

Date of Hearing: June 17, 2025

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
SB 450 (Menjivar) – As Amended June 12, 2025

SENATE VOTE: 28-8

SUBJECT: ADOPTION: STATE COURT JURISDICTION

KEY ISSUE: SHOULD THE LEGISLATURE CLARIFY THAT CALIFORNIA COURTS HAVE JURISDICTION OVER PROCEEDINGS FOR SPECIFIED PETITIONS FOR CONFIRMATORY ADOPTIONS OF MINORS BORN IN CALIFORNIA?

SYNOPSIS

This bill seeks to clarify a potential ambiguity in existing adoption law. Existing law currently grants California courts jurisdiction over interstate adoptions in specified circumstances. However, the statute appears silent on whether California courts have jurisdiction over interstate confirmatory adoptions or other forms of stepparent or domestic partner adoptions when the child was born in California and either no proceeding is required to make the child available for adoption or where California has jurisdiction over the underlying proceeding to terminate parental rights to make the child eligible for adoption. The author and sponsors contend that courts have been exerting jurisdiction over these cases in practice, and this bill proposes to codify these jurisdictional grounds in order to avoid any potential contrary interpretation of the law.

This bill is sponsored by Equality California, the Academy of California Adoption Lawyers (ACAL), and Our Family. It is further supported by a number of affinity organizations, LGBTQIA+ advocacy groups, and civil rights advocacy organizations. There is no known opposition.

SUMMARY: Clarifies that California courts have jurisdiction over petitions for adoption of minors born in California if there is no underlying proceeding to make the minor available for adoption or, if there is such a proceeding, California has jurisdiction over it. Specifically, **this bill:**

- 1) Clarifies that California state courts jurisdiction over a proceeding for the adoption of a minor if the minor was born in this state and either of the following apply:
 - a) A legal proceeding is not required to make the minor available for adoption;
 - b) The legal proceeding to make the child available for adoption is being brought in this state.
- 2) Clarifies that nothing in Family Code Section 9210, relating to the state courts' jurisdiction over proceedings for the adoption of minors, limits the jurisdiction that is otherwise permitted by the Interstate Compact on the Placement of Children.
- 3) Requires an adoption order to include the names of the adoptive parent or parents and that any existing parent who will maintain their parental rights after the finalization of the

adoption. Clarifies that a failure to include an existing parent or parents on the adoption order in compliance with this provision shall not be construed to terminate the parental rights and responsibilities otherwise maintained under existing law by an existing parent or parents.

EXISTING LAW:

- 1) Establishes procedures and requirements for the adoption of an unmarried minor. (Family Code Section 8600 *et seq.* All further statutory references are to the Family Code unless otherwise noted.)
- 2) Provides that a court of this state has jurisdiction over a proceeding for the adoption of a minor under 1) if any of the following applies:
 - a) Immediately before commencement of the proceeding, the minor lived in this state with a parent, a guardian, a prospective adoptive parent, or another person acting as parent, for at least six consecutive months, excluding periods of absence; or for a child under six months of age, lived in this state with any of those individuals from soon after birth and there is available in this state substantial evidence concerning the minor's present or future care.
 - b) Immediately before the commencement of the proceeding, the prospective adoptive parent lived in this state for at least six consecutive months, excluding periods of temporary absence, and there is available in this state substantial evidence concerning the minor's present or future care.
 - c) The agency that placed the minor for adoption is located in this state, and specified conditions apply.
 - d) The minor and the prospective adoptive parent are physically present in this state and the minor has been abandoned or it is necessary in an emergency to protect the minor because the minor has been subjected to, or threatened with, mistreatment or abuse or is otherwise neglected.
 - e) It appears that no other state would have jurisdiction under requirements substantially in accordance with a)-d), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to hear a petition for adoption of the minor, and there is available in this state substantial evidence concerning the minor's present or future care. (Section 9210 (a).)
- 3) Provides that a court of this state may not exercise jurisdiction over a proceeding for adoption of a minor if, at the time the petition for adoption is filed, a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with 2), unless the proceeding is stayed by the court of another state because this state is a more appropriate forum or for another reason. (Section 9210 (b).)
- 4) Provides that a court of this state may not exercise jurisdiction over a proceeding for adoption of the minor when a court of another state has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption in this state, unless both of the following apply:

