



# Child Welfare Information Gateway

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STATE  
STATUTES  
SERIES

Current Through  
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## Postadoption Contact Agreements Between Birth and Adoptive Families: Summary of State Law

Postadoption contact agreements, sometimes referred to as cooperative adoption or open adoption agreements, are arrangements that allow some kind of contact between a child's adoptive family and members of the child's birth family after the child's adoption has been finalized. These arrangements can range from informal, mutual understandings between the birth and adoptive families to written, formal contracts.

Agreements for postadoption contact or communication have become more prevalent in recent years, due to several factors:

- There is wider recognition of the rights of birth parents to make choices for their children.

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Administration for Children and Families  
Administration on Children, Youth and Families  
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## States With Enforceable Contract Agreements

- Many adoptions involve older children, such as stepchildren and children adopted from foster care; these children frequently have attachments to one or more birth relatives with whom ongoing contact may be desirable and beneficial.
- Contact or communication with birth relatives can be a resource to adoptive parents for information about their child's medical, social, and cultural history.<sup>1</sup>

In general, State law does not prohibit postadoption contact or communication. Since adoptive parents have the right to decide who may have contact with their adopted child, they can allow any amount of contact with birth family members, and such contacts often are arranged by mutual understanding without any formal agreement.

A written contractual agreement between the parties to an adoption can clarify the type and frequency of the contact or communication and can provide a mechanism for enforcement of the agreement. Approximately 22 States currently have statutes that allow written and enforceable contact agreements.<sup>2</sup> The written agreements specify the type and frequency of contact and are signed by the parties to an adoption prior to finalization.<sup>3</sup>

The modes of contact can range from an exchange of information about the child between adoptive and birth parents; to the exchange of cards, letters, and photos; to personal visits with the child by birth family members.

<sup>1</sup> For more information on the issue of postadoption contact, see the Information Gateway publications *Openness in Adoption: A Bulletin for Professionals*, available online at [www.childwelfare.gov/pubs/f\\_openadoptbulletin.cfm](http://www.childwelfare.gov/pubs/f_openadoptbulletin.cfm) and *Openness in Adoption: A Factsheet for Families*, at [www.childwelfare.gov/pubs/f\\_openadopt.cfm](http://www.childwelfare.gov/pubs/f_openadopt.cfm).

<sup>2</sup> The word *approximately* is used to stress the fact that States frequently amend their laws; this information is current only through December 2005. The States that permit enforceable contracts include Arizona, California, Connecticut, Florida, Indiana (for children over age 2), Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Vermont (stepparent adoptions only), Washington, and West Virginia.

<sup>3</sup> The phrase "parties to an adoption" generally refers to the birth parents (or other person placing the child for adoption) and the adoptive parents.

## Who May Be a Party to an Agreement?

In most States that permit enforceable agreements, an agreement for adoption with contact can be permitted for any adoptive child as long as the type and frequency of contact is deemed to be in the child's best interests and is designed to protect the safety of the child and all the parties to the agreement. Connecticut and Nebraska limit the application of agreements to children who have been adopted while in foster care. Indiana limits enforceable contact agreements to children ages 2 and older. For children under age 2, nonenforceable agreements are permitted as long as the type of contact does not include visitation.

Most statutes permit postadoption contact or communication for birth parents. Some States also allow other birth relatives who have significant emotional ties to the child to be included in the agreement, including grandparents, aunts, uncles, or siblings. Minnesota permits foster parents to petition for contact privileges. In California, Minnesota, and Oklahoma, when the case involves an Indian child, members of the child's tribe are included among the eligible birth relatives. California, Florida, Indiana, Louisiana, and Maryland have provisions for sibling participation in an agreement.

## The Court's Role in Establishing or Enforcing Agreements

For the agreements to be enforceable, they must be approved by the court that has jurisdiction over the adoption. All parties wishing to be included in the agreements must agree in writing to all terms of the agreement prior to the adoption finalization. The court may approve the agreement only if all parties, including a child over the age of 12, agree on its provisions, and the court finds the agreement is in the best interests of the child.

Disputes over compliance and requests for modification of the terms must also be brought before the court. Any party to the agreement may petition the court to modify, order compliance with, or void the agreement. The court may do so only if the parties agree or circumstances have changed, and the action is determined to be in the best interests of the child.

## When Are States Using Mediation?

Nine States require the parties to participate in mediation before petitions for enforcement or modification of an agreement are brought before the court.<sup>4</sup> In no case can disputes over the postadoption agreement be used as grounds for setting aside an adoption or relinquishment of parental rights. In Florida and Maryland, the court, at its discretion, may refer the parties to mediation. Any party seeking to enforce an agreement may voluntarily choose mediation in Massachusetts.

## Laws in States Without Enforceable Agreements

In most States without enforceable agreements, the statutes are silent about the issue of postadoption contact or communication. Approximately eight other States address the issue but do not provide for enforceable agreements. For example, Alaska's statute states that contact agreements are not prohibited. In Vermont, agreements for contact are enforceable only in cases involving stepparent adoptions. North Carolina also permits agreements by mutual consent, but specifies that they are not enforceable, and failure to comply is not grounds to invalidate consent to the adoption. Ohio, South Carolina, and South Dakota specifically state that mutual agreements for contact are nonbinding and nonenforceable. Missouri and Tennessee leave decisions about contact and visitation with birth relatives to the sole discretion of the adoptive parents.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

<sup>4</sup> Arizona, California, Connecticut, Louisiana, Minnesota, New Hampshire, Oklahoma, Oregon, and Texas.

**Alabama**

These issues are not addressed in the statutes reviewed.

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**Alaska****What may be included in postadoption contract agreements?****Alaska Stat. § 25.23.130(c)**

Nothing in this chapter prohibits an adoption that allows visitation between the adopted person and that person's natural parents or other relatives.

**Who may be a party to a postadoption contact agreement?****Alaska Stat. § 25.23.130(c)**

The adopted person and the adopted person's natural parents or other relatives may participate.

**What is the role of the court in postadoption contact agreements?**

This issue is not addressed in the statutes reviewed.

**Are agreements legally enforceable?**

This issue is not addressed in the statutes reviewed.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

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**American Samoa**

These issues are not addressed in the statutes reviewed.

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**Arizona****What may be included in postadoption contract agreements?****Rev. Stat. Ann. § 8-116.01**

The parties to a proceeding under this chapter may enter into an agreement regarding communication with an adopted child, the adoptive parents, and a birth parent.

The agreement shall state that the adoptive parent may terminate contact between the birth parent and the adopted child at any time if the adoptive parent believes that this contact is not in the child's best interests.

**Who may be a party to a postadoption contact agreement?****Rev. Stat. Ann. § 8-116.01**

The court shall not approve an agreement unless the agreement is approved by the prospective adoptive parents, any birth parent with whom the agreement is being made, and if the child is in the custody of the division or an agency, a representative of the division or agency.

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**What is the role of the court in postadoption contact agreements?****Rev. Stat. Ann. § 8-116.01**

The court shall not approve the agreement unless the court finds that the communication between the adopted child, the adoptive parents, and a birth parent is in the child's best interests. The court may consider the wishes of a child who is at least 12 years old.

The court retains jurisdiction after the decree of adoption is entered to hear motions brought to enforce or modify an order entered pursuant to this section. Before filing a motion, the party seeking to enforce or modify an order shall make a good faith attempt to mediate the dispute. The court shall not enforce or modify an order unless the party filing the motion has made a good faith attempt to mediate the dispute.

**Are agreements legally enforceable?****Rev. Stat. Ann. § 8-116.01**

An agreement is not enforceable unless the agreement is in writing and is approved by the court.

An agreement entered into pursuant to this section is enforceable even if it does not disclose the identity of the parties to the agreement.

**How may an agreement be terminated or modified?****Rev. Stat. Ann. § 8-116.01**

The court may order a modification of an agreement if it finds that the modification is necessary to serve the best interests of the adopted child and one of the following is true:

- The modification is agreed to by the adoptive parents.
- Exceptional circumstances have arisen since the agreement was approved that justify modification of the agreement.

The court may consider the wishes of a child who is at least 12 years old in determining whether to order a modification.

Every agreement entered into pursuant to this section shall contain a clause stating that the parties agree to the continuing jurisdiction of the court to enforce and modify the agreement and that they understand that failure to comply with an agreement is not grounds for setting aside an adoption decree or for revocation of a written consent to an adoption decree or relinquishment of parental rights.

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**Arkansas**

These issues are not addressed in the statutes reviewed.

## California

### What may be included in postadoption contract agreements?

#### Fam. Code § 8616.5; Welf. & Inst. Code § 366.29

The terms of any postadoption contact agreement shall be limited to, but need not include, all of the following:

- Provisions for visitation between the child and a birth parent or parents and other birth relatives, including siblings, and the child's Indian tribe if the case is governed by the Indian Child Welfare Act
- Provisions for future contact between a birth parent or parents or other birth relatives, including siblings, or both, and the child or an adoptive parent, or both, and in cases governed by the Indian Child Welfare Act, the child's Indian tribe
- Provisions for the sharing of information about the child in the future

The terms of any postadoption contact agreement shall be limited to the sharing of information about the child, unless the child has an existing relationship with the birth relative.

