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TITLE 22, DIVISION 2, SUBDIVISION 4

CHAPTER 3. ADOPTION PROGRAM REGULATIONS

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SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS**Article 1 Agency Responsibility****35079 INVESTIGATION OF PETITION**

- (a) (Reserved)

HANDBOOK BEGINS HERE

- (a) Refer to Subchapter 8 for additional procedures for the child subject to the provisions of the ICWA.

HANDBOOK ENDS HERE

- (b) In an independent adoption, the agency shall investigate the adoption after the petition has been filed and file a court report recommending whether to grant the petition to adopt in accordance with Family Code Sections 8539, 8801(b), 8806, 8807, and 8808.
- (c) In the event that two separate agencies receive copies of petitions to adopt the same child, the agencies shall:
- (1) Exchange information on the two petitions, and
 - (2) Determine which of the petitioners will best meet the needs of the child, and
 - (3) Report to the court.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 8621, Family Code. Reference: Sections 8539, 8801(b), 8806, 8807, and 8808 Family Code; and 25 USC 1901 et seq.

35081 ASSESSMENT OF PETITIONERS

- (a) The agency shall assess the adoptive petitioners to determine their suitability as adoptive parents.
- (1) The agency shall initiate the assessment immediately upon receipt of an endorsed copy of the adoption petition.
 - (2) The assessment shall be documented in the adoption case record.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 8621, Family Code. Reference: Sections 8806, 8807, and 8808, Family Code.

35083 ASSESSMENT INTERVIEWS

- (a) The agency shall conduct interviews as necessary to make the assessment.
- (1) The agency shall conduct at least one interview in the home of the petitioners as soon as possible and no later than thirty days after the receipt of an endorsed copy of the adoption petition.
 - (2) The agency shall conduct separate interviews with each petitioner, if there is more than one petitioner.
 - (3) The agency shall conduct a joint interview with the petitioners, if there is more than one petitioner.
 - (4) The agency shall conduct interviews with all other adults and have contact with all children who live in the petitioner's home.
 - (5) The agency shall make another contact with the petitioners if the court report is submitted more than three months after the last contact with the petitioners.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code and Section 8621, Family Code. Reference: Sections 8806, 8807, and 8808, Family Code.

35085 INFORMATION TO PETITIONERS

- (a) (Reserved)
- (b) The agency shall discuss the following information with the petitioners:
- (1) Approximate time it may take to complete each stage of the adoption process.
 - (2) Statutory and regulatory requirements for adoption including confidentiality of adoption records.
 - (3) The provisions of Family Code Section 8803 and Penal Code Section 280 regarding the concealment of a child.

35085 INFORMATION TO PETITIONERS (Continued)

- (4) The agency shall inform the petitioners of the law's requirement to file a report with the court on all expenditures paid by them or on their behalf in connection with the birth, placement, and adoption of the child in accordance with Family Code Section 8610.
- (5) The agency shall inform the petitioners of the provisions of Family Code Section 8818.

NOTE: Authority Cited: Section 8621, Family Code; Sections 10553, 10554, and 10850(d), Welfare and Institutions Code; and Section 10439, Health and Safety Code. Reference: Sections 1798.24(r) and 1798.24(s), Civil Code; Sections 8610, 8803, 8818, 9204, 9205, and 9206, Family Code; and 25 USC 1901 et seq.

35087 DOCUMENTATION TO FACILITATE ASSESSMENT

- (a) The agency shall obtain the following documentation for all petitioners to facilitate the assessment:
 - (1) Authorization for the release of medical and employment information on the petitioner.
 - (2) Authorization for release of financial information, if necessary.
 - (3) Report of medical examination on the petitioner.
 - (A) The medical report shall be signed by a licensed physician or a nurse practitioner practicing under a licensed physician.
 - (B) The medical examination required by this section shall have been conducted no earlier than six months prior to the filing of the petition.
 - (C) The agency shall waive the medical report when the petitioners are members of a religious sect, denomination, or organization which, in accordance with its creeds or tenets, relies on faith and prayer for healing.
 - (4) School reports for all school age children residing in the home of the petitioner.
 - (5) For each adult residing in the home of the petitioner, a certificate that the individual is free from communicable tuberculosis.

35087 DOCUMENTATION TO FACILITATE ASSESSMENT (Continued)

- (6) At least three letters of reference regarding the suitability of the petitioner as an adoptive parent.
- (A) The agency shall be permitted to substitute face-to-face interviews with individuals providing references for letters of reference.
- (1) Interviews with individuals providing references shall be documented in the adoption case record.
- (7) The full state criminal record, if any, from the State Department of Justice (DOJ).
- (B) The agency shall submit one set of fingerprints for each petitioner to the DOJ.
1. The agency shall clearly indicate "Adoption" on the request to inform the DOJ of the purpose of the criminal record clearance.

