

AMENDED IN SENATE JULY 8, 2013

AMENDED IN SENATE JUNE 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1403**

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**Introduced by Committee on Judiciary (Wieckowski (Chair), Alejo,  
Chau, Dickinson, Garcia, Muratsuchi, and Stone)**

March 12, 2013

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An act to amend Sections 7601, 7610, 7611, 7612, 7613, 7614, 7620, 7630, 7632, 7635, 7637, 7641, 7644, 7648.9, 7660, 7661, 7662, 7663, 7664, 7665, 7666, 7667, and 7669 of the Family Code, and to add Section 69617 to the Government Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 1403, as amended, Committee on Judiciary. Family law.

(1) The Uniform Parentage Act defines the parent and child relationship as the legal relationship existing between a child and the child's parents, including the mother and child relationship and the father and child relationship, and governs proceedings to establish that relationship.

The bill would define "natural parent" as a nonadoptive parent, as specified, whether biologically related to the child or not. The bill would also make certain provisions gender neutral and refer instead to a "presumed parent" or "parent." The bill would make other conforming changes.

(2) Existing law specifies the number of judges of the superior court for each county, and allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional need in each county, as approved by the Judicial Council,

and other specified criteria. Existing law provides for the conversion of 146 subordinate judicial officer positions in eligible superior courts upon the occurrence of specified conditions, including that the proposed action is ratified by the Legislature, except that no more than 16 positions may be converted to judgeships in any fiscal year. Notwithstanding this provision, up to 10 additional subordinate judicial officer positions may be converted to judgeships in any fiscal year, if the conversions will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer and the proposed action is ratified by the Legislature. Existing law ratifies the authority of the Judicial Council to convert 10 of those subordinate judicial officer positions to judgeships in the 2011–12 fiscal year.

This bill would ratify the authority of the Judicial Council to convert 10 subordinate judicial officer positions to judgeships in the 2013–14 fiscal year where the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer.

*(3) This bill would incorporate additional changes in Sections 7601 and 7612 of the Family Code, proposed by SB 274, to be operative only if SB 274 and this bill are both chaptered and become effective January 1, 2014, and this bill is chaptered last.*

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

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

1 SECTION 1. Section 7601 of the Family Code is amended to  
 2 read:  
 3 7601. (a) “Natural parent” as used in this code means a  
 4 nonadoptive parent established under this part, whether biologically  
 5 related to the child or not.  
 6 (b) “Parent and child relationship” as used in this part means  
 7 the legal relationship existing between a child and the child’s  
 8 natural or adoptive parents incident to which the law confers or  
 9 imposes rights, privileges, duties, and obligations. The term  
 10 includes the mother and child relationship and the father and child  
 11 relationship.  
 12 SEC. 1.5. Section 7601 of the Family Code is amended to read:

1 7601. (a) *“Natural parent” as used in this code means a*  
2 *nonadoptive parent established under this part, whether*  
3 *biologically related to the child or not.*

4 (b) *“Parent and child relationship” as used in this part means*  
5 *the legal relationship existing between a child and the child’s*  
6 *natural or adoptive parents incident to which the law confers or*  
7 *imposes rights, privileges, duties, and obligations. The term*  
8 *includes the mother and child relationship and the father and child*  
9 *relationship.*

10 (c) *This part does not preclude a finding that a child has a*  
11 *parent and child relationship with more than two parents.*

12 (d) *For purposes of state law, administrative regulations, court*  
13 *rules, government policies, common law, and any other provision*  
14 *or source of law governing the rights, protections, benefits,*  
15 *responsibilities, obligations, and duties of parents, any reference*  
16 *to two parents shall be interpreted to apply to every parent of a*  
17 *child where that child has been found to have more than two*  
18 *parents under this part.*

19 SEC. 2. Section 7610 of the Family Code is amended to read:

20 7610. The parent and child relationship may be established as  
21 follows:

22 (a) Between a child and the natural parent, it may be established  
23 by proof of having given birth to the child, or under this part.

24 (b) Between a child and an adoptive parent, it may be established  
25 by proof of adoption.