### Who may be a party to a postadoption contact agreement?

#### Fam. Code § 8616.5; Welf. & Inst. Code § 366.29

The following persons may be parties to a postadoption contact agreement:

- The adopting parent or parents
- The birth relatives, including the birth parent or parents
- The child
- In cases governed by the Indian Child Welfare Act, the child's Indian tribe

A child who is 12 or older must consent in writing to the terms and conditions of the postadoption contact agreement and any subsequent modifications of the agreement.

### What is the role of the court in postadoption contact agreements?

#### Fam. Code § 8616.5; Welf. & Inst. Code § 366.29

At the time an adoption decree, the court entering the decree may grant postadoption privileges if an agreement for those privileges has been entered into, including agreements entered into pursuant to § 8620(f) [pertaining to agreements between an Indian child and the child's tribe].

Upon the granting of the adoption petition and the issuing of the order of adoption of a child who is a dependent of the juvenile court, juvenile court dependency jurisdiction shall be terminated. Enforcement of the postadoption contact agreement shall be under the continuing jurisdiction of the court granting the petition of adoption.

**Are agreements legally enforceable?****Fam. Code § 8616.5; Welf. & Inst. Code § 366.29**

Enforcement of the postadoption contact agreement shall be under the continuing jurisdiction of the court granting the petition of adoption. The court may not order compliance with the agreement absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict, prior to the filing of the enforcement action, and that the enforcement is in the best interests of the child.

Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

The court may not award monetary damages as a result of the filing of the civil action [for enforcement of the agreement].

**How may an agreement be terminated or modified?****Fam. Code § 8616.5; Welf. & Inst. Code § 366.29**

A postadoption contact agreement may be modified or terminated only if either of the following occurs:

- All parties, including the child if the child is 12 or older at the time of the requested termination or modification, have signed a modified postadoption contact agreement and the agreement is filed with the court that granted the petition of adoption.
- The court finds all of the following:
  - » The termination or modification is necessary to serve the best interests of the child.
  - » There has been a substantial change of circumstances since the original agreement was executed and approved by the court.
  - » The party seeking the termination or modification has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings prior to seeking court approval of the proposed termination or modification.

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**Colorado**

These issues are not addressed in the statutes reviewed.

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**Connecticut****What may be included in postadoption contract agreements?****Gen. Stat. § 45a-715(k)**

The terms of a cooperative postadoption agreement may include the following:

- Provision for communication between the child and either or both birth parents
- Provision for future contact between either or both birth parents and the child or an adoptive parent
- Maintenance of medical history of either or both birth parents who are a party to the agreement



**Who may be a party to a postadoption contact agreement?****Gen. Stat. § 45a-715(h)**

Either or both birth parents and an intended adoptive parent may enter into a cooperative postadoption agreement regarding communication or contact between either or both birth parents and the adopted child. Such an agreement may be entered into if:

- The child is in the custody of the Department of Children and Families.
- An order terminating parental rights has not yet been entered.
- Either or both birth parents agree to a voluntary termination of parental rights, including an agreement in a case that began as an involuntary termination of parental rights.

The postadoption agreement shall be applicable only to a birth parent who is a party to the agreement. Such agreement shall be in addition to those under common law.

Counsel for the child and any guardian *ad litem* for the child may be heard on the proposed cooperative postadoption agreement. There shall be no presumption of communication or contact between the birth parents and an intended adoptive parent in the absence of a cooperative postadoption agreement.

**What is the role of the court in postadoption contact agreements?****Gen. Stat. § 45a-715(i)**

If the probate court determines that the child's best interests will be served by postadoption communication or contact with either or both birth parents, the court shall so order, stating the nature and frequency of the communication or contact. A court may grant postadoption communication or contact privileges if:

- Each intended adoptive parent consents to the granting of communication or contact privileges.
- The intended adoptive parent and either or both birth parents execute a cooperative agreement and file the agreement with the court.
- Consent to postadoption communication or contact is obtained from the child, if the child is at least 12 years old.
- The cooperative postadoption agreement is approved by the court.

**Are agreements legally enforceable?****Gen. Stat. § 45a-715(j)**

A cooperative postadoption agreement shall contain the following:

- An acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irrevocable, even if the adoptive parents do not abide by the cooperative postadoption agreement
- An acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek enforcement of the cooperative postadoption agreement

**How may an agreement be terminated or modified?****Gen. Stat. § 45a-715(m), (n)**

The court shall not act on a petition to change or enforce the agreement unless the petitioner had participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute.

An adoptive parent, guardian *ad litem* for the child, or the court on its own motion may, at any time, petition for review of communication or contact ordered by the court if the adoptive parent believes that the best interests of the child are being compromised. The court may order the communication or contact to be terminated, or order such conditions in regard to communication or contact as the court deems to be in the best interest of the adopted child.

**Delaware**

These issues are not addressed in the statutes reviewed.

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**District of Columbia**

These issues are not addressed in the statutes reviewed.

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**Florida****What may be included in postadoption contract agreements?****Ann. Stat. § 63.0427**

The court may be asked to consider the appropriateness of postadoption communication or contact, including, but not limited to, visits, written correspondence, or telephone calls.

**Who may be a party to a postadoption contact agreement?****Ann. Stat. § 63.0427**

The child shall have the right to have contact with his or her siblings or, upon agreement of the adoptive parents, the child shall have the right to have contact with the parents who have had their parental rights terminated or other specified biological relatives.

**What is the role of the court in postadoption contact agreements?****Ann. Stat. § 63.0427**

A child whose parents have had their parental rights terminated and whose custody has been awarded to the department pursuant to § 39.811, and who is the subject of a petition for adoption under this chapter, shall have the right to have the court consider the appropriateness of postadoption communication or contact, including, but not limited to, visits, written correspondence, or telephone calls, with his or her siblings or, upon agreement of the adoptive parents, the parents who have had their parental rights terminated or other specified biological relatives. The court shall consider the following in making such determination:

- Any orders of the court pursuant to § 39.811(7)
- Recommendations of the department, the foster parents if other than the adoptive parents, and the guardian *ad litem*
- Statements of the prospective adoptive parents
- Any other information deemed relevant and material by the court

If the court determines that the child's best interests will be served by postadoption communication or contact, the court shall so order, stating the nature and frequency for the communication or contact. This order shall be made a part of the final adoption order, but in no event shall the continuing validity of the adoption be contingent upon such postadoption communication or contact, nor shall the ability of the adoptive parents and child to change residence within or outside the State of Florida be impaired by such communication or contact.

**Are agreements legally enforceable?**

This issue is not addressed in the statutes reviewed.

**How may an agreement be terminated or modified?****Ann. Stat. § 63.0427**

The adoptive parent may, at any time, petition for review of a communication or contact order if the adoptive parent believes that the best interests of the adopted child are being compromised, and the court shall have authority to order the communication or contact to be terminated or modified, as the court deems to be in the best interests of the adopted child. As part of the review process, the court may order the parties to engage in mediation. The department shall not be required to be a party to such review.

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**Georgia**

These issues are not addressed in the statutes reviewed.

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**Guam**

These issues are not addressed in the statutes reviewed.

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**Hawaii**

These issues are not addressed in the statutes reviewed.

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**Idaho**

These issues are not addressed in the statutes reviewed.

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**Illinois**

These issues are not addressed in the statutes reviewed.

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## Indiana

### What may be included in postadoption contract agreements?

**Ann. Code §§ 31-19-16-3; 31-19-16-9**

A postadoption contact agreement must contain the following provisions:

- An acknowledgment by the birth parents that the adoption is irrevocable, even if the adoptive parents do not abide by the postadoption contact agreement
- An acknowledgment by the adoptive parents that the agreement grants the birth parents the right to seek enforcement of the postadoption privileges set forth in the agreement

Postadoption contact privileges are permissible without court approval in an adoption of a child who is less than 2 years old upon the agreement of the adoptive parents and a birth parent. However, postadoption contact privileges under this section may not include visitation. A postadoption contact agreement under this section is not enforceable and does not affect the finality of the adoption.

### Who may be a party to a postadoption contact agreement?

**Ann. Code §§ 31-19-16-1; 31-19-16.5-1**

At the time an adoption decree is entered, the court entering the adoption decree may grant postadoption contact privileges to a birth parent who has consented to the adoption or voluntarily terminated the parent-child relationship.

At the time an adoption decree is entered, the court may order the adoptive parents to provide specific postadoption contact for an adopted child who is at least 2 years old with a preadoptive sibling if:

- The court determines that the postadoption contact would serve the best interests of the adopted child.
- Each adoptive parent consents to the court's order for postadoption contact privileges.

### What is the role of the court in postadoption contact agreements?

**Ann. Code §§ 31-19-16-2; 31-19-16.5-2**

A court may grant postadoption contact privileges if:

- The court determines that the best interests of the child would be served.
- The child is at least 2 years old and the court finds that there is a significant emotional attachment between the child and the birth parent.
- Each adoptive parent consents to the granting of postadoption contact privileges.
- The adoptive parents and the birth parents execute a postadoption contact agreement and file the agreement with the court.
- The licensed child-placing agency sponsoring the adoption and the child's court-appointed special advocate or guardian *ad litem* recommends to the court the postadoption contact agreement, or if there is no licensed child-placing agency sponsoring the adoption, the county Office of Family and Children or other agency that prepared an adoption report is informed of the contents of the agreement and comments on the agreement in the agency's report to the court.
- Consent to postadoption contact is obtained from the child if the child is at least 12 years old.
- The postadoption contact agreement is approved by the court.