HANDBOOK BEGINS HERE

2. The DOJ form BID-7 is used to submit a set of fingerprints to the DOJ.
3. The BID-7 forms can be ordered at no charge from the DOJ.
4. The DOJ procedure for obtaining a criminal record is described in the "APPLICANT FINGERPRINT CLEARANCE MANUAL." This manual can be obtained from the DOJ at no cost.
5. DOJ requires that a check or money order payable to the "California Department of Justice" accompany the submittal of the fingerprint cards unless the agency has arranged for a monthly billing service.
6. The address for the DOJ is:
- Department of Justice
Bureau of Criminal Identification
P.O. Box 903417
Sacramento, CA 94203-4170

HANDBOOK ENDS HERE

35087 DOCUMENTATION TO FACILITATE ASSESSMENT (Continued)

- (C) The agency shall contract with the DOJ for the Subsequent Arrest Notification Service in order to receive arrest information subsequent to the original DOJ criminal record sent to the agency and pending the court order granting the completion of the adoption.

HANDBOOK BEGINS HERE

1. The DOJ has a simple one-page form for this purpose entitled: "Contract for Subsequent Arrest Notification Service." This form can be obtained from and returned to the same address as provided in Section 35087(a)(7)(B)6.

HANDBOOK ENDS HERE

- (D) The agency shall notify the DOJ (pursuant to Penal Code Section 11105.2c) when the adoption has been finalized, denied, or dismissed to discontinue receiving subsequent arrest information on a subject previously fingerprinted for adoption purposes, unless the petitioner is being assessed or investigated by the agency for another adoption.

HANDBOOK BEGINS HERE

1. The address for the DOJ is given in Section 35087(a)(7)(B)6.
2. The DOJ Bureau of Criminal Identification also has a form entitled "No Longer Interested Notification" to be used for this purpose.

HANDBOOK ENDS HERE

- (E) The agency shall require new sets of fingerprints and shall make new requests for state criminal records to the DOJ in the event of subsequent adoptions unless the Subsequent Arrest Notification Service is still in effect.
- (8) The FBI criminal record, if any, of the petitioner, from the DOJ when the petitioner has resided in California for less than two years or when information gathered in the assessment has given the agency reason to believe that the petitioner may have committed a crime in another jurisdiction.
- (A) The agency shall have reason to believe that the person may have committed a crime in another jurisdiction because of any of the following: statements or actions by the petitioners; statements by people providing references; a history of arrests and convictions in California; and employment in another state.

35087 DOCUMENTATION TO FACILITATE ASSESSMENT (Continued)

- (B) The agency shall submit one set of fingerprints for each petitioner requiring an FBI criminal record clearance to the DOJ.

HANDBOOK BEGINS HERE

1. This set of fingerprints is separate from the set submitted to the DOJ for the DOJ full state criminal record.
2. Refer to Section 35087(a)(7)(B) for related information.

HANDBOOK ENDS HERE

- (C) The agency shall require new sets of fingerprints and shall make new requests to the DOJ for the FBI criminal record in the event of subsequent adoptions.

NOTE: Authority cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 8806, 8807, 8808, and 8811, Family Code.

**35089 OBTAINING IDENTIFYING INFORMATION AND EVALUATING
PETITIONERS DURING ASSESSMENT**

- (a) The assessment of the petitioner shall include:
- (1) The following identifying information on the petitioner and any children and adults residing in the home:
 - (A) Name, date of birth and sex.
 - (B) Current address and telephone number.
 - (C) Blood relationship to child, if any.
 - (D) Race and ethnic background information.
 - (E) Religion.
 - (F) Current employment information.

**35089 OBTAINING IDENTIFYING INFORMATION AND EVALUATING
PETITIONERS DURING ASSESSMENT (Continued)**

- (G) Verification of marital status, if relevant.
 - 1. Verification of termination of all prior marriages.
 - (i) When verification of the dissolution of any marriage of a petitioner is not possible, a marriage prior to a verified divorce decree shall be assumed to have been validly dissolved. A valid divorce presupposes that the marriage was valid.
 - (H) Personal and/or biological relationship of the petitioner to other individuals residing in the petitioners home.
- (2) Evaluation of the following for the petitioner and any children and adults residing in the home:
- (A) General characteristics.

HANDBOOK BEGINS HERE

- 1. General characteristics may include:
 - (a) The manner in which the petitioner has dealt with difficult or stressful life situations.
 - (b) Relationships within the petitioner's family.
 - (c) Ability to assume responsibility for the care, guidance, and protection of a child.
 - (d) Emotional flexibility and stability.
 - (e) Self-esteem.
 - (f) Coping ability.
 - (g) The manner in which normal hazards and risks are accepted.
 - (h) Motivation for adoption.
 - (i) Ability to have a parent-child relationship and to enjoy a child.
 - (j) Flexibility regarding the petitioner's expectations of a child.

