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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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|------|------------------|----------------|--------------|-----------------|------------------|--------------|

AB-1650 Family law proceedings: custody, parentage, and adoption. (2023-2024)

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Assembly Bill No. 1650

CHAPTER 851

An act to amend, repeal, and add Section 155 of the Code of Civil Procedure, and to amend Sections 7551, 7573.5, 7613, 8616.5, 8714, 8802, 8912, and 9000 of the Family Code, relating to family law.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, Jim Patterson. Family law proceedings: custody, parentage, and adoption.

(1) Under existing law, a superior court has jurisdiction under California law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act. Existing law requires the court to make specified findings when making an order regarding special immigrant juvenile status pursuant to the act. Existing law authorizes those findings to be made at any point in a proceeding, as specified.

This bill, as of January 1, 2025, would, among other things, revise those provisions to allow the superior court jurisdiction regarding dependency and allow judicial determinations to be made for a child up to 21 years of age.

(2) Existing law, the Uniform Parentage Act, defines the parent and child relationship as the legal relationship existing between a child and the child's parents, and provides rebuttable presumptions as to the parentage of a child born under the circumstances of conception through assisted reproduction using donated ova, sperm, or both. The act defines "assisted reproduction" for these purposes to mean conception by any means other than sexual intercourse.

This bill would authorize persons who are not married to one another and who share legal control over the disposition of embryos created through assisted reproduction to enter into a written agreement whereby one person renounces all legal interest in the embryos, with the specific intent to not be a legal parent of any child conceived with use of the embryos, as specified. The bill would provide that upon execution of the agreement, the person who retains legal interest in and control over disposition of the embryos would have the sole right to determine the use and disposition of the embryos, and the renouncing person would be treated in law as a donor, and not a legal parent. The bill would authorize either party to file the agreement with the court, and would require the court to issue an order establishing the nonparentage of the donor.

(3) Existing law allows, in an adoption proceeding, for continuing contact between the birth relatives and a child if a postadoption contact agreement is entered into voluntarily and is in the best interests of the child at the time the adoption petition is granted. Existing law requires a petitioner who has entered into a postadoption contact agreement with the birth parent to attach the signed agreement to the adoption petition.

This bill would require petitioners for adoption to inform the court in writing, on a specified form, whether a postadoption contact agreement has been, or will be, entered into and if a postadoption contact agreement has been entered into, to provide a file-

marked copy, as specified. This bill would additionally require the petitioner to file the agreement with the court before the adoption is finalized. The bill also would apply those provisions with respect to independent adoptions.

This bill would incorporate additional changes to Section 8616.5 of the Family Code proposed by AB 20 to be operative only if this bill and AB 20 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 155 of the Code of Civil Procedure is amended to read:

155. (a) (1) A superior court has jurisdiction under California law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101 et seq. and 8 C.F.R. Sec. 204.11), which includes, but is not limited to, the juvenile, probate, and family court divisions of the superior court. These courts have jurisdiction to make the factual findings necessary to enable a child to petition the United States Citizenship and Immigration Services for classification as a special immigrant juvenile pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

(2) The factual findings set forth in paragraph (1) of subdivision (b) may be made at any point in a proceeding regardless of the division of the superior court or type of proceeding if the prerequisites of that subdivision are met.

(b) (1) If an order is requested from the superior court making the necessary findings regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code, and there is evidence to support those findings, which may consist solely of, but is not limited to, a declaration by the child who is the subject of the petition, the court shall issue the order, which shall include all of the following findings:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to California law. The court shall indicate the date on which reunification was determined not to be viable.

(C) That it is not in the best interest of the child to be returned to the child's, or the child's parent's, previous country of nationality or country of last habitual residence.

(2) The superior court may make additional findings under this section that are supported by evidence only if requested by a party. The asserted, purported, or perceived motivation of the child seeking classification as a special immigrant juvenile shall not be admissible in making the findings under this section. The court shall not include nor reference the asserted, purported, or perceived motivation of the child seeking classification as a special immigrant juvenile in the court's findings under this section.

(c) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by state confidentiality laws shall remain confidential and shall be available for inspection only by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, records of the proceedings that are not otherwise protected by state confidentiality laws may be sealed using the procedure set forth in California Rules of Court 2.550 and 2.551.

(e) The Judicial Council shall adopt any rules and forms needed to implement this section.

