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AN ACT relating to adoption; providing a procedure for parties to an adoption to enter into an enforceable agreement that provides for post-adoptive contact; providing the procedure to modify such an agreement; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 127 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *If an adoptive parent or parents choose to enter into an post-adoptive contact agreement then F the natural biological parent or parents and prospective adoptive parent or parents of a child to be adopted may enter into an enforceable agreement that provides for post-adoptive contact between:*

- (a) The child and his ~~natural~~ **biological** parent or parents;
- (b) The adoptive parent or parents and the ~~natural~~ **biological** parent or parents; or
- (c) Any combination thereof.

2. *If A an agreement for post-adoptive contact is entered into it must be included in an order or decree of adoption and must include, without limitation, a provision specifying that:*

(a) Each party to the agreement agrees to the continuing jurisdiction of the court;

(b) *Should the adoptive or biological parent(s) move from the state of Nevada the court shall allow the out of state party(ies) to appear telephonically.*

~~(b)~~ (c) Each party to the agreement acknowledges that any party to the agreement may seek enforcement of the terms of the agreement in court;

~~(c)~~ (d) The court may award costs and attorney's fees to the prevailing party in an action seeking enforcement of the agreement; and

~~(d)~~ (e) The agreement for post-adoptive contact terminates and is no longer enforceable on the date on which the adopted child attains the age of 18 years or upon the date on which the adopted child becomes emancipated, ***unless otherwise stated in the post-adoptive contact agreement.***

3. The identity of a ~~natural parent who is~~ ***the parties*** to an agreement for post-adoptive contact is not required to be included in the agreement. If such information is withheld, an agent who may receive service of process for the ***unidentified party(ies)*** must be provided in the agreement.

~~4. An agreement for post-adoptive contact that is included in an order or decree of adoption~~

ASSEMBLY JUDICIARY SUBCOMMITTEE
DATE: 3/12/03 EXHIBIT C
SUBMITTED BY: Myra Sheehan

1053

creates a rebuttal presumption that the contact provided for in the agreement is in the best interests of the child:

4. An action for breach of the post-adoptive contact agreement by the biological parent(s) must be brought by the biological parent(s) within 60 days of said breach. Should a biological parent prevail in an action for enforcement of a post-adoptive contact agreement the court may award appropriate sanctions against the adoptive parents if they have acted in bad faith and unreasonably denied the agreed upon contact. Those sanctions shall be limited to a judgment in favor of the biological parent(s) which may be a monetary award and/or a judgment ordering the adoptive parent to comply with the agreement.

(a) Such monetary award shall not exceed a fine of \$50.00 per occurrence up to \$1,000 maximum.

5. Failure to comply with the terms of an agreement for post- adoptive contact may not be used as the grounds to:

(a) Set aside an order or decree of adoption; or

(b) Revoke, nullify or set aside a valid release for or consent to an adoption or a relinquishment for adoption;

(c) **Require adoptive parent(s) to remain living in the proximity of the birth parent(s); or**

(d) **Require adoptive parent(s) to pay the cost for the biological parent(s) to access any privileges in the agreement(such as travel or lodging costs).**

Sec. 3. An agreement that provides for post-adoptive contact, entered into pursuant to section 2 of this act, may be modified *by the adoptive parent or parents* by applying to the court that issued the order which included the agreement. The court may grant a request to modify the agreement only if:

1. The party requesting the modification establishes ~~a change in circumstances that warrants the modification and establishes~~ that the agreement is no longer in the best interests of the child; or

2. *Every* party to the agreement consents to the modification.

Sec. 4. *This statute does not create any presumptions or public policy that open adoptions are preferred or in the best interest of the child. Nor does this statute create an affirmative duty upon a placing agency to advise the biological parent(s) of post-adoption contact agreements or the incorporation of the same into the decree of divorce.*

~~Sec. 4.~~ **Sec 5.** NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.186, inclusive, and sections 2 and 3 of this act, govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.186, inclusive, where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

~~Sec. 5.~~ **Sec. 6.** NRS 127.171 is hereby amended to read as follows:

C 2 of 3

127.171 1. [In] Except as otherwise provided in section 2 of this act, in a proceeding for the adoption of a child, the court may grant a reasonable right to visit to certain relatives of the child only if a similar right had been granted previously pursuant to NRS 125C.050.

2. The court may not grant a right to visit the child to any person other than as specified in subsection 1.

C 3063