HANDBOOK ENDS HERE

**35089 OBTAINING IDENTIFYING INFORMATION AND EVALUATING
PETITIONERS DURING ASSESSMENT (Continued)**

- (B) Feelings and attitudes which may impact the adoption.

HANDBOOK BEGINS HERE

1. Feelings and attitudes regarding:
 - (i) The inability of the petitioner to conceive children when this is a factor in the adoption.
 - (ii) Children born to unmarried birth parents.
 - (iii) Sharing the facts surrounding the adoption with the adopted child.
 - (iv) The possible search by birth parents for the adoptee and the possible search by the adoptee for birth parents.
 - (v) The ability of the petitioner to accept the adoption as a life-long process.

HANDBOOK ENDS HERE

- (C) Social background.

HANDBOOK BEGINS HERE

1. Participation in community activities.
2. Peer relationships.

HANDBOOK ENDS HERE

- (D) Educational background.
- (E) Financial stability.
- (F) Work adjustment.
- (G) Adequacy of housing.

**35089 OBTAINING IDENTIFYING INFORMATION AND EVALUATING
PETITIONERS DURING ASSESSMENT (Continued)**

HANDBOOK BEGINS HERE

1. Evaluation of adequacy of housing may include evaluation of the following conditions:
 - (i) Sanitation.
 - (ii) Safety.
 - (iii) Sleeping accommodations.
 - (iv) Play area.

HANDBOOK ENDS HERE

(3) Evaluation of:

- (A) The full state criminal record, if any, of the petitioner and if required by Section 35087(a)(8) the FBI criminal record, if any.

NOTE: Authority cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 8806, 8807, 8808, and 8811(b), Family Code; and Section 11105.2, Penal Code.

35091 COMPLETION OF ASSESSMENT AND REPORT TO COURT

- (a) The agency shall complete the assessment and report to the court with a recommendation within 180 days of the filing of the adoption petition unless an extension of time has been granted by the court.

NOTE: Authority cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Section 8807, Family Code.

**35092 OBTAINING AND RELEASING INFORMATION ABOUT BIRTH
PARENTS**

- (a) The agency shall obtain the birth mother's and the birth father's authorization for the release of medical information prior to fulfilling the requirements of Sections 35092(b)(7), (8) and (9).
- (1) If any documentation or oral report indicates that the birth parent may be of Indian ancestry, the agency shall obtain that information required by Section 35357(a).
 - (2) Agencies shall use the AD 100 to obtain the birth parents' authorizations for the release of medical information pursuant to this section.
 - (A) That agency shall indicate on the AD 100, in the space provided, that the prospective adoptive parents and the agency are authorized to receive the information being sought.
 - (3) The AD 100 shall advise the birth parent and the source to whom the authorization is to be sent of the following:
 - (A) All nonidentifying information obtained from the source will be given to the prospective adoptive parents prior to the finalization of adoption.
 - (B) All nonidentifying information obtained from the source will be given to the adoptive parents of an adoptee under age 18 and to the adult adoptee, upon written request, in post-adoption services.
 - (C) No identifying information about either the child or his or her birth parents shall be disclosed to the adopting parents or the adult adoptee unless permitted by law.

HANDBOOK BEGINS HERE

- (4) If it is not possible to obtain the birth mother's or birth father's authorization, the agency may utilize a court order to obtain this information.

HANDBOOK ENDS HERE

- (5) If the agency receives a report or evaluation that is illegible or the photocopy is unclear, the agency shall return it to the source with a request for a clear, legible copy.

**35092 OBTAINING AND RELEASING INFORMATION ABOUT BIRTH
PARENTS (Continued)**

(b) The agency shall obtain the following information regarding the child's birth parents:

- (1) (Reserved)

HANDBOOK BEGINS HERE

- (1) In addition to the requirements of this section, the agency may obtain and file in the adoption case record other information pertaining to the background of the birth parent. This information includes, but is not limited to, information on the birth parent's physical description, education, occupation, hobbies and interests, parents, grandparents, and siblings.

HANDBOOK ENDS HERE

- (2) Name and current address.
- (3) Date of birth.
- (4) Religion.
- (A) Religious preference for the child, if applicable.
- (5) Marital history of the birthmother including dissolutions of marriage.
- (A) When verification of the dissolution of all marriages of the birth mother is not possible, the marriages preceding a verified divorce decree shall be assumed to have been validly dissolved.

HANDBOOK BEGINS HERE

1. A valid divorce presupposes that the marriage was valid.

HANDBOOK ENDS HERE

- (6) Race and ethnic background.

