

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [HB 1537](#)

TITLE: Contracts for Postadoption Contact

SPONSOR(S): McFarland

COMPANION BILL: [CS/SB 558](#) (Grall)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Civil Justice & Claims](#)

13 Y, 0 N



[Human Services](#)



[Judiciary](#)

SUMMARY

Effect of the Bill:

HB 1537 amends [s. 63.0427, F.S.](#), authorizing certain individuals to enter into a written contract for postadoption contact between an adopted child and his or her legal relatives after an adoption has been finalized. The bill expands current law allowing for postadoption communication and contact in adoptions arising from the state's child welfare system, and creates a statutory mechanism for such contracts for contact arising from private adoptions. The bill specifies who may be a party to such a contract and provides processes and procedures for the enforcement, modification, and termination of the contract for postadoption contact.

The bill clarifies the contract's role in the underlying adoption and provides that non-compliance with the contract does not terminate or otherwise alter the validity of the final order of adoption.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

HB 1537 amends [s. 63.0427, F.S.](#), relating to contracts for [postadoption contact](#). The bill defines a "legal relative" as a person, who immediately before the entry of an order [terminating parental rights](#) ("TPR"), is related to the child subject to such order biologically or through any relationship established or recognized by law, court order, or marriage. (Section [1](#)).

Under the bill, an [adoptive](#) parent and a biological parent (and the adopted child if the adopted child is 14 years of age or older), may voluntarily enter into a written contract for postadoption contact. Such contract for postadoption contact permits continued contact between legal relatives and the adopted child until the child reaches the age of 18, at which point the child is considered an adult and may engage in whatever contact he or she so chooses. If the child subject to such a contract is 14 years old or older, he or she must be made a party to the contract and is deemed to have the capacity to enter into a contract for the specific purposes of a contract for postadoption contact. (Section [1](#)).

A contract for postadoption contact may include, but is not limited to, privileges such as:

- Visitation with the child;
- Communication and contact with the child including, but not limited to:
 - Written correspondence, and
 - Telephone calls;
- The sharing of information about the child; and
- The sharing of information about the biological or adoptive parents. (Section [1](#)).

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DATE: 3/27/2025

Pursuant to the bill, a provision of a contract for postadoption contact is unenforceable if the provision:

- Permits contact between an adopted child and a person legally restrained from such contact; or
- Impairs the ability of the adoptive parents and child to change residence within or outside of Florida. (Section [1](#)).

To be a valid, enforceable contract, a contract for postadoption contact must include the following statements, verbatim, in at least 14-point, boldface font:

- “Failure to follow the terms of this contract, or any amendment thereto, does not invalidate a final adoption order.”
- “A disagreement between the parties to, or any action brought to enforce, this contract may not serve as the basis for any action affecting the custody of the adopted child.” (Section [1](#)).

Once a contract for postadoption contact has been agreed to and entered into by all parties, any party may file the contract with the court. Once filed with the court, the contract must be made part of the final adoption order. However, compliance with the contract does not impact the validity of the underlying adoption. (Section [1](#)).

Such a contract for postadoption contract may be modified or terminated upon the agreement of all parties to said contract. However, if there is disagreement between the parties as to enforcement, modification, or termination of the contract, the contract may be enforced, modified, or terminated as provided by the bill. (Section [1](#)).

Any party to the contract may seek enforcement of the contract. An adoptive parent or the adopted child may unilaterally seek to modify or terminate the contract; a biological parent may not unilaterally seek to modify or terminate the postadoption contract for contact. With respect to the contract, the party seeking enforcement, modification, or termination must deliver, via certified mail or personal service, notice to all other parties detailing the action the party is seeking. Such notice must state with reasonable particularity the requested action that the party is seeking. (Section [1](#)).

