

AMENDMENTS TO LB744

Introduced by Judiciary.

1 1. Strike the original section and insert the following new section:

2 Section 1. (1) The adoptive parent or parents and the birth parent
3 or parents of an adoptee may enter into a written agreement to permit
4 continuing communication and contact after the placement of an adoptee
5 between the adoptive parent or parents and the birth parent or parents in
6 private or agency adoptions for adoptees not in the custody of the
7 Department of Health and Human Services.

8 (2) The terms of a communication and contact agreement entered into
9 under this section may include provisions for (a) future contact or
10 communication between the birth parent or parents and the adoptee or the
11 adoptive parent or parents, or both, (b) sharing information about the
12 adoptee, or (c) other matters related to communication or contact agreed
13 to by the parties.

14 (3) If the adoptee is fourteen years of age or older at the time of
15 placement, a communication and contact agreement under this section shall
16 not be valid unless consented to in writing by the adoptee.

17 (4) A court may approve a communication and contact agreement
18 entered into under this section by incorporating such agreement by
19 reference and indicating the court's approval of such agreement in the
20 decree of adoption. Enforceability of a communication and contact
21 agreement is not contingent on court approval or its incorporation into
22 the decree of adoption.

23 (5) Neither the existence of, nor the failure of any party to comply
24 with the terms of, a communication and contact agreement entered into
25 under this section shall be grounds for (a) setting aside an adoption
26 decree, (b) revoking a written relinquishment of parental rights or
27 written consent to adoption, (c) challenging the adoption on the basis of

1 duress or coercion, or (d) challenging the adoption on the basis that the
2 agreement retains some aspect of parental rights by the birth parent or
3 parents.

4 (6) A communication and contact agreement entered into under this
5 section may be enforced by a civil action. A court in which such civil
6 action is filed may enforce, modify, or terminate a communication and
7 contact agreement entered into under this section if the court finds that
8 (a) enforcing, modifying, or terminating the communication and contact
9 agreement is necessary to serve the best interests of the adoptee, (b)
10 the party seeking to enforce, modify, or terminate the communication and
11 contact agreement participated in, or attempted to participate in,
12 mediation in good faith or participated in other appropriate dispute
13 resolution proceedings in good faith to resolve the dispute prior to
14 filing the petition, and (c) when seeking to modify or terminate the
15 agreement, a material change in circumstances has arisen since the
16 parties entered into the communication and contact agreement that
17 justifies modifying or terminating the agreement.

18 (7) If the adoption was through an agency, the agency which accepted
19 the relinquishment from the birth parent or parents shall be invited to
20 participate in any mediation or other appropriate dispute resolution
21 proceedings as provided in subsection 6 of this act.

22 (8) With any communication and contact agreement entered into under
23 this section, the following shall appear on the communication and contact
24 agreement: No adoption shall be set aside due to the failure of the
25 adoptive parent or parents or the birth parent or parents to follow the
26 terms of this agreement or a later order modifying or terminating this
27 agreement. Disagreement between the parties or a subsequent civil action
28 brought to enforce, modify, or terminate this agreement shall not affect
29 the validity of the adoption and shall not serve as a basis for orders
30 affecting the custody of the child. The court shall not act on a petition
31 to enforce, modify, or terminate this agreement unless the petitioner has

1 participated in, or attempted to participate in, mediation in good faith
2 or participated in other appropriate dispute resolution proceedings in
3 good faith to resolve the dispute prior to filing the petition.

4 (9) The court shall not award monetary damages as a result of the
5 filing of a civil action pursuant to subsection (6) of this section.