26 SEC. 3. Section 7611 of the Family Code is amended to read:

27 7611. A person is presumed to be the natural parent of a child  
28 if the person meets the conditions provided in Chapter 1  
29 (commencing with Section 7540) or Chapter 3 (commencing with  
30 Section 7570) of Part 2 or in any of the following subdivisions:

31 (a) The presumed parent and the child’s natural mother are or  
32 have been married to each other and the child is born during the  
33 marriage, or within 300 days after the marriage is terminated by  
34 death, annulment, declaration of invalidity, or divorce, or after a  
35 judgment of separation is entered by a court.

36 (b) Before the child’s birth, the presumed parent and the child’s  
37 natural mother have attempted to marry each other by a marriage  
38 solemnized in apparent compliance with law, although the  
39 attempted marriage is or could be declared invalid, and either of  
40 the following is true:

1 (1) If the attempted marriage could be declared invalid only by  
2 a court, the child is born during the attempted marriage, or within  
3 300 days after its termination by death, annulment, declaration of  
4 invalidity, or divorce.

5 (2) If the attempted marriage is invalid without a court order,  
6 the child is born within 300 days after the termination of  
7 cohabitation.

8 (c) After the child's birth, the presumed parent and the child's  
9 natural mother have married, or attempted to marry, each other by  
10 a marriage solemnized in apparent compliance with law, although  
11 the attempted marriage is or could be declared invalid, and either  
12 of the following is true:

13 (1) With his or her consent, the presumed parent is named as  
14 the child's parent on the child's birth certificate.

15 (2) The presumed parent is obligated to support the child under  
16 a written voluntary promise or by court order.

17 (d) The presumed parent receives the child into his or her home  
18 and openly holds out the child as his or her natural child.

19 (e) If the child was born and resides in a nation with which the  
20 United States engages in an Orderly Departure Program or  
21 successor program, he acknowledges that he is the child's father  
22 in a declaration under penalty of perjury, as specified in Section  
23 2015.5 of the Code of Civil Procedure. This subdivision shall  
24 remain in effect only until January 1, 1997, and on that date shall  
25 become inoperative.

26 (f) The child is in utero after the death of the decedent and the  
27 conditions set forth in Section 249.5 of the Probate Code are  
28 satisfied.

29 SEC. 4. Section 7612 of the Family Code is amended to read:

30 7612. (a) Except as provided in Chapter 1 (commencing with  
31 Section 7540) and Chapter 3 (commencing with Section 7570) of  
32 Part 2 or in Section 20102, a presumption under Section 7611 is  
33 a rebuttable presumption affecting the burden of proof and may  
34 be rebutted in an appropriate action only by clear and convincing  
35 evidence.

36 (b) If two or more presumptions arise under Section 7610 or  
37 7611 that conflict with each other, or if a presumption under  
38 Section 7611 conflicts with a claim pursuant to Section 7610, the  
39 presumption which on the facts is founded on the weightier  
40 considerations of policy and logic controls.

1 (c) The presumption under Section 7611 is rebutted by a  
2 judgment establishing parentage of the child by another person.

3 (d) Within two years of the execution of a voluntary declaration  
4 of paternity, a person who is presumed to be a parent under Section  
5 7611 may file a petition pursuant to Section 7630 to set aside a  
6 voluntary declaration of paternity. The court's ruling on the petition  
7 to set aside the voluntary declaration of paternity shall be made  
8 taking into account the validity of the voluntary declaration of  
9 paternity, and the best interests of the child based upon the court's  
10 consideration of the factors set forth in subdivision (b) of Section  
11 7575, as well as the best interests of the child based upon the  
12 nature, duration, and quality of the petitioning party's relationship  
13 with the child and the benefit or detriment to the child of continuing  
14 that relationship. In the event of any conflict between the  
15 presumption under Section 7611 and the voluntary declaration of  
16 paternity, the weightier considerations of policy and logic shall  
17 control.

18 (e) A voluntary declaration of paternity is invalid if, at the time  
19 the declaration was signed, any of the following conditions exist:

20 (1) The child already had a presumed parent under Section 7540.

