

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1701**

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**Introduced by Assembly Member Patterson**

February 13, 2014

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An act to amend ~~Section 8603~~ of Sections 7630, 7662, 7666, 7807, 8603, 8604, 8606, 8613.5, 8700, 8801.3, 8804, 8807, 8808, 8814, and 8815 of, and to add Sections 7671, 7842, and 8800.5 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 1701, as amended, Patterson. Family law: adoption.

(1) *Existing law authorizes, among others, the child's natural parent to bring an action to declare the existence or nonexistence of a presumed parent and child relationship. Existing law requires the court to join to that action specified parties, including prospective adoptive parents who have physical custody of a child, who have not been joined as parties without the necessity of a motion for joinder.*

*This bill would instead authorize the child's natural mother to bring that action. The bill would also require the court to join to that action additional specified parties who have not been joined as parties, including a licensed California adoption agency to which the mother proposes to relinquish the child for adoption.*

~~Existing~~

(2) *Existing law provides for the adoption of unmarried minors. Existing law prohibits a married person, not lawfully separated from the person's spouse, from adopting a child without the consent of the spouse if the spouse is capable of giving that consent.*

This bill would additionally provide that the consent of the spouse shall not establish any parental rights or responsibilities on the part of the consenting spouse unless he or she ~~has been approved to adopt the child,~~ has consented to adopt the child in a writing ~~signed before, and filed with, the court,~~ *filed with the court* and is named in the final decree as an adoptive parent of the child.

*(3) Existing law generally provides that a child having a presumed father, as specified, shall not be adopted without the consent of the child's birth parents, if living. However, if one birth parent has been awarded custody by judicial order, or has custody by agreement of both parents, and the other birth parent for a period of one year willfully fails to communicate with, and to pay for, the care, support, and education of the child when able to do so, then the birth parent having sole custody may consent to the adoption, after the birth parent who does not have custody has been served with a specified citation. Under existing law, the failure of a birth parent to pay for the care, support, and education of the child for the period of one year or the failure of a birth parent to communicate with the child for the period of one year is prima facie evidence that the failure was willful and without lawful excuse.*

*This bill would authorize the court to issue a temporary custody order, as specified, if the birth mother of a child for whom there is not a presumed father leaves the child in certain circumstances, including in the physical care of a licensed private adoption agency, and fails to sign a placement agreement, consent, or relinquishment for adoption. The bill would authorize the temporary custody order to be voided upon the birth mother's request to have the child returned to her care and custody.*

*(4) Existing law requires, if a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child, or if a child otherwise becomes the subject of an adoption proceeding, one of several specified persons to file a petition to terminate the parental rights of the alleged father, except as specified.*

*Existing law permits an interested person to file a petition for an order or judgment declaring a child free from the custody and control of either or both parents.*

*This bill would permit a single petition to be filed to terminate the parental rights of the alleged father or fathers of 2 or more biological siblings or to terminate the parental rights of 2 or more alleged fathers of the same child. The bill would also permit a single petition to be filed*

*to free a child, or more than one child if the children are biological siblings, from the custody and control of both parents. The bill would provide that a court may grant one of these joint petitions in whole or in part and retains the discretion to bifurcate a case in which a joint petition was filed, and requires a court to bifurcate a case in which a joint petition was filed whenever it is necessary to protect the interests of a party or a child who is the subject of the proceeding.*

*(5) Existing law authorizes the court to waive the personal appearance of a prospective adoptive parent and permit him or her to appear at an adoption proceeding through an attorney if there is clear and convincing evidence that it is impossible or impracticable for the prospective adoptive parent to appear at the adoption proceeding.*

*This bill would authorize the court to permit a prospective adoptive parent to appear by telephone, videoconference, or other remote electronic means that the court deems reasonable, prudent, and reliable.*

*(6) Existing law governs independent adoptions, which are defined to mean adoptions in which neither the State Department of Social Services nor an agency licensed by that department is a party to or joins in the adoption petition, and sets forth the procedures for completing an independent adoption.*

*This bill would authorize a parent who is not a resident of this state and who is placing a child for independent adoption within this state to place the child using this state's independent adoption procedures or using the procedures prescribed by the state or territory in which the parent resides. The bill would make other conforming changes.*

*Existing law requires, as a part of the independent adoption procedures, the department or the delegated county adoption agency to investigate the proposed independent adoption and submit a report of the facts disclosed by its inquiry with a recommendation regarding the granting of the adoption petition.*

*This bill would provide that when the department or a delegated county adoption agency is investigating a proposed adoption, it is not required to reinvestigate matters addressed in a valid preplacement evaluation or a valid private agency adoption home study, if no new information has been discovered or events have occurred subsequent to the approval of the evaluation or home study that create a reasonable belief that further investigation is necessary. The bill would also authorize the court to refer the investigation to a licensed private agency for completion if the investigation is not completed within 210 days of the initial filing of the adoption petition.*

*Existing law also requires the department or a delegated county adoption agency to interview the petitioners and all persons from whom consent is required and whose addresses are known. Existing law requires the agency, at the interview, to give the placing parent an opportunity to sign either a statement revoking consent, or a waiver of the right to revoke consent. In order to facilitate the interview, existing law requires the petitioner, at the time the petition is filed, to file, among other things, a copy of the petition with the department or with the delegated county adoption agency responsible for the investigation of the adoption.*

