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AMENDED IN SENATE JUNE 11, 2014  
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AMENDED IN ASSEMBLY APRIL 10, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1701**

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**Introduced by Assembly Member Patterson**  
*(Coauthor: Senator Anderson)*

February 13, 2014

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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~~, 7671 and 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, 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~~ a 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~~ *one-year period* 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~~ *authorize* a court ~~may to~~ grant one of these joint petitions, in whole or in part, and ~~would specify that~~ the court ~~would retain~~ *retains* the discretion to bifurcate a case in which a joint petition was 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, after the remaining portion of the fee is paid, and 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 and no new event has occurred subsequent to the approval of the evaluation or home study that creates a reasonable belief that further investigation is necessary, except that the department must complete all background clearances required by law. The bill would also 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, 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 instead require the department or delegated county adoption agency to interview the petitioners within 45 working days after receiving 50% of the fee together with a stamped file copy of the adoption petition, *and to interview all persons from whom consent is required and whose addresses are known.* ~~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, 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 together with 50% of 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, 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.

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)  
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.

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

37 (2) If a proceeding pursuant to Section 7662 has been filed under  
38 Chapter 5 (commencing with Section 7660), an action under

1 subdivision (c) shall be consolidated with that proceeding. The  
2 parental rights of the alleged natural father shall be determined as  
3 set forth in Section 7664.

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

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

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

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

39 (g) (1) In an action to determine the existence of the parent and  
40 child relationship brought pursuant to subdivision (b), if the child's

1 other parent has died and there are no existing court orders or  
2 pending court actions involving custody or guardianship of the  
3 child, then the persons having physical custody of the child shall  
4 be served with notice of the proceeding at least 15 days prior to  
5 the hearing, either by mail or in any manner authorized by the  
6 court. If any person identified as having physical custody of the  
7 child cannot be located, the court shall prescribe the manner of  
8 giving notice.

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

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

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

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

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

31 (2) The alleged father has been served as prescribed in Section  
32 7666 with a written notice alleging that he is or could be the  
33 biological father of the child to be adopted or placed for adoption  
34 and has failed to bring an action for the purpose of declaring the  
35 existence of the father and child relationship pursuant to  
36 subdivision (c) of Section 7630 within 30 days of service of the  
37 notice or the birth of the child, whichever is later.

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

1 (b) The alleged father may validly execute a waiver or denial  
 2 of paternity before or after the birth of the child, and, once signed,  
 3 no notice of, relinquishment for, or consent to adoption of the child  
 4 shall be required from the alleged father for the adoption to  
 5 proceed.

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

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

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

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

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

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

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

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

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

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

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

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

26 7807. (a) Sections 3020, 3022, 3040 to 3043, inclusive, and  
27 3409 do not apply in a proceeding under this part.

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

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

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

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

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

20 8603. (a) A married person, not lawfully separated from the  
21 person's spouse, shall not adopt a child without the consent of the  
22 spouse, provided that the spouse is capable of giving that consent.

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

31 (c) The court may dispense with the consent of a spouse who  
32 cannot be located after diligent search, or a spouse determined by  
33 the court to lack the capacity to consent. A spouse for whom  
34 consent was dispensed shall not be named as an adoptive parent  
35 in the final decree.

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

37 8604. (a) Except as provided in subdivision (b), a child having  
38 a presumed father under Section 7611 shall not be adopted without  
39 the consent of the child's birth parents, if living. The consent of a  
40 presumed father is not required for the child's adoption unless he

1 became a presumed father as described in Chapter 1 (commencing  
2 with Section 7540) or Chapter 3 (commencing with Section 7570)  
3 of Part 2 of Division 12, or subdivision (a), (b), or (c) of Section  
4 7611 before the mother’s relinquishment or consent becomes  
5 irrevocable or before the mother’s parental rights have been  
6 terminated.