(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 155 is added to the Code of Civil Procedure, to read:

155. (a) (1) A superior court has jurisdiction under California law to make judicial determinations regarding the dependency or custody, or both, and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101 et

seq. and 8 C.F.R. Sec. 204.11), which includes, but is not limited to, the juvenile, probate, and family court divisions of the superior court. These courts have jurisdiction to make the judicial determinations necessary to enable a child to petition the United States Citizenship and Immigration Services for classification as a special immigrant juvenile pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

(2) The judicial determinations set forth in paragraph (1) of subdivision (b) may be made for a child up to 21 years of age at any point in a proceeding regardless of the division of the superior court or type of proceeding if the prerequisites of that subdivision are met. A nunc pro tunc entry is permissible and shall not require proof of any clerical or other error, as long as the determinations could have been made as of the nunc pro tunc date.

(b) (1) If an order is requested from the superior court making the necessary determinations regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code, and there is evidence to support those determinations, which may consist solely of, but is not limited to, a declaration by the child who is the subject of the petition, the court shall issue the order, which shall include all of the following determinations, each of which shall be supported by reference to the relevant provisions of California law:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered and the factual basis for making the order.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to California law. The court shall indicate the date on which reunification was determined not to be viable, and the factual basis for making the determination.

(C) That it is not in the best interest of the child to be returned to the child's, or the child's parent's, previous country of nationality or country of last habitual residence. The court shall indicate the factual basis for making the determination.

(2) The superior court may make additional determinations pursuant to this section that are supported by evidence only if requested by a party. The asserted, purported, or perceived motivation of the child seeking classification as a special immigrant juvenile shall not be admissible in making the findings under this section. The court shall not include nor reference the asserted, purported, or perceived motivation of the child seeking classification as a special immigrant juvenile in the court's findings under this section.

(c) In any judicial proceedings in response to a request that the superior court make the determinations necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by state confidentiality laws shall remain confidential and shall be available for inspection only by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, records of the proceedings that are not otherwise protected by state confidentiality laws may be sealed using the procedure set forth in California Rules of Court 2.550 and 2.551.

(e) This section shall be operative on January 1, 2025.

SEC. 3. Section 7551 of the Family Code is amended to read:

7551. (a) Except as provided in subdivisions (b) and (c), in a civil action or proceeding in which parentage is a relevant fact, the court may, upon its own initiative or upon suggestion made by or on behalf of any person who is involved, and shall upon motion of any party to the action or proceeding made at a time so as not to delay the proceedings unduly, order the woman who gave birth, the child, and the alleged genetic parent to submit to genetic testing.

(b) (1) Genetic testing shall not be used for any of the following purposes:

(A) To challenge the parentage of a person who is a parent pursuant to subdivision (a) of Section 7613, except to resolve a dispute whether the child was conceived through assisted reproduction.

(B) To challenge the parentage of a person who is a parent pursuant to Section 7962, except to resolve a dispute whether the gestational carrier surrogate is a genetic parent.

(C) To establish the parentage of a person who is a donor pursuant to Section 7613, except to resolve a dispute whether the child was conceived through assisted reproduction.

(2) If the child has a presumed parent pursuant to Section 7540, a motion for genetic testing is governed by Section 7541.

(3) If the child has a parent whose parentage has been previously established in a judgment, a request for genetic testing shall be governed by Section 7647.7.

(4) A court shall not order genetic testing if the genetic testing would be used to establish the parentage of a person who is prohibited under this division from establishing parentage based on evidence of genetic testing.

(c) A court shall not order in utero genetic testing.

(d) In any case under this division in which genetic testing is ordered, the following shall apply:

(1) If a party refuses to submit to genetic testing, the court may resolve the question of parentage against that party or enforce its order if the rights of others and the interests of justice so require.

(2) The refusal of a party to submit to genetic testing is admissible in evidence in any proceeding to determine parentage.

(3) If two or more persons are subject to court-ordered genetic testing, the court may order that the testing be completed concurrently or sequentially.

(4) Genetic testing of a woman who gave birth to a child is not a condition precedent to the testing of the child and a person whose genetic parentage of the child is being determined. If the woman is unavailable for genetic testing, the court may order genetic testing of the child and each person whose genetic parentage of the child is at issue.

(5) An order under this division for genetic testing is enforceable by contempt.