*This bill would not require the department to provide the placing parent an opportunity to sign a statement revoking consent or a waiver of the right to revoke consent if the parent has already signed a waiver of the right to revoke consent or if the time period allowed to revoke consent has expired. The bill would require the petitioner, within 5 days of filing the petition, to provide the department or delegated county adoption agency, among other things, a stamped file copy of the petition and a copy of any valid preplacement evaluation or any valid private agency adoption home study.*

*Existing law requires the court, in an independent adoption, if a birth parent who did not place a child for adoption has refused to give the required consent, or a birth parent revokes consent, or, before the time when a revocable consent becomes permanent, a birth parent requests the return of the child, to order the child restored to the care and custody of the birth parent.*

*This bill would instead require the child to be restored to the care and custody of his or her birth parent, unless the court orders otherwise.*

*By imposing additional duties on delegated county adoption agencies, this bill would impose a state-mandated local program.*

*(7) Existing law authorizes a parent who is a minor to relinquish his or her child to the department, county adoption agency, or licensed adoption agency and sign a consent for the adoption. Existing law provides that the relinquishment and consent are not subject to revocation by reason of minority.*

*This bill would also provide that the relinquishment and consent are not subject to revocation because the parent or guardian of the minor parent was not served with notice of the relinquishment or consent, unless the minor parent previously provided written authorization to serve his or her parent or guardian with those notices.*

(8) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

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

*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 ~~parent~~, *mother*, a person  
4 presumed to be the child’s parent under subdivision (a), (b), or (c)  
5 of Section 7611, an adoption agency to whom the child has been  
6 relinquished, or a prospective adoptive parent of the child may  
7 bring an action as follows:

8 (1) At any time for the purpose of declaring the existence of the  
9 parent 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 parent  
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, parentage of the child by another  
16 person may be determined in the same action, if that person has  
17 been made 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 parent  
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 parent and child relationship may be brought by the ~~child~~  
25 ~~or child~~, a personal representative of the child, the Department of  
26 Child Support Services, ~~the~~ a *presumed* parent or the personal  
27 representative or a parent of that *presumed* parent if that parent

1 has died or is a minor, *or, in cases in which the natural mother is*  
2 *the only presumed parent or an adoption is pending*, a man alleged  
3 or alleging himself to be the ~~father~~, *father* or the personal  
4 representative or a parent of the alleged father if the alleged father  
5 has died or is a minor.

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

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

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

25 (e) (1) If any prospective adoptive parent who has physical  
26 custody of the child, ~~or~~ any licensed California adoption agency  
27 that has legal custody of the ~~child~~, *child or to which the mother*  
28 *proposes to relinquish the child for adoption, or any person whom*  
29 *the mother has designated as the prospective adoptive parent in*  
30 *a written statement executed before a hospital social worker, an*  
31 *adoption service provider, an adoption agency representative, or*  
32 *a notary public*, has not been joined as a party to an action to  
33 determine the existence of a parent and child relationship under  
34 subdivision (a), (b), or (c), or an action for custody by the alleged  
35 natural father, the court shall join the prospective adoptive parent  
36 or licensed California adoption agency as a party upon application  
37 or on its own motion, without the necessity of a motion for joinder.  
38 A joined party shall not be required to pay a fee in connection with  
39 this action.

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

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

12 (g) (1) In an action to determine the existence of the parent and  
13 child relationship brought pursuant to subdivision (b), if the child's  
14 other parent has died and there are no existing court orders or  
15 pending court actions involving custody or guardianship of the  
16 child, then the persons having physical custody of the child shall  
17 be served with notice of the proceeding at least 15 days prior to  
18 the hearing, either by mail or in any manner authorized by the  
19 court. If any person identified as having physical custody of the  
20 child cannot be located, the court shall prescribe the manner of  
21 giving notice.

22 (2) If known to the person bringing the parentage action,  
23 relatives within the second degree of the child shall be given notice  
24 of the proceeding at least 15 days prior to the hearing, either by  
25 mail or in any manner authorized by the court. If a person identified  
26 as a relative of the second degree of the child cannot be located,  
27 or his or her whereabouts are unknown or cannot be ascertained,  
28 the court shall prescribe the manner of giving notice, or shall  
29 dispense with giving notice to that person.

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

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

34 7662. (a) If a mother relinquishes for or consents to, or  
35 proposes to relinquish for or consent to, the adoption of a child,  
36 or if a child otherwise becomes the subject of an adoption  
37 proceeding, the agency or person to whom the child has been or  
38 is to be relinquished, or the mother or the person having physical  
39 or legal custody of the child, or the prospective adoptive parent,

1 shall file a petition to terminate the parental rights of the alleged  
 2 father, unless one of the following occurs:

3 (1) The alleged father’s relationship to the child has been  
 4 previously terminated or determined not to exist by a court.

5 (2) The alleged father has been served as prescribed in Section  
 6 7666 with a written notice alleging that he is or could be the  
 7 biological father of the child to be adopted or placed for adoption  
 8 and has failed to bring an action for the purpose of declaring the  
 9 existence of the father and child relationship pursuant to  
 10 subdivision (c) of Section 7630 within 30 days of service of the  
 11 notice or the birth of the child, whichever is later.

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

15 (b) The alleged father may validly execute a waiver or denial  
 16 of paternity before or after the birth of the child, and once signed,  
 17 no notice of, relinquishment for, or consent to adoption of the child  
 18 shall be required from the alleged father for the adoption to  
 19 proceed.