In making its determination, the court shall consider any relevant evidence, including the following:

- A recommendation made by a licensed child-placing agency sponsoring the adoption
- A recommendation made by the adopted child's court-appointed special advocate or guardian *ad litem*
- A recommendation made by the county Office of Family and Children or other agency that prepared a report of its investigation and its recommendation as to the advisability of the adoption
- The wishes expressed by the adopted child or adoptive parents

**Are agreements legally enforceable?****Ann. Code §§ 31-19-16-4; 31-19-16-6; 31-19-16.5-4; 31-19-16.5-5**

A birth parent or an adoptive parent may file a petition with the court entering the adoption decree to compel a birth parent or an adoptive parent to comply with the postadoption contact agreement.

Before the court hears a motion to compel compliance with an agreement, the court may appoint a guardian *ad litem* or court-appointed special advocate to represent and protect the best interests of the child.

The following persons may file a petition requesting that the court vacate or modify a postadoption contact order with a preadoptive sibling or to compel an adoptive parent to comply with the postadoption contact order:

- A preadoptive sibling by a next friend, guardian *ad litem*, or court-appointed special advocate
- The adopted child by a next friend, guardian *ad litem*, or court-appointed special advocate
- An adoptive parent

**How may an agreement be terminated or modified?****Ann. Code §§ 31-19-16-4; 31-19-16-6; 31-19-16.5-4; 31-19-16.5-5**

A birth parent or an adoptive parent may file a petition with the court entering the adoption decree to modify the postadoption contact agreement.

The court may void or modify a postadoption contact agreement at any time before or after the adoption if the court determines after a hearing that the best interest of the child requires the voiding or modifying of the agreement.

Before the court voids or modifies an agreement, the court may appoint a guardian *ad litem* or court-appointed special advocate to represent and protect the best interests of the child.

The following persons may file a petition requesting that the court vacate or modify a postadoption contact order with a preadoptive sibling:

- A preadoptive sibling by a next friend, guardian *ad litem*, or court-appointed special advocate
- The adopted child by a next friend, guardian *ad litem*, or court-appointed special advocate
- An adoptive parent

The court may vacate or modify a postadoption contact order entered under this chapter at any time after the adoption if the court determines, after a hearing, that it is in the best interests of the adopted child.

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**Iowa**

These issues are not addressed in the statutes reviewed.

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**Kansas**

These issues are not addressed in the statutes reviewed.

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**Kentucky**

These issues are not addressed in the statutes reviewed.

**Louisiana****What may be included in postadoption contract agreements?****Children's Code art. 1292.2**

Every postadoption contact agreement shall be in writing and signed by the adopting parents and by any adult granted contact. If a sibling granted contact is a minor, his or her parent or legal custodian shall sign the agreement.

On behalf of the child who is to be adopted, the department and counsel for the child shall report to the court its approval or objection to the agreement and the child's wishes concerning continuing contact. The court-appointed special advocate (CASA) for the child, if any, may also submit recommendations to the court regarding a proposed agreement.

If requested by the parties, the court may refer them to mediation to assist them in drafting the agreement. If necessary to ensure that the child's best interest is taken into account, the court may also appoint independent counsel for any child involved in future continuing contact.

A continuing contact agreement may authorize the exchange of information, communication by telephone, mail, email, or other means, and direct visitation in either the adopting parents' home or elsewhere through a mutually agreed upon intermediary.

**Who may be a party to a postadoption contact agreement?****Children's Code art. 1269.1; 1269.6**

In an agency adoption in which the department is the custodian of the child, the court may approve an agreement providing for continuing contact between the child to be adopted and his grandparent, sibling, and any parent, if both of the following conditions are met:

- The child has an established, significant relationship with that person to the extent that its loss would cause substantial harm to the child.
- The preservation of the relationship would otherwise be in the best interest of the child.

If there is no parental relationship that meets the requirements of the paragraph above, the court may approve an agreement providing for continuing contact between the child to be adopted and any other relative by blood, adoption, or affinity whose relationship with the child meets those requirements.

The adoptive parent and the grandparent, sibling, and any parent whose consent or relinquishment is required for the child's adoption, or any other relative by blood, adoption, or affinity who may be permitted continuing contact may enter into an agreement regarding communication or contact after entry of a final decree of adoption.

**What is the role of the court in postadoption contact agreements?****Children's Code art. 1269.3; 1269.4**

Within 10 days after the petition is filed, the department or attorney for the prospective adoptive parents shall file in the court in which the adoption is pending an agreement for continuing contact. The agreement may be filed later than 10 days after execution only with leave of court for good cause shown.

If either the department or counsel for the child objects to the agreement, the court may conduct a hearing before approving the agreement.

The court shall review a continuing contact agreement executed in conformity with the requirements of this chapter.

If the court finds that an agreement serves the best interest of the child, the agreement shall be incorporated into a judgment of the court. An agreement reached by the parties and approved by the department and counsel representing the child is presumed to serve the best interest of the child. The judgment shall provide that failure to comply with the terms of the agreement does not constitute grounds for annulling a surrender or the final decree of adoption.

If the court rejects the agreement, it shall make specific findings of fact in support of its conclusion that the best interest of the child would not be served by approval of the agreement. The factors to be considered shall include:

- The duration of the child's relationship with the parent, grandparent, sibling, or other relative by blood, adoption, or affinity seeking continuing contact
- The strength of the psychological attachment between the child and the individual seeking continuing contact
- The resulting harm to the child if the relationship is not preserved

If the child is 12 or older, the court shall solicit and consider the child's wishes in the matter.

**Are agreements legally enforceable?****Children's Code art. 1269.5; 1269.2**

A continuing contact agreement shall be enforceable only if filed with the court and approved in accordance with Article 1269.4.

In order to be enforceable, the agreement must include the following declarations:

- The parties have freely and voluntarily entered into the agreement and it reflects their intent to be bound by its terms, unless later modified by a replacement agreement or by court order.
- The sibling, grandparent, parent, or other relative by blood, adoption, or affinity, or his or his representative, if any, has been counseled and advised by the department, by counsel, or by another appropriate professional about the meaning of these declarations and the effects of a continuing contact agreement and each has had the opportunity to have the agreement reviewed by his counsel.
- The sibling, grandparent, parent, or other relative by blood, adoption, or affinity, or his or her representative, has been informed and understands that upon the execution of the agreement, any dispute or litigation regarding its terms shall not affect the validity of any surrender, termination of parental rights, adoption, or custody of the adopted child.
- The adopting parents have been informed and understand that the sibling, grandparent, parent, or other relative by blood, adoption, or affinity may seek enforcement of the terms of the agreement in accordance with Article 1269.7.

**How may an agreement be terminated or modified?****Children's Code art. 1269.7**

Unless another court has jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, the court shall retain jurisdiction after the decree of adoption is entered for the purpose of hearing motions brought to enforce, modify, or terminate an agreement entered into pursuant to the provisions of this chapter.

Before hearing such a motion, the court shall refer the parties to mediation. Only if the court finds that the party seeking relief has participated or attempted to participate in good faith in mediating the dispute may it proceed to a determination on the merits of the motion.

If the child is 12 or older, the court shall solicit and consider the child's wishes in the matter.

The court shall order continuing compliance in accordance with the agreement and refuse to modify or terminate it unless it finds that there has been a change of circumstances and the agreement no longer serves the best interest of the child.

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**Maine**

These issues are not addressed in the statutes reviewed.

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**Maryland****What may be included in postadoption contract agreements?****Fam. Law § 5-308**

There may be a written agreement to allow contact after the adoption.

An agreement made under this section applies to contact with an adopted person only while the adopted person is a minor.

**Who may be a party to a postadoption contact agreement?****Fam. Law §§ 5-308; 5-525.2**

The prospective adoptive parent and birth parent may enter into a written agreement to allow contact after the adoption between:

- The parent or other relative of the adopted person
- The adopted person or adoptive parent

An adoptive parent and former parent of an adopted person may enter into a written agreement to allow contact between:

- A relative or former parent of the adopted person
- The adopted person or adoptive parent

Any siblings who are separated due to a foster care or adoptive placement may petition a court, including a juvenile court with jurisdiction over one or more of the siblings, for reasonable sibling visitation rights.



**What is the role of the court in postadoption contact agreements?****Fam. Law §§ 5-308; 5-525.2**

If a dispute as to an agreement made under this section arises, a court may refer the parties to mediation to try to resolve the dispute.

If a petitioner under this section petitions a court to issue a visitation decree or to amend an order, the court:

- May hold a hearing to determine whether visitation is in the best interest of the children
- Shall weigh the relative interests of each child and base its decision on the best interests of the children, thus promoting the greatest welfare and least harm to the children
- May issue an appropriate order or decree

**Are agreements legally enforceable?****Fam. Law § 5-308**

A juvenile court or other court of competent jurisdiction shall enforce a written agreement made in accordance with this section unless enforcement is not in the adopted person's best interests.

