

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 450 (Menjivar)
Version: February 18, 2025
Hearing Date: April 1, 2025
Fiscal: No
Urgency: No
AWM

SUBJECT

Adoption: state court jurisdiction

DIGEST

This bill clarifies that California courts have jurisdiction over adoption proceedings when the minor was born in California and either (1) a legal proceeding is not required to make the minor available for adoption, or (2) the legal proceeding to make the child available for adoption is being brought in this state.

EXECUTIVE SUMMARY

Current law, spread out over a number of statutory regimes, establishes when California courts have jurisdiction over an interstate adoption, i.e., an adoption when not all of the parties involved are California residents. According to practitioners, however, there is a potential lack of statutory clarity over whether California has jurisdiction over certain types of adoption proceedings when the child was born in the state: (1) adoption proceedings that do not require a proceeding to make the minor available for adoption, and (2) adoption proceedings where the legal proceeding to make the child available for adoption is being brought in this state. Although, as a matter of practice, California courts routinely exercise jurisdiction over these cases, the potential statutory ambiguity could become more problematic as other states, and the federal government, grow increasingly hostile toward LGBTQ parents; if California does not have jurisdiction over these cases, it might be impossible for loving parents to complete their adoption proceedings in any other state.

This bill is intended to eliminate the potential ambiguity by clarifying that California has jurisdiction over adoption cases when the child was born in the state and there is either no need for a proceeding to make the child available for adoption or that proceeding is also being brought in the state. The bill expressly states that this clarification does not disturb existing requirements for assessing the fitness of interstate adoptions, thereby ensuring that placements will be adequately screened before they

are approved by the court. This clarification should provide extra security for adoptive parents whose adoptive child was born in California.

This bill is sponsored by the Academy of California Adoption-Assisted Reproduction Technology Lawyers and Equality California, and is supported by Asian Americans Advancing Justice Southern California, the California Legislative LGBTQ Caucus, Courage California, Long Beach Forward, Oasis Legal Services, PFLAG Los Angeles, PFLAG Oakland-East Bay, and PFLAG Sacramento. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes procedures and requirements for the adoption of an unmarried minor. (Fam. Code, div. 13, pt. 2, §§ 8600 et seq.)
- 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. (Fam. Code, § 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. (Fam. Code, § 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. (Fam. Code, § 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. (Fam. Code, § 9210(d).)
- 6) Provides that the jurisdictional requirements in 2)-5) apply to interstate adoptions if the prospective adoptive parents reside outside of California. (Fam. Code, § 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”). (Fam. Code, § 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. (Fam. Code, div. 12, pt. 5, §§ 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. (Fam. Code, div. 8, pt. 3, §§ 3400 et seq.)

This bill:

- 1) Clarifies that a court of this state has jurisdiction over a proceeding for the adoption of an unmarried minor when the minor was born in this state and either of the following applies:
 - a) A legal proceeding is not required to make the minor available for adoption;
or
 - b) The legal proceeding to make the child available for adoption is being brought in this state.
- 2) Provides that 1) does not limit jurisdiction over an adoption proceeding that is otherwise permitted under the ICPC.

COMMENTS

1. Author's comment

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.

2. Several statutory regimes govern when, and how, an interstate adoption proceeding may proceed in this state

When a child born and residing in California is adopted by a parent or parents residing in California, the jurisdictional question is straightforward: California state courts have jurisdiction over the matter, and California law governs how the placement will be investigated to ensure that the child is being placed in a suitable home. When the child and the potential parent(s) are from different states, however, jurisdictional matters become significantly more complicated. The statutes below govern when a California state court may exercise jurisdiction over an interstate adoption proceeding, as well as the state's obligations for investigating the potential placement.

Family Code section 9210 (Section 9210) sets forth the circumstances in which a court of this state has jurisdiction over the proceeding for an adoption of an unmarried minor. Section 9210's list of circumstances is intended to ensure that California courts have jurisdiction over adoption matters that are sufficiently related to this state, and to avoid

conflicting adoption matters arising in multiple states.¹ Section 9210 also requires California courts to exercise, or forbear exercising, jurisdiction in matters where a tribal court may have jurisdiction, under the same principles.²

California is also a signatory to the ICPC, which governs interstate placement of children in private adoptions, i.e., adoptions where the parent decides to place a child for adoption without the involvement of a county welfare agency or state department of social services.³ The ICPC sets forth requirements for the child's home state and the state where the child will be placed to confirm that the adoptive placement is suitable for the child – essentially, ICPC prevents children from being trafficked through the adoption system.⁴ The ICPC does not apply to stepparent adoptions, because the child in that case is remaining with one of their original parents.