SEC. 4. Section 7573.5 of the Family Code is amended to read:

7573.5. (a) A voluntary declaration of parentage is void if, at the time of signing, any of the following are true:

(1) A person other than the woman who gave birth to the child or a person seeking to establish parentage through a voluntary declaration of parentage is a presumed parent under Section 7540 or subdivision (a), (b), or (c) of Section 7611.

(2) A court has entered a judgment of parentage of the child.

(3) Another person has signed a valid voluntary declaration of parentage.

(4) The child has a parent under Section 7613 or 7962 other than the signatories.

(5) The person seeking to establish parentage is a donor pursuant to Section 7613.

(6) The person seeking to establish parentage asserts that the person is a parent under Section 7613 and the child was not conceived through assisted reproduction.

(b) In an action in which a party is seeking a determination that a voluntary declaration of parentage is void under this section, notice shall be provided pursuant to Section 7635.

SEC. 5. Section 7613 of the Family Code is amended to read:

7613. (a) (1) If a woman conceives through assisted reproduction with semen or ova or both donated by a donor who is not the woman's spouse, with the consent of another intended parent, that intended parent is treated in law as if that intended parent is the natural parent of a child thereby conceived. The other intended parent's consent shall be in writing and signed by the other intended parent and the woman conceiving through assisted reproduction.

(2) Failure to consent in writing, as required by paragraph (1), does not preclude the court from finding that the intended parent consented if the court finds by clear and convincing evidence that, prior to the conception of the child, the woman and the intended parent had an oral agreement that the woman and the intended parent would both be parents of the child.

(b) (1) The donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in assisted reproduction by a woman other than the donor's spouse is treated in law as if the donor is not the natural parent of a child thereby conceived, unless the donor and the woman signed a written agreement before the conception of the child, that the donor would be a parent.

(2) If the semen is not provided to a licensed physician and surgeon or a licensed sperm bank as specified in paragraph (1), the donor of semen for use in assisted reproduction by a woman other than the donor's spouse is treated in law as if the donor is not the natural parent of a child thereby conceived if either of the following are met:

(A) The donor and the woman signed a written agreement before conception that the donor would not be a parent.

(B) A court finds by clear and convincing evidence that the child was conceived through assisted reproduction and that, prior to the conception of the child, the woman and the donor had an oral agreement that the donor would not be a parent.

(c) A person providing ova for use in assisted reproduction by a person other than the provider's spouse or nonmarital partner is treated in law as if the provider is not the natural parent of a child thereby conceived unless the court finds satisfactory evidence that the provider of the ova, and each recipient, intended for that provider to have parental rights.

(d) (1) A provider of an embryo for use in assisted reproduction to an intended parent who is not the provider's spouse or nonmarital partner is treated in law as if the provider is not the natural parent of a child thereby conceived unless the court finds satisfactory evidence that the provider and the intended parent intended for the provider to be a parent.

(2) If the provider of ova, semen, or embryos is not the original source of the ova or sperm, each original provider's written consent to the donation is required unless that person has executed a writing to consent to the donation, or to waive or relinquish their right to the genetic material, or as otherwise ordered by a court of law.

(e) (1) Notwithstanding any other law, persons who are not married to one another and who share legal control over the disposition of embryos shall not be prevented from entering into a written agreement whereby one person renounces all legal interest in the embryos, with the specific intent that the person renouncing all legal interest shall not be a legal parent of any child conceived with use of the embryos, despite any prior oral or written agreements, or legal judgments to the contrary. After that interest has been renounced in a writing signed by all persons with legal interest in or control over disposition of the embryos, the renouncing person shall be treated in law as a donor, and not a legal parent. Upon execution of that agreement, the person who retains legal interest in and control over disposition of the embryos shall have the sole right to determine the use and disposition of the embryos, including the right to attempt conception of a child, subject to any limitation pursuant to paragraph (2) of subdivision (d). Either party may file the agreement with the court, and the court shall issue an order establishing the nonparentage of the donor.

(2) If persons who share legal control over and interest in one or more embryos are married to one another at the time of signing the agreement, the agreement shall only become legally binding upon the court's entry of a final decree of dissolution that incorporates the agreement, after which the presumptions pursuant to Section 7540 or subdivisions (a), (b), or (c) of Section 7611 shall not apply.