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

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

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

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

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

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

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

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

10 ~~SEC. 9. Section 8606 of the Family Code is amended to read:~~  
11 ~~8606. Notwithstanding Sections 8604 and 8605, the consent~~  
12 ~~of a birth parent is not necessary in the following cases:~~

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

21 ~~(b) When the birth parent has, in a judicial proceeding in another~~  
22 ~~jurisdiction, voluntarily surrendered the right to the custody and~~  
23 ~~control of the child pursuant to a law of that jurisdiction providing~~  
24 ~~for the surrender.~~

25 ~~(c) When the birth parent has deserted the child without~~  
26 ~~provision for identification of the child.~~

27 ~~(d) When the birth parent has relinquished the child for adoption~~  
28 ~~as provided in Section 8700.~~

29 ~~(e) When the birth parent has relinquished or placed the child~~  
30 ~~for adoption in another jurisdiction pursuant to the law of that~~  
31 ~~jurisdiction.~~

32 ~~(f) When the birth parent has placed the child for adoption~~  
33 ~~pursuant to Section 8800.5.~~

34 ~~SEC. 10.~~

35 ~~SEC. 9. Section 8613.5 of the Family Code is amended to read:~~  
36 ~~8613.5. (a) (1) If it is impossible or impracticable for either~~

37 ~~prospective adoptive parent to make an appearance in person, and~~  
38 ~~the circumstances are established by clear and convincing~~  
39 ~~documentary evidence, the court may, in its discretion, do either~~  
40 ~~of the following:~~

1 (A) Waive the personal appearance of the prospective adoptive  
2 parent. The appearance may be made for the prospective adoptive  
3 parent by counsel, commissioned and empowered in writing for  
4 that purpose. The power of attorney may be incorporated in the  
5 adoption petition.

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

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

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

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

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

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

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

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

4 ~~SEC. 11.~~

5 *SEC. 10.* Section 8700 of the Family Code is amended to read:

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

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

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

35 (d) If a parent and child reside outside this state and the other  
 36 parent has not relinquished the child for adoption to the department,  
 37 county adoption agency, or licensed adoption agency, the parent  
 38 residing out of state may relinquish the child to the department,  
 39 county adoption agency, or licensed adoption agency by a written

1 statement signed by the relinquishing parent, after the following  
2 requirements have been satisfied:

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

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

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

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

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

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

38 (2) After the relinquishment is final, it may be rescinded only  
39 by the mutual consent of the department, county adoption agency,

1 or licensed adoption agency to which the child was relinquished  
2 and the birth parent or parents relinquishing the child.

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

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

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

21 (1) If the relinquishing parent requests rescission during the  
22 30-day period, the department, county adoption agency, or licensed  
23 adoption agency shall rescind the relinquishment.

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

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

33 (i) Subject to the requirements of subdivision (b) of Section 361  
34 of the Welfare and Institutions Code, a parent may sign a  
35 relinquishment of a child who is the subject of a petition to declare  
36 him or her a dependent child of the juvenile court, or a child who  
37 has been adjudged a dependent child of the juvenile court, on the  
38 ground that the minor is a person described by Section 300 of the  
39 Welfare and Institutions Code. If the relinquishment is to a licensed  
40 private adoption agency, the parent shall be advised, in writing,

1 that the relinquishment shall have no effect and will be not be filed  
2 with, or acknowledged by, the department, unless the court  
3 approves the relinquishment pursuant to paragraph (3) of  
4 subdivision (b) of Section 361 of the Welfare and Institutions  
5 Code. If the court issues an order approving the relinquishment,  
6 the licensed private adoption agency shall file the relinquishment  
7 and the order with the department. If the court denies the  
8 relinquishment, the licensed private adoption agency shall void  
9 the relinquishment and inform the parent of that fact.