- a) The requirements for modifying an order of a court of another state under 1) are met, the court of another state does not have jurisdiction over a proceeding for adoption, or the court of another state has declined to assume jurisdiction over a proceeding for adoption; and
 - b) The court of this state has jurisdiction over the proceeding for adoption. (Section 9210 (c).)
- 5) Provides that, for purposes of 3) and 4), “a court of another state” includes, in the case of an Indian child, a tribal court having and exercising jurisdiction over a custody proceeding involving the Indian child. (Section 9210 (d).)
- 6) Provides that the jurisdictional requirements in 2)-5) apply to interstate adoptions if the prospective adoptive parents reside outside of California. (Section 9212.)
- 7) Establishes a streamlined procedure through which a stepparent or domestic partner may adopt their partner’s child when the child was born to the partner during the marriage and the child was born through a gestational surrogacy process brought about by one or both partners (known as “confirmatory adoption”). (Section 9000.)
- 8) Establishes the Interstate Compact on Placement of Children (ICPC), which sets forth the procedures that must be followed by the child’s home state and the receiving state in interstate adoption and placement proceedings for the placement of a child with an adoptive parent or parents, or in a group or treatment facility. (Section 7900 *et seq.*)
- 9) Establishes the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), which establishes when a state court has jurisdiction over a child for purposes of determining the custody of the child, including a proceeding to terminate parental rights. (Section 3400 *et seq.*)
- 10) Relieves the existing parent or parents of an adopted child of their parental duties towards, and all responsibility for, the adopted child and terminates any right over the child from the time of adoption. Provides opportunity for the existing parent or parents to waive this provision if both the existing parent or parents and the prospective adoptive parent or parents sign a waiver at any time prior to the finalization of the adoption and file the waiver with the court. (Section 8617 (a) – (b).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: In 2014, AB 2344 (Ammiano, Ch. 636, Stats 2014) streamlined the procedure for stepparent adoptions, also referred to as confirmatory adoptions. These adoptions provide a facilitated process for a stepparent to become a minor’s legal parent, and avoids extensive investigation, home study, and heightened cost requirements otherwise imposed by adoption proceedings. In 2019, AB 1373 (Patterson, Ch. 192, Stats. 2019) clarified that the streamlined confirmatory adoption procedure was also available for children born during a marriage or domestic partnership through a gestational surrogacy process with one or both spouses or partners. While the confirmatory adoption process is available and provides potential benefit to a wide array of families, it has a particular value to the LGBTQ+ community whose members have an extensive history of families denied equal legal status and parental rights.

According to the author:

Over the past several years, legal protections for the LGBTQ+ community have come increasingly under threat due to a wave of legislative attacks, court decisions, and executive orders. As a result, many LGBTQ+ parents are experiencing heightened legal uncertainty and fear for their families. SB 450 guarantees California remains a safe haven for the LGBTQ+ community and families by ensuring that LGBTQ+ parents in other states can access California courts to protect their parentage rights as long as their child was born in California through adoption proceedings.

