

AMENDED IN SENATE JUNE 11, 2014

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, *and to amend Section 361 of the Welfare and Institutions Code*, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law authorizes, among others, ~~the~~ a 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. *The bill would authorize the court to dispense with a spouse's consent in certain circumstances and, if consent has been dispensed, prohibit the spouse from being named as an adoptive parent in the final decree.*

(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~~ *petitions*, in whole or in ~~part~~ *part*, and ~~retains the court would retain~~ the discretion to bifurcate a case in which a joint petition was ~~filed, and requires~~ *filed*. *The bill would require 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 require, if a nonresident parent uses the procedures prescribed in the state or territory in which he or she resides, that the placement for adoption comply with the Interstate Compact on the Placement of Children and include a sworn statement from an adoption agency or an attorney licensed in the state or territory in which the parent resides that includes, among other things, confirmation that the placement documents comply with the adoption laws of that state.* The bill would make other conforming changes.

Existing law requires, as a part of the independent adoption procedures, *and within 180 days after receiving 50% of the required fee*, the department or the delegated county adoption agency to investigate the proposed independent adoption ~~and~~ *and, after the remaining portion of the fee is paid*, submit a report to the court of the

facts disclosed by its inquiry with a recommendation regarding the granting of the adoption petition.

This bill would provide that *the department or delegated county adoption agency shall, within 180 days after receiving all of the fee, investigate the proposed independent adoption and submit to the court the report described above. The bill would also 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 and no new event has occurred subsequent to the approval of the evaluation or home study that create creates a reasonable belief that further investigation is necessary; necessary, except that the department must complete all background clearances required by law.* The bill would also ~~authorize the court to refer the investigation to a licensed private agency for completion~~ *provide that, if the investigation is not completed within 210 days of the initial filing of the adoption petition, the petitioner or petitioners may request the court to issue, and a court may issue, an order requiring the department or delegated county adoption agency to complete the investigation within 30 days, and providing that failure to do so shall be cause for the petitioners to seek an order from the court for the department or delegated county adoption agency to show cause as to the reason for the delay.*

Existing law also requires the department or a delegated county adoption agency to interview the petitioners *within 45 working days after the filing of the adoption petition and to interview all persons from whom consent is required and whose addresses are known; known, as soon as 50% of the fee has been paid.* 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 *and 50% of the fee, with the department or with the delegated county adoption agency responsible for the investigation of the adoption.*

This bill would ~~not require~~ *instead require the department or delegated county adoption agency to interview the petitioners within 45 working days after receiving the fee together with a stamped file copy of the adoption petition. The bill would require that interviews with all persons from whom consent is required and whose addresses*

are known only be conducted after the fee has been paid. The bill would provide that the department is not required to provide the placing parent an opportunity to sign a statement revoking ~~consent~~ consent, or a waiver of the right to revoke ~~consent~~ consent, if the parent has already signed a waiver of the right to revoke ~~consent~~ 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 together with the fee 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~~ *require, in these circumstances*, 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) *Existing law establishes the jurisdiction of the juvenile court, which may adjudge certain children to be dependents of the juvenile court under certain circumstances. Existing law authorizes, in all cases in which a minor is adjudged a dependent child of the juvenile court under those circumstances, the court to limit the control to be exercised over the dependent child by any parent or guardian. Existing law provides that those provisions do not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social*

Services or to a county adoption agency at any time while the child is a dependent child of the juvenile court, if the department or county adoption agency is willing to accept the relinquishment.

~~(8)~~

This bill would also provide that those provisions do not limit the ability of the parent of a dependent child to voluntarily relinquish that child to a licensed private adoption agency. The bill would require the juvenile court, when a child who is the subject of a petition, to declare him or her a dependent child of the juvenile court, or a child who has been adjudged a dependent child of the juvenile court, has been relinquished to a licensed private adoption agency, after notice and a hearing, to determine whether the relinquishment should be approved or denied. The bill would authorize the court to dispense with notice and a hearing and issue an ex parte order approving the relinquishment if the relinquishment is accompanied by the written agreement of all parties. The bill would require notification of a parent relinquishing a child to a licensed private adoption agency that the relinquishment is subject to court approval.

This bill would also require, when a child who is the subject of a petition, to declare him or her a dependent child of the juvenile court, or a child who has been adjudged a dependent child of the juvenile court, has been relinquished to the department or a county adoption agency, the department or the county adoption agency to file notice of the relinquishment with the court and all parties and their counsel.

(9) 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)

1 of Section 7611, an adoption agency to whom the child has been
2 relinquished, or a prospective adoptive parent of the child may
3 bring an action as follows:

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

7 (2) For the purpose of declaring the nonexistence of the parent
8 and child relationship presumed under subdivision (a), (b), or (c)
9 of Section 7611 only if the action is brought within a reasonable
10 time after obtaining knowledge of relevant facts. After the
11 presumption has been rebutted, parentage of the child by another
12 person may be determined in the same action, if that person has
13 been made a party.

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

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

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

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

38 (3) The consolidated action under paragraph (1) or (2) shall be
39 heard in the court in which the proceeding under Section 7662 or
40 Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless

1 the court finds, by clear and convincing evidence, that transferring
2 the action to the other court poses a substantial hardship to the
3 petitioner. Mere inconvenience does not constitute a sufficient
4 basis for a finding of substantial hardship. If the court determines
5 there is a substantial hardship, the consolidated action shall be
6 heard in the court in which the parentage action is filed.