SEC. 6. Section 8616.5 of the Family Code is amended to read:

8616.5. (a) The Legislature finds and declares that some adoptive children may benefit from either direct or indirect contact with birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, after being adopted. Postadoption contact agreements are intended to ensure children of an achievable level of continuing contact when contact is beneficial to the children and the agreements are voluntarily executed by birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and adoptive parents. Nothing in this section requires all of the listed parties to participate in the development of a postadoption contact agreement in order for the agreement to be executed.

(b) (1) Nothing in the adoption laws of this state shall be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and the child from voluntarily executing a written agreement to permit continuing contact between the birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and the child if the agreement is found by the court to have been executed voluntarily and to be in the best interests of the child at the time the adoption petition is granted.

(2) The terms of any postadoption contact agreement executed under this section shall be limited to, but need not include, all of the following:

(A) Provisions for visitation between the child and a birth parent or parents and other birth relatives, including siblings, and the child's Indian tribe if the case is governed by the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(B) Provisions for future contact between a birth parent or parents or other birth relatives, including siblings, or both, and the child or an adoptive parent, or both, and in cases governed by the Indian Child Welfare Act, the child's Indian tribe.

(C) Provisions for the sharing of information about the child in the future.

(3) The terms of any postadoption contact agreement with birth relatives, including siblings, other than the child's birth parent or parents shall be limited to the sharing of information about the child, unless the child has a preexisting relationship with the birth relative.

(c) At the time an adoption decree is entered pursuant to a petition filed pursuant to Section 8714, 8714.5, 8802, 8912, or 9000, the court entering the decree may grant postadoption privileges if an agreement for those privileges has been executed, including agreements executed pursuant to subdivision (f) of Section 8620. The hearing to grant the adoption petition and issue an order of adoption may be continued as necessary to permit parties who are in the process of negotiating a postadoption agreement to reach a final agreement.

(d) The child who is the subject of the adoption petition shall be considered a party to the postadoption contact agreement. The written consent to the terms and conditions of the postadoption contact agreement and any subsequent modifications of the agreement by a child who is 12 years of age or older is a necessary condition to the granting of privileges regarding visitation, contact, or sharing of information about the child, unless the court finds by a preponderance of the evidence that the agreement, as written, is in the best interests of the child. Any child who has been found to come within Section 300 of the Welfare and Institutions Code or who is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code shall be represented by an attorney for purposes of consent to the postadoption contact agreement.

(e) A postadoption contact agreement shall contain the following warnings in bold type:

(1) After the adoption petition has been granted by the court, the adoption cannot be set aside due to the failure of an adopting parent, a birth parent, a birth relative, including a sibling, an Indian tribe, or the child to follow the terms of this agreement or a later change to this agreement.

(2) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the adoption and shall not serve as a basis for orders affecting the custody of the child.

(3) A court will not act on a petition to change or enforce this agreement unless the petitioner has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute.

(f) Upon the granting of the adoption petition and the issuing of the order of adoption of a child who is a dependent of the juvenile court, juvenile court dependency jurisdiction shall be terminated. Enforcement of the postadoption contact agreement shall be under the continuing jurisdiction of the court granting the petition of adoption. The court may not order compliance with the agreement absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict, prior to the filing of the enforcement action, and that the enforcement is in the best interests of the child. Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(g) The court may not award monetary damages as a result of the filing of the civil action pursuant to subdivision (e).

(h) A postadoption contact agreement may be modified or terminated only if either of the following occurs:

(1) All parties, including the child if the child is 12 years of age or older at the time of the requested termination or modification, have signed a modified postadoption contact agreement and the agreement is filed with the court that granted the petition of adoption.

(2) The court finds all of the following:

(A) The termination or modification is necessary to serve the best interests of the child.

(B) There has been a substantial change of circumstances since the original agreement was executed and approved by the court.

(C) The party seeking the termination or modification has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings prior to seeking court approval of the proposed termination or modification.

Documentary evidence or offers of proof may serve as the basis for the court's decision. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(i) All costs and fees of mediation or other appropriate dispute resolution proceedings shall be borne by each party, excluding the child. All costs and fees of litigation shall be borne by the party filing the action to modify or enforce the agreement when no party has been found by the court as failing to comply with an existing postadoption contact agreement. Otherwise, a party, other than

the child, found by the court as failing to comply without good cause with an existing agreement shall bear all the costs and fees of litigation.

(j) The Judicial Council shall adopt rules of court and forms for motions to enforce, terminate, or modify postadoption contact agreements.