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

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

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

16 ~~8800.5. (a) A parent who is a resident of this state who is  
17 placing a child for independent adoption within this state shall  
18 follow the procedures set forth in this chapter.~~

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

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

31 ~~(1) Confirmation that the placement documents comply with  
32 the adoption laws of that state or territory.~~

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

35 ~~(3) If the adoption is to be finalized in that state or territory, the  
36 pre-finalization supervision requirements.~~

37 ~~SEC. 13. Section 8801.3 of the Family Code is amended to  
38 read:~~

39 ~~8801.3. Except when a child has been placed for adoption  
40 following the procedures prescribed by another state or territory,~~

1 as authorized by subdivision (b) of Section 8800.5, a child shall  
2 not be considered to have been placed for independent adoption  
3 unless each of the following is true:

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

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

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

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

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

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

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

36 (6) If the birth parent is not located in this state or country, the  
37 adoption placement agreement shall be signed before an adoption  
38 service provider or, for purposes of identification of the birth parent  
39 only, before a notary or other person authorized to perform notarial  
40 acts in the state or country in which the birth parent is located.

1 ~~This paragraph is not applicable to intercountry adoptions, as~~  
2 ~~defined in Section 8527, which shall be governed by Chapter 4~~  
3 ~~(commencing with Section 8900).~~

4 ~~(e) The adoption placement agreement form shall include all of~~  
5 ~~the following:~~

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

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

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

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

18 ~~(5) A consent to the adoption that may be revoked as provided~~  
19 ~~by Section 8814.5.~~

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

23 ~~SEC. 14.~~

24 *SEC. 11.* Section 8804 of the Family Code is amended to read:

25 8804. (a) Whenever the petitioners move to withdraw the  
26 petition for the adoption or to dismiss the proceeding, the clerk of  
27 the court in which the proceeding is pending shall immediately  
28 notify the department at Sacramento of the action. The department  
29 or the delegated county adoption agency shall file a full report  
30 with the court recommending a suitable plan for the child in every  
31 case where the petitioners move to withdraw the petition for the  
32 adoption or where the department or delegated county adoption  
33 agency recommends that the petition for adoption be denied and  
34 shall appear before the court for the purpose of representing the  
35 child.

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

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

7 ~~SEC. 15.~~

8 *SEC. 12.* Section 8807 of the Family Code is amended to read:

9 8807. (a) Except as provided in subdivisions (b) and (c), within  
10 180 days after receiving ~~100~~ 50 percent of the fee, the department  
11 or delegated county adoption agency shall investigate the proposed  
12 independent adoption and, *after the remaining balance of the fee*  
13 *is paid*, submit to the court a full report of the facts disclosed by  
14 its inquiry with a recommendation regarding the granting of the  
15 petition. If the petitioners have a valid preplacement evaluation or  
16 a valid private agency adoption home study, as described in  
17 paragraph (2) of subdivision (a) of Section 8810, and no new  
18 information has been discovered and no new event has occurred  
19 subsequent to the approval of the evaluation or home study that  
20 creates a reasonable belief that further investigation is necessary,  
21 the department or delegated county adoption agency may elect not  
22 to reinvestigate any matters covered in the evaluation or home  
23 study, except that the department shall complete all background  
24 clearances required by law.

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

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

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

1 ~~order from the court for the department or delegated county~~  
2 ~~adoption agency to show cause as to the reason for the delay.~~

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

11 ~~SEC. 16.~~

12 *SEC. 13.* Section 8808 of the Family Code is amended to read:

13 8808. (a) The department or delegated county adoption agency  
14 shall interview the petitioners within 45 working days, excluding  
15 legal holidays, after the department or delegated county adoption  
16 agency receives *50 percent of* the investigation fee together with  
17 a stamped file copy of the adoption petition.

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

30 (c) In order to facilitate the interview described in this section,  
31 within five business days of filing the petition, the petitioners shall  
32 provide the department or delegated county adoption agency a  
33 stamped file copy of the petition together with *50 percent of* the  
34 fee, a copy of any valid preplacement evaluation or any valid  
35 private agency adoption home study, as described in paragraph  
36 (2) of subdivision (a) of Section 8810, and the names, addresses,  
37 and telephone numbers of all parties to be interviewed, if known.

