

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1701

Introduced by Assembly Member Patterson

February 13, 2014

An act to amend 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.

(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 consented to adopt the child in a writing 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: yes.
State-mandated local program: 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 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 a personal representative of the child, the Department of Child
26 Support Services, a presumed parent or the personal representative
27 or a parent of that presumed parent if that parent has died or is a
28 minor, or, in cases in which the natural mother is the only presumed
29 parent or an adoption is pending, a man alleged or alleging himself
30 to be the father or the personal representative or a parent of the
31 alleged father if the alleged father has died or is a minor.

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

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

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

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

35 (2) If a person brings an action to determine parentage and
36 custody of a child who he or she has reason to believe is in the
37 physical or legal custody of an adoption agency, or of one or more
38 persons other than the child's parent who are prospective adoptive
39 parents, he or she shall serve his or her entire pleading on, and

1 give notice of all proceedings to, the adoption agency or the
2 prospective adoptive parents, or both.

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

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

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

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

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

29 7662. (a) If a mother relinquishes for or consents to, or
30 proposes to relinquish for or consent to, the adoption of a child,
31 or if a child otherwise becomes the subject of an adoption
32 proceeding, the agency or person to whom the child has been or
33 is to be relinquished, or the mother or the person having physical
34 or legal custody of the child, or the prospective adoptive parent,
35 shall file a petition to terminate the parental rights of the alleged
36 father, unless one of the following occurs:

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

39 (2) The alleged father has been served as prescribed in Section
40 7666 with a written notice alleging that he is or could be the

1 biological father of the child to be adopted or placed for adoption
2 and has failed to bring an action for the purpose of declaring the
3 existence of the father and child relationship pursuant to
4 subdivision (c) of Section 7630 within 30 days of service of the
5 notice or the birth of the child, whichever is later.

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

9 (b) The alleged father may validly execute a waiver or denial
10 of paternity before or after the birth of the child, and, once signed,
11 no notice of, relinquishment for, or consent to adoption of the child
12 shall be required from the alleged father for the adoption to
13 proceed.

14 (c) Except as provided in this subdivision and subdivision (d),
15 all proceedings affecting a child, including proceedings under
16 Divisions 8 (commencing with Section 3000) to 11 (commencing
17 with Section 6500), inclusive, Part 1 (commencing with Section
18 7500) to Part 3 (commencing with Section 7600), inclusive, of this
19 division, and Part 1 (commencing with Section 1400), Part 2
20 (commencing with Section 1500), and Part 4 (commencing with
21 Section 2100) of Division 4 of the Probate Code, and any motion
22 or petition for custody or visitation filed in a proceeding under this
23 part, shall be stayed. The petition to terminate parental rights under
24 this section is the only matter that may be heard during the stay
25 until the court issues a final ruling on the petition.

26 (d) This section does not limit the jurisdiction of the court
27 pursuant to Part 3 (commencing with Section 6240) and Part 4
28 (commencing with Section 6300) of Division 10 with respect to
29 domestic violence orders, or pursuant to Article 6 (commencing
30 with Section 300) of Chapter 2 of Part 1 of Division 2 of the
31 Welfare and Institutions Code with respect to dependency
32 proceedings.

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

34 7666. (a) Except as provided in subdivision (b), notice of the
35 proceeding shall be given to every person identified as the
36 biological father or a possible biological father in accordance with
37 the Code of Civil Procedure for the service of process in a civil
38 action in this state at least 10 days before the date of the
39 proceeding, except that publication or posting of the notice of the
40 proceeding is not required, and service on the parent or guardian

1 of a biological father or possible biological father who is a minor
2 is not required unless the minor has previously provided written
3 authorization to serve his or her parent or guardian. Proof of giving
4 the notice shall be filed with the court before the petition is heard.