**How may an agreement be terminated or modified?****Fam. Law § 5-308**

If a party moves in juvenile court or another court of competent jurisdiction to modify a written agreement made in accordance with this section and satisfies the court that modification is justified because an exceptional circumstance has arisen and the court finds modification to be in an adopted person's best interests, the court may modify the agreement.

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**Massachusetts****What may be included in postadoption contract agreements?****Gen. Laws Ann. ch. 210, § 6C**

Prior to the entry of an adoption decree, prospective adoptive parents and a birth parent may enter into an agreement for postadoption contact or communication between or among a minor to be adopted, the prospective adoptive parents, and the birth parents.

**Who may be a party to a postadoption contact agreement?****Gen. Laws Ann. ch. 210, § 6C**

The agreement may be between the prospective adoptive parents and the birth parents.

**What is the role of the court in postadoption contact agreements?****Gen. Laws Ann. ch. 210, § 6C**

The court shall approve an agreement for postadoption contact or communication if the court finds that such agreement is in the best interests of the child, contains terms that are fair and reasonable, and has been entered knowingly and voluntarily by all parties to the agreement.

The requirement may be satisfied by an affidavit executed by all parties, either jointly or separately, that is filed with the court. The affidavit shall state that the agreement is entered into knowingly and voluntarily and is not the product of coercion or duress.

To be approved by the court, an agreement for postadoption contact or communication shall contain the following statements:

- The agreement is entered into pursuant to the provisions of chapter 210, § 6C.
- Any breach, modification, or invalidation of the agreement or any part of it shall not affect the validity of the adoption. The adoption shall be final.
- The parties acknowledge that either the birth or adoptive parents who have entered into the agreement have the right to seek enforcement.
- The parties have not relied on any representations other than those contained in this agreement.

The agreement shall be signed by the parties and acknowledged before a notary public as the free act and deed of the parties. If the child is above the age of 12, the agreement shall contain the written consent of the child.

If the child is in the custody of the Department of Social Services, the agreement shall contain the written approval of the department and the attorney for the child. If the child is in the custody of a licensed childcare agency, the agreement shall contain the written approval of the agency.

**Are agreements legally enforceable?****Gen. Laws Ann. ch. 210, §§ 6C; 6D**

To be enforceable, an agreement for postadoption contact or communication shall be in writing, approved by the court prior to the date for entry of the adoption decree, incorporated but not merged into the adoption decree, and shall survive as an independent contract.

An agreement under this section need not disclose the identity of the parties to be enforceable, but if an identity is not disclosed, the unidentified person shall designate an agent for the purpose of receiving court notices.

An agreement for postadoption contact or communication shall cease to be enforceable on the date the adopted person turns 18 years of age.

A party to a court-approved agreement for postadoption contact or communication may seek to enforce the agreement by commencing a civil action for specific performance. A court order for specific performance of the terms of a postadoption contact agreement shall be the sole remedy for breach of an agreement.

In such proceedings, parties shall not be entitled to the appointment of counsel. However, the court may appoint a guardian *ad litem* to represent the interests of the child.

If the court finds that an action brought under this section was wholly insubstantial, frivolous, and not advanced in good faith, the court may award attorney's fees to all prevailing parties.

Nothing in the agreement shall preclude a party seeking to enforce an agreement for postadoption contact or communication from utilizing child welfare mediation or permanency mediation before, or in addition to, the commencement of a civil action.

**How may an agreement be terminated or modified?****Gen. Laws Ann. ch. 210, § 6D**

In an enforcement proceeding, the court may modify the terms of the agreement if the court finds that there has been a material and substantial change in circumstances and the modification is necessary in the best interests of the child. A court-imposed modification of a previously approved agreement may limit, restrict, condition, or decrease contact between the birth parents and the child but in no event shall a court-imposed modification serve to expand, enlarge, or increase the amount of contact between the birth parents and the child or place new obligations on adoptive parents.

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**Michigan**

These issues are not addressed in the statutes reviewed.

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**Minnesota****What may be included in postadoption contract agreements?****Ann. Stat. § 259.58**

Adoptive parents and a birth relative or foster parents may enter an agreement regarding communication, contact, or visitation with or between an adopted minor, adoptive parents, and a birth relative or foster parents.

**Who may be a party to a postadoption contact agreement?****Ann. Stat. § 259.58**

An agreement may be entered between:

- Adoptive parents and a birth parent
- Adoptive parents and any other birth relative or foster parent with whom the child resided before being adopted
- Adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adopted person. This relationship may be by blood, adoption, or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act.

**What is the role of the court in postadoption contact agreements?****Ann. Stat. § 259.58**

An agreement regarding communication with or contact between minor adopted persons, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section.

An order may be sought at any time before a decree of adoption is granted. The order must be issued within 30 days of being submitted to the court or by the granting of the decree of adoption, whichever is earlier.

The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative or foster parent who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency.

A birth parent must approve in writing an agreement between adoptive parents and any other birth relative or foster parent, unless an action has been filed against the birth parent by a county under chapter 260.

An agreement under this section need not disclose the identity of the parties to be legally enforceable.

The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adopted person, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adopted person's best interests.

**Are agreements legally enforceable?****Ann. Stat. § 259.58**

An agreement regarding communication with or contact between minor adopted persons, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section.

An agreement may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs.

**How may an agreement be terminated or modified?****Ann. Stat. § 259.58**

The court shall not modify an agreement order unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

- The modification is agreed to by the parties to the agreement.
- Exceptional circumstances have arisen since the agreement order was entered that justify modification of the order.

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**Mississippi**

These issues are not addressed in the statutes reviewed.

## Missouri

### **What may be included in postadoption contract agreements?**

#### **Ann. Stat. § 453.080(4)**

Before the completion of an adoption, the exchange of information among the parties shall be at the discretion of the parties. Upon completion of an adoption, further contact among the parties shall be at the discretion of the adoptive parents.

### **Who may be a party to a postadoption contact agreement?**

#### **Ann. Stat. § 453.080(4)**

The parties to the adoption may participate in the agreement.

### **What is the role of the court in postadoption contact agreements?**

#### **Ann. Stat. § 453.080(4)**

The court shall not have jurisdiction to deny continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of identifying information between an adoptive parent and a birth parent.

### **Are agreements legally enforceable?**

This issue is not addressed in statutes reviewed.

### **How may an agreement be terminated or modified?**

This issue is not addressed in statutes reviewed.

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## Montana

### **What may be included in postadoption contract agreements?**

#### **Ann. Code § 42-5-301**

An express written agreement may be entered into between the birth parent and the prospective adoptive parent for contact or communication between the adoptee and the birth parents or family.

### **Who may be a party to a postadoption contact agreement?**

#### **Ann. Code § 42-5-301**

The agreement may be entered into between the placing parent and the prospective adoptive parent.

### **What is the role of the court in postadoption contact agreements?**

#### **Ann. Code § 42-5-301**

Any express written agreement entered into between the placing parent and the prospective adoptive parent after the execution of a relinquishment and consent to adoption is independent of the adoption proceedings, and any relinquishment and consent to adopt remains valid whether or not the agreement for contact or communication is later performed. Failure to perform an agreement is not grounds for setting aside an adoption decree.

**Are agreements legally enforceable?****Ann. Code § 42-5-301**

The court may order that an agreement for contact or communication entered into under this section may not be enforced upon a finding that:

- Enforcement is detrimental to the child.
- Enforcement undermines the adoptive parent's parental authority.
- Due to a change in circumstances, compliance with the agreement would be unduly burdensome to one or more of the parties.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

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**Nebraska****What may be included in postadoption contract agreements?****Rev. Stat. §§ 43-156; 43-157; 43-158**

The department may, when planning the placement of a child for adoption, determine whether the best interests of such child might be served by placing the child in an adoption involving exchange of information.

Adoption involving exchange of information shall mean an adoption of a child in which one or both of the child's biological parents contract with the department for information about the child obtained through his or her adoptive family.

An exchange-of-information contract is a 2-year, renewable obligation, voluntarily agreed to and signed by both the adoptive and biological parent or parents as well as the department.

When the department determines that an adoption involving exchange of information would serve a child's best interests, it may enter into agreements with the child's proposed adoptive parent or parents for the exchange of information. The nature of the information promised to be provided shall be specified in an exchange-of-information contract and may include, but shall not be limited to, letters by the adoptive parent or parents at specified intervals providing information regarding the child's development or photographs of the child at specified intervals.

Any agreement shall provide that the biological parent or parents keep the department informed of any change in address or telephone number and may include provision for communication by the biological parent or parents indirectly through the department or directly to the adoptive parent or parents. Nothing in §§ 43-155 to 43-160 shall be interpreted to preclude or allow visitation between the biological parent or parents and the child.

**Who may be a party to a postadoption contact agreement?****Rev. Stat. §§ 43-156; 43-162**

An exchange-of-information contract is a 2-year, renewable obligation, voluntarily agreed to and signed by both the adoptive and biological parent or parents as well as the department.

The prospective adoptive parent or parents and the birth parent or parents of a prospective adoptee may enter into an agreement regarding communication or contact after the adoption between or among the prospective adoptee and his or her birth parent or parents if the prospective adoptee is in the custody of the department.

