

House Bill 21 (AS PASSED HOUSE AND SENATE)

By: Representative Oliver of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 19 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to adoption, so as to provide for postadoption contact
3 agreements; to provide for procedure; to provide for jurisdiction; to provide for modification
4 of such agreements; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to
9 general provisions relative to adoption, is amended by adding a new Code section to read as
10 follows:

11 "19-8-27.

12 (a) As used in this Code section, the term 'birth relative' means:

13 (1) A parent, biological father who is not the legal father, grandparent, brother, sister,
14 half-brother, or half-sister who is related by blood or marriage to a child who is being
15 adopted or who has been adopted; or

16 (2) A grandparent, brother, sister, half-brother, or half-sister who is related by adoption
17 to a child who is being adopted or who has been adopted.

18 (b)(1) An adopting parent or parents and birth relatives or an adopting parent or parents,
19 birth relatives, and a child who is 14 years of age or older who is being adopted or who
20 has been adopted may voluntarily enter into a written postadoption contact agreement to
21 permit continuing contact between such birth relatives and such child. A child who is 14
22 years of age or older shall be considered a party to a postadoption contact agreement.

23 (2) A postadoption contact agreement may provide for privileges regarding a child who
24 is being adopted or who has been adopted, including, but not limited to, visitation with
25 such child, contact with such child, sharing of information about such child, or sharing
26 of information about birth relatives.

27 (3) In order to be an enforceable postadoption contact agreement, such agreement shall
28 be in writing and signed by all of the parties to such agreement acknowledging their
29 consent to its terms and conditions.

30 (4) Enforcement, modification, or termination of a postadoption contact agreement shall
31 be under the continuing jurisdiction of the court that granted the petition of adoption;
32 provided, however, that the parties to a postadoption contact agreement may expressly
33 waive the right to enforce, modify, or terminate such agreement under this Code section.

34 (5) Any party to the postadoption contact agreement may, at any time, file the original
35 postadoption contact agreement with the court that has or had jurisdiction over the
36 adoption if such agreement provides for the court to enforce such agreement or such
37 agreement is silent as to the issue of enforcement.

38 (c) A postadoption contact agreement shall contain the following warnings in at least 14
39 point boldface type:

40 (1) After the entry of a decree for adoption, an adoption cannot be set aside due to the
41 failure of an adopting parent, a birth parent, a birth relative, or the child to follow the
42 terms of this agreement or a later change to this agreement; and

43 (2) A disagreement between the parties or litigation brought to enforce, terminate, or
44 modify this agreement shall not affect the validity of the adoption and shall not serve as
45 a basis for orders affecting the custody of the child.

46 (d)(1) As used in this subsection, the term 'parties' means the individuals who signed the
47 postadoption contact agreement currently in effect, including the child if he or she is 14
48 years of age or older at the time of the action regarding such agreement, but such term
49 shall exclude any third-party beneficiary to such agreement.

50 (2) A postadoption contact agreement may always be modified or terminated if the
51 parties have voluntarily signed a written modified postadoption contact agreement or
52 termination of a postadoption contact agreement. A modified postadoption contact
53 agreement may be filed with the court if such agreement provides for the court to enforce
54 such agreement or such agreement is silent as to the issue of enforcement.

55 (e) With respect to postadoption contact agreements that provide for court enforcement or
56 termination or are silent as to such matters, any party, as defined in paragraph (1) of
57 subsection (d) of this Code section, may file a petition to enforce or terminate such
58 agreement with the court that granted the petition of adoption, and the court shall enforce
59 the terms of such agreement or terminate such agreement if such court finds by a
60 preponderance of the evidence that the enforcement or termination is necessary to serve the
61 best interests of the child.

62 (f) With respect to postadoption contact agreements that provide for court modification or
63 are silent as to modification, only the adopting parent or parents may file a petition seeking

64 modification. Such petition shall be filed with the court that granted the petition of
65 adoption, and the court shall modify such agreement if such court finds by a preponderance
66 of the evidence that the modification is necessary to serve the best interests of the child and
67 there has been a material change of circumstances since the current postadoption contact
68 agreement was executed.

69 (g) A court may require the party seeking modification, termination, or enforcement of a
70 postadoption contact agreement to participate in mediation or other appropriate alternative
71 dispute resolution.

72 (h) All reasonable costs and expenses of mediation, alternative dispute resolution, and
73 litigation shall be borne by the party, other than the child, filing the action to enforce,
74 modify, or terminate a postadoption contact agreement when no party has been found by
75 the court as failing to comply with an existing postadoption contact agreement. Otherwise,
76 a party, other than the child, found by the court as failing to comply without good cause
77 with an existing postadoption contact agreement shall bear all the costs and expenses of
78 mediation, alternative dispute resolution, and litigation of the other party.

79 (i) A court shall not set aside a decree of adoption, rescind a surrender, or modify an order
80 to terminate parental rights or any other prior court order because of the failure of an
81 adoptive parent, a birth relative, or the child to comply with any or all of the original terms
82 of, or subsequent modifications to, a postadoption contact agreement."

83 **SECTION 2.**

84 All laws and parts of laws in conflict with this Act are repealed.