

78B-6-146 Postadoption contact agreements.

- (1) As used in this section:
 - (a) "Postadoption contact agreement" means a document, agreed upon prior to the finalization of an adoption of a child in the custody of the division, that outlines the relationship between an adoptive parent, birth parent, or other birth relative, and an adopted child after the finalization of adoption.
 - (b) "Other birth relative" means a grandparent, stepparent, sibling, stepsibling, aunt, or uncle of the prospective adoptive child.
- (2)
 - (a) Notwithstanding any other provision in this chapter, if a child in the custody of the division is placed for adoption, the prospective adoptive parent and birth parent, or other birth relative, may enter into a postadoption contact agreement as provided in this section.
 - (b) A birth parent is not required to be a party to a postadoption contact agreement in order to permit an open adoption agreement between a prospective adoptive parent and another birth relative of the child.
- (3) In order to be legally enforceable, a postadoption contact agreement shall be:
 - (a) approved by the court before the finalization of the adoption, with the court making a specific finding that the agreement is in the best interest of the child;
 - (b) signed by each party claiming a right or obligation in the agreement; and
 - (c) if the adopted child is 12 years old or older, approved by the child.
- (4) A postadoption contact agreement shall:
 - (a) describe:
 - (i) visits, if any, that shall take place between the birth parent, other birth relative, adoptive parent, and adopted child;
 - (ii) the degree of supervision, if any, that shall be required during a visit between a birth parent, other birth relative, and adopted child;
 - (iii) the information, if any, that shall be provided to a birth parent, or other birth relative, about the adopted child and how often that information shall be provided;
 - (iv) the grounds, if any, on which the adoptive parent may:
 - (A) decline to permit visits, described in Subsection (4)(a)(i), between the birth parent, or other birth relative, and adopted child; or
 - (B) cease providing the information described in Subsection (4)(a)(iii) to the birth parent or other birth relative; and
 - (b) state that following the adoption, the court shall presume that the adoptive parent's judgment about the best interest of the child is correct in any action seeking to enforce, modify, or terminate the agreement.
- (5) A postadoption contact agreement may not limit the adoptive parent's ability to move out of state.
- (6) A postadoption contact agreement may only be modified with the consent of the adoptive parent.
- (7) In an action seeking enforcement of a postadoption contact agreement:
 - (a) an adoptive parent's judgment about the best interest of the child is entitled to a presumption of correctness;
 - (b) if the party seeking to enforce the postadoption contact agreement successfully rebuts the presumption described in Subsection (7)(a), the court shall consider whether:
 - (i) the parties performed the duties outlined in the open adoption agreement in good faith;
 - (ii) there is a reasonable alternative that fulfills the spirit of the open adoption agreement without ordering mandatory compliance with the open adoption agreement; and

- (iii) enforcement of the open adoption agreement is in the best interest of the adopted child;
and
- (c) the court shall order the parties to attend mediation, if the presumption in Subsection (7)(a) is successfully rebutted and mediation is in the child's best interest.
- (8) An open adoption agreement that has been found not to be in the best interest of the adopted child shall not be enforced.
- (9) Violation of an open adoption agreement is not grounds:
 - (a) to set aside an adoption; or
 - (b) for an award of money damages.
- (10) Nothing in this section shall be construed to mean that an open adoption agreement is required before an adoption may be finalized.
- (11) Refusal or failure to agree to a postadoption contact agreement is not admissible in any adoption proceeding.
- (12) The court that approves a postadoption contact agreement retains jurisdiction over modification, termination, and enforcement of an approved postadoption contact agreement.

Enacted by Chapter 438, 2013 General Session