

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 167

By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO PROVIDE FOR POST-ADOPTION CONTACT AGREEMENTS; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR POST-ADOPTION CONTACT AGREEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 9, Chapter 9, Subchapter 1, is amended to add an additional section to read as follows:

9-9-106. Post-adoption contact agreements – Definitions.

(a) As used in this section:

(1) "Birth relative" means a:

(A) Parent, putative father, grandparent, brother, sister, half-brother, or half-sister who is related by blood or marriage to an adopted child or child who is in the process of being adopted; or

(B) Grandparent, brother, sister, half-brother, or half-sister who is related by adoption to an adopted child or a child who is in the process of being adopted;

(2) "Child" means an individual who is at least fourteen (14) years of age but younger than eighteen (18) years of age;

(3)(A) "Party" means an individual, including a child, who has signed a post-adoption contact agreement currently in effect.

(B) "Party" does not include a third-party beneficiary to a post-adoption contact agreement; and

(4) "Post-adoption contact agreement" means a written agreement



between two (2) or more individuals to allow visitation or other contact between a birth relative and an adopted child or child who is being adopted before or after the entry of an adoption decree.

(b) The following persons may voluntarily enter into a post-adoption contact agreement:

- (1) An adoptive parent and a birth relative of an adopted child;
- (2) An adopting parent and a birth relative of a child who is being adopted;
- (3) A child who is being adopted and an adopting parent and a birth parent of the child who is being adopted; or
- (4) An adopted child and an adoptive parent and a birth relative of the adopted child.

(c) A post-adoption contact agreement may provide for privileges regarding an adopted child or child who is being adopted, including without limitation the following:

- (1) Visitation between a birth relative and the child;
- (2) Contact between a birth relative and the child;
- (3) Exchanging information concerning the child with a birth relative; or
- (4) Exchanging information concerning a birth relative with a child.

(d) A post-adoption contact agreement shall include the following:

(1) A warning that after the entry of an adoption decree, an original or modified post-adoption contract agreement shall not cause an adoption decree to be set aside regardless of the failure of an adoptive parent, a birth relative, or an adopted child to comply with the terms and conditions of the post-adoption contact agreement;

(2) A warning that a disagreement between the parties or litigation brought to enforce, modify, or terminate a post-adoption contract agreement shall not:

- (A) Affect the validity of an adoption decree; and
- (B) Serve as a basis for an order affecting the custody of the child.

(e)(1) A post-adoption contact agreement shall be in writing and shall be signed by all parties in a manner acknowledging the consent of the parties to the terms and conditions of the post-adoption contact agreement.

(2) A post-adoption contact agreement that does not conform with the requirements of subdivision (e)(1) of this section is unenforceable.

(f)(1) A post-adoption contact agreement may be modified or terminated if the parties voluntarily agree and sign a written, modified post-adoption contact agreement or termination of post-adoption contact agreement.

(2) A party may waive in writing his or her right to enforce, modify, or terminate the post-adoption contact agreement.

(g)(1) An enforcement, a modification, or a termination of a post-adoption contact agreement concerning an adopted child or child who is in the process of being adopted shall be under the continuing jurisdiction of the court that entered the adoption decree concerning the child.

(2)(A)(i) A party may file an original or modified post-adoption contact agreement and a petition to enforce or terminate the post-adoption contact agreement with the court with jurisdiction over the petition for adoption concerning the child if the post-adoption contact agreement:

(a) Provides that a party may pursue an enforcement or termination of the post-adoption contact agreement through the court; or

(b) Is silent on the issue of enforcing or terminating the post-adoption contact agreement.

(ii) The court shall enter an order to enforce a post-adoption contact agreement if the court finds by a preponderance of the evidence that the enforcement or termination of the post-adoption contact agreement is in the best interest of the child.

(B)(i) A party may file an original or modified post-adoption contact agreement and a petition to modify the post-adoption contact agreement with the court with jurisdiction over the petition for adoption concerning the child if:

(a) The party is an adoptive parent or adopting parent; and

(b) Either:

(1) The post-adoption contact agreement provides that an adoptive parent or adopting parent may pursue a modification of the post-adoption contact agreement through the court; or

(2) The post-adoption contact agreement is silent on the issue of modifying the post-adoption contact agreement.

(ii) The court shall enter an order modifying a post-adoption contact agreement if the court finds the following by a preponderance of the evidence:

(a) A material change of circumstances since the most recently executed post-adoption contact agreement exists; and

(b) A modification of the post-adoption contact agreement is in the best interest of the child.

(h)(1) A court may require a party who files a petition to enforce, modify, or terminate a post-adoption contact agreement to participate with the other parties in mediation or another appropriate alternative dispute resolution.

(2) All reasonable costs and expenses of litigation and court-ordered mediation or other alternative dispute resolution shall be the responsibility of the party who files a petition to enforce, modify, or terminate a post-adoption contact agreement unless:

(A) The party who files the petition is a child; or

(B) After finding that another party failed to comply with the terms and conditions of the post-adoption contact agreement without good cause, the court orders the other party to be responsible for the costs and expenses.

(i) A court shall not set aside an adoption decree or any other court order entered before an executed post-adoption agreement due to the failure of an adoptive parent, an adopting parent, a birth relative, or a child to comply with the terms or conditions of the post-adoption contact agreement.