Upon receipt of such notice, any party who opposes the action being sought may provide a written response via certified mail or personal service. Such response of opposition must be delivered within 30 days from the receipt of the notice to seek the specified action. If, after the 30-day period has elapsed, no response is received, or if the response received is unsatisfactory, the adoptive parent must seek and obtain a written recommendation from a licensed psychologist addressing whether the requested action is in the [child’s best interests](#) and providing other recommendations with respect to the child’s continued contact with legal relatives. The adoptive parent is the party responsible for the costs associated with obtaining a recommendation from a licensed psychologist. The final opinion and recommendation from the psychologist must be provided to the other parties by the adoptive parent within 90 days from the date of delivery of the original notice seeking the requested action. (Section [1](#)).

If, after obtaining the opinion of the psychologist, the parties are still unable to agree, the parties must engage in [mediation](#). The parties are required to attempt mediation two times before involving the court. As such, if, after two mediation sessions, the parties are unable to reach an agreement, or any party refuses to participate in mediation, the party seeking enforcement, modification, or termination of the contract may petition the court for such relief. (Section [1](#)).

In a subsequent court action for enforcement, modification, or termination of a contract for postadoption contact, the burden of proof is on the party seeking the requested relief. Throughout any and all court proceedings, the best interests of the child must be the court’s primary consideration when determining whether to grant relief. The court may also consider, but is not limited to considering:

- The good faith of each party;
- Any change in circumstances since the execution of the contract;
- The extent of each party’s compliance with the contract; and
- Any other evidence the court finds appropriate. (Section [1](#)).

Any order to enforce, modify, or terminate the contract issued by the court must be made a part of the final adoption order. (Section [1](#)).

Further, the bill provides that such a contract may not be enforced during any period of time wherein the adoptive parents temporarily lose custody of the child. However, such temporary loss of custody does not terminate the contract for postadoption contact. (Section [1](#)).

The bill specifies that any contract for postadoption contact automatically terminates when the adopted child turns 18. (Section [1](#)).

The bill has an effective date of July 1, 2025. (Section [2](#)).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Adoptions](#)

The Florida Adoptions Act, codified in [ch. 63, F.S.](#), applies to all adoptions, whether private or from the child welfare system, involving the following entities:¹

- The Department of Children and Families (“DCF”) under [Chapter 39, F.S.](#);
- Child-placing agencies licensed by the DCF under [s. 63.202, F.S.](#);
- Child-caring agencies registered under [s. 409.176, F.S.](#);
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is licensed by the DCF to place children in Florida.

Adoption is the act of creating a legal relationship between a parent and child where one did not previously exist, declaring the child to be the legal child of the adoptive parents and entitled to all rights and privileges and subject to all the obligations of a child born to the adoptive parents.²

Generally, adoptions can be categorized either as “private adoptions” or “adoptions from the child welfare system.” Private adoptions begin upon a biological parent voluntarily surrendering his or her parental rights with the intent of placing a child in an adoptive home.³ Adoptions from the child welfare system may be sought as a permanent placement for a child that cannot reunify to his or her home due to safety concerns.⁴ Adoption is one of the legally recognized child-welfare permanency goals that may be ordered by a court for a child within the child welfare system.⁵

For a child to be available for adoption, both in private adoptions and adoptions from the child welfare system, the legal relationship between the child and his or her current parents must be terminated in a proceeding known as a termination of parental rights.⁶

[Termination of Parental Rights](#)

¹ S. [63.032\(3\), F.S.](#)

² S. [63.032\(2\), F.S.](#)

³ See generally, [s. 63.032, F.S.](#)

⁴ S. [39.811\(2\), F.S.](#); see generally, Parts VIII and X of [ch. 39, F.S.](#)

⁵ S. [39.01\(62\), F.S.](#), defines “permanency goal” to mean the living arrangement identified for the child to return to or identified as the permanent living arrangement of the child. The permanency goal is also the case plan goal. If concurrent case planning is being used, reunification may be pursued at the same time that another permanency goal is pursued. See also s. [39.621\(3\), F.S.](#)

⁶ S. [39.812, F.S.](#) governs the termination of parental rights for a case in which a minor is adopted from the child welfare system. S. [63.087, F.S.](#) governs the termination of parental rights for a private adoption.