7 (e) (1) If any prospective adoptive parent who has physical
8 custody of the child, any licensed California adoption agency that
9 has legal custody of the child or to which the mother proposes to
10 relinquish the child for adoption, or any person whom the mother
11 has designated as the prospective adoptive parent in a written
12 statement executed before a hospital social worker, an adoption
13 service provider, an adoption agency representative, or a notary
14 public, has not been joined as a party to an action to determine the
15 existence of a parent and child relationship under subdivision (a),
16 (b), or (c), or an action for custody by the alleged natural father,
17 the court shall join the prospective adoptive parent or licensed
18 California adoption agency as a party upon application or on its
19 own motion, without the necessity of a motion for joinder. A joined
20 party shall not be required to pay a fee in connection with this
21 action.

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

29 (f) A party to an assisted reproduction agreement may bring an
30 action at any time to establish a parent and child relationship
31 consistent with the intent expressed in that assisted reproduction
32 agreement.

33 (g) (1) In an action to determine the existence of the parent and
34 child relationship brought pursuant to subdivision (b), if the child's
35 other parent has died and there are no existing court orders or
36 pending court actions involving custody or guardianship of the
37 child, then the persons having physical custody of the child shall
38 be served with notice of the proceeding at least 15 days prior to
39 the hearing, either by mail or in any manner authorized by the
40 court. If any person identified as having physical custody of the

1 child cannot be located, the court shall prescribe the manner of
2 giving notice.

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

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

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

15 7662. (a) If a mother relinquishes for or consents to, or
16 proposes to relinquish for or consent to, the adoption of a child,
17 or if a child otherwise becomes the subject of an adoption
18 proceeding, the agency or person to whom the child has been or
19 is to be relinquished, or the mother or the person having physical
20 or legal custody of the child, or the prospective adoptive parent,
21 shall file a petition to terminate the parental rights of the alleged
22 father, unless one of the following occurs:

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

25 (2) The alleged father has been served as prescribed in Section
26 7666 with a written notice alleging that he is or could be the
27 biological father of the child to be adopted or placed for adoption
28 and has failed to bring an action for the purpose of declaring the
29 existence of the father and child relationship pursuant to
30 subdivision (c) of Section 7630 within 30 days of service of the
31 notice or the birth of the child, whichever is later.

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

35 (b) The alleged father may validly execute a waiver or denial
36 of paternity before or after the birth of the child, and, once signed,
37 no notice of, relinquishment for, or consent to adoption of the child
38 shall be required from the alleged father for the adoption to
39 proceed.

1 (c) Except as provided in this subdivision and subdivision (d),
2 all proceedings affecting a child, including proceedings under
3 Divisions 8 (commencing with Section 3000) to 11 (commencing
4 with Section 6500), inclusive, Part 1 (commencing with Section
5 7500) to Part 3 (commencing with Section 7600), inclusive, of this
6 division, and Part 1 (commencing with Section 1400), Part 2
7 (commencing with Section 1500), and Part 4 (commencing with
8 Section 2100) of Division 4 of the Probate Code, and any motion
9 or petition for custody or visitation filed in a proceeding under this
10 part, shall be stayed. The petition to terminate parental rights under
11 this section is the only matter that may be heard during the stay
12 until the court issues a final ruling on the petition.

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

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

21 7666. (a) Except as provided in subdivision (b), notice of the
22 proceeding shall be given to every person identified as the
23 biological father or a possible biological father in accordance with
24 the Code of Civil Procedure for the service of process in a civil
25 action in this state at least 10 days before the date of the
26 proceeding, except that publication or posting of the notice of the
27 proceeding is not required, and service on the parent or guardian
28 of a biological father or possible biological father who is a minor
29 is not required unless the minor has previously provided written
30 authorization to serve his or her parent or guardian. Proof of giving
31 the notice shall be filed with the court before the petition is heard.

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

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

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

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

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

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

10 7671. A single petition may be filed pursuant to Section 7662
11 to terminate the parental rights of the alleged father or fathers of
12 two or more biological siblings or to terminate the parental rights
13 of two or more alleged fathers of the same child. A petition filed
14 in accordance with this section may be granted in whole or in part
15 in accordance with the procedures set forth in this chapter. The
16 court shall retain discretion to bifurcate any case in which the
17 petition was filed in accordance with this section, and shall do so
18 whenever it is necessary to protect the interests of a party or a child
19 who is the subject of the proceeding.

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

21 7807. (a) Sections 3020, 3022, 3040 to 3043, inclusive, and
22 3409 do not apply in a proceeding under this part.

23 (b) Except as provided in this subdivision and subdivision (c),
24 all proceedings affecting a child, including proceedings under
25 Divisions 8 (commencing with Section 3000) to 11 (commencing
26 with Section 6500), inclusive, Part 1 (commencing with Section
27 7500) to Part 3 (commencing with Section 7600), inclusive, of this
28 division, and Part 1 (commencing with Section 1400), Part 2
29 (commencing with Section 1500), and Part 4 (commencing with
30 Section 2100) of Division 4 of the Probate Code, and any motion
31 or petition for custody or visitation filed in a proceeding under this
32 part, shall be stayed. The petition to free the minor from parental
33 custody and control under this section is the only matter that may
34 be heard during the stay until the court issues a final ruling on the
35 petition.