21 (2) The child already had a presumed parent under subdivision  
22 (a), (b), or (c) of Section 7611.

23 (3) The man signing the declaration is a sperm donor, consistent  
24 with subdivision (b) of Section 7613.

25 *SEC. 4.5. Section 7612 of the Family Code is amended to read:*

26 7612. (a) Except as provided in Chapter 1 (commencing with  
27 Section 7540) and Chapter 3 (commencing with Section 7570) of  
28 Part 2 or in Section 20102, a presumption under Section 7611 is  
29 a rebuttable presumption affecting the burden of proof and may  
30 be rebutted in an appropriate action only by clear and convincing  
31 evidence.

32 (b) If two or more presumptions arise under Section 7610 or  
33 7611 that conflict with each other, or if a presumption under  
34 Section 7611 conflicts with a claim pursuant to Section 7610, the  
35 presumption which on the facts is founded on the weightier  
36 considerations of policy and logic controls.

37 (c) *In an appropriate action, a court may find that more than*  
38 *two persons with a claim to parentage under this division are*  
39 *parents if the court finds that recognizing only two parents would*  
40 *be detrimental to the child. In determining detriment to the child,*

1 *the court shall consider all relevant factors, including, but not*  
 2 *limited to, the harm of removing the child from a stable placement*  
 3 *with a parent who has fulfilled the child's physical needs and the*  
 4 *child's psychological needs for care and affection, and who has*  
 5 *assumed that role for a substantial period of time. A finding of*  
 6 *detriment to the child does not require a finding of unfitness of*  
 7 *any of the parents or persons with a claim to parentage.*

8 ~~(e) The~~

9 *(d) Unless a court orders otherwise after making the*  
 10 *determination specified in subdivision (c), a presumption under*  
 11 *Section 7611 is rebutted by a judgment establishing ~~paternity~~*  
 12 *parentage of the child by another ~~man~~ person.*

13 ~~(d)~~

14 *(e) Within two years of the execution of a voluntary declaration*  
 15 *of paternity, a person who is presumed to be a parent under Section*  
 16 *7611 may file a petition pursuant to Section 7630 to set aside a*  
 17 *voluntary declaration of paternity. The court's ruling on the petition*  
 18 *to set aside the voluntary declaration of paternity shall be made*  
 19 *taking into account the validity of the voluntary declaration of*  
 20 *paternity, and the best interests of the child based upon the court's*  
 21 *consideration of the factors set forth in subdivision (b) of Section*  
 22 *7575, as well as the best interests of the child based upon the*  
 23 *nature, duration, and quality of the petitioning party's relationship*  
 24 *with the child and the benefit or detriment to the child of continuing*  
 25 *that relationship. In the event of any conflict between the*  
 26 *presumption under Section 7611 and the voluntary declaration of*  
 27 *paternity, the weightier considerations of policy and logic shall*  
 28 *control.*

29 ~~(e)~~

30 *(f) A voluntary declaration of paternity is invalid if, at the time*  
 31 *the declaration was signed, any of the following conditions exist:*

32 *(1) The child already had a presumed parent under Section 7540.*

33 *(2) The child already had a presumed parent under subdivision*  
 34 *(a), (b), or (c) of Section 7611.*

35 *(3) The man signing the declaration is a sperm donor, consistent*  
 36 *with subdivision (b) of Section 7613.*

37 **SEC. 5.** Section 7613 of the Family Code is amended to read:

38 **7613.** (a) If, under the supervision of a licensed physician and  
 39 surgeon and with the consent of her spouse, a woman conceives  
 40 through assisted reproduction with semen donated by a man not

1 her husband, the spouse is treated in law as if he or she were the  
2 natural parent of a child thereby conceived. The spouse's consent  
3 shall be in writing and signed by both spouses. The physician and  
4 surgeon shall certify their signatures and the date of the assisted  
5 reproduction procedure, and retain the spouse's consent as part of  
6 the medical record, where it shall be kept confidential and in a  
7 sealed file. However, the physician and surgeon's failure to do so  
8 does not affect the parent and child relationship. All papers and  
9 records pertaining to the assisted reproduction procedure, whether  
10 part of the permanent record of a court or of a file held by the  
11 supervising physician and surgeon or elsewhere, are subject to  
12 inspection only upon an order of the court for good cause shown.