20 (c) ~~All~~ Except as provided in this subdivision and subdivision  
 21 (d), all proceedings affecting a ~~child~~ child, including proceedings  
 22 under Divisions 8 (commencing with Section 3000) to 11  
 23 (commencing with Section 6500), inclusive, ~~and Parts~~ Part 1  
 24 (commencing with Section 7500) to Part 3 (commencing with  
 25 Section 7600), inclusive, of this division, ~~other than an action~~  
 26 ~~brought pursuant to this section, shall be stayed pending final~~  
 27 ~~determination of proceedings to terminate the parental rights of~~  
 28 ~~the alleged father pursuant to this section. and Part 1 (commencing~~  
 29 ~~with Section 1400), Part 2 (commencing with Section 1500), and~~  
 30 ~~Part 4 (commencing with Section 2100) of Division 4 of the~~  
 31 ~~Probate Code, and any motion or petition for custody or visitation~~  
 32 ~~filed in a proceeding under this part, shall be stayed. The petition~~  
 33 ~~to terminate parental rights under this section is the only matter~~  
 34 ~~that may be heard during the stay until the court issues a final~~  
 35 ~~ruling on the petition.~~

36 (d) ~~Nothing in this~~ This section ~~may~~ does not limit the  
 37 jurisdiction of the court pursuant to Part 3 (commencing with  
 38 Section 6240) and Part 4 (commencing with Section 6300) of  
 39 Division 10 with respect to domestic violence ~~orders. orders, or~~  
 40 ~~pursuant to Article 6 (commencing with Section 300) of Chapter~~

1 *2 of Part 1 of Division 2 of the Welfare and Institutions Code with*  
2 *respect to dependency proceedings.*

3 *SEC. 3. Section 7666 of the Family Code is amended to read:*

4 7666. (a) Except as provided in subdivision (b), notice of the  
5 proceeding shall be given to every person identified as the  
6 biological father or a possible biological father in accordance with  
7 the Code of Civil Procedure for the service of process in a civil  
8 action in this state at least 10 days before the date of the  
9 proceeding, except that publication or posting of the notice of the  
10 proceeding is not ~~required~~. *required, and service on the parent or*  
11 *guardian of a biological father or possible biological father who*  
12 *is a minor is not required unless the minor has previously provided*  
13 *written authorization to serve his or her parent or guardian. Proof*  
14 *of giving the notice shall be filed with the court before the petition*  
15 *is heard.*

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

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

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

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

27 (4) 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. 4. Section 7671 is added to the Family Code, immediately*  
33 *following Section 7670, to read:*

34 7671. *A single petition may be filed pursuant to Section 7662*  
35 *to terminate the parental rights of the alleged father or fathers of*  
36 *two or more biological siblings or to terminate the parental rights*  
37 *of two or more alleged fathers of the same child. A petition filed*  
38 *in accordance with this section may be granted in whole or in part*  
39 *in accordance with the procedures set forth in this chapter. The*  
40 *court shall retain discretion to bifurcate any case in which the*

1 *petition was filed in accordance with this section, and shall do so*  
2 *whenever it is necessary to protect the interests of a party or a*  
3 *child who is the subject of the proceeding.*

4 *SEC. 5. Section 7807 of the Family Code is amended to read:*

5 7807. (a) Sections 3020, 3022, 3040 to 3043, inclusive, and  
6 3409 do not apply in a proceeding under this part.

7 (b) ~~All~~ *Except as provided in this subdivision and subdivision*  
8 *(c), all proceedings affecting a child child, including proceedings*  
9 *under Divisions 8 (commencing with Section 3000) to 11*  
10 *(commencing with Section 6500), inclusive, and Parts Part 1*  
11 *(commencing with Section 7500) to Part 3 (commencing with*  
12 *Section 7600), inclusive, of this division shall be stayed pending*  
13 *final determination of proceedings to declare the minor free from*  
14 *parental custody and control under this part. division, and Part 1*  
15 *(commencing with Section 1400), Part 2 (commencing with Section*  
16 *1500), and Part 4 (commencing with Section 2100) of Division 4*  
17 *of the Probate Code, and any motion or petition for custody or*  
18 *visitation filed in a proceeding under this part, shall be stayed.*  
19 *The petition to free the minor from parental custody and control*  
20 *under this section is the only matter that may be heard during the*  
21 *stay until the court issues a final ruling on the petition.*

22 (c) ~~Nothing in this~~ *This section may does not limit the*  
23 *jurisdiction of the court pursuant to Part 3 (commencing with*  
24 *Section 6240) and Part 4 (commencing with Section 6300) of*  
25 *Division 10 with respect to domestic violence orders. violence*  
26 *orders, or pursuant to Article 6 (commencing with Section 300)*  
27 *of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions*  
28 *Code with respect to dependency proceedings.*

29 *SEC. 6. Section 7842 is added to the Family Code, immediately*  
30 *following Section 7841, to read:*

31 7842. *A single petition may be filed under this part to free a*  
32 *child, or more than one child if the children are biological siblings,*  
33 *from the custody and control of both parents. A petition filed in*  
34 *accordance with this section may be granted in whole or in part*  
35 *in accordance with the procedures set forth in this chapter. The*  
36 *court shall retain discretion to bifurcate any case in which the*  
37 *petition was filed in accordance with this section, and shall do so*  
38 *whenever it is necessary to protect the interests of a party or a*  
39 *child who is the subject of the proceeding.*

1     **SECTION 1.**

2     *SEC. 7.* Section 8603 of the Family Code is amended to read:

3     8603. (a) A married person, not lawfully separated from the  
4 person's spouse, shall not adopt a child without the consent of the  
5 spouse, provided that the spouse is capable of giving that consent.