**What is the role of the court in postadoption contact agreements?****Rev. Stat. § 43-163**

Before approving an agreement for postadoption contact, the court shall appoint a guardian *ad litem* to represent the best interests of the child concerning such agreement.

The court may enter an order approving the agreement upon motion of one of the child's birth parents or one of the prospective adoptive parents if the terms of the agreement are approved in writing by the prospective adoptive parents and the birth parents and if the court finds, after consideration of the recommendations of the guardian *ad litem* and the department and other factors, that such communication with the birth parent or parents and the maintenance of birth family history would be in the best interests of the child.

In determining if the agreement is in the best interests of the child, the court shall consider the following factors as favoring communication with the birth parent or parents:

- Whether the child and birth parent or parents lived together for a substantial period of time
- Whether the child exhibits attachment or bonding to the birth parent or parents
- Whether the adoption is a foster-parent adoption with the birth parent or parents having relinquished the prospective adoptee due to an inability to provide him or her with adequate parenting

**Are agreements legally enforceable?****Rev. Stat. §§ 43-160; 43-162; 43-165**

The parties to an exchange-of-information contract shall have the authority to bring suit in a court of competent jurisdiction for the enforcement of any agreement entered into pursuant to § 43-158.

Any such agreement shall not be enforceable unless approved by the court pursuant to § 43-163.

An agreement that has been approved pursuant to § 43-163 may be enforced by a civil action, and the prevailing party may be awarded, as part of the costs of the action, reasonable attorney's fees.

**How may an agreement be terminated or modified?****Rev. Stat. §§ 43-159; 43-165**

When, after placement of a child for adoption, it is determined by the department, in consultation with the adoptive parent or parents, that certain or all exchanges of information are no longer in the best interests of the child, the department may enter into an agreement with the biological parent or parents to alter the original contract made between the department and the biological parent or parents.

The court shall not modify an order issued under such section unless it finds that the modification is necessary to serve the best interests of the adopted person, and:

- The modification is agreed to by the adoptive parent or parents and the birth parent or parents.
- Exceptional circumstances have arisen since the order was entered that justify modification of the order.

**Nevada****What may be included in postadoption contract agreements?****2005 Nev. Stat. Ch. 413**

*[Sec. 3; new section of Ch. 127]*

An agreement that provides for postadoptive contact is enforceable if the agreement is in writing and signed by the parties and is incorporated into an order or decree of adoption.

The identify of a natural parent is not required to be included in the agreement if an agent who may receive court notices for the natural parent is provided in the agreement.

**Who may be a party to a postadoption contact agreement?****2005 Nev. Stat. Ch. 413**

*[Sec. 3; new section of Ch. 127]*

The natural parent or parents and the prospective adoptive parent or parents of a child to be adopted may enter into an enforceable agreement that provides for postadoptive contact between:

- The child and his natural parent or parents
- The adoptive parent or parents and the natural parent or parents
- Any combination thereof

**What is the role of the court in postadoption contact agreements?****2005 Nev. Stat. Ch. 413**

*[Sec. 3-5; new sections of Ch. 127]*

A court that enters an order or decree of adoption that incorporates an agreement that provides for postadoptive contact shall retain jurisdiction to enforce, modify, or terminate the agreement that provides for postadoptive contact until the child reaches 18 years of age, the child becomes emancipated, or the agreement is terminated.

The establishment of an agreement that provides for postadoptive contact does not affect the rights of an adoptive parent as the legal parent of the child.

Each prospective adoptive parent of a child to be adopted who enters into an agreement that provides for postadoptive contact shall notify the court of the existence of the agreement as soon as practicable after the agreement is established, but not later than the time at which the court enters the order or decree of adoption of the child.

Before a court may enter an order or decree of adoption of a child, the court must address in person each prospective adoptive parent, the director of the licensed child-placing agency involved in the adoption proceedings, and any attorney representing a prospective adoptive parent, the child, or the agency involved in the adoption proceedings and inquire whether the person has actual knowledge that the prospective adoptive parent or parents of the child and the natural parent or parents of the child have entered into an agreement that provides for postadoptive contact.

If the court determines that the prospective adoptive parent or parents and the natural parent or parents have entered into an agreement that provides for postadoptive contact, the court shall order the prospective adoptive parent or parents to provide a copy of the agreement to the court and incorporate the agreement into the order or decree of adoption.



**Are agreements legally enforceable?****2005 Nev. Stat. Ch. 413**

[Sec. 6 & 7; new sections of Ch. 127]

A natural parent who has entered into an agreement that provides for postadoptive contact may, for good cause shown:

- Petition the court that entered the order or decree of adoption of the child to prove the existence of the agreement that provides for postadoptive contact and to request that the agreement be incorporated into the order or decree of adoption
- During the period set forth below, petition the court to enforce the terms of the agreement that provides for postadoptive contact if the agreement complies with the requirements of this act

An adoptive parent who has entered into an agreement that provides for postadoptive contact may:

- During the period set forth below, petition the court that entered the order or decree of adoption of the child to enforce the terms of the agreement that provides for postadoptive contact if the agreement complies with the requirements of this act
- Petition the court to modify or terminate the agreement that provides for postadoptive contact

Any action to enforce the terms of an agreement that provides for postadoptive contact must be commenced not later than 120 days after the date on which the agreement was breached.

**How may an agreement be terminated or modified?****2005 Nev. Stat. Ch. 413**

[Sec. 8; new section of Ch. 127]

An agreement that provides for postadoptive contact may only be modified or terminated by an adoptive parent petitioning the court that entered the order of decree that included the agreement. The court may grant a request to modify or terminate the agreement only if:

- The adoptive parent petitioning the court for the modification or termination establishes that:
  - » A change in circumstances warrants the modification or termination.
  - » The contact provided for in the agreement is no longer in the best interests of the child.
- Each party to the agreement consents to the modification or termination.

If an adoptive parent petitions the court for a modification or termination of an agreement pursuant to this section:

- There is a presumption that the modification or termination is in the best interests of the child.
- The court may consider the wishes of the child involved in the agreement.

Any order issued to modify an agreement that provides postadoptive contact:

- May limit, restrict, condition, or decrease contact between the parties involved in the agreement
- May not expand or increase the contact between the parties involved in the agreement or place any new obligation on an adoptive parent

## **New Hampshire**

### **What may be included in postadoption contract agreements?**

#### **Rev. Stat. § 170-B:14**

*[Effective January 1, 2006]*

Nothing in this chapter shall be construed as encouraging, discouraging, or prohibiting arrangements or understandings reached between the prospective adoptive parents, the birth parents, or the licensed child-placing agency with respect to the postsurrender exchange of identifying or nonidentifying information, communication, or contact. Except in cases involving the department as provided below, no such arrangement or understanding shall be binding or enforceable.

In adoptions involving a child who is under either the legal custody or guardianship of the department, a voluntarily mediated agreement shall be enforceable as provided in this paragraph. The purpose of this paragraph is to facilitate the timely achievement of permanency for children who are in the custody or guardianship of the department by providing an option for the parties to enter into a voluntarily mediated agreement for ongoing communication or contact that is in the best interests of the child, that recognizes the parties' interests and desires for ongoing communication or contact, that is appropriate given the role of the parties in the child's life, and that is legally enforceable by the courts.

### **Who may be a party to a postadoption contact agreement?**

#### **Rev. Stat. § 170-B:14**

*[Effective January 1, 2006]*

Prior to the entry of any adoption decree, the department, prospective adoptive parents, and birth parents may voluntarily participate in a court-approved mediation program in order to reach a voluntarily mediated agreement.

Other people may be invited to participate in the mediation by mutual consent of the department, birth parents, and prospective adoptive parents. However, these invitees shall not be parties to any agreement reached during that mediation.

**What is the role of the court in postadoption contact agreements?****Rev. Stat. § 170-B:14**

[Effective January 1, 2006]

The court shall approve the voluntarily mediated agreement if the court determines that:

- The agreement is in the best interests of the child. In making this determination, the court may consider:
  - » The length of time that the child has been under the actual care, custody, and control of any person other than a birth parent
  - » The desires of the child's birth parents and the child as to the child's custody or residency
  - » The interaction and interrelationship of the child with birth parents, siblings, and any other person who may significantly affect the child's best interests
  - » The adjustment to the child's home, school, and community
  - » The willingness and ability of the birth parents to respect and appreciate the bond between the child and the adoptive parents
  - » The willingness and ability of the adoptive parents to respect and appreciate the bond between the child and the birth parents
  - » Any evidence of abuse or neglect of the child
  - » The recommendations of any guardian *ad litem*
- An affidavit made under oath shall accompany the agreement stating that the agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud, or duress.

To be approved by the court, the agreement shall contain the following statements:

- The agreement is entered into pursuant to the provisions of law.
- Any breach, modification, or invalidation of the agreement shall not affect the validity of the surrender of parental rights or the adoption decree.
- The parties acknowledge that either the birth or adoptive parents who have entered into the agreement have the right to seek enforcement.
- The parties have not relied on any representations other than those contained in the agreement.

If the child is 14 or older, the agreement also shall contain the written consent of the child.