There are three primary statutory schemes within the Family Code that work in tandem to govern the procedures for interstate adoptions in California. Section 9210 *et seq.*, addressing potential conflict of laws, governs proceedings for the adoption of an unmarried minor and lays out when there are sufficient ties to the state for a California court to exercise jurisdiction over the matter. The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) is a model law that provides guidelines to address interstate custody disputes. (Family Code Section 3400 *et seq.*) Finally, California is a signatory to the Interstate Compact on the Placement of Children (ICPC) which regulates the adoption proceedings for minors placed for adoption by their birth parent without the involvement of a state agency such as a county welfare agency or the department of social services. The ICPC imposes heightened screening procedures and requires interstate collaboration to ensure that each proposed placement is appropriate and safe for the child. (Family Code Section 7900 *et seq.*)

Family Code Section 9210 explicitly grants California courts jurisdiction over adoption proceedings in the five following scenarios:

- 1) If the minor lived in California with a parent, guardian, prospective adoptive parent, or other person acting as a parent, for at least six consecutive months prior to the commencement of the adoption proceedings and there is substantial evidence of the minor's present or future care in the state;
- 2) If the prospective adopted parent lived in California for at least six consecutive months prior to commencement of the adoption proceedings and there is substantial evidence of the minor's present or future care in the state;
- 3) The agency that placed the minor for adoption is located in California *and* 1) the minor and their parents, or their prospective adoptive parent, have a significant connection with the state and 2) there is substantial evidence of the minor's present or future care in the state;
- 4) The minor and prospective adoptive parent are physically present in California and the minor has been abandoned or it is necessary in an emergency to protect the minor because they have been subjected to or threatened with mistreatment or abuse;
- 5) No other state appears to have jurisdiction under similar requirements, or they have declined to exercise jurisdiction on the ground that California is the more appropriate forum for the adoption, and there is substantial evidence of the minor's present or future care in the state.

Therefore, even if a child or their adoptive parents live outside of California, they may still avail themselves of this State's adoption scheme so long as they fall under one or more of the categories above. However, the statute appears silent on whether California courts have jurisdiction over interstate confirmatory adoptions or other forms of stepparent or domestic partner adoptions when the child was born in California and either no proceeding is necessary to make the child available for adoption or where California has jurisdiction over the underlying proceeding to terminate parental rights to make the child eligible for adoption.

This bill seeks to eliminate any ambiguity by explicitly stating that, in addition to the five circumstances already identified in Section 9210, California courts additionally have jurisdiction in proceedings where the child is born in California and either 1) a legal proceeding is not required to make the minor available for adoption, or 2) the proceeding to make the child available for adoption is being brought in California.

According to the author and sponsors, California courts have been exercising jurisdiction over these cases in practice. However, as both federal policy and other state policies become increasingly antagonistic towards LGBTQ+ communities and policies that support them, there has been increasing concern that LGBTQ+ parents may lose access to processes such as confirmatory adoptions. This bill aims to erase any possible interpretation that California courts cannot hear confirmatory petitions from families who may live out of state, but where the child was born in California, and there is no underlying proceeding over which another state maintains jurisdiction.

The proposal put forth by SB 450 does not appear to conflict with either the UCCJEA or the ICPC. The expansion of Section 9210 as proposed by the bill does not undermine the UCCJEA and does not grant California courts jurisdiction over interstate adoptions if the underlying proceeding to terminate parental rights is being heard in another state, even if the child was born in California. As discussed above, the ICPC applies only to circumstances in which a birth parent opts to place their child for adoption with an adoption agency. Because the adoptions considered by this bill involve situations in which one parent remains the child's legal parent, the ICPC does not intersect with the current proposal.

Finally, existing Section 8617 provides that "the existing parent or parents of an adopted child are, from the time of adoption, relieved of all parental duties towards, and all responsibility for, the adopted child, and have no right over the child." (Family Code Section 8617 (a).) Subdivision (b) provides an opportunity for a party to waive the termination in subdivision (a) as long as the existing parent or parents and prospective adoptive parent or parents agree. There is also no existing statutory requirement that an adoption order granted pursuant to a confirmatory adoption include the names of both parents, including the non-adoptive legal parent. Thus, there is the potential that in an attempt to establish a legal record of the parental relationship between the adoptive parent and the child, because they are technically the "existing parent," the non-petitioning legal parent's parental rights may be inadvertently terminated. In an attempt to foreclose this opportunity, this bill proposes new Section 8626 to require any adoption order to include the names of the adoptive parent and any existing parent who will maintain their parental rights following the adoption. By explicitly requiring both parents' names to be included on any final order, the potential for inadvertent termination of the existing parent's parental rights seems largely foreclosed.

