

STORAGE NAME: h0585s1z.flc
DATE: May 26, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FAMILY LAW AND CHILDREN
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 585

RELATING TO: Adoption of Foster Children

SPONSOR(S): Committee on Family Law and Children and Representatives Murman and Frankel

STATUTE(S) AFFECTED: Sections 39.469 and 63.022(2), creates section 63.0427, Florida Statutes

COMPANION BILL(S): SB 264 (similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FAMILY LAW AND CHILDREN YEAS 6 NAYS 0
- (2) CHILDREN AND FAMILY EMPOWERMENT
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

The bill was substituted for SB 264 and passed; YEAS 38 NAYS 0. It became law without the Governor's signature on May 14, 1998. **REFER TO CHAPTER # 98-50, Laws of Florida.**

II. SUMMARY:

The bill adds siblings to the individuals who may have continuing contact pending adoption with a child whose parents' rights have been terminated. Communication as well as contact is provided for in the bill and that communication or contact may include, but is not limited to, visits, letters and cards, or telephone calls.

The bill provides statutory authority for continuing communication or contact after an adoption is final. Communication or contact may include, but is not limited to, visits, letters, and cards, or telephone calls. Post-adoption contact may occur by court order in adoptions of foster children to allow post-adoption communication or contact among separated siblings who are not included in the adoption, if such communication or contact is found to be in the best interests of the children.

The bill also provides criteria to be considered by the court in determining the best interests of the child and for review of the appropriateness of the ongoing communication or contact if necessary. The continuing validity of the adoption is not contingent upon the post-adoption communication or contact nor shall the ability of the adoptive parents and child to relocate within or outside the State of Florida be impaired by the communication or contact.

The bill is predicted to have little or no financial impact.

The effective date of the bill is upon becoming law.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, s. 39.469(5), F.S. provides that if a court terminates parental rights, it may order that the parents or relatives of the parent whose rights are being terminated be allowed to maintain some contact with the child **pending adoption** if the best interests of the child are served by the continued contact. If the child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted. The statutes do not further address continued contact between the adoptee and parents or relatives of parents whose parental rights are terminated after the adoption is final.

Chapter 63, Florida Statutes, contains no provision for continuing communication or contact between the child to be adopted and parents, siblings, other relatives or nonrelatives after the finalization of an adoption. Section 63.172(1)(b), F.S., provides that a "judgment of adoption terminates all legal relationships between the adopted person and the adopted person's relatives, including the birth parents ... so that the adopted person is a stranger to his or her former relatives for all purposes"

Continued contact with siblings is not addressed except in legislative intent in s. 39.45, F.S., which provides that, "When two or more children in foster care are siblings, every reasonable attempt shall be made to place them in the same foster home; in the event of permanent placement of the siblings, to place them in the same adoptive home; and, if the siblings are separated, to keep them in contact with each other".

B. EFFECT OF PROPOSED CHANGES:

The bill establishes statutory authority for continuing communication and contact **after the finalization of an adoption** by court order in adoptions of foster children. The child who is subject to adoption will be allowed to request continuing contact or communication among separated siblings when such contact is in the best interests of the children. In determining the best interests of the children the court shall consider:

- i)any previous orders of the court under s. 39.469(5), F.S.
- ii)recommendations of the department, foster parents if other than the adoptive parents, and the guardian ad litem.
- iii)statements of the prospective adoptive parents.
- iv)any other relevant or material information.

In this type of agreement the bill provides for the following:

- v)the court order shall state the nature and frequency for the communication or contact.
- vi)this order shall be made a part of the final adoption order.
- vii)the continuing validity of the adoption shall not be contingent upon ongoing communication or contact.
- viii)the ability of the adoptive parents and child to change residence within or outside the state shall not be impaired by the continuing contact agreement.

