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AB-677 Intercountry adoption finalized in a foreign country. (2019-2020)

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Assembly Bill No. 677

CHAPTER 805

An act to amend Section 8904 of, to add Section 8919.5 to, and to repeal and add Section 8919 of, the Family Code, relating to intercountry adoption.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 677, Choi. Intercountry adoption finalized in a foreign country.

Existing law generally provides for the adoption of a child native to a foreign country by a prospective adoptive parent or parents who are California residents that is either finalized in another country or this state. Existing law requires a licensed adoption agency facilitating an intercountry adoption that will be finalized in a foreign country to provide specific services that include certification to the federal government as to whether this state's intercountry adoption requirements have been met. Existing law requires a resident of the state who adopts a child through an intercountry adoption that is finalized in a foreign country to readopt the child in this state if it is required by the United States Department of Homeland Security, and requires this readoption to include at least one postplacement in-home visit, a home study report, and final adoption order. Existing law also authorizes a resident of the state who adopts a child through an intercountry adoption that is finalized in a foreign country to readopt the child in this state.

This bill would repeal those readoption provisions and would instead require an adoptive parent, or if an adoptive parent fails to do so, then the adoption agency that facilitated the adoption, to file a petition to readopt within specified deadlines to establish a record by which an adoptee can prove the facts of the foreign adoption. The bill would require the petition to include, among other things, a report from at least one postplacement home visit by an intercountry adoption agency or a contractor of that agency licensed to provide intercountry adoption services in the state. The bill would require the clerk of the court to submit an order granting the petition to the State Registrar, would require the State Registrar to issue a delayed registration of birth, as specified, and would authorize an adoptive parent to obtain a California birth certificate for that child. The bill would require an adoption agency to report the arrival of an adoptee whose adoption was finalized in a foreign country to the department within 14 calendar days, and would authorize the department to take disciplinary action if the adoption agency fails to report the arrival or fails to file a petition to readopt.

This bill would require a court that finds a child may be the subject of human trafficking or specified types of abuse to notify all appropriate authorities.

This bill would, if a licensed adoption agency has a written agreement for which postadoption services have been paid, require the licensed adoption agency to provide those services, and would also make technical, nonsubstantive changes to the other services a licensed adoption agency facilitating an intercountry adoption is required to provide.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8904 of the Family Code is amended to read:

8904. For an intercountry adoption that will be finalized in a foreign country, the licensed adoption agency shall provide all of the following services:

- (a) Assessment of the suitability of the applicant's home.
- (b) Certification to the United States Citizenship and Immigration Services that this state's intercountry adoption requirements have been met.
- (c) Readoption services as required by the United States Citizenship and Immigration Services.
- (d) Postadoption services pursuant to any written agreement between the licensed adoption agency and any other person or entity for which the postadoption services have been paid.

SEC. 2. Section 8919 of the Family Code is repealed.

SEC. 3. Section 8919 is added to the Family Code, to read:

8919. (a) In order to establish a record by which an adoptee can prove the facts of the foreign adoption, a state resident who has finalized an intercountry adoption in a foreign country shall file the petition to readopt within the earlier of 60 days of the adoptee's entry into the United States or the adoptee's 16th birthday. The petition shall include all of the following:

- (1) A certified or otherwise official copy of the foreign decree, order, or certification of adoption that reflects finalization of the adoption in the foreign country.
 - (2) A certified or otherwise official copy of the child's foreign birth certificate.
 - (3) A certified translation of all documents described in this subdivision that are not written in English. The court shall accept the certified translation, if any, that was completed abroad for purposes of obtaining the child's visa or passport.
 - (4) Proof that the child was granted lawful entry into the United States as an immediate relative of the adoptive parent or parents.
 - (5) A report from at least one postplacement home visit by an intercountry adoption agency or a contractor of that agency licensed to provide intercountry adoption services in the State of California.
 - (6) A copy of the home study report previously completed for the international finalized adoption by an adoption agency authorized to provide intercountry adoption services pursuant to Section 8900.
- (b) A readoption order shall not be granted unless the court receives a copy of the reports listed in paragraphs (5) and (6) of subdivision (a). The court shall consider the postplacement visit or visits and the previously completed home study when deciding whether to grant or deny the petition for readoption.
- (c) If an adoptive parent who has adopted a child through an intercountry adoption that is finalized in a foreign country fails to file a petition pursuant to this section by the earlier of 60 days of the child's entry into the United States or the child's 16th birthday or fails to provide a copy of the petition to each adoption agency that provided the adoption services to the adoptive parent, then the adoption agency that facilitated the adoption shall file a petition within 90 days of the child's entry into the United States, and shall provide a file-marked copy of the petition to the adoptive parent and to any other adoption agency that provided services to the adoptive parent within five business days of filing. An adoptive parent shall be liable to the adoption agency for all costs and fees incurred as a result of good faith actions taken by the adoption agency to fulfill its requirement pursuant to this subdivision. If the adoption agency fails to file a petition as required by this subdivision, the department may take appropriate disciplinary action against the adoption agency if it is licensed in the State of California and the department has actual or constructive knowledge that the petition was not filed.
- (d) If the court finds that the child may be the subject of human trafficking or may be a child who is described in Section 300 of the Welfare and Institutions Code, the court shall, in accordance with existing law, notify all appropriate authorities.
- (e) Within 10 business days, the clerk of the court shall submit to the State Registrar the order granting the petition to readopt. Upon receipt, the State Registrar shall issue a delayed registration of birth in accordance with Section 102695 of the Health and Safety Code that lists the adoptive parent or parents as the child's legal parent or parents.

(f) A state resident who has adopted a child through an intercountry adoption that is finalized in a foreign country may obtain a birth certificate for that child pursuant to Section 102635 or 103450 of the Health and Safety Code.

SEC. 4. Section 8919.5 is added to the Family Code, to read:

8919.5. (a) An intercountry adoption agency shall report the arrival of an adoptee whose adoption was finalized in a foreign country to the department within 14 calendar days of the adoptee's arrival in California.

(b) If the adoption agency fails to report to the department pursuant to subdivision (a), the department may take appropriate disciplinary action against the adoption agency if it is licensed in the State of California.