(k) The court shall not set aside a decree of adoption, rescind a relinquishment, or modify an order to terminate parental rights or any other prior court order because of the failure of a birth parent, adoptive parent, birth relative, including a sibling, an Indian tribe, or the child to comply with any or all of the original terms of, or subsequent modifications to, the postadoption contact agreement, except as follows:

(1) Prior to issuing the order of adoption, in an adoption involving an Indian child, the court may, upon a petition of the birth parent, birth relative, including a sibling, or an Indian tribe, order the parties to engage in family mediation services for the purpose of reaching a postadoption contact agreement if the prospective adoptive parent fails to negotiate in good faith to execute a postadoption contact agreement, after having agreed to enter into negotiations, provided that the failure of the parties to reach an agreement is not in and of itself proof of bad faith.

(2) Prior to issuing the order of adoption, if the parties fail to negotiate in good faith to execute a postadoption contact agreement during the negotiations entered into pursuant to, and in accordance with, paragraph (1), the court may modify prior orders or issue new orders as necessary to ensure the best interest of the Indian child is met, including, but not limited to, requiring parties to engage in further family mediation services for the purpose of reaching a postadoption contact agreement, initiating guardianship proceeding in lieu of adoption, or authorizing a change of adoptive placement for the child.

(l) As used in this section, "sibling" means a person related to the identified child by blood, adoption, or affinity through a common legal or biological parent.

(m) (1) In every adoption, each petitioner shall inform the court in writing, on ADOPT-200, whether that petitioner has entered, or has agreed to enter into a postadoption contact agreement with any person or persons.

(2) (A) If a postadoption contact agreement has been entered into, the terms of the agreement shall be set forth on or attached to ADOPT-310 and that form shall be signed by all adult parties to the agreement, and if applicable pursuant to subdivision (d), by the child who is the subject of the adoption.

(B) Prior to finalization of the adoption, the petitioner shall file this form and any attachments with the court. The petitioner shall provide a file-marked copy of the form to all signatories to the agreement, and to any licensed adoption agency that placed the child for adoption or consented to the adoption, within 30 days of the petitioner's receipt of the file-marked copy.

SEC. 6.5. Section 8616.5 of the Family Code is amended to read:

8616.5. (a) The Legislature finds and declares that some adoptive children may benefit from either direct or indirect contact with birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, after being adopted. Postadoption contact agreements are intended to ensure children of an achievable level of continuing contact when contact is beneficial to the children and the agreements are voluntarily executed by birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and adoptive parents. Nothing in this section requires all of the listed parties to participate in the development of a postadoption contact agreement in order for the agreement to be executed.

(b) (1) Nothing in the adoption laws of this state shall be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and the child from voluntarily executing a written agreement to permit continuing contact between the birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and the child if the agreement is found by the court to have been executed voluntarily and to be in the best interests of the child at the time the adoption petition is granted.

(2) The terms of any postadoption contact agreement executed under this section shall be limited to, but need not include, all of the following:

(A) Provisions for visitation between the child and a birth parent or parents and other birth relatives, including siblings, and the child's Indian tribe if the case is governed by the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(B) Provisions for future contact between a birth parent or parents or other birth relatives, including siblings, or both, and the child or an adoptive parent, or both, and in cases governed by the Indian Child Welfare Act, the child's Indian tribe.

(C) Provisions for the sharing of information about the child in the future.

(3) The terms of any postadoption contact agreement with birth relatives, other than the child's birth parent or parents or siblings, shall be limited to the sharing of information about the child, unless the child has a preexisting relationship with the

birth relative.

(c) At the time an adoption decree is entered pursuant to a petition filed pursuant to Section 8714, 8714.5, 8802, 8912, or 9000, the court entering the decree may grant postadoption privileges if an agreement for those privileges has been executed, including agreements executed pursuant to subdivision (f) of Section 8620. The hearing to grant the adoption petition and issue an order of adoption may be continued as necessary to permit parties who are in the process of negotiating a postadoption agreement to reach a final agreement.

(d) The child who is the subject of the adoption petition shall be considered a party to the postadoption contact agreement. The written consent to the terms and conditions of the postadoption contact agreement and any subsequent modifications of the agreement by a child who is 12 years of age or older is a necessary condition to the granting of privileges regarding visitation, contact, or sharing of information about the child, unless the court finds by a preponderance of the evidence that the agreement, as written, is in the best interests of the child. Any child who has been found to come within Section 300 of the Welfare and Institutions Code or who is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code shall be represented by an attorney for purposes of consent to the postadoption contact agreement.