**35092 OBTAINING AND RELEASING INFORMATION ABOUT BIRTH
PARENTS (Continued)**

- (7) Medical background including illnesses, diseases, or defects of a hereditary or genetic nature, as required by Family Code Section 8706, 8817, or 8909, including, if available, the medical history of the birth parent's extended family.
 - (8) Reports on the birth mother from the prenatal physician and the physician who delivered the child, or from the hospital in which the child was born, if available. The reports shall include the following:
 - (A) Information about medications taken by the birth mother during pregnancy.
 - (B) Information about complications of pregnancy or delivery.
 - (9) Existing reports or evaluations on the birth parent from medical or mental health professionals and hospitals or institutions in which the birth parent has been an in-patient or out-patient.
 - (10) The AD 67 and the AD 67A completed by the birth parents.
- (c) The agency shall document in the adoption case record and in the court report the reason(s) that the agency was unable to obtain any of the reports, documents, or information described in Section 35092(b).
- (1) The agency shall indicate the name of any such report or documentation that was not obtained and the reason(s) that the information is not part of the child's medical report on the AD 512A.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608(a) and 8621, Family Code. Reference: Sections 7600 et seq., 8706, 8715, 8817, 8909, and 9202, Family Code; Section 10553(e), Welfare and Institutions Code; and 25 U.S.C. 1901 et seq.

35093 ASSESSMENT OF CHILD

- (a) The agency shall assess the child. The assessment shall be in writing and include, but not be limited to, the following information about the child:
- (1) Identification, including the child's sex, age, race, and ethnicity.
 - (2) A complete medical report as defined at Section 35000(m)(2).

HANDBOOK BEGINS HERE

- (A) The agency should ensure that the report on the child's health contains sufficient information to enable the agency to complete the report required by Family Code Section 8817.
- (B) It is advisable that the agency inform the prospective adoptive parents that the child may need further psychological evaluation from a mental health professional if the child's background or health history indicates the need for such an evaluation.

HANDBOOK ENDS HERE

- (C) The agency shall use the AD 512A when releasing information about the child's medical and family background to the prospective adoptive parents.
- (D) All recommendations or comments made by the agency to the prospective adoptive parents about the child or his or her family background shall be written on the AD 512A and given to the prospective adoptive parents.

HANDBOOK BEGINS HERE

1. For further information regarding procedures to use when releasing the AD 512A, agencies should refer to Section 35094.

HANDBOOK ENDS HERE

- (3) Religion.
- (4) Readiness for adoption and willingness to be adopted, if appropriate.
- (5) Adjustment in the home of the petitioners.
- (6) Other examinations and reports when available.

NOTE: Authority cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; Section 8608(a), Family Code. Reference: Sections 8806, 8807, and 8817, Family Code.

**35094 WRITTEN REPORT ON ASSESSMENT OF CHILD TO BE PROVIDED
TO PROSPECTIVE ADOPTIVE PARENTS**

- (a) Prior to finalization of the adoption, the agency shall give the prospective adoptive parents a written medical report in accordance with Family Code Section 8817(c) and the information gathered pursuant to Section 35093, "Assessment of the Child."

HANDBOOK BEGINS HERE

- (1) The definition of "medical report" is located at Section 35000(m)(2).

HANDBOOK ENDS HERE

- (2) The agency shall use the AD 512A when releasing information about the child's medical and family background.
- (A) The agency shall delete all identifying information prior to releasing the report.
- (3) The agency shall disclose to the prospective adoptive parents all available medical and family background information about the child and his or her birth parents.
- (A) The agency shall photocopy, except as provided in Sections 35094(a)(4)(C), (D) and (E), all available original source reports and evaluations obtained during the adoption investigation of the child and his or her birth parents' medical and family backgrounds.
1. The photocopies shall be attached to the AD 512A.
- (B) The agency shall delete the names and addresses of all individuals, including the child and the source, contained in all reports or evaluations, prior to releasing photocopies.
- (C) The agency shall not interpret or summarize medical terminology or any health condition indicated in the original source reports, except as noted in this section. Emphasis shall be placed on citing verbatim from any report or evaluation contained in the adoption record.
1. When the identity of other persons, such as former caretakers and other children in the foster home, would be revealed or when the information is not directly related to the child's current or future well-being, only summaries of original source reports shall be included on the AD 512A.

**35094 WRITTEN REPORT ON ASSESSMENT OF CHILD TO BE PROVIDED
TO PROSPECTIVE ADOPTIVE PARENTS (Continued)**

HANDBOOK BEGINS HERE

- (i) The attachment of photocopied original source reports may not be appropriate under certain, limited circumstances.

HANDBOOK ENDS HERE

- (D) If a birth parent has received psychiatric or psychological evaluations, the diagnosis of his or her condition shall be given verbatim.
 - 1. The agency shall not release the original report of the evaluation.
 - (E) If a birth parent has received in-patient psychiatric treatment, information concerning his or her diagnosis, response to treatment and prognosis shall be given verbatim.
 - 1. The agency shall not release the original report of the hospitalization.
 - (F) All reports that are photocopied and given to the prospective adoptive parents shall be attached and listed on the AD 512A.
- (5) The agency shall advise the prospective adoptive parents that, upon receipt of the medical report, the prospective adoptive parents should consult their physician or mental health professional for further evaluation or interpretation, particularly if the report contains material sensitive in subject matter.
 - (6) The agency shall document in the adoption case record and court report the name of any report, document, or information described in Section 35000(m)(2) that the agency was unable to obtain and the reason(s) that the information was not available.
 - (7) The agency shall identify on the AD 512A the name of any report, document, or information described in Section 35000(m)(2) that was not obtained and the reason(s) that the information is not included.