6     (b) The consent of the spouse shall not establish any parental  
7 rights or responsibilities on the part of the consenting spouse unless  
8 he or she ~~has been approved to adopt the child,~~ has consented to  
9 adopt the child in a writing ~~signed before, and filed with, the court,~~  
10 *filed with the court* and is named in the final decree as an adoptive  
11 parent.

12     *SEC. 8.* Section 8604 of the Family Code is amended to read:

13     8604. (a) Except as provided in subdivision (b), a child having  
14 a presumed father under Section 7611 ~~may~~ *shall* not be adopted  
15 without the consent of the child's birth parents, if living. The  
16 consent of a presumed father is not required for the child's adoption  
17 unless he became a presumed father as described in Chapter 1  
18 (commencing with Section 7540) or Chapter 3 (commencing with  
19 Section 7570) of Part 2 of Division 12, or subdivision (a), (b), or  
20 (c) of Section 7611 before the mother's relinquishment or consent  
21 becomes irrevocable or before the mother's parental rights have  
22 been terminated.

23     (b) If one birth parent has been awarded custody by judicial  
24 order, or has custody by agreement of both parents, and the other  
25 birth parent for a period of one year willfully fails to communicate  
26 ~~with~~ *with*, and to pay ~~for~~ *for*, the care, support, and education of  
27 the child when able to do so, then the birth parent having sole  
28 custody may consent to the adoption, but only after the birth parent  
29 not having custody has been served with a copy of a citation in  
30 the manner provided by law for the service of a summons in a civil  
31 action that requires the birth parent not having custody to appear  
32 at the time and place set for the appearance in court under Section  
33 8718, 8823, 8913, or 9007.

34     (c) Failure of a birth parent to pay for the care, support, and  
35 education of the child for the period of one year or failure of a  
36 birth parent to communicate with the child for the period of one  
37 year is prima facie evidence that the failure was willful and without  
38 lawful excuse. If the birth parent or parents have made only token  
39 efforts to support or communicate with the child, the court may  
40 disregard those token efforts.

1     (d) (1) *If the birth mother of a child for whom there is not a*  
2 *presumed father leaves the child in the physical care of a licensed*  
3 *private adoption agency, in the physical care of a prospective*  
4 *adoptive parent who has an approved preplacement evaluation or*  
5 *private agency adoption home study, or in the hospital after*  
6 *designating a licensed private adoption agency or an approved*  
7 *prospective adoptive parent in a signed document, completed with*  
8 *a hospital social worker, adoption service provider, licensed*  
9 *private adoption agency worker, notary, or attorney, but fails to*  
10 *sign a placement agreement, consent, or relinquishment for*  
11 *adoption, the approved prospective adoptive parent or the licensed*  
12 *private adoption agency may apply for, and the court may issue,*  
13 *a temporary custody order placing the child in the care and custody*  
14 *of the applicant.*

15     (2) *A temporary custody order issued pursuant to this*  
16 *subdivision shall include all of the following:*

17     (A) *A requirement that the applicant keep the court informed*  
18 *of the child's residence at all times.*

19     (B) *A requirement that the child shall not be removed from the*  
20 *state or concealed within the state.*

21     (C) *The expiration date of the order, which shall not be more*  
22 *than six months after the order is issued.*

23     (3) *A temporary custody order issued pursuant to this*  
24 *subdivision may be voided upon the birth mother's request to have*  
25 *the child returned to her care and custody.*

26     SEC. 9. *Section 8606 of the Family Code is amended to read:*

27     8606. *Notwithstanding Sections 8604 and 8605, the consent*  
28 *of a birth parent is not necessary in the following cases:*

29     (a) ~~Where~~ *When the birth parent has been judicially deprived*  
30 *of the custody and control of the child (1) by a court order declaring*  
31 *the child to be free from the custody and control of either or both*  
32 *birth parents pursuant to Part 4 (commencing with Section 7800)*  
33 *of Division 12 of this code, or Section 366.25 or 366.26 of the*  
34 *Welfare and Institutions Code, or (2) by a similar order of a court*  
35 *of another jurisdiction, pursuant to a law of that jurisdiction*  
36 *authorizing the order.*

37     (b) ~~Where~~ *When the birth parent has, in a judicial proceeding*  
38 *in another jurisdiction, voluntarily surrendered the right to the*  
39 *custody and control of the child pursuant to a law of that*  
40 *jurisdiction providing for the surrender.*

1 (c) ~~Where~~ *When* the birth parent has deserted the child without  
2 provision for identification of the child.

3 (d) ~~Where~~ *When* the birth parent has relinquished the child for  
4 adoption as provided in Section 8700.

5 (e) ~~Where~~ *When* the birth parent has relinquished *or placed* the  
6 child for adoption to a licensed or authorized child-placing agency  
7 in another jurisdiction pursuant to the law of that jurisdiction.