13 (b) The donor of semen provided to a licensed physician and  
14 surgeon or to a licensed sperm bank for use in assisted reproduction  
15 of a woman other than the donor's spouse is treated in law as if  
16 he were not the natural parent of a child thereby conceived, unless  
17 otherwise agreed to in a writing signed by the donor and the woman  
18 prior to the conception of the child.

19 SEC. 6. Section 7614 of the Family Code is amended to read:

20 7614. (a) A promise in writing to furnish support for a child,  
21 growing out of a presumed parent or alleged father and child  
22 relationship, does not require consideration and, subject to Section  
23 7632, is enforceable according to its terms.

24 (b) In the best interest of the child or the other parent, the court  
25 may, and upon the promisor's request shall, order the promise to  
26 be kept in confidence and designate a person or agency to receive  
27 and disburse on behalf of the child all amounts paid in performance  
28 of the promise.

29 SEC. 7. Section 7620 of the Family Code is amended to read:

30 7620. (a) A person who has sexual intercourse or causes  
31 conception with the intent to become a legal parent by assisted  
32 reproduction in this state thereby submits to the jurisdiction of the  
33 courts of this state as to an action brought under this part with  
34 respect to a child who may have been conceived by that act of  
35 intercourse or assisted reproduction.

36 (b) An action under this part shall be brought in one of the  
37 following:

- 38 (1) The county in which the child resides or is found.
- 39 (2) If the child is the subject of a pending or proposed adoption,  
40 any county in which a licensed California adoption agency to which

1 the child has been relinquished or is proposed to be relinquished  
2 maintains an office.

3 (3) If the child is the subject of a pending or proposed adoption,  
4 the county in which an office of the department or a public adoption  
5 agency investigating the petition is located.

6 (4) If the parent is deceased, the county in which proceedings  
7 for probate of the estate of the parent of the child have been or  
8 could be commenced.

9 SEC. 8. Section 7630 of the Family Code is amended to read:

10 7630. (a) A child, the child's natural parent, a person presumed  
11 to be the child's parent under subdivision (a), (b), or (c) of Section  
12 7611, an adoption agency to whom the child has been relinquished,  
13 or a prospective adoptive parent of the child may bring an action  
14 as follows:

15 (1) At any time for the purpose of declaring the existence of the  
16 parent and child relationship presumed under subdivision (a), (b),  
17 or (c) of Section 7611.

18 (2) For the purpose of declaring the nonexistence of the parent  
19 and child relationship presumed under subdivision (a), (b), or (c)  
20 of Section 7611 only if the action is brought within a reasonable  
21 time after obtaining knowledge of relevant facts. After the  
22 presumption has been rebutted, parentage of the child by another  
23 person may be determined in the same action, if that person has  
24 been made a party.

25 (b) Any interested party may bring an action at any time for the  
26 purpose of determining the existence or nonexistence of the parent  
27 and child relationship presumed under subdivision (d) or (f) of  
28 Section 7611.

29 (c) Except as to cases coming within Chapter 1 (commencing  
30 with Section 7540) of Part 2, an action to determine the existence  
31 of the parent and child relationship may be brought by the child  
32 or personal representative of the child, the Department of Child  
33 Support Services, the parent or the personal representative or a  
34 parent of that parent if that parent has died or is a minor, a man  
35 alleged or alleging himself to be the father, or the personal  
36 representative or a parent of the alleged father if the alleged father  
37 has died or is a minor.

38 (d) (1) If a proceeding has been filed under Chapter 2  
39 (commencing with Section 7820) of Part 4, an action under  
40 subdivision (a) or (b) shall be consolidated with that proceeding.

