

AMENDED IN ASSEMBLY APRIL 26, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1743**

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**Introduced by Assembly Member Goldsmith**  
*(Coauthors: Assembly Members Bowen, Davis, Harvey,*  
*House, and Richter)*  
*(Coauthor: Senator Haynes)*

February 24, 1995

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~~An act to repeal Sections 8709, 8710, and 8711 of, to repeal and add Part 6 (commencing with Section 7950) of Division 12 of, and to repeal and add Section 8708 of, the Family Code; An act to amend Sections 7950 and 8708 of, and to add Sections 7955 and 8711.5 to, the Family Code, relating to family law.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1743, as amended, Goldsmith. Adoption and foster care placements.

Existing law sets forth an order of placement preferences regarding racial background and ethnic identification for adoptive and foster care placements, under which placement with a relative of the child or with an adoptive family or foster parent with the same racial background or ethnic identification as the child is preferred.

This bill would ~~repeal these provisions and instead~~ *make these provisions subject to provisions added by the bill if placement has not been made within a specified time period.* The provisions added by the bill would prohibit any private or public agency or entity that places children in foster care

and receives any funding from the state, and any private or public adoption agency that receives any funding from the state, from delaying or denying the placement of a child solely on the basis of the race, color, or national origin of the prospective foster or adoptive parent. ~~The bill~~ They would authorize consideration of the race, color, and national origin of the child as factors in selecting a placement when those factors are (1) considered in conjunction with other factors, and (2) relevant to the child’s best interest.

The bill would require the state to withhold public funding from any such agency violating these provisions until such time as that agency or entity is in compliance. The bill would authorize any person injured by the violation of these provisions to bring a civil action against that agency or entity for injunctive relief or damages.

*The bill would require the State Department of Social Services to report to the Legislature on the effect of the bill on adoptive and foster care placements no later than January 1, 1999.*

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

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

1 ~~SECTION 1. Part 6 (commencing with Section 7950)~~  
2 ~~of Division 12 of the Family Code is repealed.~~  
3 ~~SEC. 2. Part 6 (commencing with Section 7950) is~~  
4 ~~added to Division 12 of the Family Code, to read:~~

5  
6 ~~PART 6. PRIORITIES FOR FOSTER CARE~~  
7 ~~PLACEMENT~~

8  
9 ~~7950. (a)~~

10 *SECTION 1. Section 7950 of the Family Code is*  
11 *amended to read:*

12 7950. (a) With full consideration for the proximity of  
13 the natural parents to the placement so as to facilitate  
14 visitation and family reunification, *subject to Section*  
15 *7955*, when a child is being considered for placement in  
16 foster care, the following order of placement preference



1 regarding racial or ethnic background shall be used,  
2 except where application of these priorities would not be  
3 in the best interest of the child:

4 (1) Placement shall, if possible, be made in the home  
5 of a relative. Diligent efforts shall be made to locate an  
6 appropriate relative. Before any child may be placed in  
7 long-term foster care, each relative whose name has been  
8 submitted to the agency as a possible caretaker, either by  
9 himself or herself or by other persons, shall be evaluated  
10 as an appropriate placement resource.

11 (2) If a relative is not available after 30 days from the  
12 time the child comes under the jurisdiction of the juvenile  
13 court, or if placement with available relatives is not in the  
14 child's best interest, placement shall be made with a  
15 foster parent with the same racial or ethnic identification  
16 as the child. If the child has a mixed racial or ethnic  
17 background, placement shall be made with a family of the  
18 racial or ethnic group with which the child has the more  
19 significant contacts.

20 (3) If placement cannot be made under the rules set  
21 forth in paragraphs (1) and (2), placement shall be made  
22 with a family of a different racial background or ethnic  
23 identification where there is evidence of sensitivity to the  
24 child's race, ethnicity, and culture. The child's religious  
25 background shall also be considered in determining an  
26 appropriate placement.

27 (b) Nothing in this section precludes either of the  
28 following:

29 (1) A search for an appropriate relative being  
30 conducted simultaneously with a search for a foster  
31 family.

32 (2) The child remaining at the same placement site  
33 while the search for an appropriate relative or foster  
34 family is being conducted.