ARGUMENTS IN SUPPORT: This bill is sponsored by Equality California, the Academy of California Adoption Lawyers (ACAL), and Our Family. It is further supported by a number of affinity organizations, LGBTQIA+ advocacy groups, and civil rights advocacy organizations. It is also supported by 19 individuals. Equality California submits the following in support of the measure:

A court-ordered adoption decree provides the most secure legal protection for LGBTQ+ families, as it holds more legal weight than a birth certificate alone. The United States Constitution mandates that all states recognize valid court judgments, ensuring that adoption decrees issued in California will be upheld nationwide. If, for whatever reason, the family chooses to relocate to another state, an adoption decree assures that the parents' legal relationship with their child will be upheld, even in states that may be less supportive of LGBTQ+ families.

Over the past several years, legal protections for LGBTQ+ families have come increasingly under threat due to a wave of legislative attacks, court decisions, and executive orders that have rolled back protections for LGBTQ+ people at both the state and federal levels. In 2022, the U.S. Supreme Court's decision in *Dobbs v. Jackson* overturned the constitutional right to an abortion, calling into question previous court decisions, including same-sex couples' freedom to marry established in 2015 under *Obergefell v. Hodges*. As a result, many LGBTQ+ parents across the country are experiencing heightened legal uncertainty and fear.

Currently, only eight states, including California, offer streamlined confirmatory adoptions. This streamlined process applies in instances where the spouse or partner gives birth to the child during the marriage or domestic partnership, and exempts confirmatory adoptions from a home investigation or home study, certain costs, and an adoption hearing, unless a court specifically orders otherwise. However, under existing law, it has not been clear whether LGBTQ+ parents whose children were born in California can access this process if they do not reside in the state at the time of filing. This lack of clarity has left some families in legal limbo, unable to obtain the court-ordered protections they need.

SB 450 will amend California Family Code Section 9210 to clarify and reaffirm California's longstanding jurisdiction for adoption proceedings where the child is born in California, including confirmatory adoptions, and including in cases where the families no longer live in California or never lived in California. To avoid conflicts of laws, or litigation in multiple jurisdictions, access to California courts for this purpose will be limited to cases where there is no requirement for an involuntary termination of parental rights or the action to terminate parental rights is being brought in this state.

By reaffirming California's jurisdiction over confirmatory adoptions for children born in the state, this bill upholds California's commitment to protecting all families.

REGISTERED SUPPORT / OPPOSITION:

Support

Academy of California Adoption Lawyers (ACAL) (co-sponsor)
Equality California (co-sponsor)
Our Family Coalition (co-sponsor)
Toklas LGBT Democratic Club

Alliance for Transyouth Liberation
Asian Americans Advancing Justice-southern California
California Alliance of Child and Family Services
California Legislative LGBTQ Caucus
California LGBTQ Health and Human Services Network
Calpride
CFT- a Union of Educators & Classified Professionals, AFT, AFL-CIO
Courage California
Disability Rights California
Long Beach Forward
Los Angeles LGBT Center
Oasis Legal Services
PFLAG Los Angeles
PFLAG Oakland-east Bay
PFLAG Sacramento
PFLAG San Jose/peninsula
Rainbow Families Action Bay Area
Sacramento LGBT Community Center
San Francisco Aids Foundation
The Translatin@ Coalition
Transfamily Support Services
Viet Rainbow of Orange County
19 individuals

Opposition

None on file

Analysis Prepared by: Manuela Boucher-de la Cadena / JUD. / (916) 319-2334