**35094 WRITTEN REPORT ON ASSESSMENT OF CHILD TO BE PROVIDED
TO PROSPECTIVE ADOPTIVE PARENTS (Continued)**

- (8) The agency shall obtain the prospective adoptive parents' signatures in the space provided on the AD 512A acknowledging receipt.
- (A) The agency shall make a copy of the completed AD 512A with the prospective adoptive parents' signatures for the adoption case record.
- (b) Prior to the finalization of the adoption, the agency shall transmit to the prospective adoptive parents any medical and family background information about the child and his or her birth parents received after the release of the medical report pursuant to Section 35094(a).
- (1) The agency shall transmit the information upon its receipt to the prospective adoptive parents.
- (A) The agency shall delete the names and addresses of all individuals, including the child and the source, prior to releasing the information.
- (B) The agency shall strive for full disclosure of all medical and family background information about the child and his or her birth parents.
- (C) The agency shall not interpret or summarize medical terminology or any health conditions indicated. Emphasis shall be placed on citing verbatim from any reports and evaluations received.
- (D) The agency shall advise the prospective adoptive parents that, upon receipt of the information, the prospective adoptive parents should consult their physician or mental health professional for further evaluation or interpretation, particularly if the information contains material sensitive in subject matter.
1. The agency shall document in the adoption case record a description of the manner in which the information was released and the date on which the information was released.
2. The agency shall retain a copy of the information in the adoption case record.

NOTE: Authority cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 8608(a), Family Code. Reference: Section 8817(c), Family Code.

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS**Article 2 Placement for Independent Adoption****35094.1 ADOPTION SERVICE PROVIDER REGISTRATION AND DUTY OF CARE**

- (a) Prior to acting as an adoption service provider in California, the potentially qualified individual shall register with the Adoptions Branch of the department at Sacramento by providing the following evidence that he or she meets the qualifications specified in Family Code Section 8502. The registration shall be acknowledged by the department.
- (1) The individual shall provide, or cause to be provided, to the department at:
- California Department of Social Services
Adoptions Branch
744 P Street, M.S. 19-67
Sacramento, California 95814
- (A) A copy of the individual's current license as a Licensed Clinical Social Worker.
- (B) An original letter or letters mailed to the department by the adoption agency or agencies with whom the individual worked attesting to the individual's experience and giving specific dates of employment.
- (2) Verification or clarification of the information provided by the individual shall be obtained by the department, if necessary, from the Board of Behavioral Science Examiners and/or the employer(s).
- (3) No individual shall be registered unless he or she possesses the required license and experience.
- (A) If an individual has been registered and the department subsequently determines that he or she in fact lacks the required license and/or experience, registration of the individual shall be terminated.
1. Prior to terminating the registration of an individual adoption service provider, the department shall mail the adoption service provider a written notice of termination and the reason(s) for the termination.

35094.1 ADOPTION SERVICE PROVIDER REGISTRATION AND DUTY OF CARE (Continued)

- (B) The department shall not terminate the registration if, within fifteen working days after the department mails the notice, the adoption service provider mails a written response providing additional information verifying that the license and/or experience meets the requirements in Section 35094.1(a).
 - (C) If the additional information provided by the adoption service provider does not meet the license and/or experience requirements in Section 35094.1(a), the department shall terminate the registration.
- (4) A complaint shall be filed with the Board of Behavioral Science Examiners by the department or delegated county adoption agency when the actions of an individual adoption service provider are not in compliance with the department's regulations.
- (b) The adoption service provider shall comply with Family Code Section 8801.7, which provides that the adoption service provider owes a very high duty of care to the birth parent being advised.

NOTE: Authority cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 8502 and 8801.7, Family Code.

35094.2 PRE-PLACEMENT ADVISEMENT

- (a) The adoption service provider shall advise a birth parent, as required by Family Code Section 8801.5, when the birth parent is considering the placement of his or her child for independent adoption unless the prospective adoptive parent is a grandparent, aunt, uncle, sibling, legal guardian who has been the child's legal guardian for more than three years or is a person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.
- (b) Prior to advising a birth parent who is considering the placement of his or her child for independent adoption, the adoption service provider shall obtain background information regarding the prospective adoptive parents.
 - (1) This background information shall include at least the personal knowledge, as defined in Section 35000(p)(5), that the birth parent must have prior to placing a child for adoption.