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

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

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

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

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

21 SEC. 4. Section 7671 is added to the Family Code, immediately
22 following Section 7670, to read:

23 7671. A single petition may be filed pursuant to Section 7662
24 to terminate the parental rights of the alleged father or fathers of
25 two or more biological siblings or to terminate the parental rights
26 of two or more alleged fathers of the same child. A petition filed
27 in accordance with this section may be granted in whole or in part
28 in accordance with the procedures set forth in this chapter. The
29 court shall retain discretion to bifurcate any case in which the
30 petition was filed in accordance with this section, and shall do so
31 whenever it is necessary to protect the interests of a party or a child
32 who is the subject of the proceeding.

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

34 7807. (a) Sections 3020, 3022, 3040 to 3043, inclusive, and
35 3409 do not apply in a proceeding under this part.

36 (b) Except as provided in this subdivision and subdivision (c),
37 all proceedings affecting a child, including proceedings under
38 Divisions 8 (commencing with Section 3000) to 11 (commencing
39 with Section 6500), inclusive, Part 1 (commencing with Section
40 7500) to Part 3 (commencing with Section 7600), inclusive, of this

1 division, and Part 1 (commencing with Section 1400), Part 2
2 (commencing with Section 1500), and Part 4 (commencing with
3 Section 2100) of Division 4 of the Probate Code, and any motion
4 or petition for custody or visitation filed in a proceeding under this
5 part, shall be stayed. The petition to free the minor from parental
6 custody and control under this section is the only matter that may
7 be heard during the stay until the court issues a final ruling on the
8 petition.

9 (c) This section does not limit the jurisdiction of the court
10 pursuant to Part 3 (commencing with Section 6240) and Part 4
11 (commencing with Section 6300) of Division 10 with respect to
12 domestic violence orders, or pursuant to Article 6 (commencing
13 with Section 300) of Chapter 2 of Part 1 of Division 2 of the
14 Welfare and Institutions Code with respect to dependency
15 proceedings.

16 SEC. 6. Section 7842 is added to the Family Code, immediately
17 following Section 7841, to read:

18 7842. A single petition may be filed under this part to free a
19 child, or more than one child if the children are biological siblings,
20 from the custody and control of both parents. A petition filed in
21 accordance with this section may be granted in whole or in part in
22 accordance with the procedures set forth in this chapter. The court
23 shall retain discretion to bifurcate any case in which the petition
24 was filed in accordance with this section, and shall do so whenever
25 it is necessary to protect the interests of a party or a child who is
26 the subject of the proceeding.

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

28 8603. (a) A married person, not lawfully separated from the
29 person's spouse, shall not adopt a child without the consent of the
30 spouse, provided that the spouse is capable of giving that consent.

31 (b) The consent of the spouse shall not establish any parental
32 rights or responsibilities on the part of the consenting spouse unless
33 he or she has consented to adopt the child in a writing filed with
34 the court and is named in the final decree as an adoptive parent.
35 *The court shall not name the consenting spouse as an adoptive*
36 *parent in the final decree unless the consenting spouse has filed*
37 *that written consent to adopt the child with the court and has an*
38 *approved adoption home study.*

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

1 8604. (a) Except as provided in subdivision (b), a child having
2 a presumed father under Section 7611 shall not be adopted without
3 the consent of the child's birth parents, if living. The consent of a
4 presumed father is not required for the child's adoption unless he
5 became a presumed father as described in Chapter 1 (commencing
6 with Section 7540) or Chapter 3 (commencing with Section 7570)
7 of Part 2 of Division 12, or subdivision (a), (b), or (c) of Section
8 7611 before the mother's relinquishment or consent becomes
9 irrevocable or before the mother's parental rights have been
10 terminated.

11 (b) If one birth parent has been awarded custody by judicial
12 order, or has custody by agreement of both parents, and the other
13 birth parent for a period of one year willfully fails to communicate
14 with, and to pay for, the care, support, and education of the child
15 when able to do so, then the birth parent having sole custody may
16 consent to the adoption, but only after the birth parent not having
17 custody has been served with a copy of a citation in the manner
18 provided by law for the service of a summons in a civil action that
19 requires the birth parent not having custody to appear at the time
20 and place set for the appearance in court under Section 8718, 8823,
21 8913, or 9007.

