

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 744

FINAL READING

Introduced by Watermeier, 1; Kolterman, 24; Ebke, 32.

Read first time January 06, 2016

Committee: Judiciary

1 A BILL FOR AN ACT relating to adoptions; to provide for written
2 communication and contact agreements in private and agency adoptions
3 as prescribed; to authorize enforcement, modification, or
4 termination of agreements in a civil action as prescribed; and to
5 require certain agreement disclosures.

6 Be it enacted by the people of the State of Nebraska,

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

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

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

21 (3) The terms of a communication and contact agreement entered into
22 under this section may include provisions for (a) future contact or
23 communication between the relinquishing parent or parents and the adoptee
24 or the adoptive parent or parents, or both, (b) sharing information about
25 the adoptee, or (c) other matters related to communication or contact
26 agreed to by the parties.

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

30 (5) A court may approve a communication and contact agreement
31 entered into under this section by incorporating such agreement by

1 reference and indicating the court's approval of such agreement in the
2 decree of adoption. Enforceability of a communication and contact
3 agreement is not contingent on court approval or its incorporation into
4 the decree of adoption.

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

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

27 (8) If the adoption was through an agency, the agency which accepted
28 the relinquishment from the relinquishing parent or parents shall be
29 invited to participate in any mediation or other appropriate dispute
30 resolution proceedings as provided in subsection (7) of this section.

31 (9) With any communication and contact agreement entered into under

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

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