35094.2 PRE-PLACEMENT ADVISEMENT (Continued)

- (c) When advising a birth parent who is considering the placement of his or her child for adoption, the adoption service provider shall inform the birth parent of:
- (1) His or her right to separate, independent legal counsel paid for by the prospective adoptive parents upon the request of the birth parent.
 - (2) Alternatives to adoptive placement of the child including, but not limited to:
 - (A) Services which would assist the birth parent in caring for the child including:
 1. Financial resources such as child support and Aid to Families with Dependent Children (AFDC).
 2. Employment resources such as vocational training and Employment Development Department services.
 3. Educational resources such as continuation school and General Equivalency Diploma programs.
 4. Child care resources, including the availability of subsidized day care.
 5. Housing resources such as shared housing with relatives or nonrelatives and government subsidized housing.
 6. Health service resources such as well baby clinics, Child Health and Disability Prevention Programs (CHDP), California Children's Services, and Medi-Cal.
 - (B) Services, such as voluntary foster care placement or temporary placement with extended family members, which would give the parent more time to determine the most appropriate plan for the child.
 - (3) Alternative forms of adoption, including a description of the full procedures and timeframes involved in each type, which at a minimum shall address the following:

35094.2 PRE-PLACEMENT ADVISEMENT (Continued)

- (A) Standard agency (relinquishment) adoption
1. The birth parent transfers his or her rights and responsibilities for the child to an adoption agency by signing a relinquishment of the child to the agency.
 - (i) The birth parent's legal rights and responsibilities for the child end when the relinquishment is filed with the department.
 - (ii) The relinquishment is filed on a date agreed to by the birth parent and the agency.
 - (iii) The birth parent may revoke the relinquishment before it is filed with the department.
 - (iv) The birth parent may not rescind the relinquishment after it is filed with the department unless the adoption agency agrees.
 2. The prospective adoptive parents must be assessed and approved by the adoption agency before the child is placed for adoption with the family.
 3. The adoption agency, not the birth parent, selects the adoptive parents, and the birth parent usually does not know the identity of the adoptive parents.
- (B) Designated agency (relinquishment) adoption
1. These adoptions are the same as standard agency adoptions except that:
 - (i) The birth parent participates in the selection of the adoptive parents,
 - (ii) The birth parent knows the identity of the adopting parents, and
 - (iii) The birth parent also has a right to rescind his or her relinquishment and thus regain his or her parental rights and responsibilities if the child is not placed with the selected family or if the placement disrupts prior to completion of the adoption.

35094.2 PRE-PLACEMENT ADVISEMENT (Continued)

- (C) Independent adoption by relatives
1. The birth parent agrees to the prospective adopting parents' future adoption of the child by signing a consent to the adoption.
 - (i) The birth parent continues to be legally responsible for the child until the adoption is completed.
 - (ii) The consent to the adoption becomes irrevocable 90 days after it is signed unless the birth parent waives the right to revoke the consent before the 90 days expire.
 - (iii) The birth parent may revoke the consent and, if he or she has legal custody, reclaim the child at any time before the consent becomes irrevocable.
 - a. When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.
 - (iv) The consent does not require the prospective adoptive parents to complete the adoption.
 2. The prospective adoptive parents are assessed as to their suitability to adopt after the child has begun living with them and they have filed a petition to adopt with the court.
 3. The birth parent selects the adoptive parents.
 4. The child begins living with the prospective adoptive parents before parental rights have been terminated.
- (D) Independent adoption by nonrelatives
1. Each placing birth parent agrees to the prospective adopting parents' future adoption of the child by signing a placement agreement, and any non-placing birth parents agree to the future adoption by signing a consent.
 - (i) The birth parent continues to be legally responsible for the child until the adoption is completed.

35094.2 PRE-PLACEMENT ADVISEMENT (Continued)

- (ii) A placement agreement becomes an irrevocable consent to the adoption 90 days after it is signed unless the birth parent shortens this period by waiving the right to revoke the consent before the 90 days expire.
 - (iii) A consent becomes irrevocable 90 days after it is signed unless the birth parent shortens this period by waiving the right to revoke the consent before the 90 days expire.
 - a. When the placement agreement or consent becomes an irrevocable consent, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.
 - (iv) The birth parent may revoke the placement agreement or consent and, if he or she has legal custody, reclaim the child at any time before the placement agreement or consent becomes an irrevocable consent.
 - (v) The placement agreement or consent does not require the prospective adoptive parents to complete the adoption.
2. The prospective adoptive parents are assessed as to their suitability to adopt after the child has begun living with them and they have filed a petition to adopt with the court.
 3. The birth parent selects the adoptive parents.
 4. The child usually begins living with the prospective adoptive parents when a parent with legal custody has signed an adoptive placement agreement.
- (4) The right to a minimum of three separate counseling sessions, as required by Family Code Section 8801.51.
 - (5) Other rights and responsibilities of the birth parent as outlined on the AD 926 or, if the child is subject to the Indian Child Welfare Act, the AD 927.

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- (A) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is described in Section 35095.1, and the Statement of Understanding for the parent whose child is subject to the ICWA is described in Section 35095.2.

