



FAMILY LAW SECTION

THE STATE BAR OF CALIFORNIA

TO: Saul Bercovitch, Legislative Counsel
State Bar Office of Governmental Affairs

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DATE: April 1, 2009

RE: AB 372 (Ma), as amended March 26, 2009.

POSITION TAKEN:

The Executive Committee of the Family Law Section of the State Bar (FLEXCOM) opposes AB 372, as amended March 26, 2009.

Date position taken: March 31, 2009
Executive Committee vote: 14-0-1

BASIS FOR POSITION:

AB 372 makes birth records available on request, allows for delivery of the birth parents' wishes regarding contact, and provides for the release of a medical history. There is no objection to the last two items. FLEXCOM believes, however, that the release of a copy of the original birth certificate will adversely affect both Adoptees and birth families.

The provision of a copy of the original birth certificate will allow and facilitate an Adoptee to pursue contact with a birth parent, regardless of what that parent's wishes might be. California has long had the ability to order open adoptions where the Adoptee has full information and often is in contact with the birth family. Other parties have opted for a traditional closed adoption. This bill will effectively convert all adoptions to open adoptions, regardless of a party's wishes.

FLEXCOM is concerned that this will abrogate the contractual rights of birth parents who opted for a closed adoption and that this may have a chilling effect on adopting parents. There is concern that this change will adversely affect the willingness of both the birth parents and adoptive parents to enter into an adoption when the family structure which is created can be upended without regard to the reasons that a closed adoption was elected by the participants. One could argue that these objections might be addressed by applying the bill's terms to future adoptions only. However, the net effect of this bill would be to make every adoption an open adoption despite any contrary wishes of adopting parents or birth parents.

GERMANENESS:

The subject matter of AB 372 falls within the unique and special knowledge, training, experience and technical expertise of the members of the Family Law Section of the State Bar of California because Family Lawyers regularly and routinely deal with all aspects of adoption.

DISCLAIMER:

This position is only that of the FAMILY LAW SECTION of the State Bar of California. This position has not been adopted by either the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California.

Membership in the FAMILY LAW SECTION is voluntary and funding for section activities, including all legislative activities, is obtained entirely from voluntary sources.

cc: Claire M. Buckey, Legislative Chair, Family Law Section Executive Committee
Paul L. Brimberry, Legislative Vice Chair, Family Law Section Executive Committee
Jennifer Wada, Section Legislative Representative