22 (c) Failure of a birth parent to pay for the care, support, and
23 education of the child for the period of one year or failure of a
24 birth parent to communicate with the child for the period of one
25 year is prima facie evidence that the failure was willful and without
26 lawful excuse. If the birth parent or parents have made only token
27 efforts to support or communicate with the child, the court may
28 disregard those token efforts.

29 (d) (1) If the birth mother of a child for whom there is not a
30 presumed father leaves the child in the physical care of a licensed
31 private adoption agency, in the physical care of a prospective
32 adoptive parent who has an approved preplacement evaluation or
33 private agency adoption home study, or in the hospital after
34 designating a licensed private adoption agency or an approved
35 prospective adoptive parent in a signed document, completed with
36 a hospital social worker, adoption service provider, licensed private
37 adoption agency worker, notary, or attorney, but fails to sign a
38 placement agreement, consent, or relinquishment for adoption, the
39 approved prospective adoptive parent or the licensed private
40 adoption agency may apply for, and the court may issue, a

1 temporary custody order placing the child in the care and custody
2 of the applicant.

3 (2) A temporary custody order issued pursuant to this
4 subdivision shall include all of the following:

5 (A) A requirement that the applicant keep the court informed
6 of the child’s residence at all times.

7 (B) A requirement that the child shall not be removed from the
8 state or concealed within the state.

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

11 (3) A temporary custody order issued pursuant to this
12 subdivision may be voided upon the birth mother’s request to have
13 the child returned to her care and custody.

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

15 8606. Notwithstanding Sections 8604 and 8605, the consent
16 of a birth parent is not necessary in the following cases:

17 (a) When the birth parent has been judicially deprived of the
18 custody and control of the child (1) by a court order declaring the
19 child to be free from the custody and control of either or both birth
20 parents pursuant to Part 4 (commencing with Section 7800) of
21 Division 12 of this code, or Section 366.25 or 366.26 of the
22 Welfare and Institutions Code, or (2) by a similar order of a court
23 of another jurisdiction, pursuant to a law of that jurisdiction
24 authorizing the order.

25 (b) When the birth parent has, in a judicial proceeding in another
26 jurisdiction, voluntarily surrendered the right to the custody and
27 control of the child pursuant to a law of that jurisdiction providing
28 for the surrender.

29 (c) When the birth parent has deserted the child without
30 provision for identification of the child.

31 (d) When the birth parent has relinquished the child for adoption
32 as provided in Section 8700.

33 (e) When the birth parent has relinquished or placed the child
34 for adoption in another jurisdiction pursuant to the law of that
35 jurisdiction.

36 (f) When the birth parent has placed the child for adoption
37 pursuant to Section 8800.5.

38 SEC. 10. Section 8613.5 of the Family Code is amended to
39 read:

1 8613.5. (a) (1) If it is impossible or impracticable for either
2 prospective adoptive parent to make an appearance in person, and
3 the circumstances are established by clear and convincing
4 documentary evidence, the court may, in its discretion, do either
5 of the following:

6 (A) Waive the personal appearance of the prospective adoptive
7 parent. The appearance may be made for the prospective adoptive
8 parent by counsel, commissioned and empowered in writing for
9 that purpose. The power of attorney may be incorporated in the
10 adoption petition.

11 (B) Authorize the prospective adoptive parent to appear by
12 telephone, videoconference, or other remote electronic means that
13 the court deems reasonable, prudent, and reliable.

14 (2) For purposes of this section, if the circumstances that make
15 an appearance in person by a prospective adoptive parent
16 impossible or impracticable are temporary in nature or of a short
17 duration, the court shall not waive the personal appearance of that
18 prospective adoptive parent.