35 *SEC. 2. Section 7955 is added to the Family Code, to*  
36 *read:*

37 *7955. (a) This section shall be applicable if*  
38 *placement has not been made pursuant to Sections 7950*  
39 *to 7953, inclusive, within 90 days from the time the child*  
40 *came under the jurisdiction of the juvenile court.*



1 (b) No private or public agency or entity that places  
2 children in foster care and receives any funding from the  
3 state may delay or deny the placement of a child in foster  
4 care solely on the basis of the race, color, or national origin  
5 of the prospective foster parent or parents. The race,  
6 color, and national origin of the child may be considered  
7 as factors in selecting a foster care placement when those  
8 factors are (1) considered in conjunction with other  
9 factors, and (2) relevant to the child's best interest.

10 ~~(b)~~

11 (c) The state shall withhold public funding from any  
12 private or public agency or entity that violates  
13 subdivision ~~(a)~~ (b) until such time as that agency or  
14 entity is in compliance.

15 ~~(c)~~

16 (d) Any person injured by the violation of subdivision  
17 ~~(a)~~ (b) by a private or public agency or entity that places  
18 children in foster care may bring a civil action against that  
19 agency or entity for injunctive relief or damages.

20 ~~SEC. 3. Section 8708 of the Family Code is repealed.~~

21 ~~SEC. 4. Section 8708 is added to the Family Code, to~~  
22 ~~read:~~

23 ~~8708. (a)~~

24 *SEC. 3. Section 8708 of the Family Code is amended*  
25 *to read:*

26 8708. Where a child is being considered for adoption,  
27 the following order of placement preferences regarding  
28 racial background and ethnic identification shall be used,  
29 subject to this section and ~~Section~~ *Sections 8709 and*  
30 *8711.5*, in determining the placement of the child:

31 (a) In the home of a relative.

32 (b) If a relative is not available, or if placement with  
33 available relatives is not in the child's best interest, with  
34 an adoptive family with the same racial background or  
35 ethnic identification as the child. If the child has a mixed  
36 racial or ethnic background, placement shall be made  
37 with a family of the racial or ethnic group with which the  
38 child has the more significant contacts.

39 (c) If placement cannot be made under the rules set  
40 forth in this section within 90 days from the time the child



1 is relinquished for adoption or has been declared free  
2 from parental custody or control, the child is free for  
3 adoption with a family of a different racial background or  
4 ethnic identification where there is evidence of  
5 sensitivity to the child's race, ethnicity, and culture. The  
6 child's religious background shall also be considered in  
7 determining an appropriate placement. Unless it can be  
8 documented that a diligent search meeting the  
9 requirements of Section 8710 for a family meeting the  
10 placement criteria has been made, a child may not be  
11 placed for adoption with a family of a different racial  
12 background or ethnic identification pursuant to this  
13 subdivision.

14 *SEC. 4. Section 8711.5 is added to the Family Code, to*  
15 *read:*

16 *8711.5. (a) This section shall be applicable if*  
17 *placement has not been made pursuant to Sections 8708*  
18 *to 8711, inclusive, within 120 days from the time the child*  
19 *is relinquished for adoption or has been declared free*  
20 *from parental custody or control.*

21 *(b) No private or public adoption agency that receives*  
22 *any funding from the state may delay or deny the*  
23 *placement of a child solely on the basis of the race, color,*  
24 *or national origin of the prospective adoptive parent or*  
25 *parents. The race, color, and national origin of the child*  
26 *may be considered as factors in selecting a placement*  
27 *when those factors are (1) considered in conjunction with*  
28 *other factors, and (2) relevant to the child's best interest.*

29 ~~(b)~~

30 *(c) The state shall withhold public funding from any*  
31 *private or public adoption agency that violates*  
32 *subdivision ~~(a)~~ (b) until such time as that agency is in*  
33 *compliance.*

34 ~~(e)~~

35 *(d) Any person injured by the violation of subdivision*  
36 ~~(a)~~ *(b) by a private or public adoption agency may bring*  
37 *a civil action against that agency or entity for injunctive*  
38 *relief or damages.*

39 ~~SEC. 5.—Section 8709 of the Family Code is repealed.~~

40 ~~SEC. 6.—Section 8710 of the Family Code is repealed.~~



1 ~~SEC. 7. Section 8711 of the Family Code is repealed.~~  
2 *SEC. 5. The State Department of Social Services shall*  
3 *report to the Legislature on the effect of the changes to*  
4 *existing law made by this act on adoptive and foster care*  
5 *placements no later than January 1, 1999.*

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