(e) A postadoption contact agreement shall contain the following warnings in bold type:

(1) After the adoption petition has been granted by the court, the adoption cannot be set aside due to the failure of an adopting parent, a birth parent, a birth relative, including a sibling, an Indian tribe, or the child to follow the terms of this agreement or a later change to this agreement.

(2) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the adoption and shall not serve as a basis for orders affecting the custody of the child.

(3) A court will not act on a petition to change or enforce this agreement unless the petitioner has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute.

(f) Upon the granting of the adoption petition and the issuing of the order of adoption of a child who is a dependent of the juvenile court, juvenile court dependency jurisdiction shall be terminated. Enforcement of the postadoption contact agreement shall be under the continuing jurisdiction of the court granting the petition of adoption. The court shall not order compliance with the agreement absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict, prior to the filing of the enforcement action, and that the enforcement is in the best interests of the child. Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(g) The court may not award monetary damages as a result of the filing of the civil action pursuant to subdivision (e).

(h) A postadoption contact agreement may be modified or terminated only if either of the following occurs:

(1) All parties, including the child if the child is 12 years of age or older at the time of the requested termination or modification, have signed a modified postadoption contact agreement and the agreement is filed with the court that granted the petition of adoption.

(2) The court finds all of the following:

(A) The termination or modification is necessary to serve the best interests of the child.

(B) There has been a substantial change of circumstances since the original agreement was executed and approved by the court.

(C) The party seeking the termination or modification has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings prior to seeking court approval of the proposed termination or modification.

Documentary evidence or offers of proof may serve as the basis for the court's decision. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(i) All costs and fees of mediation or other appropriate dispute resolution proceedings shall be borne by each party, excluding the child. All costs and fees of litigation shall be borne by the party filing the action to modify or enforce the agreement when no party has been found by the court as failing to comply with an existing postadoption contact agreement. Otherwise, a party, other than the child, found by the court as failing to comply without good cause with an existing agreement shall bear all the costs and fees of litigation.

(j) The Judicial Council shall adopt rules of court and forms for motions to enforce, terminate, or modify postadoption contact agreements.

(k) The court shall not set aside a decree of adoption, rescind a relinquishment, or modify an order to terminate parental rights or any other prior court order because of the failure of a birth parent, adoptive parent, birth relative, including a sibling, an Indian tribe, or the child to comply with any or all of the original terms of, or subsequent modifications to, the postadoption contact agreement, except as follows:

(1) Prior to issuing the order of adoption, in an adoption involving an Indian child, the court may, upon a petition of the birth parent, birth relative, including a sibling, or an Indian tribe, order the parties to engage in family mediation services for the purpose of reaching a postadoption contact agreement if the prospective adoptive parent fails to negotiate in good faith to execute a postadoption contact agreement, after having agreed to enter into negotiations, provided that the failure of the parties to reach an agreement is not in and of itself proof of bad faith.

(2) Prior to issuing the order of adoption, if the parties fail to negotiate in good faith to execute a postadoption contact agreement during the negotiations entered into pursuant to, and in accordance with, paragraph (1), the court may modify prior orders or issue new orders as necessary to ensure the best interest of the Indian child is met, including, but not limited to, requiring parties to engage in further family mediation services for the purpose of reaching a postadoption contact agreement, initiating guardianship proceedings in lieu of adoption, or authorizing a change of adoptive placement for the child.

(l) As used in this section, "sibling" means a person related to the identified child by blood, adoption, or affinity through a common legal or biological parent.

(m) (1) In every adoption, each petitioner shall inform the court in writing, on ADOPT-200, whether that petitioner has entered, or has agreed to enter into a postadoption contact agreement with any person or persons.

(2) (A) If a postadoption contact agreement has been entered into, the terms of the agreement shall be set forth on or attached to ADOPT-310 and that form shall be signed by all adult parties to the agreement, and if applicable pursuant to subdivision (d), by the child who is the subject of the adoption.

(B) Prior to finalization of the adoption, the petitioner shall file this form and any attachments with the court. The petitioner shall provide a file-marked copy of the form to all signatories to the agreement, and to any licensed adoption agency that placed the child for adoption or consented to the adoption, within 30 days of the petitioner's receipt of the file-marked copy.