36 (c) This section does not limit the jurisdiction of the court
37 pursuant to Part 3 (commencing with Section 6240) and Part 4
38 (commencing with Section 6300) of Division 10 with respect to
39 domestic violence orders, or pursuant to Article 6 (commencing
40 with Section 300) of Chapter 2 of Part 1 of Division 2 of the

1 Welfare and Institutions Code with respect to dependency
2 proceedings.

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

5 7842. A single petition may be filed under this part to free a
6 child, or more than one child if the children are biological siblings,
7 from the custody and control of both parents. A petition filed in
8 accordance with this section may be granted in whole or in part in
9 accordance with the procedures set forth in this chapter. The court
10 shall retain discretion to bifurcate any case in which the petition
11 was filed in accordance with this section, and shall do so whenever
12 it is necessary to protect the interests of a party or a child who is
13 the subject of the proceeding.

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

15 8603. (a) A married person, not lawfully separated from the
16 person's spouse, shall not adopt a child without the consent of the
17 spouse, provided that the spouse is capable of giving that consent.

18 (b) The consent of the spouse shall not establish any parental
19 rights or responsibilities on the part of the consenting spouse unless
20 he or she has consented to adopt the child in a writing filed with
21 the court and is named in the final decree as an adoptive parent.
22 The court shall not name the consenting spouse as an adoptive
23 parent in the final decree unless the consenting spouse has filed
24 ~~that~~ a written consent to adopt the child with the court and has an
25 approved adoption home study.

26 (c) *The court may dispense with the consent of a spouse who*
27 *cannot be located after diligent search, or a spouse determined*
28 *by the court to lack the capacity to consent. A spouse for whom*
29 *consent was dispensed shall not be named as an adoptive parent*
30 *in the final decree.*

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

32 8604. (a) Except as provided in subdivision (b), a child having
33 a presumed father under Section 7611 shall not be adopted without
34 the consent of the child's birth parents, if living. The consent of a
35 presumed father is not required for the child's adoption unless he
36 became a presumed father as described in Chapter 1 (commencing
37 with Section 7540) or Chapter 3 (commencing with Section 7570)
38 of Part 2 of Division 12, or subdivision (a), (b), or (c) of Section
39 7611 before the mother's relinquishment or consent becomes

1 irrevocable or before the mother's parental rights have been
2 terminated.

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

14 (c) Failure of a birth parent to pay for the care, support, and
15 education of the child for the period of one year or failure of a
16 birth parent to communicate with the child for the period of one
17 year is prima facie evidence that the failure was willful and without
18 lawful excuse. If the birth parent or parents have made only token
19 efforts to support or communicate with the child, the court may
20 disregard those token efforts.

21 (d) (1) If the birth mother of a child for whom there is not a
22 presumed father leaves the child in the physical care of a licensed
23 private adoption agency, in the physical care of a prospective
24 adoptive parent who has an approved preplacement evaluation or
25 private agency adoption home study, or in the hospital after
26 designating a licensed private adoption agency or an approved
27 prospective adoptive parent in a signed document, completed with
28 a hospital social worker, adoption service provider, licensed private
29 adoption agency worker, notary, or attorney, but fails to sign a
30 placement agreement, consent, or relinquishment for adoption, the
31 approved prospective adoptive parent or the licensed private
32 adoption agency may apply for, and the court may issue, a
33 temporary custody order placing the child in the care and custody
34 of the applicant.

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

37 (A) A requirement that the applicant keep the court informed
38 of the child's residence at all times.

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

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

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

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

7 8606. Notwithstanding Sections 8604 and 8605, the consent
8 of a birth parent is not necessary in the following cases:

9 (a) When the birth parent has been judicially deprived of the
10 custody and control of the child (1) by a court order declaring the
11 child to be free from the custody and control of either or both birth
12 parents pursuant to Part 4 (commencing with Section 7800) of
13 Division 12 of this code, or Section 366.25 or 366.26 of the
14 Welfare and Institutions Code, or (2) by a similar order of a court
15 of another jurisdiction, pursuant to a law of that jurisdiction
16 authorizing the order.

17 (b) When the birth parent has, in a judicial proceeding in another
18 jurisdiction, voluntarily surrendered the right to the custody and
19 control of the child pursuant to a law of that jurisdiction providing
20 for the surrender.

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

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

25 (e) When the birth parent has relinquished or placed the child
26 for adoption in another jurisdiction pursuant to the law of that
27 jurisdiction.

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

30 SEC. 10. Section 8613.5 of the Family Code is amended to
31 read:

32 8613.5. (a) (1) If it is impossible or impracticable for either
33 prospective adoptive parent to make an appearance in person, and
34 the circumstances are established by clear and convincing
35 documentary evidence, the court may, in its discretion, do either
36 of the following:

37 (A) Waive the personal appearance of the prospective adoptive
38 parent. The appearance may be made for the prospective adoptive
39 parent by counsel, commissioned and empowered in writing for

1 that purpose. The power of attorney may be incorporated in the
2 adoption petition.