8 (f) *When the birth parent has placed the child for adoption*  
9 *pursuant to Section 8800.5.*

10 *SEC. 10. Section 8613.5 of the Family Code is amended to*  
11 *read:*

12 8613.5. (a) (1) If it is impossible or impracticable for either  
13 prospective adoptive parent to make an appearance in person, and  
14 the circumstances are established by clear and convincing  
15 documentary evidence, the court may, in its discretion, ~~waive~~ *do*  
16 *either of the following:*

17 (A) *Waive* the personal appearance of the prospective adoptive  
18 parent. The appearance may be made for the prospective adoptive  
19 parent by counsel, commissioned and empowered in writing for  
20 that purpose. The power of attorney may be incorporated in the  
21 adoption petition.

22 (B) *Authorize the prospective adoptive parent to appear by*  
23 *telephone, videoconference, or other remote electronic means that*  
24 *the court deems reasonable, prudent, and reliable.*

25 (2) For purposes of this section, if the circumstances that make  
26 an appearance in person by a prospective adoptive parent  
27 impossible or impracticable are temporary in nature or of a short  
28 duration, the court shall not waive the personal appearance of that  
29 prospective adoptive parent.

30 (b) If the prospective adoptive parent is permitted to appear by  
31 counsel, the agreement may be executed and acknowledged by the  
32 counsel, or may be executed by the absent party before a notary  
33 public, or any other person authorized to take acknowledgments  
34 including the persons authorized by Sections 1183 and 1183.5 of  
35 the Civil Code.

36 (c) If the prospective adoptive parent is permitted to appear by  
37 counsel, or otherwise, the court may, in its discretion, cause an  
38 examination of the prospective adoptive parent, other interested  
39 person, or witness to be made upon deposition, as it deems  
40 necessary. The deposition shall be taken upon commission, as

1 prescribed by the Code of Civil Procedure, and the expense thereof  
2 shall be borne by the petitioner.

3 (d) The petition, relinquishment or consent, agreement, order,  
4 report to the court from any investigating agency, and any power  
5 of attorney and deposition shall be filed in the office of the clerk  
6 of the court.

7 (e) The provisions of this section permitting an appearance by  
8 counsel *or electronically pursuant to subparagraph (B) of*  
9 *paragraph (1) of subdivision (a)* are equally applicable to the  
10 spouse of a prospective adoptive parent who resides with the  
11 prospective adoptive parent outside this state.

12 (f) If, pursuant to this section, neither prospective adoptive  
13 parent need appear before the court, the child proposed to be  
14 adopted need not appear. If the law otherwise requires that the  
15 child execute any document during the course of the hearing, the  
16 child may do so through counsel.

17 (g) If none of the parties appears, the court may not make an  
18 order of adoption until after a report has been filed with the court  
19 pursuant to Section 8715, 8807, 8914, or 9001.

20 *SEC. 11. Section 8700 of the Family Code is amended to read:*

21 8700. (a) Either birth parent may relinquish a child to the  
22 department, county adoption agency, or licensed adoption agency  
23 for adoption by a written statement signed before two subscribing  
24 witnesses and acknowledged before an authorized official of the  
25 department, county adoption agency, or licensed adoption agency.  
26 The relinquishment, when reciting that the person making it is  
27 entitled to the sole custody of the child and acknowledged before  
28 the officer, is prima facie evidence of the right of the person making  
29 it to the sole custody of the child and the person's sole right to  
30 relinquish.

31 (b) A relinquishing parent who is a minor has the right to  
32 relinquish his or her child for adoption to the department, county  
33 adoption agency, or licensed adoption agency, and the  
34 relinquishment is not subject to revocation by reason of the  
35 ~~minority~~ *minority, or because the parent or guardian of the*  
36 *relinquishing minor parent was not served with notice that the*  
37 *relinquishing minor parent relinquished his or her child for*  
38 *adoption, unless the relinquishing minor parent has previously*  
39 *provided written authorization to serve his or her parent or*  
40 *guardian with that notice.*

1 (c) If a ~~relinquishing~~ parent resides outside this state and the  
2 child is being cared for and is or will be placed for adoption by  
3 the department, county adoption agency, or a licensed adoption  
4 agency, ~~the relinquishing the other parent has relinquished the~~  
5 *child for adoption, the parent residing out of state* may relinquish  
6 the child to the department, county adoption agency, or licensed  
7 adoption agency by a written statement signed by the relinquishing  
8 parent before a notary on a form prescribed by the department,  
9 and previously signed by an authorized official of the department,  
10 county adoption agency, or licensed adoption agency that signifies  
11 the willingness of the department, county adoption agency, or  
12 licensed adoption agency to accept the relinquishment.

13 (d) If a ~~relinquishing~~ parent and child reside outside this state  
14 and the child will be cared for and will be placed for adoption by  
15 *and the other parent has not relinquished the child for adoption*  
16 to the department, county adoption agency, or licensed adoption  
17 agency, the ~~relinquishing~~ parent *residing out of state* may relinquish  
18 the child to the department, county adoption agency, or licensed  
19 adoption agency by a written statement signed by the relinquishing  
20 parent, after that parent has satisfied the following requirements:  
21 *requirements have been satisfied:*

22 (1) Prior to signing the relinquishment, the relinquishing parent  
23 shall have received, from a representative of an agency licensed  
24 or otherwise approved to provide adoption services under the laws  
25 of the relinquishing parent's state of residence, the same counseling  
26 and advisement services as if the relinquishing parent resided in  
27 this state.

