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S.36

Introduced by Senators Flory, Ayer, Campbell, Mullin, and Sears

Referred to Committee on

Date:

Subject: Enforceable postadoption contact agreements

Statement of purpose of bill as introduced: This bill proposes to create enforceable postadoption contact agreements.

An act relating to postadoption contact agreements

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 15A V.S.A. § 1-109 is amended to read:

§ 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR VISITATION OR COMMUNICATION UPON ADOPTION

When a decree of adoption becomes final, except as provided in Article 4 and Article 9 of this title, any order or agreement for visitation or communication with the minor shall be unenforceable.

Sec. 2. 15A V.S.A. Article 9 is added to read:

Article 9. POSTADOPTION CONTACT AGREEMENTS

§ 9-101. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both birth parents and an intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact

1 between either or both birth parents and the adopted child. Such an agreement
2 may be entered into if:

3 (1) an order terminating parental rights has not yet been entered; and

4 (2) either or both birth parents agree to a voluntary termination of
5 parental rights, including an agreement in a case which began as an involuntary
6 termination of parental rights.

7 (b) The court may order postadoption communication or contact
8 privileges if:

9 (1) it determines that the child's best interests will be served by
10 postadoption communication or contact with either or both birth parents;

11 (2) each intended adoptive parent consents to the granting of
12 communication or contact privileges;

13 (3) the intended adoptive parent and either or both birth parents execute
14 an agreement and file the agreement with the court;

15 (4) the postadoption contact agreement is approved by the court.

16 (c) A postadoption contact agreement shall contain:

17 (1) an acknowledgment by either or both birth parents that the
18 termination of parental rights and the adoption are irrevocable, even if the
19 adoptive parents do not abide by the postadoption contact agreement; and

1 (2) an acknowledgment by the adoptive parents that the agreement
2 grants either or both birth parents the right to seek to enforce the postadoption
3 contact agreement.

4 (d) The order approving a postadoption contact agreement shall be made
5 part of the final order terminating parental rights. The finality of the
6 termination of parental rights and of the adoption shall not be affected by
7 implementation of the provisions of the postadoption contact agreement.

8 (e) A disagreement between the parties or litigation brought to enforce or
9 modify the agreement shall not affect the validity of the termination of parental
10 rights or the adoption. The court shall not act on a petition to change or
11 enforce the agreement unless the petitioner had participated, or attempted to
12 participate, in good faith in mediation or other appropriate dispute resolution
13 proceedings to resolve the dispute.

14 (f) An adoptive parent, guardian ad litem for the child, or the court on its
15 own motion may, at any time, petition for review of communication or contact
16 ordered pursuant to subsection (b) of this section if the adoptive parent
17 believes that the best interests of the child are being compromised. The court
18 may order the communication or contact be terminated or altered as the court
19 deems to be in the best interest of the adopted child.

20 Sec. 3. EFFECTIVE DATE

21 This act shall take effect on passage.