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

6 (2) For purposes of this section, if the circumstances that make
7 an appearance in person by a prospective adoptive parent
8 impossible or impracticable are temporary in nature or of a short
9 duration, the court shall not waive the personal appearance of that
10 prospective adoptive parent.

11 (b) If the prospective adoptive parent is permitted to appear by
12 counsel, the agreement may be executed and acknowledged by the
13 counsel, or may be executed by the absent party before a notary
14 public, or any other person authorized to take acknowledgments
15 including the persons authorized by Sections 1183 and 1183.5 of
16 the Civil Code.

17 (c) If the prospective adoptive parent is permitted to appear by
18 counsel, or otherwise, the court may, in its discretion, cause an
19 examination of the prospective adoptive parent, other interested
20 person, or witness to be made upon deposition, as it deems
21 necessary. The deposition shall be taken upon commission, as
22 prescribed by the Code of Civil Procedure, and the expense thereof
23 shall be borne by the petitioner.

24 (d) The petition, relinquishment or consent, agreement, order,
25 report to the court from any investigating agency, and any power
26 of attorney and deposition shall be filed in the office of the clerk
27 of the court.

28 (e) The provisions of this section permitting an appearance by
29 counsel or electronically pursuant to subparagraph (B) of paragraph
30 (1) of subdivision (a) are equally applicable to the spouse of a
31 prospective adoptive parent who resides with the prospective
32 adoptive parent outside this state.

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

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

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

2 8700. (a) Either birth parent may relinquish a child to the
3 department, county adoption agency, or licensed adoption agency
4 for adoption by a written statement signed before two subscribing
5 witnesses and acknowledged before an authorized official of the
6 department, county adoption agency, or licensed adoption agency.
7 The relinquishment, when reciting that the person making it is
8 entitled to the sole custody of the child and acknowledged before
9 the officer, is prima facie evidence of the right of the person making
10 it to the sole custody of the child and the person's sole right to
11 relinquish.

12 (b) A relinquishing parent who is a minor has the right to
13 relinquish his or her child for adoption to the department, county
14 adoption agency, or licensed adoption agency, and the
15 relinquishment is not subject to revocation by the relinquishing
16 parent by reason of the minority, or because the parent or guardian
17 of the relinquishing minor parent was not served with notice that
18 the relinquishing minor parent relinquished his or her child for
19 adoption, unless the relinquishing minor parent has previously
20 provided written authorization to serve his or her parent or guardian
21 with that notice.

22 (c) If a parent resides outside this state and the other parent has
23 relinquished the child for adoption, the parent residing out of state
24 may relinquish the child by a written statement signed before a
25 notary on a form prescribed by the department, and previously
26 signed by an authorized official of the department, county adoption
27 agency, or licensed adoption agency that signifies the willingness
28 of the department, county adoption agency, or licensed adoption
29 agency to accept the relinquishment.

30 (d) If a parent and child reside outside this state and the other
31 parent has not relinquished the child for adoption to the department,
32 county adoption agency, or licensed adoption agency, the parent
33 residing out of state may relinquish the child to the department,
34 county adoption agency, or licensed adoption agency by a written
35 statement signed by the relinquishing parent, after the following
36 requirements have been satisfied:

37 (1) Prior to signing the relinquishment, the relinquishing parent
38 shall have received, from a representative of an agency licensed
39 or otherwise approved to provide adoption services under the laws
40 of the relinquishing parent's state of residence, the same counseling

1 and advisement services as if the relinquishing parent resided in
2 this state.

3 (2) The relinquishment shall be signed before a representative
4 of an agency licensed or otherwise approved to provide adoption
5 services under the laws of the relinquishing parent's state of
6 residence whenever possible or before a licensed social worker on
7 a form prescribed by the department, and previously signed by an
8 authorized official of the department, county adoption agency, or
9 licensed adoption agency, that signifies the willingness of the
10 department, county adoption agency, or licensed adoption agency
11 to accept the relinquishment.

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

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

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

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

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

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

1 (g) Notwithstanding subdivision (e), if the relinquishment names
2 the person or persons with whom placement by the department,
3 county adoption agency, or licensed adoption agency is intended
4 and the child is not placed in the home of the named person or
5 persons or the child is removed from the home prior to the granting
6 of the adoption, the department, county adoption agency, or
7 licensed adoption agency shall mail a notice by certified mail,
8 return receipt requested, to the birth parent signing the
9 relinquishment within 72 hours of the decision not to place the
10 child for adoption or the decision to remove the child from the
11 home.

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

15 (1) If the relinquishing parent requests rescission during the
16 30-day period, the department, county adoption agency, or licensed
17 adoption agency shall rescind the relinquishment.

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

21 (3) If the relinquishing parent and the department, county
22 adoption agency, or licensed adoption agency wish to identify a
23 different person or persons during the 30-day period with whom
24 the child is intended to be placed, the initial relinquishment shall
25 be rescinded and a new relinquishment identifying the person or
26 persons completed.