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35094.2 PRE-PLACEMENT ADVISEMENT (Continued)

- (B) The adoption service provider shall review each item on the Statement of Understanding with the birth parent to be certain that the birth parent understands the meaning of each item.
 - (C) The adoption service provider shall answer any questions the birth parent has about the meaning of the items.
- (6) If all possible birth parents are not placing the child for adoption, the necessity of legally terminating the parental rights or securing the consent of all other possible parents before the adoption can be completed.
- (A) The adoption services provider shall emphasize the importance of and explain the possible repercussions of not accurately identifying other possible birth parents including:
 - 1. The fact that the mother or presumed father who was not informed of the adoptive placement may take custody of the child after the child has been placed for adoption and that this is very traumatic for the child and the prospective adoptive parents.
 - 2. The fact that if parents are not identified, it is not possible to obtain information about their medical history and other background information and the child and his or her adoptive parents will be deprived of crucial information which may be relevant to future decisions regarding the child's health and well-being.
 - (B) The adoption service provider shall make a diligent attempt to secure from the placing parent information necessary to allow accurate identification of the other parent.
 - 1. The AD 880 shall be used to collect this information from birth mothers.
- (7) The fact that the proposed independent adoption will be investigated by the department or delegated county adoption agency and that the birth parent will be interviewed during the investigation.
- (A) The adoption service provider shall provide the birth parent with the name, address and telephone number of the department or delegated county adoption agency office that will investigate the proposed adoption.

35094.2 PRE-PLACEMENT ADVISEMENT (Continued)

- (d) The adoption service provider shall give the birth parent the following documents at the initial session:
- (1) Documents provided for the birth parent's review:
 - (A) The relevant Statement of Understanding with the personal knowledge section completed.
 - (B) The relevant Independent Adoption Placement Agreement.
 - (C) The AD 908.
 - (2) Documents which the birth mother shall be given with the request that she complete them, possibly with the assistance of family members, prior to signing the Independent Adoption Placement Agreement:
 - (A) The AD 67.
 - (B) If the birth father has not been advised, the AD 67A with the request that the birth mother provide as much information as possible.
 - (C) The AD 880.
 - (3) Documents which the birth father shall be given with the request that he complete them, possibly with the assistance of family members, prior to signing the Independent Adoption Placement Agreement:
 - (A) The AD 67A.
 - (B) If the birth mother has not been advised, the AD 67 with the request that the birth father provide as much information as possible.

NOTE: Authority cited: Section 8621, Family Code; Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 7663, 8502, 8801.3, 8801.5, 8801.7, 8802, 8817, and 8818, Family Code.

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT

- (a) Prior to signing the AD 924 or the AD 925, the adoption service provider shall:
- (1) Obtain, document, and share with the prospective adoptive parents information from the birth parent(s) regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the proposed adoptive placement.
 - (A) Assist the birth parent in providing medical and family background information by helping him or her complete the AD 67 and the AD 67A forms.
 - (B) Assure that the adopting parents have received copies of the AD 67 and the AD 67A forms completed by the birth parent(s).
 - (2) Determine whether the child is an Indian child prior to witnessing the signing of a placement agreement if any documentation or oral report indicates that either birth parent may be of Indian ancestry.
 - (A) The adoption service provider shall ask the birth parent whether the birth parent or the child's other parent is of Indian ancestry.

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- (B) "Indian Child" is defined at Section 35000(i)(6).
- (C) The process for determining whether the child is an Indian child is found at Section 35357 et seq.

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- (3) Ask the birth mother to identify the child's father or possible fathers.
 - (A) As part of this inquiry, the adoption service provider shall assist the birth mother in completing the AD 880.
- (4) Determine that the birth parent has the ability to understand the nature, content, and effect of signing an adoptive placement agreement.
 - (A) If the adoption service provider's observation or knowledge of the parent's history or current condition indicates that the parent may not have the ability to understand the content, nature, and effect of signing the adoption placement agreement, the adoption service provider shall ask the potential adoptive parents to arrange for an evaluation by a licensed physician or a licensed clinical psychologist of the parent's ability to understand the nature, content, and effect of signing an adoptive placement agreement.