19 (b) If the prospective adoptive parent is permitted to appear by
20 counsel, the agreement may be executed and acknowledged by the
21 counsel, or may be executed by the absent party before a notary
22 public, or any other person authorized to take acknowledgments
23 including the persons authorized by Sections 1183 and 1183.5 of
24 the Civil Code.

25 (c) If the prospective adoptive parent is permitted to appear by
26 counsel, or otherwise, the court may, in its discretion, cause an
27 examination of the prospective adoptive parent, other interested
28 person, or witness to be made upon deposition, as it deems
29 necessary. The deposition shall be taken upon commission, as
30 prescribed by the Code of Civil Procedure, and the expense thereof
31 shall be borne by the petitioner.

32 (d) The petition, relinquishment or consent, agreement, order,
33 report to the court from any investigating agency, and any power
34 of attorney and deposition shall be filed in the office of the clerk
35 of the court.

36 (e) The provisions of this section permitting an appearance by
37 counsel or electronically pursuant to subparagraph (B) of paragraph
38 (1) of subdivision (a) are equally applicable to the spouse of a
39 prospective adoptive parent who resides with the prospective
40 adoptive parent outside this state.

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

6 (g) If none of the parties ~~appears~~, *appear*, the court may not
7 make an order of adoption until after a report has been filed with
8 the court pursuant to Section 8715, 8807, 8914, or 9001.

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

10 8700. (a) Either birth parent may relinquish a child to the
11 department, county adoption agency, or licensed adoption agency
12 for adoption by a written statement signed before two subscribing
13 witnesses and acknowledged before an authorized official of the
14 department, county adoption agency, or licensed adoption agency.
15 The relinquishment, when reciting that the person making it is
16 entitled to the sole custody of the child and acknowledged before
17 the officer, is prima facie evidence of the right of the person making
18 it to the sole custody of the child and the person's sole right to
19 relinquish.

20 (b) A relinquishing parent who is a minor has the right to
21 relinquish his or her child for adoption to the department, county
22 adoption agency, or licensed adoption agency, and the
23 relinquishment is not subject to revocation *by the relinquishing*
24 *parent* by reason of the minority, or because the parent or guardian
25 of the relinquishing minor parent was not served with notice that
26 the relinquishing minor parent relinquished his or her child for
27 adoption, unless the relinquishing minor parent has previously
28 provided written authorization to serve his or her parent or guardian
29 with that notice.

30 (c) If a parent resides outside this state and the other parent has
31 relinquished the child for adoption, the parent residing out of state
32 may relinquish the child by a written statement signed before a
33 notary on a form prescribed by the department, and previously
34 signed by an authorized official of the department, county adoption
35 agency, or licensed adoption agency that signifies the willingness
36 of the department, county adoption agency, or licensed adoption
37 agency to accept the relinquishment.

38 (d) If a parent and child reside outside this state and the other
39 parent has not relinquished the child for adoption to the department,
40 county adoption agency, or licensed adoption agency, the parent

1 residing out of state may relinquish the child to the department,
2 county adoption agency, or licensed adoption agency by a written
3 statement signed by the relinquishing parent, after the following
4 requirements have been satisfied:

5 (1) Prior to signing the relinquishment, the relinquishing parent
6 shall have received, from a representative of an agency licensed
7 or otherwise approved to provide adoption services under the laws
8 of the relinquishing parent's state of residence, the same counseling
9 and advisement services as if the relinquishing parent resided in
10 this state.

11 (2) The relinquishment shall be signed before a representative
12 of an agency licensed or otherwise approved to provide adoption
13 services under the laws of the relinquishing parent's state of
14 residence whenever possible or before a licensed social worker on
15 a form prescribed by the department, and previously signed by an
16 authorized official of the department, county adoption agency, or
17 licensed adoption agency, that signifies the willingness of the
18 department, county adoption agency, or licensed adoption agency
19 to accept the relinquishment.

