

The Senate Judiciary Committee offered the following substitute to HB 21:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"19-8-27.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2.

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