1 The parental rights of the presumed parent shall be determined as  
2 set forth in Sections 7820 to 7829, inclusive.

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

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

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

27 (2) If a person brings an action to determine parentage and  
28 custody of a child who he or she has reason to believe is in the  
29 physical or legal custody of an adoption agency, or of one or more  
30 persons other than the child's parent who are prospective adoptive  
31 parents, he or she shall serve his or her entire pleading on, and  
32 give notice of all proceedings to, the adoption agency or the  
33 prospective adoptive parents, or both.

34 (f) A party to an assisted reproduction agreement may bring an  
35 action at any time to establish a parent and child relationship  
36 consistent with the intent expressed in that assisted reproduction  
37 agreement.

38 (g) (1) In an action to determine the existence of the parent and  
39 child relationship brought pursuant to subdivision (b), if the child's  
40 other parent has died and there are no existing court orders or

1 pending court actions involving custody or guardianship of the  
2 child, then the persons having physical custody of the child shall  
3 be served with notice of the proceeding at least 15 days prior to  
4 the hearing, either by mail or in any manner authorized by the  
5 court. If any person identified as having physical custody of the  
6 child cannot be located, the court shall prescribe the manner of  
7 giving notice.

8 (2) If known to the person bringing the parentage action,  
9 relatives within the second degree of the child shall be given notice  
10 of the proceeding at least 15 days prior to the hearing, either by  
11 mail or in any manner authorized by the court. If a person identified  
12 as a relative of the second degree of the child cannot be located,  
13 or his or her whereabouts are unknown or cannot be ascertained,  
14 the court shall prescribe the manner of giving notice, or shall  
15 dispense with giving notice to that person.

16 (3) Proof of notice pursuant to this subdivision shall be filed  
17 with the court before the proceeding to determine the existence of  
18 the parent and child relationship is heard.

19 SEC. 9. Section 7632 of the Family Code is amended to read:

20 7632. Regardless of its terms, an agreement between an alleged  
21 father or a presumed parent and the other parent or child does not  
22 bar an action under this chapter.

23 SEC. 10. Section 7635 of the Family Code is amended to read:

24 7635. (a) The child may, if under the age of 12 years, and  
25 shall, if 12 years of age or older, be made a party to the action. If  
26 the child is a minor and a party to the action, the child shall be  
27 represented by a guardian ad litem appointed by the court. The  
28 guardian ad litem need not be represented by counsel if the  
29 guardian ad litem is a relative of the child.

30 (b) The natural parent, each person presumed to be a parent  
31 under Section 7611, and each man alleged to be the natural father,  
32 may be made parties and shall be given notice of the action in the  
33 manner prescribed in Section 7666 and an opportunity to be heard.  
34 Appointment of a guardian ad litem shall not be required for a  
35 minor who is a parent of the child who is the subject of the petition  
36 to establish parental relationship, unless the minor parent is unable  
37 to understand the nature of the proceedings or to assist counsel in  
38 preparing the case.

39 (c) The court may align the parties.

1 (d) In any initial or subsequent proceeding under this chapter  
2 where custody of, or visitation with, a minor child is in issue, the  
3 court may, if it determines it would be in the best interest of the  
4 minor child, appoint private counsel to represent the interests of  
5 the minor child pursuant to Chapter 10 (commencing with Section  
6 3150) of Part 2 of Division 8.

7 SEC. 11. Section 7637 of the Family Code is amended to read:

8 7637. The judgment or order may contain any other provision  
9 directed against the appropriate party to the proceeding, concerning  
10 the duty of support, the custody and guardianship of the child,  
11 visitation privileges with the child, the furnishing of bond or other  
12 security for the payment of the judgment, or any other matter in  
13 the best interest of the child. The judgment or order may direct the  
14 parent to pay the reasonable expenses of the mother's pregnancy  
15 and confinement.

16 SEC. 12. Section 7641 of the Family Code is amended to read:

17 7641. (a) If there is a voluntary declaration of paternity in  
18 place, or parentage or a duty of support has been acknowledged  
19 or adjudicated under this part or under prior law, the obligation of  
20 the parent may be enforced in the same or other proceedings by  
21 any of the following:

22 (1) The other parent.