**Are agreements legally enforceable?****Rev. Stat. § 170-B:14**

[Effective January 1, 2006]

To be enforceable, a voluntarily mediated agreement shall be in writing, approved by the court prior to the date for entry of any adoption decree, incorporated but not merged into any adoption decree, and shall survive as an independent agreement.

A voluntarily mediated agreement need not disclose the identity of the parties to be enforceable, but if an identity is not disclosed, the unidentified person shall designate a resident agent for the purpose of service of process.

A voluntarily mediated agreement shall cease to be enforceable on the date the child turns 18 years old. The court issuing final approval of the agreement shall have continuing jurisdiction over enforcement of the agreement until the child reaches his or her 18th birthday.

**How may an agreement be terminated or modified?****Rev. Stat. § 170-B:14**

*[Effective January 1, 2006]*

A party to a court-approved voluntarily mediated agreement may seek to modify, enforce, or discontinue the agreement by commencing an equity action in the court that approved the agreement. However, before a court may enter an order requiring modification of, compliance with, or discontinuance of the agreement, the moving party shall certify that he or she has participated, or attempted to participate, in good faith in mediating the dispute giving rise to the action prior to filing the action. A court order for modification, enforcement, or discontinuance of the terms of the voluntarily mediated agreement shall be the sole remedies for breach of the agreement.

The court may modify the terms of the agreement if the court finds by a preponderance of the evidence that there has been a material and substantial change in the circumstances and that the modification is in the best interests of the child.

A court-imposed modification of a previously approved agreement may limit, restrict, condition, decrease, or discontinue the sharing of information and/or contact between the birth parents and the child, but in no event shall a court-imposed modification serve to expand, enlarge, or increase the amount of contact between the birth parents and the child or place new obligations on the parties to the agreement. The court also may impose appropriate sanctions consistent with its equitable powers but not inconsistent with this section, including the power to issue restraining orders.

Nothing in this section shall be construed so as to abrogate the rights of the adoptive parents to make decisions on behalf of the child, except as provided in the court-approved voluntarily mediated agreement.

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**New Jersey**

These issues are not addressed in the statutes reviewed.

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**New Mexico****What may be included in postadoption contract agreements?****Ann. Stat. § 32A-5-35**

An agreement for postadoption contact shall, absent a finding to the contrary, be presumed to be in the best interests of the child and shall be included in the decree of adoption.

The contact may include exchange of identifying or nonidentifying information or visitation between the parents or the parents' relatives and the petitioner or visitation between the parents or the parents' relatives and the adoptee. An agreement entered into pursuant to this section shall be considered an open adoption.

**Who may be a party to a postadoption contact agreement?****Ann. Stat. § 32A-5-35**

The parents of the adopted person and the petitioner may agree to contact between the parents and the petitioner or contact between the adopted person and one or more of the parents or contact between the adopted person and relatives of the parents.

**What is the role of the court in postadoption contact agreements?****Ann. Stat. § 32A-5-35**

The court may appoint a guardian *ad litem* for the child, particularly when visitation between the birth family and the child is included in an agreement, however, this requirement may be waived by the court for good cause shown.

If the child is 14 or older, the court may appoint an attorney for the child.

In determining whether the agreement is in the child's best interests, the court shall consider the child's wishes, but the wishes of the child shall not control the court's findings as to the child's best interests.

Every agreement entered into pursuant to this section shall contain a clause stating that the parties agree to the continuing jurisdiction of the court and to the agreement and understand and intend that any disagreement or litigation regarding the terms of the agreement shall not affect the validity of the relinquishment of parental rights, the adoption, or the custody of the child.

**Are agreements legally enforceable?****Ann. Stat. § 32A-5-35**

The court shall retain jurisdiction after the decree of adoption is entered if the decree contains an agreement for contact, for the purpose of hearing motions brought to enforce or modify an agreement entered into pursuant to the provisions of this section.

**How may an agreement be terminated or modified?****Ann. Stat. § 32A-5-35**

The court shall not grant a request to modify the agreement unless the moving party establishes that there has been a change of circumstances and the agreement is no longer in the child's best interests.

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**New York****What may be included in postadoption contract agreements?****Soc. Serv. Law § 383-c(2)(b); Dom. Rel. Law § 112-b**

[Effective 12-21-05]

The parties to an adoption may enter into a written agreement providing for communication or contact between the child and the child's parent or parents on such terms as may be agreed to by the parties.

The agreement also may provide terms and conditions for communication with or contact between the child and the child's biological siblings or half-siblings, if any. If any such sibling or half-sibling is 14 or older, such terms and conditions shall not be enforceable unless such sibling or half-sibling consents to the agreement in writing.

Nothing in this section shall be construed to prohibit the parties to a proceeding under this chapter from entering into an agreement regarding communication with or contact between an adoptive child, adoptive parent or parents, and a birth parent or parents and/or the adoptive child's biological siblings or half-siblings.

**Who may be a party to a postadoption contact agreement?****Soc. Serv. Law § 383-c(2)(b); Dom. Rel. Law § 112-b***[Effective 12-21-05]*

The parties to the adoption may enter into an agreement regarding communication with or contact between an adoptive child, adoptive parent or parents, and a birth parent or parents and/or the adoptive child's biological siblings or half-siblings.

If a surrender instrument designates a particular person or persons who will adopt a child, such person or persons, the child's birth parent or parents, the authorized agency having care and custody of the child, and the child's law guardian may enter into a written agreement providing for communication or contact between the child and the child's parent or parents on such terms and conditions as may be agreed to by the parties.

If a surrender instrument does not designate a particular person or persons who will adopt the child, then the child's birth parent or parents, the authorized agency having care and custody of the child, and the child's law guardian may enter into a written agreement providing for communication or contact, on such terms and conditions as may be agreed to by the parties.

**What is the role of the court in postadoption contact agreements?****Soc. Serv. Law § 383-c(2)(b); Dom. Rel. Law § 112-b***[Effective 12-21-05]*

If the court before which the surrender instrument is presented for approval determines that the agreement concerning communication and contact is in the child's best interests, the court shall approve the agreement. If the court does not approve the agreement, the court may nonetheless approve the surrender; provided, however, that the birth parent or parents executing the surrender instrument shall be given the opportunity at that time to withdraw such instrument.

The court shall not incorporate an agreement regarding communication or contact into an order unless the terms and conditions of the agreement have been set forth in writing and consented to in writing by the parties to the agreement, including the law guardian representing the adoptive child. The court shall not enter a proposed order unless it has found that the communication with or contact between the adoptive child, the prospective adoptive parent or parents, and a birth parent or parents and/or biological siblings or half-siblings, as agreed upon and as set forth in the agreement, would be in the adoptive child's best interests.

**Are agreements legally enforceable?****Soc. Serv. Law § 383-c(2)(b); Dom. Rel. Law § 112-b; Fam. Cr. Act § 1055-a***[Effective 12-21-05]*

Enforcement of any agreement prior to the adoption of the child shall be in accordance with § 1055-a(b) of the family court act. Subsequent to the adoption of the child, enforcement of any agreement shall be in accordance with § 112-b of the domestic relations law.

Agreements regarding communication with contact between an adoptive child, adoptive parent or parents, and a birth parent or parents and/or biological siblings or half-siblings of an adoptive child shall not be legally enforceable unless the terms of the agreement are incorporated into a written court order.

If an agreement for continuing contact and communication pursuant to § 383-c(2)(b) the social services law is approved by the court, and the child who is the subject of the approved agreement has not yet been adopted, any party to the approved agreement may file a petition with the family court in the county where the agreement was approved to enforce such agreement. A copy of the approved agreement shall be annexed to such petition. The court shall enter an order enforcing communication or contact pursuant to the terms and conditions of the agreement unless the court finds that enforcement would not be in the best interests of the child.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

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**North Carolina****What may be included in postadoption contract agreements?****Gen. Stat. § 48-3-610**

If a person executing consent and the prospective adoptive parent or parents enter into an agreement regarding visitation, communication, support, and any other rights and duties with respect to the minor, this agreement shall not be a condition precedent to the consent itself, and failure to perform shall not invalidate a consent already given.

**Who may be a party to a postadoption contact agreement?****Gen. Stat. § 48-3-610**

The person executing consent and the prospective adoptive parent or parents may enter into the agreement.

**What is the role of the court in postadoption contact agreements?**

This issue is not addressed in the statutes reviewed.

**Are agreements legally enforceable?****Gen. Stat. § 48-3-610**

The agreement itself shall not be enforceable.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

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**North Dakota**

These issues are not addressed in the statutes reviewed.

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**Northern Mariana Islands**

These issues are not addressed in the statutes reviewed.

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## Ohio

### **What may be included in postadoption contract agreements?**

#### **Rev. Code § 3107.65**

An open adoption may provide for the exchange of any information, including identifying information, and have any other terms. No open adoption shall do any of the following:

- Provide for the birth parent to share with the prospective adoptive parent parental control and authority over the child placed for adoption or in any manner limit the adoptive parent's full parental control and authority over the adopted child
- Deny the adoptive parent or child access to forms pertaining to the social or medical histories of the birth parent if the adoptive parent or child is entitled to them under § 3107.17
- Deny the adoptive parent or child access to a copy of the contents of the child's adoption file if the adoptive parent or child is entitled to them under § 3107.47
- Deny the adoptive parent, child, birth parent, birth sibling, or other relative access to nonidentifying information that is accessible pursuant to § 3107.66, or to materials, photographs, or information that is accessible pursuant to § 3107.68
- Provide for the open adoption to be binding or enforceable

### **Who may be a party to a postadoption contact agreement?**

#### **Rev. Code § 3107.63**

A birth parent who voluntarily chooses to have the birth parent's child placed for adoption may request that the agency or attorney arranging the child's adoptive placement provide for the birth parent and prospective adoptive parent to enter into an open adoption with terms acceptable to the birth parent and prospective adoptive parent.