20 (e) (1) The relinquishment authorized by this section has no
21 effect until a certified copy is sent to, and filed with, the
22 department. The county adoption agency or licensed adoption
23 agency shall send that copy by certified mail, return receipt
24 requested, or by overnight courier or messenger, with proof of
25 delivery, to the department no earlier than the end of the business
26 day following the signing thereof. The agency shall inform the
27 birth parent that during this time period he or she may request that
28 the relinquishment be withdrawn and that, if he or she makes the
29 request, the relinquishment shall be withdrawn. The relinquishment
30 shall be final 10 business days after receipt of the filing by the
31 department, unless any of the following applies:

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

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

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

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

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

9 (g) Notwithstanding subdivision (e), if the relinquishment names
10 the person or persons with whom placement by the department,
11 county adoption agency, or licensed adoption agency is intended
12 and the child is not placed in the home of the named person or
13 persons or the child is removed from the home prior to the granting
14 of the adoption, the department, county adoption agency, or
15 licensed adoption agency shall mail a notice by certified mail,
16 return receipt requested, to the birth parent signing the
17 relinquishment within 72 hours of the decision not to place the
18 child for adoption or the decision to remove the child from the
19 home.

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

23 (1) If the relinquishing parent requests rescission during the
24 30-day period, the department, county adoption agency, or licensed
25 adoption agency shall rescind the relinquishment.

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

29 (3) If the relinquishing parent and the department, county
30 adoption agency, or licensed adoption agency wish to identify a
31 different person or persons during the 30-day period with whom
32 the child is intended to be placed, the initial relinquishment shall
33 be rescinded and a new relinquishment identifying the person or
34 persons completed.

35 (i) If the parent has relinquished a child, who has been found
36 to come within Section 300 of the Welfare and Institutions Code
37 or is the subject of a petition for jurisdiction of the juvenile court
38 under Section 300 of the Welfare and Institutions Code, to the
39 department, county adoption agency, or a licensed adoption agency
40 for the purpose of adoption, the department, county adoption

1 agency, or licensed adoption agency accepting the relinquishment
2 shall provide written notice of the relinquishment within five court
3 days to all of the following:

- 4 (1) The juvenile court having jurisdiction of the child.
- 5 (2) The child's attorney, if any.
- 6 (3) The relinquishing parent's attorney, if any.
- 7 (j) The filing of the relinquishment with the department
- 8 terminates all parental rights and responsibilities with regard to
- 9 the child, except as provided in subdivisions (g) and (h).
- 10 (k) The department shall adopt regulations to administer the
- 11 provisions of this section.

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

13 8800.5. (a) A parent who is a resident of this state who is
14 placing a child for independent adoption within this state shall
15 follow the procedures set forth in this chapter.

16 (b) A parent who is not a resident of this state who is placing a
17 child for independent adoption within this state may follow the
18 procedures set forth in this chapter or the procedures prescribed
19 by the state or territory in which the parent resides.

20 SEC. 13. Section 8801.3 of the Family Code is amended to
21 read:

22 8801.3. Except when a child has been placed for adoption
23 following the procedures prescribed by another state or territory,
24 as authorized by subdivision (b) of Section 8800.5, a child shall
25 not be considered to have been placed for independent adoption
26 unless each of the following is true:

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

30 (b) The adoption service provider, each prospective adoptive
31 parent, and each birth parent placing the child have signed an
32 adoption placement agreement on a form prescribed by the
33 department. The signing of the agreement shall satisfy all of the
34 following requirements:

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

1 (2) The agreement may not be signed by either the birth parents
2 or the prospective adoptive parents until the time of discharge of
3 the birth mother from the hospital. However, if the birth mother
4 remains hospitalized for a period longer than the hospitalization
5 of the child, the agreement may be signed by all parties at the time
6 of or after the child's discharge from the hospital but prior to the
7 birth mother's discharge from the hospital if her competency to
8 sign is verified by her attending physician and surgeon before she
9 signs the agreement.