23 (2) The child.

24 (3) The public authority that has furnished or may furnish the  
25 reasonable expenses of pregnancy, confinement, education, support,  
26 or funeral.

27 (4) Any other person, including a private agency, to the extent  
28 the person has furnished or is furnishing these expenses.

29 (b) The court may order support payments to be made to any  
30 of the following:

31 (1) The other parent.

32 (2) The clerk of the court.

33 (3) A person, corporation, or agency designated to administer  
34 the payments for the benefit of the child under the supervision of  
35 the court.

36 (c) Willful failure to obey the judgment or order of the court is  
37 a civil contempt of the court. All remedies for the enforcement of  
38 judgments, including imprisonment for contempt, apply.

39 SEC. 13. Section 7644 of the Family Code is amended to read:

1 7644. (a) Notwithstanding any other law, an action for child  
2 custody and support and for other relief as provided in Section  
3 7637 may be filed based upon a voluntary declaration of paternity  
4 as provided in Chapter 3 (commencing with Section 7570) of Part  
5 2.

6 (b) Except as provided in Section 7576, the voluntary declaration  
7 of paternity shall be given the same force and effect as a judgment  
8 of parentage entered by a court of competent jurisdiction. The  
9 court shall make appropriate orders as specified in Section 7637  
10 based upon the voluntary declaration of paternity unless evidence  
11 is presented that the voluntary declaration of paternity has been  
12 rescinded by the parties or set aside as provided in Section 7575  
13 of the Family Code.

14 (c) The Judicial Council shall develop the forms and procedures  
15 necessary to implement this section.

16 SEC. 14. Section 7648.9 of the Family Code is amended to  
17 read:

18 7648.9. This article does not establish a basis for setting aside  
19 or vacating a judgment establishing paternity with regard to a child  
20 conceived by assisted reproduction pursuant to Section 7613 or a  
21 child conceived pursuant to a surrogacy agreement.

22 SEC. 15. Section 7660 of the Family Code is amended to read:

23 7660. If a mother relinquishes for or consents to, or proposes  
24 to relinquish for or consent to, the adoption of a child who has a  
25 presumed parent under Section 7611, the presumed parent shall  
26 be given notice of the adoption proceeding and have the rights  
27 provided under Part 2 (commencing with Section 8600) of Division  
28 13, unless that parent's relationship to the child has been previously  
29 terminated or determined by a court not to exist or the presumed  
30 parent has voluntarily relinquished for or consented to the adoption  
31 of the child.

32 SEC. 16. Section 7661 of the Family Code is amended to read:

33 7661. If the other parent relinquishes for or consents to, or  
34 proposes to relinquish for or consent to, the adoption of a child,  
35 the mother shall be given notice of the adoption proceeding and  
36 have the rights provided under Part 2 (commencing with Section  
37 8600) of Division 13, unless the mother's relationship to the child  
38 has been previously terminated by a court or the mother has  
39 voluntarily relinquished for or consented to the adoption of the  
40 child.

1 SEC. 17. Section 7662 of the Family Code is amended to read:  
2 7662. (a) If a mother relinquishes for or consents to, or  
3 proposes to relinquish for or consent to, the adoption of a child,  
4 or if a child otherwise becomes the subject of an adoption  
5 proceeding, the agency or person to whom the child has been or  
6 is to be relinquished, or the mother or the person having physical  
7 or legal custody of the child, or the prospective adoptive parent,  
8 shall file a petition to terminate the parental rights of the alleged  
9 father, unless one of the following occurs:

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

12 (2) The alleged father has been served as prescribed in Section  
13 7666 with a written notice alleging that he is or could be the  
14 biological father of the child to be adopted or placed for adoption  
15 and has failed to bring an action for the purpose of declaring the  
16 existence of the father and child relationship pursuant to  
17 subdivision (c) of Section 7630 within 30 days of service of the  
18 notice or the birth of the child, whichever is later.