### **What is the role of the court in postadoption contact agreements?**

#### **Rev. Code § 3107.65**

A probate court may not refuse to approve a proposed placement pursuant to § 5103.16(D)(1) to issue a final decree of adoption or interlocutory order of adoption under § 3107.14 on the grounds that the birth parent and prospective adoptive parent have entered into an open adoption unless the court issues a finding that the terms of the open adoption violate the law or are not in the best interest of the child.

A probate court may not issue a final decree of adoption or interlocutory order of adoption that nullifies or alters the terms of an open adoption unless the court issues a finding that the terms violate the division above or are not in the best interest of the child.

### **Are agreements legally enforceable?**

#### **Rev. Code § 3107.65**

An open adoption is not enforceable.

At the request of a person who has withdrawn from an open adoption, the court with jurisdiction over the adoption shall issue an order barring any other person who was a party to the open adoption from taking any action pursuant to the open adoption.

### **How may an agreement be terminated or modified?**

#### **Rev. Code § 3107.65**

All terms of an open adoption are voluntary and any person who has entered into an open adoption may withdraw from the open adoption at any time.



## Oklahoma

### **What may be included in postadoption contract agreements?**

#### **Ann. Stat. Tit. 10, § 7505-1.5**

If a child has resided with a birth relative before being adopted, the adoptive parents and that birth relative may enter into an agreement regarding communication with, visitation of, or contact between the child, adoptive parents, and the birth relative after or during pendency of the adoption proceedings.

### **Who may be a party to a postadoption contact agreement?**

#### **Ann. Stat. Tit. 10, § 7505-1.5**

The adoptive parents and the birth relative may enter into the agreement.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, great-grandparent, brother, sister, uncle, or aunt of the child. This relationship may be by blood or marriage.

For an Indian child, birth relative includes members of the extended family as defined by the laws or customs of the Indian child's tribe or, in the absence of laws or customs, shall be a person who is 18 years of age or older and who is the Indian child's great-grandparent, grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece, nephew, first or second cousin, or stepparent, as provided in the Indian Child Welfare Act.

### **What is the role of the court in postadoption contact agreements?**

#### **Ann. Stat. Tit. 10, § 7505-1.5**

The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents and the birth relative who desires to be a party to the agreement.

The court shall not enter a proposed order unless the court finds that the communication, visitation, or contact between the child, the adoptive parents, and the birth relative as agreed upon and contained in the proposed order would be in the child's best interests and poses no threat to the safety of the child or integrity of the adoptive placement.

### **Are agreements legally enforceable?**

#### **Ann. Stat. Tit. 10, § 7505-1.5**

An agreement regarding communication with, visitation of, or contact between the child, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section.

An order must be sought and shall be filed in the adoption action.

### **How may an agreement be terminated or modified?**

#### **Ann. Stat. Tit. 10, § 7505-1.5**

An agreed order entered pursuant to the provisions of this section may be enforced or modified by filing a petition or motion with the court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit with supporting documentation that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification.

The court shall not modify an agreed order pursuant to this section unless it finds that the modification is necessary to serve the best interests of the child, and:

- The modification is agreed to by the adoptive parent and the birth relative.
- Exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

## Oregon

### **What may be included in postadoption contract agreements?**

#### **Rev. Stat. § 109.305**

Nothing in the adoption laws of this State shall be construed to prevent the adoptive parents, the birth parents and the child from entering into a written agreement, approved by the court, to permit continuing contact between the birth relatives and the child or the adoptive parents.

### **Who may be a party to a postadoption contact agreement?**

#### **Rev. Stat. § 109.305**

The agreement may be made by the adoptive parents, the birth parents, and the child.

As used in this subsection, "birth relatives" includes birth parents, grandparents, siblings, and other members of the child's birth family.

### **What is the role of the court in postadoption contact agreements?**

#### **Rev. Stat. § 109.305**

The written agreement must be approved by the court.

### **Are agreements legally enforceable?**

#### **Rev. Stat. § 109.305**

An agreement made under the subsection above may be enforced by a civil action. However, before a court may enter an order requiring compliance with the agreement, the court must find that the party seeking enforcement participated, or attempted to participate, in good faith in mediating the dispute giving rise to the action prior to filing the civil action.

### **How may an agreement be terminated or modified?**

#### **Rev. Stat. § 109.305**

The court may modify an agreement if the court finds that the modification is necessary to serve the best interests of the adopted child and that:

- The party seeking modification participated, or attempted to participate, in good faith in mediation prior to seeking modification of the agreement.
- The modification is agreed to by all parties to the original agreement.
- Exceptional circumstances have arisen since the parties entered into the agreement that justify modification of the agreement.

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## Pennsylvania

These issues are not addressed in the statutes reviewed.

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## Puerto Rico

These issues are not addressed in the statutes reviewed.

## Rhode Island

### What may be included in postadoption contract agreements?

#### Gen. Laws § 15-7-14.1

Postadoption privileges may include postadoption visitation, contact, and/or conveyance of information.

A postadoption privileges agreement must contain the following provisions:

- An acknowledgment by the birth parents that the adoption is irrevocable, even if the adoptive parents do not abide by the postadoption privileges agreement
- An acknowledgment by the adoptive parents that the agreement grants the birth parents the right to seek to enforce the postadoption privileges set forth in the agreement

### Who may be a party to a postadoption contact agreement?

#### Gen. Laws § 15-7-14.1

The adoptive parents and the birth parents may jointly negotiate and execute a postadoption privileges agreement that is approved and filed with the family court.

### What is the role of the court in postadoption contact agreements?

#### Gen. Laws § 15-7-14.1

At the time an adoption decree is entered, the court entering the decree may grant postadoption visitation, contact, and/or conveyance of information privileges (hereinafter referred to as "postadoption privileges") to a birth parent who has consented to an adoption or voluntarily terminated the parent-child relationship or has had his or her parental rights involuntarily terminated.

A court may grant postadoption privileges if:

- The court determines that the best interests of the child would be served by granting postadoption privileges.
- The court finds there is a significant emotional attachment between the child and the birth parent.
- The adoptive parents and the birth parents jointly negotiate and execute a postadoption privileges agreement that is approved and filed with the family court.
- The Department of Children, Youth, and Families and the child's court-appointed special advocate or the guardian *ad litem* recommend that the postadoption privileges agreement be approved by the court; or if the adoption petition is being sponsored by a licensed child-placing agency other than the department, the licensed child-placing agency sponsoring the adoption makes a recommendation that the postadoption privileges agreement be approved by the court.
- Consent to the postadoption privileges is obtained from the child if the child is at least 12 years of age.
- The postadoption privileges agreement is approved by the court.

### Are agreements legally enforceable?

#### Gen. Laws § 15-7-14.1

A birth parent or an adoptive parent may file a petition with the court entering the adoption decree to compel a birth parent or adoptive parent to comply with the postadoption privileges agreement.

Before the court hears a motion to compel compliance with an agreement, the court shall give notice and an opportunity to be heard to the licensed, child-placing agency that sponsored the adoption and to the child's court-appointed special advocate (CASA) or court-appointed guardian *ad litem* if one had been appointed prior to the finalization of adoption.

**How may an agreement be terminated or modified?****Gen. Laws § 15-7-14.1**

A birth parent or an adoptive parent may file a petition with the court entering the adoption decree to modify the postadoption privileges agreement.

The court may void or modify a postadoption privileges agreement at any time before or after the adoption if the court determines after a hearing that the best interests of the child require the voiding or modification of the agreement.

Before the court voids or modifies an agreement, the court shall give notice and an opportunity to be heard to the licensed, child-placing agency that sponsored the adoption and to the child's court-appointed special advocate (CASA) or court-appointed guardian *ad litem* if one had been appointed prior to the finalization of adoption.

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**South Carolina****What may be included in postadoption contract agreements?****Ann. Code § 20-7-1770(D)**

An agreement may be entered into before the adoption between adoptive parents and biological parents concerning visitation, exchange of information, or other interaction between the child and any other person.

**Who may be a party to a postadoption contact agreement?****Ann. Code § 20-7-1770(D)**

An agreement may be made between adoptive parents and biological parents.

**What is the role of the court in postadoption contact agreements?****Ann. Code § 20-7-1770(D)**

The validity of the final decree of adoption is not affected by an agreement entered into before the adoption between adoptive parents and biological parents concerning visitation, exchange of information, or other interaction between the child and any other person.