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

12 (4) The adoption service provider who witnesses the signatures
13 shall keep the original of the adoption placement agreement and
14 immediately forward it and supporting documentation as required
15 by the department to the department or delegated county adoption
16 agency.

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

20 (6) If the birth parent is not located in this state or country, the
21 adoption placement agreement shall be signed before an adoption
22 service provider or, for purposes of identification of the birth parent
23 only, before a notary or other person authorized to perform notarial
24 acts in the state or country in which the birth parent is located.
25 This paragraph is not applicable to intercountry adoptions, as
26 defined in Section 8527, which shall be governed by Chapter 4
27 (commencing with Section 8900).

28 (c) The adoption placement agreement form shall include all of
29 the following:

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

32 (2) A statement that the birth parent understands that the
33 placement is for the purpose of adoption and that if the birth parent
34 takes no further action, on the 31st day after signing the adoption
35 placement agreement, the agreement shall become a permanent
36 and irrevocable consent to the adoption.

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

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

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

5 (d) The adoption placement agreement shall also meet the
6 requirements of the Interstate Compact on the Placement of
7 Children in Section 7901.

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

9 8804. (a) Whenever the petitioners move to withdraw the
10 petition for the adoption or to dismiss the proceeding, the clerk of
11 the court in which the proceeding is pending shall immediately
12 notify the department at Sacramento of the action. The department
13 or the delegated county adoption agency shall file a full report
14 with the court recommending a suitable plan for the child in every
15 case where the petitioners move to withdraw the petition for the
16 adoption or where the department or delegated county adoption
17 agency recommends that the petition for adoption be denied and
18 shall appear before the court for the purpose of representing the
19 child.

20 (b) Notwithstanding the withdrawal or dismissal of the petition,
21 the court may retain jurisdiction over the child for the purposes of
22 making any order for the child's custody that the court deems to
23 be in the child's best interest.

24 (c) If a birth parent who did not place a child for adoption as
25 specified in Section 8801.3 has refused to give the required consent,
26 or a birth parent revokes consent as specified in Section 8814.5,
27 the child shall be restored to the care and custody of the birth parent
28 or parents, *unless the court orders otherwise*, subject to Section
29 3041, ~~unless the court orders otherwise~~.

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

31 8807. (a) Except as provided in subdivisions (b) and (c), within
32 180 days after receiving 50 percent of the fee, the department or
33 delegated county adoption agency shall investigate the proposed
34 independent adoption and, after the remaining balance of the fee
35 is paid, submit to the court a full report of the facts disclosed by
36 its inquiry with a recommendation regarding the granting of the
37 petition. If the petitioners have a valid preplacement evaluation or
38 a valid private agency adoption home study, as described in
39 paragraph (2) of subdivision (a) of Section 8810, and no new
40 information has been discovered or events have occurred

1 subsequent to the approval of the evaluation or home study that
2 create a reasonable belief that further investigation is necessary,
3 the department or delegated county adoption agency may elect not
4 to reinvestigate any matters covered in the evaluation or home
5 study.

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

10 (c) (1) In its discretion, the court may allow additional time for
11 the filing of the report, after at least five days' notice to the
12 petitioner or petitioners and an opportunity for the petitioner or
13 petitioners to be heard with respect to the request for additional
14 time.

15 (2) If the investigation and report is not completed within 210
16 days after the adoption petition was initially filed, the petitioner
17 or petitioners may request the court to issue, and a court may issue,
18 an order requiring the department or delegated county adoption
19 agency to complete the investigation within 30 days, and providing
20 that failure to do so shall be cause for the court to refer the
21 investigation to a licensed private agency for completion. If the
22 investigation is referred to a licensed private agency, the
23 department or delegated county adoption agency shall turn over
24 all fees for the case to the private agency. Before ruling on the
25 request, the court shall consider the reason or reasons for the delay,
26 including, but not limited to, a failure by the petitioner or
27 petitioners to promptly cooperate with the requests of the
28 department or delegated county adoption agency.

