

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2674

Introduced by Assembly Member Leno

February 20, 2004

An act to amend Section 8700 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Leno. Adoption: relinquishment.

Existing law prescribes the procedures for the relinquishment of a child to the State Department of Social Services or a licensed adoption agency for adoption, and requires the relinquishment to be signed and acknowledged before specified persons. Existing law provides that a relinquishment is not final and binding until a certified copy is filed with the State Department of Social Services.

This bill would require a licensed adoption agency to send that copy by certified mail, return receipt requested, *or by overnight courier or messenger, with proof of delivery*, within a specified timeframe. The bill would provide that the relinquishment is filed and final 48 hours after being received by the State Department of Social Services.

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

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

1 SECTION 1. Section 8700 of the Family Code is amended to
2 read:

1 8700. (a) Either birth parent may relinquish a child to the
2 department or a licensed adoption agency for adoption by a written
3 statement signed before two subscribing witnesses and
4 acknowledged before an authorized official of the department or
5 agency. The relinquishment, when reciting that the person making
6 it is entitled to the sole custody of the child and acknowledged
7 before the officer, is prima facie evidence of the right of the person
8 making it to the sole custody of the child and the person's sole right
9 to relinquish.

10 (b) A relinquishing parent who is a minor has the right to
11 relinquish his or her child for adoption to the department or a
12 licensed adoption agency, and the relinquishment is not subject to
13 revocation by reason of the minority.

14 (c) If a relinquishing parent resides outside this state and the
15 child is being cared for and is or will be placed for adoption by the
16 department or a licensed adoption agency, the relinquishing parent
17 may relinquish the child to the department or agency by a written
18 statement signed by the relinquishing parent before a notary on a
19 form prescribed by the department, and previously signed by an
20 authorized official of the department or agency, that signifies the
21 willingness of the department or agency to accept the
22 relinquishment.

23 (d) If a relinquishing parent and child reside outside this state
24 and the child will be cared for and will be placed for adoption by
25 the department or a licensed adoption agency, the relinquishing
26 parent may relinquish the child to the department or agency by a
27 written statement signed by the relinquishing parent, after that
28 parent has satisfied the following requirements:

29 (1) Prior to signing the relinquishment, the relinquishing
30 parent shall have received, from a representative of an agency
31 licensed or otherwise approved to provide adoption services under
32 the laws of the relinquishing parent's state of residence, the same
33 counseling and advisement services as if the relinquishing parent
34 resided in this state.

35 (2) The relinquishment shall be signed before a representative
36 of an agency licensed or otherwise approved to provide adoption
37 services under the laws of the relinquishing parent's state of
38 residence whenever possible or before a licensed social worker on
39 a form prescribed by the department, and previously signed by an
40 authorized official of the department or agency, that signifies the



1 willingness of the department or agency to accept the
2 relinquishment.

3 (e) The relinquishment authorized by this section has no effect
4 until a certified copy is sent to, and filed with, the department. The
5 licensed adoption agency shall send that copy by certified mail,
6 return receipt requested, *or by overnight courier or messenger,*
7 *with proof of delivery,* to the department no ~~later~~ *earlier* than the
8 end of the business day following the signing thereof. Forty-eight
9 hours after receipt by the department, the relinquishment shall be
10 considered filed and final, and may be rescinded only by the
11 mutual consent of the department or licensed adoption agency to
12 which the child was relinquished and the birth parent or parents
13 relinquishing the child.

14 (f) The relinquishing parent may name in the relinquishment
15 the person or persons with whom he or she intends that placement
16 of the child for adoption be made by the department or licensed
17 adoption agency.

18 (g) Notwithstanding subdivision (e), if the relinquishment
19 names the person or persons with whom placement by the
20 department or licensed adoption agency is intended and the child
21 is not placed in the home of the named person or persons or the
22 child is removed from the home prior to the granting of the
23 adoption, the department or agency shall mail a notice by certified
24 mail, return receipt requested, to the birth parent signing the
25 relinquishment within 72 hours of the decision not to place the
26 child for adoption or the decision to remove the child from the
27 home.

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

31 (1) If the relinquishing parent requests rescission during the
32 30-day period, the department or licensed adoption agency shall
33 rescind the relinquishment.

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

37 (3) If the relinquishing parent and the department or licensed
38 adoption agency wish to identify a different person or persons
39 during the 30-day period with whom the child is intended to be



1 placed, the initial relinquishment shall be rescinded and a new
2 relinquishment identifying the person or persons completed.
3 (i) If the parent has relinquished a child, who has been found
4 to come within Section 300 of the Welfare and Institutions Code
5 or is the subject of a petition for jurisdiction of the juvenile court
6 under Section 300 of the Welfare and Institutions Code, to the
7 department or a licensed adoption agency for the purpose of
8 adoption, the department or agency accepting the relinquishment
9 shall provide written notice of the relinquishment within five court
10 days to all of the following:
11 (1) The juvenile court having jurisdiction of the child.
12 (2) The child’s attorney, if any.
13 (3) The relinquishing parent’s attorney, if any.
14 (j) The filing of the relinquishment with the department
15 terminates all parental rights and responsibilities with regard to the
16 child, except as provided in subdivisions (g) and (h).
17 (k) The department shall adopt regulations to administer the
18 provisions of this section.

