

AMENDMENTS TO LB245

Introduced by Judiciary.

1 1. Insert the following new section:

2 Sec. 31. Section 43-166, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 43-166 (1) The adoptive parent or parents and the parent or parents
5 relinquishing a child for adoption may enter into a written agreement to
6 permit continuing communication and contact after the placement of an
7 adoptee between the adoptive parent or parents and the relinquishing
8 parent or parents in private or agency adoptions for adoptees not in the
9 custody of the Department of Health and Human Services as provided under
10 this section.

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

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

24 (2) (3) The terms of a communication and contact agreement entered
25 into under this section may include provisions for (a) future contact or
26 communication between the relinquishing parent or parents and the adoptee
27 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 (3) ~~(4)~~ If the adoptee is fourteen years of age or older at the time
4 of placement, a communication and contact agreement under this section
5 shall not be valid unless consented to in writing by the adoptee.

6 (4) ~~(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 (5) ~~(6)~~ Neither the existence of, nor the failure of any party to
13 comply with the terms of, a communication and contact agreement entered
14 into under this section shall be grounds for (a) setting aside an
15 adoption decree, (b) revoking a written relinquishment of parental rights
16 or written consent to adoption, (c) challenging the adoption on the basis
17 of duress or coercion, or (d) challenging the adoption on the basis that
18 the agreement retains some aspect of parental rights by the relinquishing
19 parent or parents.

20 (6) ~~(7)~~ A communication and contact agreement entered into under
21 this section may be enforced by a civil action. A court in which such
22 civil action is filed may enforce, modify, or terminate a communication
23 and contact agreement entered into under this section if the court finds
24 that (a) enforcing, modifying, or terminating the communication and
25 contact agreement is necessary to serve the best interests of the
26 adoptee, (b) the party seeking to enforce, modify, or terminate the
27 communication and contact agreement participated in, or attempted to
28 participate in, mediation in good faith or participated in other
29 appropriate dispute resolution proceedings in good faith to resolve the
30 dispute prior to filing the petition, and (c) when seeking to modify or
31 terminate the agreement, a material change in circumstances has arisen

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

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

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

22 ~~(9) (10)~~ The court shall not award monetary damages as a result of
23 the filing of a civil action pursuant to subsection ~~(6) (7)~~ of this
24 section.

25 2. On page 7, after line 8, insert the following new subsection:

26 "(9)(a) In private adoptions not involving relinquishment of a child
27 to the state or to a licensed child placement agency, a parent or parents
28 who relinquish a child for adoption shall be provided legal counsel of
29 their choice independent from that of the adoptive parent or parents.
30 Such counsel shall be provided at the expense of the adoptive parent or
31 parents prior to the execution of a written relinquishment and consent to

1 adoption or execution of a communication and contact agreement under
2 section 43-166, unless specifically waived in writing.

3 (b) In private adoptions and adoptions involving relinquishment of a
4 child to a licensed child placement agency other than the state, a parent
5 or parents contemplating relinquishment of a child for adoption shall be
6 offered, at the expense of the adoptive parent or parents or the agency,
7 at least three hours of professional counseling prior to executing a
8 written relinquishment of parental rights or written consent to adoption.
9 Such relinquishment or consent shall state whether the relinquishing
10 parent or parents received or declined counseling."

11 3. On page 11, line 16, after "days" insert "after the later"; and
12 strike beginning with "filing" in line 16 through "Custody" in line 17,
13 show the old matter as stricken, and insert "birth of the child or the
14 objecting father's receipt of notice under sections 43-104.12 to
15 43-104.14".

16 4. On page 21, line 15, after the second "the" insert "county court
17 or juvenile" and after "court" insert "having jurisdiction".

18 5. Renumber the remaining sections and correct the repealer
19 accordingly.