29 (d) If a petitioner is a resident of a state other than California,
30 an updated and current home study report, conducted and approved
31 by a licensed adoption agency or other authorized resource in the
32 state in which the petitioner resides, shall be reviewed and endorsed
33 by the department or delegated county adoption agency, if the
34 standards and criteria established for a home study report in the
35 other state are substantially commensurate with the home study
36 standards and criteria established in California adoption regulations.

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

38 8808. (a) The department or delegated county adoption agency
39 shall interview the petitioners within 45 working days, excluding
40 legal holidays, after the filing of the adoption petition.

1 (b) The department or delegated county adoption agency shall
2 interview all persons from whom consent is required and whose
3 addresses are known as soon as 50 percent of the fee has been paid
4 to the department or delegated county adoption agency. The
5 interview with the placing parent or parents shall include, but not
6 be limited to, discussion of any concerns or problems that the
7 parent has with the placement and, if the placing parent was not
8 interviewed as provided in Section 8801.7, the content required
9 in that interview. At the interview, the agency shall give the parent
10 an opportunity to sign either a statement revoking the consent, or
11 a waiver of the right to revoke consent, as provided in Section
12 8814.5, unless the parent has already signed a waiver or the time
13 period allowed to revoke consent has expired.

14 (c) In order to facilitate the interview described in this section,
15 within five business days of filing the petition, the petitioners shall
16 provide the department or delegated county adoption agency a
17 stamped file copy of the petition together with 50 percent of the
18 fee, a copy of any valid preplacement evaluation or any valid
19 private agency adoption home study, as described in paragraph
20 (2) of subdivision (a) of Section 8810, and the names, addresses,
21 and telephone numbers of all parties to be interviewed, if known.

22 :

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

24 8814. (a) Except as provided in Section 7662, the consent of
25 the birth parent or parents who did not place the child for adoption,
26 as described in Section 8801.3, to the adoption shall be signed in
27 the presence of an agent of the department or of a delegated county
28 adoption agency on a form prescribed by the department. The
29 consent shall be filed with the clerk of the appropriate superior
30 court.

31 (b) The consent described in subdivision (a), when reciting that
32 the person giving it is entitled to the sole custody of the child and
33 when acknowledged before that agent, is prima facie evidence of
34 the right of the person making it to the sole custody of the child
35 and that person's sole right to consent.

36 (c) If the birth parent described in subdivision (a) is located
37 outside this state for an extended period of time unrelated to the
38 adoption at the time of signing the consent, the consent may be
39 signed before a notary or other person authorized to perform

1 notarial acts, and in that case the consent of the department or of
2 the delegated county adoption agency is also necessary.

3 (d) A birth parent who is a minor has the right to sign a consent
4 for the adoption of the birth parent’s child and the consent is not
5 subject to revocation *by the birth parent* by reason of minority, or
6 because the parent or guardian of the relinquishing minor parent
7 was not served with notice that the relinquishing minor parent
8 consented to the adoption, unless the relinquishing minor parent
9 has previously provided written authorization to serve his or her
10 parent or guardian with that notice.

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

12 8815. (a) Once the revocable consent to adoption has become
13 permanent as provided in Section 8814.5, the consent to the
14 adoption by the prospective adoptive parents may not be
15 withdrawn.

16 (b) Before the time when the revocable consent becomes
17 permanent as provided in Section 8814.5, the birth parent or parents
18 may request return of the child. In that case the child shall
19 immediately be returned to the requesting birth parent or parents,
20 unless a court orders otherwise.

21 (c) If the person or persons with whom the child has been placed
22 have concerns that the birth parent or parents requesting return of
23 the child are unfit or present a danger of harm to the child, that
24 person or those persons may report their concerns to the appropriate
25 child welfare agency. These concerns shall not be a basis for failure
26 to immediately return the child, unless a court orders otherwise.

27 SEC. 19. If the Commission on State Mandates determines
28 that this act contains costs mandated by the state, reimbursement
29 to local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.