

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 19, 2003

ALL COUNTY LETTER NO. 03-19

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CDSS ADOPTIONS DISTRICT OFFICES
 ALL ADOPTION SERVICE PROVIDERS

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation
 Change
 Court Order
 Clarification Requested by
 One or More Counties
 Initiated by CDSS

SUBJECT: ASSEMBLY BILL 746, CHAPTER 1112, STATUTES of 2002,
 INVESTIGATION OF INDEPENDENT ADOPTION PETITIONS FILED BY
 OUT-OF-STATE RESIDENTS

The purpose of this All County Letter is to inform counties of a State law change. Assembly Bill (AB) 746 was chaptered on September 29, 2002, and became effective on January 1, 2003. The key provision of this new law allows residents of a state other than California to file an adoption petition in California courts.

The following is a procedural guide to implementing the statute changes for Independent Adoption petitions filed by out-of-state residents.

Interstate Compact on the Placement of Children (ICPC)

If the petitioner wishes to remove the child from California before the adoption is finalized, the receiving state (the prospective adoptive parents' state of residence) must have approved the 100A request for an adoptive home placement and sent the form to the California Department of Social Services (CDSS) or delegated county adoption agency.

Petition

AB 746 amended Family Code Section 8802(a)(1) to read as follows:

Any of the following persons who desire to adopt a child may, for that purpose, file a petition in the county in which the petitioner resides or, if the petitioner is not a resident of this state, in the county in which the placing birth parent or birth parents resided when the adoption placement agreement was signed, or the county in which the placing birth parent or birth parents resided when the petition was filed.

1. An adult 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. A person with whom a child has been placed for adoption.
4. A legal guardian who has been the child's legal guardian for more than one year. However, if the parent nominated the guardian for a purpose other than adoption 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 not less than three years.

Under AB 746, a petition filed by residents of a state other than California will have one important difference: the petition should be accompanied by "an updated and current home study report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides."

Review and Endorsement of Homestudy

AB 746 amended Family Code Section 8807(d) to read as follows:

If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the department or delegated county adoption agency, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.

Upon receipt of a home study from another state, the CDSS or delegated county adoption agency will review the homestudy for the following qualifications:

- Is the home study signed and dated within one year of the filing of the petition?
- Does the home study contain a statement or finding attesting that the petitioners are suitable to be adoptive parents?

- Has the home study been conducted by a licensed adoption agency or other authorized resource in the state in which the petitioner resides?
- Is the home study substantially commensurate with the standards and criteria established in Title 22 California Code of Regulations (CCR) Section 35089?

If the review indicates that the home study meets all four of these qualifications, an adoption supervisor will endorse the home study as acceptable by documenting in the case that the home study is substantially commensurate with the standards and criteria established in Title 22 CCR Section 35089.

The CDSS or delegated county adoption agency will notify the attorney of record or the petitioner in writing if either of the following occurs:

- The district office or delegated county adoption agency receives a petition without a home study.
- The review indicates that one or more of the qualifications are missing.

The written notification should also advise the attorney of record or the petitioner that a home study that complies with Family Code Section 8807(d) should be received within ten working days following the date of the notification.

If an acceptable home study is not received within ten working days following the date of the written notification, the district office or delegated county adoption agency should notify the court in writing that the home study does not comply with Family Code Section 8807(d) and recommend, as appropriate, denial or dismissal of the petition.

Interviews and Assessment

If the petitioner establishes a temporary residence in California, the assessment interviews required by Title 22 CCR Section 35083 should be conducted at that location.

If the petitioner does not establish a temporary residence in California, the petitioner will have the responsibility of contracting for post-placement services with a licensed adoption agency or other authorized resource in the state in which the petitioner resides. This entity will provide the district office or delegated county adoption agency with a written report, to be provided to the CDSS or delegated county adoption

agency no later than 150 days from the date of the petition, containing the following:

- All interviews required by Title 22 CCR Section 35083.
- The assessment of the child as required by Title 22 CCR Section 35093.
- Documentation indicating that the written report on the assessment of the child has been provided to the prospective adoptive parents as required by Title 22 CCR Section 35094.
- A Subsequent Arrest Notification Service as required by Title 22 CCR Section 35087(a)(7)(C).

The CDSS or delegated county adoption agency will file a final report and recommendation with the court no later than 30 days following receipt of the post-placement report. After submission of the final report and recommendation to the court, the *Independent Adoption Program – Individual Case Report (AD 421)* must also be completed and submitted to the CDSS. The adoption activity should also be included in the *Independent Adoption Program and Adoption Set-Asides Quarterly Statistical Report (AD 560)*.

If the petitioner does not establish a temporary residence in California and instead takes the child back to his or her state of residence without having contracted for the receipt of services from a licensed adoption agency or other authorized resource in that state, the CDSS or delegated county adoption agency will inform the attorney of record or the petitioner in writing that compliance with the requirements listed above is necessary in order to complete the investigation.

If the petitioner does not contract with a licensed adoption agency or authorized resource in his or her state of residence within ten business days of the date of the written notification, the CDSS or delegated county adoption agency will submit a report to the court that both describes the circumstances of the investigation and recommends denial of the petition.

If you have any questions, please call Robert (Bob) Scott, Program Consultant, Policy and Training Unit, at (916) 322-6553.

Sincerely,

Original Signed by Sylvia Pizzini

SYLVIA PIZZINI
Deputy Director
Children & Family Services Division