27 ~~(i) If the parent has relinquished a child, who has been found
28 to come within Section 300 of the Welfare and Institutions Code
29 or is the subject of a petition for jurisdiction of the juvenile court
30 under Section 300 of the Welfare and Institutions Code, to the
31 department, county adoption agency, or a licensed adoption agency
32 for the purpose of adoption, the department, county adoption
33 agency, or licensed adoption agency accepting the relinquishment
34 shall provide written notice of the relinquishment within five court
35 days to all of the following:~~

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

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

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

39 *(i) Subject to the requirements of subdivision (b) of Section 361*
40 *of the Welfare and Institutions Code, a parent may sign a*

1 *relinquishment of a child who is the subject of a petition to declare*
2 *him or her a dependent child of the juvenile court, or a child who*
3 *has been adjudged a dependent child of the juvenile court, on the*
4 *ground that the minor is a person described by Section 300 of the*
5 *Welfare and Institutions Code. If the relinquishment is to a licensed*
6 *private adoption agency, the parent shall be advised, in writing,*
7 *that the relinquishment shall have no effect and will be not be filed*
8 *with, or acknowledged by, the department, unless the court*
9 *approves the relinquishment pursuant to paragraph (3) of*
10 *subdivision (b) of Section 361 of the Welfare and Institutions Code.*
11 *If the court issues an order approving the relinquishment, the*
12 *licensed private adoption agency shall file the relinquishment and*
13 *the order with the department. If the court denies the*
14 *relinquishment, the licensed private adoption agency shall void*
15 *the relinquishment and inform the parent of that fact.*

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

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

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

22 8800.5. (a) A parent who is a resident of this state who is
23 placing a child for independent adoption within this state shall
24 follow the procedures set forth in this chapter.

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

29 (c) *A placement for adoption made pursuant to subdivision (b),*
30 *that follows the procedures prescribed by the state or territory in*
31 *which a nonresident parent resides, shall comply with the Interstate*
32 *Compact on the Placement of Children, the provisions of which*
33 *are contained in Section 7901, and shall be accompanied by a*
34 *sworn statement from an adoption agency or an attorney licensed*
35 *in the state or territory in which the parent resides that includes*
36 *all of the following:*

37 (1) *Confirmation that the placement documents comply with*
38 *the adoption laws of that state or territory.*

39 (2) *A statement as to the date that each consent became, or will*
40 *become, irrevocable pursuant to the laws of that state or territory.*

1 (3) *If the adoption is to be finalized in that state or territory,*
2 *the pre-finalization supervision requirements.*

3 SEC. 13. Section 8801.3 of the Family Code is amended to
4 read:

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

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

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

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

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

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

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

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

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

12 (c) The adoption placement agreement form shall include all of
13 the following:

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

16 (2) A statement that the birth parent understands that the
17 placement is for the purpose of adoption and that if the birth parent
18 takes no further action, on the 31st day after signing the adoption
19 placement agreement, the agreement shall become a permanent
20 and irrevocable consent to the adoption.

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

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

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

28 (d) The adoption placement agreement shall also meet the
29 requirements of the Interstate Compact on the Placement of
30 Children in Section 7901.

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

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

1 shall appear before the court for the purpose of representing the
 2 child.

3 (b) Notwithstanding the withdrawal or dismissal of the petition,
 4 the court may retain jurisdiction over the child for the purposes of
 5 making any order for the child’s custody that the court deems to
 6 be in the child’s best interest.

7 (c) If a birth parent who did not place a child for adoption as
 8 specified in Section 8801.3 has refused to give the required consent,
 9 or a birth parent revokes consent as specified in Section 8814.5,
 10 the child shall be restored to the care and custody of the birth parent
 11 or parents, unless the court orders otherwise, subject to Section
 12 3041.

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

14 8807. (a) Except as provided in subdivisions (b) and (c), within
 15 180 days after receiving ~~50~~ 100 percent of the fee, the department
 16 or delegated county adoption agency shall investigate the proposed
 17 independent adoption ~~and, after the remaining balance of the fee~~
 18 ~~is paid,~~ and submit to the court a full report of the facts disclosed
 19 by its inquiry with a recommendation regarding the granting of
 20 the petition. If the petitioners have a valid preplacement evaluation
 21 or a valid private agency adoption home study, as described in
 22 paragraph (2) of subdivision (a) of Section 8810, and no new
 23 information has been discovered ~~or events have~~ and no new event
 24 ~~has~~ occurred subsequent to the approval of the evaluation or home
 25 study that ~~create~~ creates a reasonable belief that further
 26 investigation is necessary, the department or delegated county
 27 adoption agency may elect not to reinvestigate any matters covered
 28 in the evaluation or home ~~study.~~ study, except that the department
 29 shall complete all background clearances required by law.

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

34 (c) (1) In its discretion, the court may allow additional time for
 35 the filing of the report, after at least five days’ notice to the
 36 petitioner or petitioners and an opportunity for the petitioner or
 37 petitioners to be heard with respect to the request for additional
 38 time.