28 (2) The relinquishment shall be signed before a representative  
29 of an agency licensed or otherwise approved to provide adoption  
30 services under the laws of the relinquishing parent's state of  
31 residence whenever possible or before a licensed social worker on  
32 a form prescribed by the department, and previously signed by an  
33 authorized official of the department, county adoption agency, or  
34 licensed adoption agency, that signifies the willingness of the  
35 department, county adoption agency, or licensed adoption agency  
36 to accept the relinquishment.

37 (e) (1) The relinquishment authorized by this section has no  
38 effect until a certified copy is sent to, and filed with, the  
39 department. The county adoption agency or licensed adoption  
40 agency shall send that copy by certified mail, return receipt

1 requested, or by overnight courier or messenger, with proof of  
2 delivery, to the department no earlier than the end of the business  
3 day following the signing thereof. The agency shall inform the  
4 birth parent that during this time period he or she may request that  
5 the relinquishment be withdrawn and that, if he or she makes the  
6 request, the relinquishment shall be withdrawn. The relinquishment  
7 shall be final 10 business days after receipt of the filing by the  
8 department, unless any of the following applies:

9 (A) The department sends written acknowledgment of receipt  
10 of the relinquishment prior to the expiration of that 10-day period,  
11 at which time the relinquishment shall be final.

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

14 (C) The birth parent signs a waiver of right to revoke  
15 relinquishment pursuant to Section 8700.5, in which case the  
16 relinquishment shall become final as provided in that section.

17 (2) After the relinquishment is final, it may be rescinded only  
18 by the mutual consent of the department, county adoption agency,  
19 or licensed adoption agency to which the child was relinquished  
20 and the birth parent or parents relinquishing the child.

21 (f) The relinquishing parent may name in the relinquishment  
22 the person or persons with whom he or she intends that placement  
23 of the child for adoption be made by the department, county  
24 adoption agency, or licensed adoption agency.

25 (g) Notwithstanding subdivision (e), if the relinquishment names  
26 the person or persons with whom placement by the department,  
27 county adoption agency, or licensed adoption agency is intended  
28 and the child is not placed in the home of the named person or  
29 persons or the child is removed from the home prior to the granting  
30 of the adoption, the department, county adoption agency, or  
31 licensed adoption agency shall mail a notice by certified mail,  
32 return receipt requested, to the birth parent signing the  
33 relinquishment within 72 hours of the decision not to place the  
34 child for adoption or the decision to remove the child from the  
35 home.

36 (h) The relinquishing parent has 30 days from the date on which  
37 the notice described in subdivision (g) was mailed to rescind the  
38 relinquishment.

1 (1) If the relinquishing parent requests rescission during the  
2 30-day period, the department, county adoption agency, or licensed  
3 adoption agency shall rescind the relinquishment.

4 (2) If the relinquishing parent does not request rescission during  
5 the 30-day period, the department, county adoption agency, or  
6 licensed adoption agency shall select adoptive parents for the child.

7 (3) If the relinquishing parent and the department, county  
8 adoption agency, or licensed adoption agency wish to identify a  
9 different person or persons during the 30-day period with whom  
10 the child is intended to be placed, the initial relinquishment shall  
11 be rescinded and a new relinquishment identifying the person or  
12 persons completed.

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

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

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

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

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

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

30 *SEC. 12. Section 8800.5 is added to the Family Code, to read:*

31 *8800.5. (a) A parent who is a resident of this state who is*  
32 *placing a child for independent adoption within this state shall*  
33 *follow the procedures set forth in this chapter.*

34 *(b) A parent who is not a resident of this state who is placing*  
35 *a child for independent adoption within this state may follow the*  
36 *procedures set forth in this chapter or the procedures prescribed*  
37 *by the state or territory in which the parent resides.*

38 *SEC. 13. Section 8801.3 of the Family Code is amended to*  
39 *read:*

1 8801.3. ~~A~~ Except when a child has been placed for adoption  
2 following the procedures prescribed by another state or territory,  
3 as authorized by subdivision (b) of Section 8800.5, a child shall  
4 not be considered to have been placed for independent adoption  
5 unless each of the following is true:

6 (a) Each birth parent placing the child for adoption has been  
7 advised of his or her rights, and if desired, has been counseled  
8 pursuant to Section 8801.5.

9 (b) The adoption service provider, each prospective adoptive  
10 parent, and each birth parent placing the child have signed an  
11 adoption placement agreement on a form prescribed by the  
12 department. The signing of the agreement shall satisfy all of the  
13 following requirements:

14 (1) Each birth parent shall have been advised of his or her rights  
15 pursuant to Section 8801.5 at least 10 days before signing the  
16 agreement, unless the adoption service provider finds exigent  
17 circumstances that shall be set forth in the adoption placement  
18 agreement.

19 (2) The agreement may not be signed by either the birth parents  
20 or the prospective adoptive parents until the time of discharge of  
21 the birth mother from the hospital. However, if the birth mother  
22 remains hospitalized for a period longer than the hospitalization  
23 of the child, the agreement may be signed by all parties at the time  
24 of or after the child's discharge from the hospital but prior to the  
25 birth mother's discharge from the hospital if her competency to  
26 sign is verified by her attending physician and surgeon before she  
27 signs the agreement.

