

AMENDMENTS TO LB744

(Amendments to Standing Committee amendments, AM2142)

Introduced by Watermeier, 1.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. (1) The adoptive parent or parents and the parent or
4 parents relinquishing a child for adoption may enter into a written
5 agreement to permit continuing communication and contact after the
6 placement of an adoptee between the adoptive parent or parents and the
7 relinquishing parent or parents in private or agency adoptions for
8 adoptees not in the custody of the Department of Health and Human
9 Services as provided under this section.

10 (2)(a) In private adoptions, a parent or parents who relinquish a
11 child for adoption shall be provided legal counsel of their choice
12 independent from that of the adoptive parent or parents at the expense of
13 the adoptive parent or parents prior to the execution of a written
14 relinquishment and consent to adoption, or a communication and contact
15 agreement under this section, unless specifically waived in writing.

16 (b) In private and agency adoptions, a parent or parents
17 contemplating relinquishment of a child for adoption shall be offered, at
18 the expense of the adoptive parent or parents or the agency, at least
19 three hours of professional counseling prior to executing a written
20 relinquishment of parental rights or written consent to adoption. Such
21 relinquishment or consent shall state whether the relinquishing parent or
22 parents received or declined counseling.

23 (3) The terms of a communication and contact agreement entered into
24 under this section may include provisions for (a) future contact or
25 communication between the relinquishing parent or parents and the adoptee
26 or the adoptive parent or parents, or both, (b) sharing information about

1 the adoptee, or (c) other matters related to communication or contact
2 agreed to by the parties.

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

6 (5) A court may approve a communication and contact agreement
7 entered into under this section by incorporating such agreement by
8 reference and indicating the court's approval of such agreement in the
9 decree of adoption. Enforceability of a communication and contact
10 agreement is not contingent on court approval or its incorporation into
11 the decree of adoption.

12 (6) Neither the existence of, nor the failure of any party to comply
13 with the terms of, a communication and contact agreement entered into
14 under this section shall be grounds for (a) setting aside an adoption
15 decree, (b) revoking a written relinquishment of parental rights or
16 written consent to adoption, (c) challenging the adoption on the basis of
17 duress or coercion, or (d) challenging the adoption on the basis that the
18 agreement retains some aspect of parental rights by the relinquishing
19 parent or parents.

20 (7) A communication and contact agreement entered into under this
21 section may be enforced by a civil action. A court in which such civil
22 action is filed may enforce, modify, or terminate a communication and
23 contact agreement entered into under this section if the court finds that
24 (a) enforcing, modifying, or terminating the communication and contact
25 agreement is necessary to serve the best interests of the adoptee, (b)
26 the party seeking to enforce, modify, or terminate the communication and
27 contact agreement participated in, or attempted to participate in,
28 mediation in good faith or participated in other appropriate dispute
29 resolution proceedings in good faith to resolve the dispute prior to
30 filing the petition, and (c) when seeking to modify or terminate the
31 agreement, a material change in circumstances has arisen since the

1 parties entered into the communication and contact agreement that
2 justifies modifying or terminating the agreement.

3 (8) If the adoption was through an agency, the agency which accepted
4 the relinquishment from the relinquishing parent or parents shall be
5 invited to participate in any mediation or other appropriate dispute
6 resolution proceedings as provided in subsection (7) of this act.

7 (9) With any communication and contact agreement entered into under
8 this section, the following shall appear on the communication and contact
9 agreement: No adoption shall be set aside due to the failure of the
10 adoptive parent or parents or the relinquishing parent or parents to
11 follow the terms of this agreement or a later order modifying or
12 terminating this agreement. Disagreement between the parties or a
13 subsequent civil action brought to enforce, modify, or terminate this
14 agreement shall not affect the validity of the adoption and shall not
15 serve as a basis for orders affecting the custody of the child. The court
16 shall not act on a petition to enforce, modify, or terminate this
17 agreement unless the petitioner has participated in, or attempted to
18 participate in, mediation in good faith or participated in other
19 appropriate dispute resolution proceedings in good faith to resolve the
20 dispute prior to filing the petition.

21 (10) The court shall not award monetary damages as a result of the
22 filing of a civil action pursuant to subsection (7) of this section.