39 (2) If the investigation and report is not completed within 210
 40 days after the adoption petition was initially filed, the petitioner

1 or petitioners may request the court to issue, and a court may issue,
2 an order requiring the department or delegated county adoption
3 agency to complete the investigation within 30 days, and providing
4 that failure to do so shall be cause for the court to refer the
5 investigation to a licensed private agency for completion. If the
6 investigation is referred to a licensed private agency, the
7 department or delegated county adoption agency shall turn over
8 all fees for the case to the private agency. Before ruling on the
9 request, the court shall consider the reason or reasons for the delay,
10 including, but not limited to, a failure by the petitioner or
11 petitioners to promptly cooperate with the requests of the
12 department or delegated county adoption agency. *petitioners to*
13 *seek an order from the court for the department or delegated*
14 *county adoption agency to show cause as to the reason for the*
15 *delay.*

16 (d) If a petitioner is a resident of a state other than California,
17 an updated and current home study report, conducted and approved
18 by a licensed adoption agency or other authorized resource in the
19 state in which the petitioner resides, shall be reviewed and endorsed
20 by the department or delegated county adoption agency, if the
21 standards and criteria established for a home study report in the
22 other state are substantially commensurate with the home study
23 standards and criteria established in California adoption regulations.

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

25 8808. (a) The department or delegated county adoption agency
26 shall interview the petitioners within 45 working days, excluding
27 legal holidays, ~~after the filing of the adoption petition.~~ *after the*
28 *department or delegated county adoption agency receives the*
29 *investigation fee together with a stamped file copy of the adoption*
30 *petition.*

31 (b) The department or delegated county adoption agency shall
32 interview all persons from whom consent is required and whose
33 addresses are known as soon as 50 percent of the fee has been paid
34 to the department or delegated county adoption agency. *known.*
35 The interview with the placing parent or parents shall include, but
36 not be limited to, discussion of any concerns or problems that the
37 parent has with the placement and, if the placing parent was not
38 interviewed as provided in Section 8801.7, the content required
39 in that interview. At the interview, the agency shall give the parent
40 an opportunity to sign either a statement revoking the consent, or

1 a waiver of the right to revoke consent, as provided in Section
2 8814.5, unless the parent has already signed a waiver or the time
3 period allowed to revoke consent has expired.

4 (c) In order to facilitate the interview described in this section,
5 within five business days of filing the petition, the petitioners shall
6 provide the department or delegated county adoption agency a
7 stamped file copy of the petition together with ~~50 percent of the~~
8 fee, a copy of any valid preplacement evaluation or any valid
9 private agency adoption home study, as described in paragraph
10 (2) of subdivision (a) of Section 8810, and the names, addresses,
11 and telephone numbers of all parties to be interviewed, if known.

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

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

20 (b) The consent described in subdivision (a), when reciting that
21 the person giving it is entitled to the sole custody of the child and
22 when acknowledged before that agent, is prima facie evidence of
23 the right of the person making it to the sole custody of the child
24 and that person's sole right to consent.

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

31 (d) A birth parent who is a minor has the right to sign a consent
32 for the adoption of the birth parent's child and the consent is not
33 subject to revocation by the birth parent by reason of minority, or
34 because the parent or guardian of the relinquishing minor parent
35 was not served with notice that the relinquishing minor parent
36 consented to the adoption, unless the relinquishing minor parent
37 has previously provided written authorization to serve his or her
38 parent or guardian with that notice.

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

1 8815. (a) Once the revocable consent to adoption has become
2 permanent as provided in Section 8814.5, the consent to the
3 adoption by the prospective adoptive parents may not be
4 withdrawn.

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

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

16 *SEC. 19. Section 361 of the Welfare and Institutions Code is*
17 *amended to read:*

18 361. (a) (1) In all cases in which a minor is adjudged a
19 dependent child of the court on the ground that the minor is a
20 person described by Section 300, the court may limit the control
21 to be exercised over the dependent child by any parent or guardian
22 and shall by its order clearly and specifically set forth all those
23 limitations. Any limitation on the right of the parent or guardian
24 to make educational or developmental services decisions for the
25 child shall be specifically addressed in the court order. The
26 limitations may not exceed those necessary to protect the child. If
27 the court specifically limits the right of the parent or guardian to
28 make educational or developmental services decisions for the child,
29 or, for the nonminor dependent, if the court finds the appointment
30 of a developmental services decisionmaker to be in the best
31 interests of the nonminor dependent, the court shall at the same
32 time appoint a responsible adult to make educational or
33 developmental services decisions for the child or nonminor
34 dependent until one of the following occurs:

35 (A) The minor reaches 18 years of age, unless the child or
36 nonminor dependent chooses not to make educational or
37 developmental services decisions for himself or herself, or is
38 deemed by the court to be incompetent.

1 (B) Another responsible adult is appointed to make educational
2 or developmental services decisions for the minor pursuant to this
3 section.

4 (C) The right of the parent or guardian to make educational or
5 developmental services decisions for the minor is fully restored.

6 (D) A successor guardian or conservator is appointed.

7 (E) The child is placed into a planned permanent living
8 arrangement pursuant to paragraph (5) of subdivision (g) of Section
9 366.21, Section 366.22, Section 366.26, or subdivision (i) of
10 Section 366.3, at which time, for educational decisionmaking, the
11 foster parent, relative caretaker, or nonrelative extended family
12 member as defined in Section 362.7, has the right to represent the
13 child in educational matters pursuant to Section 56055 of the
14 Education Code, and for decisions relating to developmental
15 services, unless the court specifies otherwise, the foster parent,
16 relative caregiver, or nonrelative extended family member of the
17 planned permanent living arrangement has the right to represent
18 the child or nonminor dependent in matters related to
19 developmental services.