38 ~~SEC. 17.~~

39 *SEC. 14.* Section 8814 of the Family Code is amended to read:

1 8814. (a) Except as provided in Section 7662, the consent of  
 2 the birth parent or parents who did not place the child for adoption,  
 3 as described in Section 8801.3, to the adoption shall be signed in  
 4 the presence of an agent of the department or of a delegated county  
 5 adoption agency on a form prescribed by the department. The  
 6 consent shall be filed with the clerk of the appropriate superior  
 7 court.

8 (b) The consent described in subdivision (a), when reciting that  
 9 the person giving it is entitled to the sole custody of the child and  
 10 when acknowledged before that agent, is prima facie evidence of  
 11 the right of the person making it to the sole custody of the child  
 12 and that person’s sole right to consent.

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

19 (d) A birth parent who is a minor has the right to sign a consent  
 20 for the adoption of the birth parent’s child and the consent is not  
 21 subject to revocation by the birth parent by reason of minority, or  
 22 because the parent or guardian of the ~~relinquishing~~ *consenting*  
 23 minor parent was not served with notice that the ~~relinquishing~~  
 24 minor parent consented to the adoption, unless the ~~relinquishing~~  
 25 minor parent has previously provided written authorization to serve  
 26 his or her parent or guardian with that notice.

27 ~~SEC. 18.~~

28 *SEC. 15.* Section 8815 of the Family Code is amended to read:

29 8815. (a) Once the revocable consent to adoption has become  
 30 permanent as provided in Section 8814.5, the consent to the  
 31 adoption by the prospective adoptive parents may not be  
 32 withdrawn.

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

38 (c) If the person or persons with whom the child has been placed  
 39 have concerns that the birth parent or parents requesting return of  
 40 the child are unfit or present a danger of harm to the child, that

1 person or those persons may report their concerns to the appropriate  
2 child welfare agency. These concerns shall not be a basis for failure  
3 to immediately return the child, unless a court orders otherwise.

4 ~~SEC. 19.~~

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

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

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

28 (B) Another responsible adult is appointed to make educational  
29 or developmental services decisions for the minor pursuant to this  
30 section.

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

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

34 (E) The child is placed into a planned permanent living  
35 arrangement pursuant to paragraph (5) of subdivision (g) of Section  
36 366.21, Section 366.22, Section 366.26, or subdivision (i) of  
37 Section 366.3, at which time, for educational decisionmaking, the  
38 foster parent, relative caretaker, or nonrelative extended family  
39 member as defined in Section 362.7, has the right to represent the  
40 child in educational matters pursuant to Section 56055 of the

1 Education Code, and for decisions relating to developmental  
2 services, unless the court specifies otherwise, the foster parent,  
3 relative caregiver, or nonrelative extended family member of the  
4 planned permanent living arrangement has the right to represent  
5 the child or nonminor dependent in matters related to  
6 developmental services.

7 (2) An individual who would have a conflict of interest in  
8 representing the child or nonminor dependent may not be appointed  
9 to make educational or developmental services decisions. For  
10 purposes of this section, “an individual who would have a conflict  
11 of interest,” means a person having any interests that might restrict  
12 or bias his or her ability to make educational or developmental  
13 services decisions, including, but not limited to, those conflicts of  
14 interest prohibited by Section 1126 of the Government Code, and  
15 the receipt of compensation or attorney’s fees for the provision of  
16 services pursuant to this section. A foster parent may not be deemed  
17 to have a conflict of interest solely because he or she receives  
18 compensation for the provision of services pursuant to this section.

