

AMENDED IN SENATE JUNE 3, 2004
AMENDED IN ASSEMBLY APRIL 1, 2004
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 25 business days 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:

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

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

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

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

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

37 (2) The relinquishment shall be signed before a representative
38 of an agency licensed or otherwise approved to provide adoption



1 services under the laws of the relinquishing parent's state of
2 residence whenever possible or before a licensed social worker on
3 a form prescribed by the department, and previously signed by an
4 authorized official of the department or agency, that signifies the
5 willingness of the department or agency to accept the
6 relinquishment.

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

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

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

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

35 (1) If the relinquishing parent requests rescission during the
36 30-day period, the department or licensed adoption agency shall
37 rescind the relinquishment.

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



1 (3) If the relinquishing parent and the department or licensed
2 adoption agency wish to identify a different person or persons
3 during the 30-day period with whom the child is intended to be
4 placed, the initial relinquishment shall be rescinded and a new
5 relinquishment identifying the person or persons completed.
6 (i) If the parent has relinquished a child, who has been found
7 to come within Section 300 of the Welfare and Institutions Code
8 or is the subject of a petition for jurisdiction of the juvenile court
9 under Section 300 of the Welfare and Institutions Code, to the
10 department or a licensed adoption agency for the purpose of
11 adoption, the department or agency accepting the relinquishment
12 shall provide written notice of the relinquishment within five court
13 days to all of the following:
14 (1) The juvenile court having jurisdiction of the child.
15 (2) The child’s attorney, if any.
16 (3) The relinquishing parent’s attorney, if any.
17 (j) The filing of the relinquishment with the department
18 terminates all parental rights and responsibilities with regard to the
19 child, except as provided in subdivisions (g) and (h).
20 (k) The department shall adopt regulations to administer the
21 provisions of this section.