20 (2) An individual who would have a conflict of interest in
21 representing the child or nonminor dependent may not be appointed
22 to make educational or developmental services decisions. For
23 purposes of this section, “an individual who would have a conflict
24 of interest,” means a person having any interests that might restrict
25 or bias his or her ability to make educational or developmental
26 services decisions, including, but not limited to, those conflicts of
27 interest prohibited by Section 1126 of the Government Code, and
28 the receipt of compensation or attorney’s fees for the provision of
29 services pursuant to this section. A foster parent may not be deemed
30 to have a conflict of interest solely because he or she receives
31 compensation for the provision of services pursuant to this section.

32 (3) If the court limits the parent’s educational rights pursuant
33 to this subdivision, the court shall determine whether there is a
34 responsible adult who is a relative, nonrelative extended family
35 member, or other adult known to the child who is available and
36 willing to serve as the child’s educational representative before
37 appointing an educational representative or surrogate who is not
38 known to the child.

39 If the court cannot identify a responsible adult who is known to
40 the child and available to make educational decisions for the child,

1 subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply,
2 and the child has either been referred to the local educational
3 agency for special education and related services, or has a valid
4 individualized education program, the court shall refer the child
5 to the local educational agency for appointment of a surrogate
6 parent pursuant to Section 7579.5 of the Government Code.

7 If the court cannot identify a responsible adult to make
8 educational decisions for the child, the appointment of a surrogate
9 parent as defined in subdivision (a) of Section 56050 of the
10 Education Code is not warranted, and there is no foster parent to
11 exercise the authority granted by Section 56055 of the Education
12 Code, the court may, with the input of any interested person, make
13 educational decisions for the child.

14 (4) If the court appoints a developmental services decisionmaker
15 pursuant to this section, he or she shall have the authority to access
16 the child's or nonminor dependent's information and records
17 pursuant to subdivision (u) of Section 4514 and subdivision (y) of
18 Section 5328, and to act on the child's or nonminor dependent's
19 behalf for the purposes of the individual program plan process
20 pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing
21 process pursuant to Chapter 7 (commencing with Section 4700)
22 of Division 4.5, and as set forth in the court order.

23 If the court cannot identify a responsible adult to make
24 developmental services decisions for the child or nonminor
25 dependent, the court may, with the input of any interested person,
26 make developmental services decisions for the child or nonminor
27 dependent. If the child is receiving services from a regional center,
28 the provision of any developmental services related to the court's
29 decision must be consistent with the child's or nonminor
30 dependent's individual program plan and pursuant to the provisions
31 of the Lanterman Developmental Disabilities Services Act
32 (Division 4.5 (commencing with Section 4500)).

33 (5) All educational and school placement decisions shall seek
34 to ensure that the child is in the least restrictive educational
35 programs and has access to the academic resources, services, and
36 extracurricular and enrichment activities that are available to all
37 pupils. In all instances, educational and school placement decisions
38 shall be based on the best interests of the child. If an educational
39 representative or surrogate is appointed for the child, the
40 representative or surrogate shall meet with the child, shall

1 investigate the child’s educational needs and whether those needs
2 are being met, and shall, prior to each review hearing held under
3 this article, provide information and recommendations concerning
4 the child’s educational needs to the child’s social worker, make
5 written recommendations to the court, or attend the hearing and
6 participate in those portions of the hearing that concern the child’s
7 education.

8 (6) Nothing in this section in any way removes the obligation
9 to appoint surrogate parents for students with disabilities who are
10 without parental representation in special education procedures as
11 required by state and federal law, including Section 1415(b)(2) of
12 Title 20 of the United States Code, Section 56050 of the Education
13 Code, Section 7579.5 of the Government Code, and Rule 5.650
14 of the California Rules of Court.

15 (b) (1) Subdivision (a) does not limit the ability of a parent to
16 voluntarily relinquish his or her child to the State Department of
17 ~~Social Services or Services~~, to a county adoption ~~agency~~ agency,
18 *or to a licensed private adoption agency* at any time while the
19 child is a dependent child of the juvenile court, if the ~~department~~
20 ~~or agency~~ *department, county adoption agency, or licensed private*
21 *adoption agency* is willing to accept the relinquishment.

22 (2) *When accepting the relinquishment of a child who is the*
23 *subject of a petition to declare him or her a dependent child of the*
24 *juvenile court, or a child who has been adjudged a dependent child*
25 *of the juvenile court, on the ground that the minor is a person*
26 *described by Section 300, the department or a county adoption*
27 *agency shall comply with Section 8700 of the Family Code and,*
28 *within five court days of accepting the relinquishment, shall file*
29 *written notice of that fact with the court and all parties to the case*
30 *and their counsel.*

31 (3) *When accepting the relinquishment of a child who is the*
32 *subject of a petition to declare him or her a dependent child of the*
33 *juvenile court, or a child who has been adjudged a dependent child*
34 *of the juvenile court, on the ground that the minor is a person*
35 *described by Section 300, a licensed private adoption agency shall*
36 *comply with Section 8700 of the Family Code and, within five court*
37 *days of accepting the relinquishment, shall file with the court one*
38 *original and ten copies of a request to approve the relinquishment.*
39 *The clerk of the court shall file the request under seal, subject to*
40 *examination only by the parties and their counsel or by others*