19 (3) If the court limits the parent’s educational rights pursuant  
20 to this subdivision, the court shall determine whether there is a  
21 responsible adult who is a relative, nonrelative extended family  
22 member, or other adult known to the child who is available and  
23 willing to serve as the child’s educational representative before  
24 appointing an educational representative or surrogate who is not  
25 known to the child.

26 If the court cannot identify a responsible adult who is known to  
27 the child and available to make educational decisions for the child,  
28 subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply,  
29 and the child has either been referred to the local educational  
30 agency for special education and related services, or has a valid  
31 individualized education program, the court shall refer the child  
32 to the local educational agency for appointment of a surrogate  
33 parent pursuant to Section 7579.5 of the Government Code.

34 If the court cannot identify a responsible adult to make  
35 educational decisions for the child, the appointment of a surrogate  
36 parent as defined in subdivision (a) of Section 56050 of the  
37 Education Code is not warranted, and there is no foster parent to  
38 exercise the authority granted by Section 56055 of the Education  
39 Code, the court may, with the input of any interested person, make  
40 educational decisions for the child.

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

10 If the court cannot identify a responsible adult to make  
11 developmental services decisions for the child or nonminor  
12 dependent, the court may, with the input of any interested person,  
13 make developmental services decisions for the child or nonminor  
14 dependent. If the child is receiving services from a regional center,  
15 the provision of any developmental services related to the court's  
16 decision must be consistent with the child's or nonminor  
17 dependent's individual program plan and pursuant to the provisions  
18 of the Lanterman Developmental Disabilities Services Act  
19 (Division 4.5 (commencing with Section 4500)).

20 (5) All educational and school placement decisions shall seek  
21 to ensure that the child is in the least restrictive educational  
22 programs and has access to the academic resources, services, and  
23 extracurricular and enrichment activities that are available to all  
24 pupils. In all instances, educational and school placement decisions  
25 shall be based on the best interests of the child. If an educational  
26 representative or surrogate is appointed for the child, the  
27 representative or surrogate shall meet with the child, shall  
28 investigate the child's educational needs and whether those needs  
29 are being met, and shall, prior to each review hearing held under  
30 this article, provide information and recommendations concerning  
31 the child's educational needs to the child's social worker, make  
32 written recommendations to the court, or attend the hearing and  
33 participate in those portions of the hearing that concern the child's  
34 education.

35 (6) Nothing in this section in any way removes the obligation  
36 to appoint surrogate parents for students with disabilities who are  
37 without parental representation in special education procedures as  
38 required by state and federal law, including Section 1415(b)(2) of  
39 Title 20 of the United States Code, Section 56050 of the Education

1 Code, Section 7579.5 of the Government Code, and Rule 5.650  
2 of the California Rules of Court.

3 (b) (1) Subdivision (a) does not limit the ability of a parent to  
4 voluntarily relinquish his or her child to the State Department of  
5 Social Services, to a county adoption agency, or to a licensed  
6 private adoption agency at any time while the child is a dependent  
7 child of the juvenile court, if the department, county adoption  
8 agency, or licensed private adoption agency is willing to accept  
9 the relinquishment.

10 (2) When accepting the relinquishment of a child who is the  
11 subject of a petition to declare him or her a dependent child of the  
12 juvenile court, or a child who has been adjudged a dependent child  
13 of the juvenile court, on the ground that the minor is a person  
14 described by Section 300, the department or a county adoption  
15 agency shall comply with Section 8700 of the Family Code and,  
16 within five court days of accepting the relinquishment, shall file  
17 written notice of that fact with the court and all parties to the case  
18 and their counsel.

