

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

SENATE BILL 167

4
5 By: Senator A. Clark

For An Act To Be Entitled

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

Subtitle

12 TO PROVIDE FOR POST-ADOPTION CONTACT
14 AGREEMENTS.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code Title 9, Chapter 9, Subchapter 1, is amended
20 to add an additional section to read as follows:

21 9-9-106. Post-adoption contact agreements – Definitions.

22 (a) As used in this section:

23 (1) "Birth relative" means a:

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

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

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

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

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

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



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

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

6 (1) An adoptive parent and a birth relative of an adopted child;

7 (2) An adopting parent and a birth relative of a child who is
8 being adopted;

9 (3) A child who is being adopted and an adopting parent and a
10 birth parent of the child who is being adopted; or

11 (4) An adopted child and an adoptive parent and a birth relative
12 of the adopted child.

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

16 (1) Visitation between a birth relative and the child;

17 (2) Contact between a birth relative and the child;

18 (3) Exchanging information concerning the child with a birth
19 relative; or

20 (4) Exchanging information concerning a birth relative with a
21 child.

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

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

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

31 (A) Affect the validity of an adoption decree; and

32 (B) Serve as a basis for an order affecting the custody of
33 the child.

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

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

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

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

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

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

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

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

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

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

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

31 (b) Either:

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

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

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

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

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

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

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

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

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

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

25
26
27
28
29
30
31
32
33
34
35
36