SEC. 7. Section 8714 of the Family Code is amended to read:

8714. (a) A person desiring to adopt a nondependent child may for that purpose file an adoption request in a county authorized by Section 8609.5. A person desiring to adopt a child who has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, freed for adoption by the juvenile court, and placed for adoption with the petitioner, may file the adoption request either in the county where the petitioner resides or in the county where the child was freed for adoption.

(b) The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(c) If the petitioner has entered into a postadoption contact agreement as set forth in Section 8616.5, the petitioner shall file the agreement, signed by the participating parties, with the court before the adoption is finalized.

(d) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth. The name the child had before adoption shall appear in the joinder signed by the licensed adoption agency.

(e) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(f) The order of adoption shall contain the child's adopted name and the name the child had before adoption.

SEC. 8. Section 8802 of the Family Code is amended to read:

8802. (a) Any of the following adult persons who desire to adopt a child may, for that purpose, file an adoption request in a county authorized by Section 8609.5:

(1) A person who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

(2) A person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.

(3) A person with whom a child has been placed for adoption, in which case a copy of the independent adoption placement agreement shall be attached to the petition.

(4) A person who has been the child's legal guardian for more than one year. However, if the guardian was nominated by a parent for a purpose other than adoption and for a specified time period, or if the guardianship was established pursuant to Section 360 of the Welfare and Institutions Code, the guardianship shall have been in existence for at least three years, unless parental rights have already been terminated.

(5) If the child is alleged to have been abandoned pursuant to Section 7822, a person who has been the child's legal guardian for more than six months. The legal guardian may file a petition pursuant to Section 7822 in the same court and concurrently with the adoption request.

(6) A person named in a court order terminating parental rights as the child's legal guardian or prospective adoptive parent.

(b) The court clerk shall immediately notify the department in Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(c) The adoption request shall contain an allegation that the petitioners will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from the adoption request does not affect the jurisdiction of the court to proceed or the validity of an adoption order or other order based on the adoption request.

(d) The caption of the adoption request shall contain the names of the petitioners, but not the child's name. The body of the adoption request shall state the child's sex and date of birth and the name the child had before adoption.

(e) If the child is the subject of a guardianship petition, the adoption request shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption request. The guardianship proceeding shall be consolidated with the adoption proceeding, and the consolidated case shall be heard and decided in the court in which the adoption is pending.

(f) If the petitioner has entered into a postadoption contact agreement as set forth in Section 8616.5, the petitioner shall file the agreement, signed by the participating parties, with the court before the adoption is finalized.

(g) The order of adoption shall contain the child's adopted name and the name the child had before adoption.

SEC. 9. Section 8912 of the Family Code is amended to read:

8912. (a) An international adoption or readoption request may be filed by a resident of this state in a county authorized by Section 8609.5. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The caption of the adoption request shall contain the names of the petitioners, but not the child's name. The request shall state the child's sex, date of birth, and the name the child had before adoption.

(c) If the child is the subject of a guardianship petition, the adoption request shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(d) The order of adoption shall contain the child's adopted name and the name the child had before adoption.

(e) If the petitioner has entered into a postadoption contact agreement as set forth in Section 8616.5, the petitioner shall file the agreement, signed by the participating parties, with the court before the adoption is finalized.

SEC. 10. Section 9000 of the Family Code is amended to read:

9000. (a) A stepparent desiring to adopt a child of the stepparent's spouse may for that purpose file a petition in any county authorized by Section 8609.5.

(b) A domestic partner, as defined in Section 297, desiring to adopt a child of the other domestic partner may, for that purpose, file a petition in any county authorized pursuant to Section 8609.5.

(c) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth and the name the child had before adoption.

(d) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(e) The order of adoption shall contain the child's adopted name and the name the child had before adoption.

(f) If the petitioner has entered into a postadoption contact agreement pursuant to Section 8616.5, the petitioner shall file the agreement, signed by the participating parties, with the court before the adoption is finalized.

(g) For the purposes of this chapter, stepparent adoption includes adoption by a domestic partner, as defined in Section 297.

SEC. 11. Section 6.5 of this bill incorporates amendments to Section 8616.5 of the Family Code proposed by both this bill and Assembly Bill 20. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 8616.5 of the Family Code, and (3) this bill is enacted after Assembly Bill 20, in which case Section 6 of this bill shall not become operative.