28 (3) The birth parents and prospective adoptive parents shall sign  
29 the agreement in the presence of an adoption service provider.

30 (4) The adoption service provider who witnesses the signatures  
31 shall keep the original of the adoption placement agreement and  
32 immediately forward it and supporting documentation as required  
33 by the department to the department or delegated county adoption  
34 agency.

35 (5) The child is not deemed to be placed for adoption with the  
36 prospective adoptive parents until the adoption placement  
37 agreement has been signed and witnessed.

38 (6) If the birth parent is not located in this state or country, the  
39 adoption placement agreement shall be signed before an adoption  
40 service provider or, for purposes of identification of the birth parent

1 only, before a notary or other person authorized to perform notarial  
2 acts in the state or country in which the birth parent is located.  
3 This paragraph is not applicable to intercountry adoptions, as  
4 defined in Section 8527, which shall be governed by Chapter 4  
5 (commencing with Section 8900).

6 (c) The adoption placement agreement form shall include all of  
7 the following:

8 (1) A statement that the birth parent received the advisement of  
9 rights and the date upon which it was received.

10 (2) A statement that the birth parent understands that the  
11 placement is for the purpose of adoption and that if the birth parent  
12 takes no further action, on the 31st day after signing the adoption  
13 placement agreement, the agreement shall become a permanent  
14 and irrevocable consent to the adoption.

15 (3) A statement that the birth parent signs the agreement having  
16 personal knowledge of certain facts regarding the prospective  
17 adoptive parents as provided in Section 8801.

18 (4) A statement that the adoptive parents have been informed  
19 of the basic health and social history of the birth parents.

20 (5) A consent to the adoption that may be revoked as provided  
21 by Section 8814.5.

22 (d) The adoption placement agreement shall also meet the  
23 requirements of the Interstate Compact on the Placement of  
24 Children in Section 7901.

25 ~~(e) This section shall become operative on January 1, 1995.~~

26 *SEC. 14. Section 8804 of the Family Code is amended to read:*

27 8804. (a) Whenever the petitioners move to withdraw the  
28 petition for the adoption or to dismiss the proceeding, the clerk of  
29 the court in which the proceeding is pending shall immediately  
30 notify the department at Sacramento of the action. The department  
31 or the delegated county adoption agency shall file a full report  
32 with the court recommending a suitable plan for the child in every  
33 case where the petitioners move to withdraw the petition for the  
34 adoption or where the department or delegated county adoption  
35 agency recommends that the petition for adoption be denied and  
36 shall appear before the court for the purpose of representing the  
37 child.

38 (b) Notwithstanding the withdrawal or dismissal of the petition,  
39 the court may retain jurisdiction over the child for the purposes of

1 making any order for the child's custody that the court deems to  
2 be in the child's best interest.

3 (c) If a birth parent who did not place a child for adoption as  
4 specified in Section 8801.3 has refused to give the required consent,  
5 or a birth parent revokes consent as specified in Section 8814.5,  
6 ~~the court shall order~~ the child *shall be* restored to the care and  
7 custody of the birth parent or parents subject to ~~the provisions of~~  
8 Section ~~3041~~. 3041, unless the court orders otherwise.

9 *SEC. 15. Section 8807 of the Family Code is amended to read:*

10 8807. (a) Except as provided in subdivisions (b) and (c), within  
11 180 days after receiving 50 percent of the fee, the department or  
12 delegated county adoption agency shall investigate the proposed  
13 independent adoption and, after the remaining balance of the fee  
14 is paid, submit to the court a full report of the facts disclosed by  
15 its inquiry with a recommendation regarding the granting of the  
16 petition. *If the petitioners have a valid preplacement evaluation*  
17 *or a valid private agency adoption home study, as described in*  
18 *paragraph (2) of subdivision (a) of Section 8810, and no new*  
19 *information has been discovered or events have occurred*  
20 *subsequent to the approval of the evaluation or home study that*  
21 *create a reasonable belief that further investigation is necessary,*  
22 *the department or delegated county adoption agency may elect*  
23 *not to reinvestigate any matters covered in the evaluation or home*  
24 *study.*

25 (b) If the investigation establishes that there is a serious question  
26 concerning the suitability of the petitioners, the care provided to  
27 the child, or the availability of the consent to adoption, the report  
28 shall be filed immediately.

29 (c) (1) In its discretion, the court may allow additional time for  
30 the filing of the report, after at least five days' notice to the  
31 petitioner or petitioners and an opportunity for the petitioner or  
32 petitioners to be heard with respect to the request for additional  
33 time.

34 (2) *If the investigation and report is not completed within 210*  
35 *days after the adoption petition was initially filed, the petitioner*  
36 *or petitioners may request the court to issue, and a court may*  
37 *issue, an order requiring the department or delegated county*  
38 *adoption agency to complete the investigation within 30 days, and*  
39 *providing that failure to do so shall be cause for the court to refer*  
40 *the investigation to a licensed private agency for completion. If*

1 *the investigation is referred to a licensed private agency, the*  
2 *department or delegated county adoption agency shall turn over*  
3 *all fees for the case to the private agency. Before ruling on the*  
4 *request, the court shall consider the reason or reasons for the*  
5 *delay, including, but not limited to, a failure by the petitioner or*  
6 *petitioners to promptly cooperate with the requests of the*  
7 *department or delegated county adoption agency.*

8 (d) If a petitioner is a resident of a state other than California,  
9 an updated and current homestudy report, conducted and approved  
10 by a licensed adoption agency or other authorized resource in the  
11 state in which the petitioner resides, shall be reviewed and endorsed  
12 by the department or delegated county adoption agency, if the  
13 standards and criteria established for a homestudy report in the  
14 other state are substantially commensurate with the homestudy  
15 standards and criteria established in California adoption regulations.