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

22 (b) The alleged father may validly execute a waiver or denial  
23 of paternity before or after the birth of the child, and once signed,  
24 no notice of, relinquishment for, or consent to adoption of the child  
25 shall be required from the alleged father for the adoption to  
26 proceed.

27 (c) All proceedings affecting a child under Divisions 8  
28 (commencing with Section 3000) to 11 (commencing with Section  
29 6500), inclusive, and Parts 1 (commencing with Section 7500) to  
30 3 (commencing with Section 7600), inclusive, of this division,  
31 other than an action brought pursuant to this section, shall be stayed  
32 pending final determination of proceedings to terminate the parental  
33 rights of the alleged father pursuant to this section.

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

38 SEC. 18. Section 7663 of the Family Code is amended to read:

1 7663. (a) In an effort to identify all alleged fathers and  
 2 presumed parents, the court shall cause inquiry to be made of the  
 3 mother and any other appropriate person by one of the following:

- 4 (1) The State Department of Social Services.
- 5 (2) A licensed county adoption agency.
- 6 (3) The licensed adoption agency to which the child is to be  
 7 relinquished.
- 8 (4) In the case of a stepparent adoption, the licensed clinical  
 9 social worker or licensed marriage and family therapist who is  
 10 performing the investigation pursuant to Section 9001, if  
 11 applicable. In the case of a stepparent adoption in which no licensed  
 12 clinical social worker or licensed marriage and family therapist is  
 13 performing the investigation pursuant to Section 9001, the board  
 14 of supervisors may assign those inquiries to a licensed county  
 15 adoption agency, the county department designated by the board  
 16 of supervisors to administer the public social services program, or  
 17 the county probation department.

18 (b) The inquiry shall include all of the following:  
 19 (1) Whether the mother was married at the time of conception  
 20 of the child or at any time thereafter.

21 (2) Whether the mother was cohabiting with a man at the time  
 22 of conception or birth of the child.

23 (3) Whether the mother has received support payments or  
 24 promises of support with respect to the child or in connection with  
 25 her pregnancy.

26 (4) Whether any person has formally or informally  
 27 acknowledged or declared his or her possible parentage of the  
 28 child.

29 (5) The names and whereabouts, if known, of every person  
 30 presumed or man alleged to be the parent of the child, and the  
 31 efforts made to give notice of the proposed adoption to each person  
 32 identified.

33 (c) The agency that completes the inquiry shall file a written  
 34 report of the findings with the court.

35 SEC. 19. Section 7664 of the Family Code is amended to read:

36 7664. (a) If, after the inquiry, the biological father is identified  
 37 to the satisfaction of the court, or if more than one man is identified  
 38 as a possible biological father, notice of the proceeding shall be  
 39 given in accordance with Section 7666. If any alleged biological

1 father fails to appear or, if appearing, fails to claim parental rights,  
2 his parental rights with reference to the child shall be terminated.

3 (b) If the biological father or a man representing himself to be  
4 the biological father claims parental rights, the court shall  
5 determine if he is the biological father. The court shall then  
6 determine if it is in the best interest of the child that the biological  
7 father retain his parental rights, or that an adoption of the child be  
8 allowed to proceed. The court, in making that determination, may  
9 consider all relevant evidence, including the efforts made by the  
10 biological father to obtain custody, the age and prior placement of  
11 the child, and the effects of a change of placement on the child.

12 (c) If the court finds that it is in the best interest of the child that  
13 the biological father should be allowed to retain his parental rights,  
14 the court shall order that his consent is necessary for an adoption.  
15 If the court finds that the man claiming parental rights is not the  
16 biological father, or that if he is the biological father it is in the  
17 child's best interest that an adoption be allowed to proceed, the  
18 court shall order that the consent of that man is not required for  
19 an adoption. This finding terminates all parental rights and  
20 responsibilities with respect to the child.

21 SEC. 20. Section 7665 of the Family Code is amended to read:

22 7665. If, after the inquiry, the court is unable to identify the  
23 biological father or any possible biological father and no person  
24 has appeared claiming to be the biological father and claiming  
25 custodial rights, the court shall enter an order terminating the  
26 unknown biological father's parental rights with reference to the  
27 child.