- ix)the adoptive parent may petition for review at any time if the adoptive parent believes that the best interests of the adopted child are being compromised.
- x)during the review process, the court may order mediation for the parties.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

This section is not applicable to this bill.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill clarifies the option of continuing post adoption contact or communication between the child to be adopted and siblings under specified circumstances.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

The court would have to consider previous orders, as well as statements from the department, the foster parents if different from the adoptive parents, the prospective adoptive parents and the guardian ad litem in order to determine the best interests of the child to be adopted when considering whether or not to order continuing communication or contact after an adoption is final.

(2) Who makes the decisions?

The court.

(3) Are private alternatives permitted?

No.

(4) Are families required to participate in a program?

No.

(5) Are families penalized for not participating in a program?

No.

b. Does the bill directly affect the legal rights and obligations between family members?

Yes, it allows for post adoption contact between the child being adopted and siblings under specified circumstances.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This section is not applicable to this bill.

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 39.469(5), F.S., to include siblings of a child whose parent's rights have been terminated as persons the court may allow to have continuing communication or contact with the child during the period of time between the termination of parental rights and the adoptive placement. The section also specifies that communication or contact may include but is not limited to, visits, letters and cards, and telephone calls.

Section 2. Amends s. 63.022(2), F.S., to provide legislative intent for the court to order continuing communication or contact between separated siblings after an adoption in dependency cases where parental rights have been terminated, if such communication or contact is found to be in the best interests of the children.

Section 3. Creates s.63.0427, F.S., to give a foster child who is the subject of an adoption petition the right to request the court to order continuing communication or contact with the child's siblings who are not included in the adoption. The decision of the court shall be based on the best interests of the child and the court shall consider the following in making that determination:

- (1) any previous orders of the court under s. 39.469(7), F.S.
- (2) recommendations of the department, foster parents if other than the adoptive parents, and the guardian ad litem.
- (3) statements of the prospective adoptive parents.
- (4) any other relevant or material information.

Any order for continuing contact shall specify the nature and frequency of the contact, and shall be made a part of the final adoption order. Such an order shall not affect the continuing validity of the adoption nor impair the ability of the adoptive parents and child to change residence within or outside Florida.

The section also gives the adoptive parent the right to request a court review if the adoptive parent believes that the continuing contact or communication is compromising the best interests of the child. The court may amend the contact order, the department shall not be required to be a party to the review and the parties may be ordered to mediation.

Section 4. Provides for an effective date.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

There is predicted to be little or no economic impact on the department or court system from this bill. The issue of continuing contact is a part of already established department and court procedures.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

The bill was reported unanimously favorable by the Committee on Family Law and Children on March 27, 1997. It was referred to Children and Family Empowerment on April 8, 1997, was withdrawn from Children and Family Empowerment on April 16, 1997, and was placed on Consent Calendar on April 24, 1997. The bill passed the House on April 25, 1997; YEAS 111 NAYS 0. The bill was received by the Senate and referred to Judiciary; Children, Families and Seniors. The bill died in Senate Judiciary. Pursuant to House Rule 96, the bill will be carried over to the 1998 Session and placed on the House Consent Calendar.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike everything amendment and an amendment to the amendment were adopted by the Committee on Family Law and Children on March 27, 1997, and enrolled into the committee substitute for House Bill 585.

Strike Everything Amendment: Removed from the bill the provision of continuing communication or contact by mutual consent of the birth parents, siblings, other relatives, or non-relatives of a child who is the subject of an adoption under Chapter 63, F.S., and the prospective adoptive parents.

STORAGE NAME: h0585s1z.flc

DATE: May 26, 1998

PAGE 9

Amendment to the Amendment: Removed from the bill the provision that in a review of a contact agreement, the prevailing party may be awarded reasonable attorney's fees and court costs.

VIII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Legislative Research Director:

Carol E. Preston

Stephanie Olin

FINAL RESEARCH PREPARED BY COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Legislative Research Director:

Carol E. Preston

Stephanie Olin