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT (Continued)

1. This evaluation shall not be required if the inability is temporary resulting from factors such as stress, lack of sleep, or the use of alcohol or other mind-altering substances. However, the adoption service provider shall not sign the adoption placement agreement until the birth parent is able to understand the content, nature, and effect of the agreement.
2. The need for an evaluation is indicated under, but not limited to, the following circumstances:
 - (i) The birth parent is receiving SSI/SSP based on mental illness or developmental disability.
 - (ii) The birth parent has received psychiatric treatment and/or medication for mental illness or disease within the past two years.
 - a. Counseling related to placement of the child for adoption, the resolution of marital problems or similar decision-making shall not be considered psychiatric treatment for mental illness or disease.
3. The adoption service provider shall obtain a written authorization from the parent for release of the evaluation by the physician or clinical psychologist to the adoption service provider and the department or delegated county adoption agency.
4. The adoption service provider shall sign the placement agreement:
 - (i) Only if the evaluation establishes that the birth parent has the ability to understand the nature, content, and effect of signing a consent to adoption;
 - (ii) No later than 30 days after the evaluation is completed; and
 - (iii) In the case of a birth parent for whom the court has appointed a conservator, only if the order of conservatorship specifically allows the birth parent to consent to the adoption of his or her child.
- (5) Obtain written authorization from the birth parent for the following releases of information concerning the parent and the child:

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT (Continued)

- (A) From the adoption service provider to the department or delegated county adoption agency.
 - (B) From the department or delegated county adoption agency to the prospective adoptive parents.
 - (C) From the child's physician(s) to the department or delegated county adoption agency if the child is not being placed at birth.
- (6) Obtain written authorization from the birth mother for the following releases of information concerning the mother and the child:
- (A) From the birth mother's physician(s) to the department or delegated county adoption agency.
 - (B) From the hospital where the birth mother delivered the child, or intends to deliver the child, to the department or delegated county adoption agency.
- (7) Determine that the birth parent is voluntarily choosing to place the child with the prospective adoptive parents for the purpose of adoption pursuant to Family Code Section 8801.
- (B) The adoption service provider shall sign the adoption placement agreement only after he or she determines that the birth parent has substantially correct knowledge of all of the elements of personal knowledge regarding the prospective adoptive parents.
- (8) Present a copy of the AD 908 to the birth parent and give him or her an opportunity to complete and sign the statement.
- (9) Obtain the birth parent's signature on the Statement of Understanding form after the birth parent has affirmed his or her understanding of the placement and consent process by reading and initialing each explanatory statement on the Statement of Understanding form in the presence of the adoption service provider.
- (A) The Statement of Understanding shall be signed on the same day, but prior to the signing of the adoption placement agreement.
- (10) Sign the Statement of Understanding form certifying that the birth parent's signature has been properly witnessed.
- (11) Obtain written verification of the provision of the advisement from the advising adoption service provider, if the adoption service provider signing the adoption placement agreement is not the adoption service provider that provided the advisement.

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT (Continued)

- (b) After the conditions specified in Section 35094.2(a) have been met, the adoption service provider shall arrange for the signing of the adoption placement agreement as provided in Family Code Section 8801.3.
- (2) If the child is an Indian child, the placement agreement must be signed in accordance with Section 35375.
- (c) After the Independent Adoption Placement Agreement has been signed by the birth parents, the adoptive parents, and the adoption service provider, the adoption service provider shall:
- (1) Give the birth parent copies of the following signed documents:
- (A) The Independent Adoption Placement Agreement.
- (B) The Statement of Understanding.
- (C) The Adoptions Information Act Statement.
- (D) If requested, any other documents which the birth parent has signed.
- (2) Give the potential adoptive parents a copy of the signed Independent Adoption Placement Agreement.
- (3) Offer to interview the birth parent as provided in Family Code Section 8801.7.
- (4) If a birth parent who has placed a child decides to revoke consent, offer and, if requested, do the following to assist the birth parent in obtaining the return of the child:
- (A) Assist the birth parent in completing the written statement revoking the placement agreement and delivering that statement to the department or delegated county adoption agency.
1. A specific form shall not be required, but the AD 928 may be used for this purpose.
- (B) Contact the prospective adoptive parents to inform them of the placing parent's decision and to arrange the time and place of the return of the child.
- (C) Accompany the birth parent when the parent takes custody of the child.

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT (Continued)

- (5) Send the department or delegated county adoption agency:
 - (A) A completed AD 930.
 - (B) Original signed copies of all documents signed by the birth parent including, but not limited to:
 - 1. The AD 924 or the AD 925.
 - 2. The AD 926 or the AD 927.
 - 3. The AD 908.
 - 4. The AD 67.
 - 5. The AD 67A.
 - 6. The AD 880.
 - 7. The AD 100.
 - (C) The information specified in Section 35094.2(b).
 - (D) Reports of any examinations of the birth parent's competency to sign an adoption placement agreement.
 - (E) Any documents related to the determination of the child's status as an Indian child under the Indian Child Welfare Act.
 - (F) A summary of contacts with the birth parent, including the information obtained pursuant to Section 35094.3(a)(1) and any other information which the adoption service provider believes will assist the department or delegated county adoption agency in its investigation of the proposed adoption.
 - (G) Any request to revoke the adoption placement agreement.

NOTE: Authority cited: Section 8621, Family Code. Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 4992.3, Business and Professions Code; Sections 56.11, 1798.24, Civil Code; Sections 7663, 8801, 8801.3, 8801.5, 8801.7, 8813, 8814.5, 8815, 8817, and 8818, Family Code; 25 USC 1901 et seq.

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