28 SEC. 21. Section 7666 of the Family Code is amended to read:

29 7666. (a) Except as provided in subdivision (b), notice of the  
30 proceeding shall be given to every person identified as the  
31 biological father or a possible biological father in accordance with  
32 the Code of Civil Procedure for the service of process in a civil  
33 action in this state at least 10 days before the date of the  
34 proceeding, except that publication or posting of the notice of the  
35 proceeding is not required. Proof of giving the notice shall be filed  
36 with the court before the petition is heard.

37 (b) Notice to a man identified as or alleged to be the biological  
38 father shall not be required, and the court shall issue an order  
39 dispensing with notice to him, under any of the following  
40 circumstances:

1 (1) The relationship to the child has been previously terminated  
2 or determined not to exist by a court.

3 (2) The alleged father has executed a written form to waive  
4 notice, deny his paternity, relinquish the child for adoption, or  
5 consent to the adoption of the child.

6 (3) The whereabouts or identity of the alleged father are  
7 unknown or cannot be ascertained.

8 (4) The alleged father has been served with written notice of  
9 his alleged paternity and the proposed adoption, and he has failed  
10 to bring an action pursuant to subdivision (c) of Section 7630  
11 within 30 days of service of the notice or the birth of the child,  
12 whichever is later.

13 SEC. 22. Section 7667 of the Family Code is amended to read:

14 7667. (a) Notwithstanding any other provision of law, an action  
15 to terminate the parental rights of an alleged father of a child as  
16 specified in this part shall be set for hearing not more than 45 days  
17 after filing of the petition, except as provided in subdivision (c).

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

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

23 (1) The identity or whereabouts of the alleged father are  
24 unknown.

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

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

32 SEC. 23. Section 7669 of the Family Code is amended to read:

33 7669. (a) An order requiring or dispensing with an alleged  
34 father's consent for the adoption of a child may be appealed from  
35 in the same manner as an order of the juvenile court declaring a  
36 person to be a ward of the juvenile court and is conclusive and  
37 binding upon the alleged father.

38 (b) After making the order, the court has no power to set aside,  
39 change, or modify that order.

1 (c) Nothing in this section limits the right to appeal from the  
2 order and judgment.

3 SEC. 24. Section 69617 is added to the Government Code, to  
4 read:

5 69617. (a) The Legislature hereby ratifies the authority of the  
6 Judicial Council to convert 10 subordinate judicial officer positions  
7 to judgeships in the 2013–14 fiscal year where the conversion will  
8 result in a judge being assigned to a family law or juvenile law  
9 assignment previously presided over by a subordinate judicial  
10 officer, pursuant to subparagraph (C) of paragraph (1) of  
11 subdivision (c) of Section 69615.

12 (b) The action described in subdivision (a) shall be in addition  
13 to any action that may be taken pursuant to the authority described  
14 in subparagraph (B) of paragraph (1) of subdivision (c) of Section  
15 69615 to convert up to 16 subordinate judicial officer positions to  
16 judgeships.

17 SEC. 25. (a) *Section 1.5 of this bill incorporates amendments*  
18 *to Section 7601 of the Family Code proposed by both this bill and*  
19 *Senate Bill 274. It shall only become operative if (1) both bills are*  
20 *enacted and become effective on or before January 1, 2014, (2)*  
21 *each bill amends Section 7601 of the Family Code, and (3) this*  
22 *bill is enacted after Senate Bill 274, in which case Section 1 of this*  
23 *bill shall not become operative.*

24 (b) *Section 4.5 of this bill incorporates amendments to Section*  
25 *7612 of the Family Code proposed by both this bill and Senate*  
26 *Bill 274. It shall only become operative if (1) both bills are enacted*  
27 *and become effective on or before January 1, 2014, (2) each bill*  
28 *amends Section 7612 of the Family Code, and (3) this bill is*  
29 *enacted after Senate Bill 274, in which case Section 4 of this bill*  
30 *shall not become operative.*

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