Finally, the UCCJEA, which governs child custody proceedings with interstate implications,⁵ affects California's jurisdiction over proceedings to terminate parental rights, which may be a necessary prerequisite to an adoption. The UCCJEA establishes rules for when a state court, and which state's court, may exercise jurisdiction over proceedings relating to the legal or physical custody of a child, including a proceeding to terminate parental rights.⁶ The UCCJEA expressly does not extend to adoption proceedings;⁷ however, when an adoption requires the termination of parental rights before an adoption can proceed, the UCCJEA dictates whether a California court, or the court of another state, has jurisdiction over the initial termination proceeding.

3. This bill clarifies the circumstances under which a California state court has jurisdiction over certain types of interstate adoption proceedings

According to practitioners, Section 9210 is not entirely clear with respect to a few types of interstate adoptions: confirmatory adoptions and other stepparent or domestic partner adoptions when the child was born in California; and some interstate adoptions when California has jurisdiction over the underlying proceeding to terminate parental rights. Practitioners report that California courts have exercised jurisdiction over these types of proceedings for decades despite the potential lack of clarity. This bill is therefore intended to clarify that, under Section 9210, a state court has jurisdiction over an adoption proceeding for the adoption of an unmarried minor when (1) the minor was born in this state, and (2) either a legal proceeding is not necessary to make the minor available for adoption, or the legal proceeding to make the child available for adoption was brought in this state. With this clarification, California courts will be able

¹ See Fam. Code, § 9210(a)-(c).

² *Id.*, § 9210(d).

³ *Id.*, div. 12, pt. 5, §§ 7900 et seq.

⁴ See *id.*, § 7901.

⁵ *Id.*, div. 8, pt. 3, §§ 3400 et seq.

⁶ *Id.*, §§ 3402(d), 3421.

⁷ *Id.*, § 3403.

to continue exercising jurisdiction over, e.g., the confirmatory adoption proceeding for a wife whose spouse gave birth in California to a child born through assisted reproduction.

This bill does not affect the application of the ICPC to interstate adoption proceedings in state court, so all private interstate adoptions currently subject to the ICPC will still go through the same safety screens and investigations. The bill also does not interfere with the application of the UCCJEA, and does not extend jurisdiction over interstate adoptions when the child was born in this state but the underlying proceeding to terminate parental rights is proceeding in the court of another state.

As explained by the Academy of California Adoption-Assisted Reproduction Technology Lawyers, one of the bill's sponsors:

As a practical matter, California courts have long adjudicated independent adoption cases for California-born children whose adoptive parents reside out of state, as long as these cases have been handled in accordance with the Interstate Compact on the Placement of Children (ICPC). Nothing in this bill would change this long-standing practice. However, there has been less certainty about whether California courts have jurisdiction to adjudicate stepparent adoptions (which don't fall within the ICPC), where the child was born here but does not live here.

In the current political climate, where many states are considering rolling back protections offered to LGBTQ+ parents and their children, this lack of clarity has raised a concern about the potential fate of children of same sex couples whose parents may reside in states that won't allow a second parent adoption to confirm and secure the child's relationship with both parents. As family formation attorneys, we believe it is critically important to make California's jurisdiction over these adoptions clear; otherwise, these children could end up in limbo, with the parent-child relationships upon which they rely for care and support put at risk. Currently, only 8 states including California offer streamlined confirmatory adoptions. These adoptions are essential because they provide legal recognition of parentage without requiring home studies, certain costs or unnecessary legal barriers. It is in California's interest to provide the greatest possible level of protection for California-born children.

SUPPORT

Academy of California Adoption-Assisted Reproduction Technology Lawyers (co-sponsor)

Equality California (co-sponsor)

Asian Americans Advancing Justice Southern California

California Legislative LGBTQ Caucus

Courage California

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Long Beach Forward
Oasis Legal Services
PFLAG Los Angeles
PFLAG Oakland-East Bay
PFLAG Sacramento

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation: None known.
