~hate violence and bias-related incidents, which are occurring at an~~
39 ~~increasing rate in California's public schools.~~

1 ~~(e) There is an urgent need to teach and inform pupils in the~~
2 ~~public schools about their rights, as guaranteed by the federal and~~
3 ~~state constitutions, in order to increase pupils' awareness and~~
4 ~~understanding of their rights and the rights of others, with the~~
5 ~~intention of promoting tolerance and sensitivity in public schools~~
6 ~~and in society as a means of responding to potential harassment~~
7 ~~and hate violence.~~

8 ~~(f) It is the intent of the Legislature that each public school~~
9 ~~undertake educational activities to counter discriminatory incidents~~
10 ~~on school grounds and, within constitutional bounds, to minimize~~
11 ~~and eliminate a hostile environment on school grounds that impairs~~
12 ~~the access of pupils to equal educational opportunity.~~

13 ~~(g) It is the intent of the Legislature that this chapter shall be~~
14 ~~interpreted as consistent with Article 9.5 (commencing with Section~~
15 ~~11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the~~
16 ~~Government Code, Title VI of the federal Civil Rights Act of 1964~~
17 ~~(42 U.S.C. Sec. 1981 et seq.), Title IX of the federal Education~~
18 ~~Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.), Section 504~~
19 ~~of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)),~~
20 ~~the federal Individuals with Disabilities Education Act (20 U.S.C.~~
21 ~~Sec. 1400 et seq.), the federal Equal Educational Opportunities~~
22 ~~Act (20 U.S.C. Sec. 1701 et seq.), the Unruh Civil Rights Act~~
23 ~~(Sees. 51 to 53, incl., Civ. C.), and the Fair Employment and~~
24 ~~Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Title~~
25 ~~2, Gov. C.), except where this chapter may grant more protections~~
26 ~~or impose additional obligations, and that the remedies provided~~
27 ~~herein shall not be the exclusive remedies, but may be combined~~
28 ~~with remedies that may be provided by the above statutes.~~

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