**Are agreements legally enforceable?****Ann. Code § 20-7-1770(D)**

Such an agreement does not preserve any parental rights with the biological parents and does not give to them any rights enforceable in the courts of this State.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

## South Dakota

### What may be included in postadoption contract agreements?

#### Codified Laws § 25-6-17

The natural parents of an adopted child shall retain no rights or privileges to have visitation or other postadoption contact with the child, except in cases where a natural parent consents to the adoption of a child by the child's stepfather or stepmother who is the present spouse of the natural parent, or in cases of voluntary termination where there is a written preadoption agreement between the natural parent or parents and the adoptive parents.

### Who may be a party to a postadoption contact agreement?

#### Codified Laws § 25-6-17

The adoptive parents may enter into a written preadoption agreement with the natural parent or parents.

### What is the role of the court in postadoption contact agreements?

#### Codified Laws § 25-6-17

The courts do not have jurisdiction over the agreements: The South Dakota Supreme Court decision, *People in Interest of S.A.H.*, 537 N.W.2d 1 (S.D. 1995), is abrogated by the South Dakota Legislature in so far as the case gave circuit courts the option to order an open adoption or posttermination visitation. This section does not apply to preadoption agreements entered into before July 1, 1997.

### Are agreements legally enforceable?

#### Codified Laws § 25-6-17

The agreements are not legally enforceable. Statutory law considers postadoption visitation an extraordinary remedy that may be exercised only by the adoptive parents when in the child's best interests.

### How may an agreement be terminated or modified?

This issue is not addressed in the statutes reviewed.

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## Tennessee

### What may be included in postadoption contract agreements?

#### Ann. Code § 36-1-121(f)

No conditions shall be placed on the adoption of the child by the adoptive parents. However, nothing under this part shall be construed to prohibit "open adoptions" where the adoptive parents permit, in their sole discretion, the parent or guardian of the child who surrendered the child or whose rights to the child were otherwise terminated, or the siblings or other persons related to the adopted child, to visit or otherwise continue or maintain a relationship with the adopted child.

### Who may be a party to a postadoption contact agreement?

#### Ann. Code § 36-1-121(f)

The adoptive parents have the sole discretion to permit the parent or guardian of the child, or the siblings or other persons related to the adopted child, to visit or otherwise continue or maintain a relationship with the adopted child.

**What is the role of the court in postadoption contact agreements?****Ann. Code § 36-1-121(f)**

The adoptive parents of a child shall not be required by any order of the adoption court to permit visitation by any other person, nor shall the order of the adoption court place any conditions on the adoption of the child by the adoptive parents. Any provision in an order of the court or in any written agreement or contract between the parent or guardian of the child and the adoptive parents requiring visitation or otherwise placing any conditions of the adoption shall be void and of no effect whatsoever; provided, that nothing under this part shall be construed to prohibit "open adoptions" where the adoptive parents permit, in their sole discretion, the parent or guardian of the child who surrendered the child or whose rights to the child were otherwise terminated, or the siblings or other persons related to the adopted child, to visit or otherwise continue or maintain a relationship with the adopted child.

**Are agreements legally enforceable?****Ann. Code § 36-1-121(f)**

The permission or agreement to permit visitation or contact shall not, in any manner whatsoever, establish any enforceable rights in the parent or guardian, the siblings, or other related persons.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

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**Texas****What may be included in postadoption contract agreements?****Fam. Code §§ 161.2061; 161.2062**

An order terminating the parent-child relationship may include terms that allow the biological parent to:

- Receive specified information regarding the child
- Provide written communications to the child
- Have limited access to the child

The order of termination may not require that a subsequent adoption order include terms regarding limited posttermination contact between the child and a biological parent.

**Who may be a party to a postadoption contact agreement?****Fam. Code § 161.2061**

The agreement shall be between the biological parent and the Department of Protective and Regulatory Services.

**What is the role of the court in postadoption contact agreements?****Fam. Code § 161.2061**

If the court finds it to be in the best interest of the child, the court may provide in an order terminating the parent-child relationship that the biological parent who filed an affidavit of voluntary relinquishment of parental rights under § 161.103 shall have limited posttermination contact with the child.

**Are agreements legally enforceable?****Fam. Code § 161.2061**

The terms of an order of termination regarding limited posttermination contact may be enforced only if the party seeking enforcement pleads and proves that, before filing the motion for enforcement, the party attempted in good faith to resolve the disputed matters through mediation.

The terms of an order of termination under this section are not enforceable by contempt.

**How may an agreement be terminated or modified?****Fam. Code § 161.2061**

The terms of an order of termination regarding limited posttermination contact may not be modified.

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**Utah**

These issues are not addressed in the statutes reviewed.

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**Vermont****What may be included in postadoption contract agreements?****Ann. Stat. Tit. 15A, § 4-112**

*[This section applies to stepparent adoptions only.]*

Upon the request of the petitioner, the petitioner's spouse, the child's other parent, or a relative of the child, the court shall review a written agreement that permits another person to visit or communicate with the minor after the decree of adoption becomes final.

**Who may be a party to a postadoption contact agreement?****Ann. Stat. Tit. 15A, § 4-112**

*[This section applies to stepparent adoptions only.]*

The agreement shall be signed by the person, the petitioner, the petitioner's spouse, the minor if 14 or older, and, if an agency placed the minor for adoption, an authorized employee of the agency.

**What is the role of the court in postadoption contact agreements?****Ann. Stat. Tit. 15A, § 4-112**

*[This section applies to stepparent adoptions only.]*

The court may enter an order approving an agreement only upon determining that the agreement is in the best interest of the child. In making this determination, the court shall consider:

- The preference of the child, if the child is mature enough to express a preference
- Any special needs of the child and how they would be affected by performance of the agreement
- The length and quality of any existing relationship between the child and the person who would be entitled to visit or communicate, and the likely effect on the child of allowing this relationship to continue
- The specific terms of the agreement and the likelihood that the parties to the agreement will cooperate in performing its terms
- The recommendation of the child's guardian *ad litem*, attorney, social worker, or other counselor
- Any other factor relevant to the best interest of the child

In addition to any agreement approved pursuant to this section, the court may approve the continuation of an existing order or issue a new order permitting the child's former parent, grandparent, or sibling to visit or communicate with the minor if:

- The grandparent is the parent of a deceased parent of the child or the parent of the child's parent whose parental relationship to the child is terminated by the decree of adoption.
- The former parent, grandparent, or sibling requests that an existing order be permitted to survive the decree of adoption or that a new order be issued.
- The court determines that the requested visitation or communication is in the best interest of the child.

In making its determination, the court shall consider the factors listed above and any objections to the requested order by the adoptive stepparent and the stepparent's spouse.

**Are agreements legally enforceable?****Ann. Stat. Tit. 15A, §§ 1-109; 4-112**

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

In the case of a stepparent adoption, an order issued [for visitation] may be enforced in a civil action only if the court finds that enforcement is in the best interest of a child.

**How may an agreement be terminated or modified?****Ann. Stat. Tit. 15A, § 4-112**

*[This section applies to stepparent adoptions only.]*

An order issued under this section may not be modified unless the court finds that modification is in the best interest of a child, and:

- The persons subject to the order request the modification.
- Exceptional circumstances arising since the order was issued justify the modification.

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**Virgin Islands**

These issues are not addressed in the statutes reviewed.



## Virginia

These issues are not addressed in the statutes reviewed.

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## Washington

### **What may be included in postadoption contract agreements?**

#### **Rev. Code § 26.33.295**

Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between adopted children, adoptive parents, and a birth parent or parents.

### **Who may be a party to a postadoption contact agreement?**

#### **Rev. Code § 26.33.295**

An agreement may entered into between the adoptive parents and the birth parents.

### **What is the role of the court in postadoption contact agreements?**

#### **Rev. Code § 26.33.295**

The court shall not enter a proposed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent whose parental rights have not previously been terminated, and, if the child is in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian *ad litem* in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable.

The court shall not enter a proposed order unless the court finds that the communication or contact between the child adoptee, the adoptive parents, and a birth parent or parents as agreed upon and as set forth in the proposed order, would be in the adopted child's best interests.

### **Are agreements legally enforceable?**

#### **Rev. Code § 26.33.295**

Agreements regarding communication with or contact between adopted children, adoptive parents, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section.

An agreement may be enforced by a civil action and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees.

### **How may an agreement be terminated or modified?**

#### **Rev. Code § 26.33.295**

The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that:

- The modification is agreed to by the adoptive parent and the birth parent or parents.
- Exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

**West Virginia****What may be included in postadoption contract agreements?**

This issue is not addressed in the statutes reviewed.

**Who may be a party to a postadoption contact agreement?**

This issue is not addressed in the statutes reviewed.

**What is the role of the court in postadoption contact agreements?****Ann. Code § 48-22-704**

A decree or order entered under this article may not be vacated or set aside upon application of a person alleging there is a failure to comply with an agreement for visitation or communication with the adopted child.

**Are agreements legally enforceable?****Ann. Code § 48-22-704**

The court may hear a petition to enforce the agreement, in which case the court shall determine whether enforcement of the agreement would serve the best interests of the child. The court may, in its sole discretion, consider the position of a child of the age and maturity to express such position to the court.

**How may an agreement be terminated or modified?**

This issue is not addressed in the statutes reviewed.

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**Wisconsin**

These issues are not addressed in the statutes reviewed.

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**Wyoming**

These issues are not addressed in the statutes reviewed.