19 (3) When accepting the relinquishment of a child who is the  
20 subject of a petition to declare him or her a dependent child of the  
21 juvenile court, or a child who has been adjudged a dependent child  
22 of the juvenile court, on the ground that the minor is a person  
23 described by Section 300, a licensed private adoption agency shall  
24 comply with Section 8700 of the Family Code and, within five  
25 court days of accepting the relinquishment, shall file with the court  
26 one original and ten copies of a request to approve the  
27 relinquishment. The clerk of the court shall file the request under  
28 seal, subject to examination only by the parties and their counsel  
29 or by others upon court approval. If the request is accompanied  
30 by the written agreement of all parties, the court may issue an ex  
31 parte order approving the relinquishment. Unless approved pursuant  
32 to that agreement, the court shall set the matter for hearing no later  
33 than ten court days after filing, and shall provide notice of the  
34 hearing to all parties and their counsel, and to the licensed private  
35 adoption agency and its counsel. The licensed private adoption  
36 agency and any prospective adoptive parent or parents named in  
37 the relinquishment shall be permitted to attend the hearing and  
38 participate as parties ~~strictly~~ regarding the *strictly* limited issue of  
39 whether the court should approve the relinquishment. The court

1 shall issue an order approving or denying the relinquishment within  
2 ten court days after the hearing.

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

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

26 (2) The parent or guardian of the minor is unwilling to have  
27 physical custody of the minor, and the parent or guardian has been  
28 notified that if the minor remains out of their physical custody for  
29 the period specified in Section 366.26, the minor may be declared  
30 permanently free from their custody and control.

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

37 (4) The minor or a sibling of the minor has been sexually abused,  
38 or is deemed to be at substantial risk of being sexually abused, by  
39 a parent, guardian, or member of his or her household, or other  
40 person known to his or her parent, and there are no reasonable

1 means by which the minor can be protected from further sexual  
2 abuse or a substantial risk of sexual abuse without removing the  
3 minor from his or her parent or guardian, or the minor does not  
4 wish to return to his or her parent or guardian.

5 (5) The minor has been left without any provision for his or her  
6 support, or a parent who has been incarcerated or institutionalized  
7 cannot arrange for the care of the minor, or a relative or other adult  
8 custodian with whom the child has been left by the parent is  
9 unwilling or unable to provide care or support for the child and  
10 the whereabouts of the parent is unknown and reasonable efforts  
11 to locate him or her have been unsuccessful.

12 (6) In an Indian child custody proceeding, continued custody  
13 of the child by the parent or Indian custodian is likely to result in  
14 serious emotional or physical damage to the child, and that finding  
15 is supported by testimony of a “qualified expert witness” as  
16 described in Section 224.6.

17 (A) Stipulation by the parent, Indian custodian, or the Indian  
18 child’s tribe, or failure to object, may waive the requirement of  
19 producing evidence of the likelihood of serious damage only if the  
20 court is satisfied that the party has been fully advised of the  
21 requirements of the federal Indian Child Welfare Act (25 U.S.C.  
22 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily  
23 waived them.

24 (B) Failure to meet non-Indian family and child-rearing  
25 community standards, or the existence of other behavior or  
26 conditions that meet the removal standards of this section, will not  
27 support an order for placement in the absence of the finding in this  
28 paragraph.

29 (d) The court shall make a determination as to whether  
30 reasonable efforts were made to prevent or to eliminate the need  
31 for removal of the minor from his or her home or, if the minor is  
32 removed for one of the reasons stated in paragraph (5) of  
33 subdivision (c), whether it was reasonable under the circumstances  
34 not to make any of those efforts, or, in the case of an Indian child  
35 custody proceeding, whether active efforts as required in Section  
36 361.7 were made and that these efforts have proved unsuccessful.  
37 The court shall state the facts on which the decision to remove the  
38 minor is based.

1 (e) The court shall make all of the findings required by  
2 subdivision (a) of Section 366 in either of the following  
3 circumstances:

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

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

9 ~~SEC. 20.~~

10 *SEC. 17.* If the Commission on State Mandates determines that  
11 this act contains costs mandated by the state, reimbursement to  
12 local agencies and school districts for those costs shall be made  
13 pursuant to Part 7 (commencing with Section 17500) of Division  
14 4 of Title 2 of the Government Code.