16 ~~(e) This section shall become operative on October 1, 2008.~~

17 *SEC. 16. Section 8808 of the Family Code is amended to read:*

18 8808. (a) The department or delegated county adoption agency  
19 shall interview the petitioners within 45 working days, excluding  
20 legal holidays, after the filing of the adoption petition.

21 (b) The department or delegated county adoption agency shall  
22 interview all persons from whom consent is required and whose  
23 addresses are known as soon as 50 percent of the fee has been paid  
24 to the department or delegated county adoption agency. The  
25 interview with the placing parent or parents shall include, but not  
26 be limited to, discussion of any concerns or problems that the  
27 parent has with the placement and, if the placing parent was not  
28 interviewed as provided in Section 8801.7, the content required  
29 in that interview. At the interview, the agency shall give the parent  
30 an opportunity to sign either a statement revoking the consent, or  
31 a waiver of the right to revoke consent, as provided in Section  
32 ~~8814.5~~. 8814.5, *unless the parent has already signed a waiver or*  
33 *the time period allowed to revoke consent has expired.*

34 (c) In order to facilitate the interview described in this section,  
35 ~~at the same time the petition is filed with the court, the petitioners~~  
36 ~~shall file with the district office of the department or with the~~  
37 ~~delegated county adoption agency responsible for the investigation~~  
38 ~~of the adoption, a copy within five business days of filing the~~  
39 ~~petition, the petitioners shall provide the department or delegated~~  
40 ~~county adoption agency a stamped file copy of the petition together~~

1 with 50 percent of the fee, *a copy of any valid preplacement*  
 2 *evaluation or any valid private agency adoption home study, as*  
 3 *described in paragraph (2) of subdivision (a) of Section 8810, and*  
 4 the names, addresses, and telephone numbers of all parties to be  
 5 interviewed, if known.

6 ~~(d) This section shall become operative on October 1, 2008.~~

7 *SEC. 17. Section 8814 of the Family Code is amended to read:*

8 8814. (a) Except as provided in Section 7662, the consent of  
 9 the birth parent or parents who did not place the child for adoption,  
 10 as described in Section 8801.3, to the adoption shall be signed in  
 11 the presence of an agent of the department or of a delegated county  
 12 adoption agency on a form prescribed by the department. The  
 13 consent shall be filed with the clerk of the appropriate superior  
 14 court.

15 (b) The consent described in subdivision (a), when reciting that  
 16 the person giving it is entitled to the sole custody of the child and  
 17 when acknowledged before that agent, is prima facie evidence of  
 18 the right of the person making it to the sole custody of the child  
 19 and that person’s sole right to consent.

20 (c) If the birth parent described in subdivision (a) is located  
 21 outside this state for an extended period of time unrelated to the  
 22 adoption at the time of signing the consent, the consent may be  
 23 signed before a notary or other person authorized to perform  
 24 notarial acts, and in that case the consent of the department or of  
 25 the delegated county adoption agency is also necessary.

26 (d) A birth parent who is a minor has the right to sign a consent  
 27 for the adoption of the birth parent’s child and the consent is not  
 28 subject to revocation by reason of ~~minority~~. *minority, or because*  
 29 *the parent or guardian of the relinquishing minor parent was not*  
 30 *served with notice that the relinquishing minor parent consented*  
 31 *to the adoption, unless the relinquishing minor parent has*  
 32 *previously provided written authorization to serve his or her parent*  
 33 *or guardian with that notice.*

34 ~~(e) This section shall become operative on January 1, 1995.~~

35 *SEC. 18. Section 8815 of the Family Code is amended to read:*

36 8815. (a) Once the revocable consent to adoption has become  
 37 permanent as provided in Section 8814.5, the consent to the  
 38 adoption by the prospective adoptive parents may not be  
 39 withdrawn.

1 (b) Before the time when the revocable consent becomes  
2 permanent as provided in Section 8814.5, the birth parent or parents  
3 may request return of the child. ~~In such a~~ *that* case the child shall  
4 immediately be returned to the *requesting* birth parent or ~~parents~~  
5 ~~so requesting~~ *parents, unless a court orders otherwise.*

6 (c) If the person or persons with whom the child has been placed  
7 have concerns that the birth parent or parents requesting return of  
8 the child are unfit or present a danger of harm to the child, that  
9 ~~person's or those persons' only option is to report their concerns~~  
10 ~~to the investigating adoption agency and~~ *person or those persons*  
11 *may report their concerns to* the appropriate child welfare agency.  
12 These concerns shall not be a basis for failure to immediately return  
13 ~~the child.~~ *child, unless a court orders otherwise.*

14 ~~(d) This section shall become operative on January 1, 1995.~~

15 *SEC. 19. If the Commission on State Mandates determines that*  
16 *this act contains costs mandated by the state, reimbursement to*  
17 *local agencies and school districts for those costs shall be made*  
18 *pursuant to Part 7 (commencing with Section 17500) of Division*  
19 *4 of Title 2 of the Government Code.*