1 upon court approval. If the request is accompanied by the written
2 agreement of all parties, the court may issue an *ex parte* order
3 approving the relinquishment. Unless approved pursuant to that
4 agreement, the court shall set the matter for hearing no later than
5 ten court days after filing, and shall provide notice of the hearing
6 to all parties and their counsel, and to the licensed private adoption
7 agency and its counsel. The licensed private adoption agency and
8 any prospective adoptive parent or parents named in the
9 relinquishment shall be permitted to attend the hearing and
10 participate as parties strictly regarding the limited issue of whether
11 the court should approve the relinquishment. The court shall issue
12 an order approving or denying the relinquishment within ten court
13 days after the hearing.

14 (c) A dependent child may not be taken from the physical
15 custody of his or her parents or guardian or guardians with whom
16 the child resides at the time the petition was initiated, unless the
17 juvenile court finds clear and convincing evidence of any of the
18 following circumstances listed in paragraphs (1) to (5), inclusive,
19 and, in an Indian child custody proceeding, paragraph (6):

20 (1) There is or would be a substantial danger to the physical
21 health, safety, protection, or physical or emotional well-being of
22 the minor if the minor were returned home, and there are no
23 reasonable means by which the minor's physical health can be
24 protected without removing the minor from the minor's parent's
25 or guardian's physical custody. The fact that a minor has been
26 adjudicated a dependent child of the court pursuant to subdivision
27 (e) of Section 300 shall constitute prima facie evidence that the
28 minor cannot be safely left in the physical custody of the parent
29 or guardian with whom the minor resided at the time of injury.
30 The court shall consider, as a reasonable means to protect the
31 minor, the option of removing an offending parent or guardian
32 from the home. The court shall also consider, as a reasonable means
33 to protect the minor, allowing a nonoffending parent or guardian
34 to retain physical custody as long as that parent or guardian
35 presents a plan acceptable to the court demonstrating that he or
36 she will be able to protect the child from future harm.

37 (2) The parent or guardian of the minor is unwilling to have
38 physical custody of the minor, and the parent or guardian has been
39 notified that if the minor remains out of their physical custody for

1 the period specified in Section 366.26, the minor may be declared
2 permanently free from their custody and control.

3 (3) The minor is suffering severe emotional damage, as indicated
4 by extreme anxiety, depression, withdrawal, or untoward aggressive
5 behavior toward himself or herself or others, and there are no
6 reasonable means by which the minor's emotional health may be
7 protected without removing the minor from the physical custody
8 of his or her parent or guardian.

9 (4) The minor or a sibling of the minor has been sexually abused,
10 or is deemed to be at substantial risk of being sexually abused, by
11 a parent, guardian, or member of his or her household, or other
12 person known to his or her parent, and there are no reasonable
13 means by which the minor can be protected from further sexual
14 abuse or a substantial risk of sexual abuse without removing the
15 minor from his or her parent or guardian, or the minor does not
16 wish to return to his or her parent or guardian.

17 (5) The minor has been left without any provision for his or her
18 support, or a parent who has been incarcerated or institutionalized
19 cannot arrange for the care of the minor, or a relative or other adult
20 custodian with whom the child has been left by the parent is
21 unwilling or unable to provide care or support for the child and
22 the whereabouts of the parent is unknown and reasonable efforts
23 to locate him or her have been unsuccessful.

24 (6) In an Indian child custody proceeding, continued custody
25 of the child by the parent or Indian custodian is likely to result in
26 serious emotional or physical damage to the child, and that finding
27 is supported by testimony of a "qualified expert witness" as
28 described in Section 224.6.

29 (A) Stipulation by the parent, Indian custodian, or the Indian
30 child's tribe, or failure to object, may waive the requirement of
31 producing evidence of the likelihood of serious damage only if the
32 court is satisfied that the party has been fully advised of the
33 requirements of the federal Indian Child Welfare Act (25 U.S.C.
34 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
35 waived them.

36 (B) Failure to meet non-Indian family and child-rearing
37 community standards, or the existence of other behavior or
38 conditions that meet the removal standards of this section, will not
39 support an order for placement in the absence of the finding in this
40 paragraph.

1 (d) The court shall make a determination as to whether
2 reasonable efforts were made to prevent or to eliminate the need
3 for removal of the minor from his or her home or, if the minor is
4 removed for one of the reasons stated in paragraph (5) of
5 subdivision (c), whether it was reasonable under the circumstances
6 not to make any of those efforts, or, in the case of an Indian child
7 custody proceeding, whether active efforts as required in Section
8 361.7 were made and that these efforts have proved unsuccessful.
9 The court shall state the facts on which the decision to remove the
10 minor is based.

11 (e) The court shall make all of the findings required by
12 subdivision (a) of Section 366 in either of the following
13 circumstances:

14 (1) The minor has been taken from the custody of his or her
15 parent or guardian and has been living in an out-of-home placement
16 pursuant to Section 319.

17 (2) The minor has been living in a voluntary out-of-home
18 placement pursuant to Section 16507.4.

19 ~~SEC. 19.~~

20 *SEC. 20.* If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.