Generally, the process of a termination of parental rights includes obtaining the social and medical histories and records of the child and making a diligent search for any parent whose location is unknown.⁷ Once a court terminates parental rights, the adoptive parents can file a petition for the adoption of the child⁸ and a final home study can be conducted to ensure the proposed adoption is in the best interest of the minor.⁹

Open Adoptions

Open adoptions generally refer to ongoing contact or information sharing between birth parents, adoptive parents, and the adopted child.¹⁰ Typically, the degree of openness of the adoption varies based upon the desires of the birth parents, adoptive parents, and the adopted child. Communication between the adopted child and the birth parents can be limited to the exchange of letters and photos to more expansive to include regular in-person visits.¹¹ Increased postadoption contact may be beneficial for older adopted children that had an attachment to birth relatives prior to adoption.¹² Additionally, open adoptions may offer adopted children a greater sense of identity, due to an increased opportunity to discuss their background and heritage with their birth parent.¹³ Adoptive parents may find that open adoptions allow for greater transparency with adopted children, and can help provide a better understanding of the child's origins which ultimately can lead to a more supportive home environment.¹⁴

Postadoption Communication and Contact

Postadoption contact agreements ("PACA") are arrangements that allow contact or communication between a child, his or her adoptive family, and members of the child's birth family or other persons with whom the child has an established relationship, such as a foster parent, after the child's adoption has been finalized.¹⁵ These arrangements, sometimes referred to as cooperative adoption or open adoption agreements, can range from informal, mutual understandings between the birth and adoptive families to written, formal contracts.

⁷ The Florida Bar, *Consumer Pamphlet: Adoption in Florida*, <https://www.floridabar.org/public/consumer/pamphlet002/#general> (last visited March 24, 2025).

⁸ S. 63.112, F.S.; In "private" adoptions the petition for termination of parental rights and the petition for adoption are often filed simultaneously as it is rarely contested, and the adoptive placement is known. In adoptions from the child welfare system, the termination of parental rights is often contested, and an adoptive placement is not always identified at the time of termination, so the petition for adoption is often filed later.

⁹ S. 63.125, F.S.

¹⁰ American Bar Association, *The Evolution of Open Adoption: Legal Frameworks, Protocols, and Impact Analysis*, https://www.americanbar.org/groups/family_law/resources/committee-articles/evolution-open-adoption-legal-frameworks-protocols-impact-analysis/?_cf_chl_rt_tk=eIPq0B8BaJ8lDwBgFB6wlpMHa15hf4JsnBGAG_dqKY4-1733223995-1.0.1.1-FX3abjF9obwMm5N0QRxE8yKmWG5.OfoKRfj8tu04b8#:~:text=This%20article%20examines%20the%20shift%20from%20closed%20to,parents%2C%20and%20adoptive%20parents%2C%20weighing%20advantages%20and%20challenges. (last visited March 24, 2025).

¹¹ *Id.*

¹² Child Welfare Information Gateway, *Postadoption Contact Agreements Between Birth and Adoptive Families*, <https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/cooperative.pdf?VersionId=7jeA0qMdgmYy81k.6tMFikJN0mvdVt> (last visited March 24, 2025).

¹³ American Bar Association, *The Evolution of Open Adoption: Legal Frameworks, Protocols, and Impact Analysis*, https://www.americanbar.org/groups/family_law/resources/committee-articles/evolution-open-adoption-legal-frameworks-protocols-impact-analysis/?_cf_chl_rt_tk=eIPq0B8BaJ8lDwBgFB6wlpMHa15hf4JsnBGAG_dqKY4-1733223995-1.0.1.1-FX3abjF9obwMm5N0QRxE8yKmWG5.OfoKRfj8tu04b8#:~:text=This%20article%20examines%20the%20shift%20from%20closed%20to,parents%2C%20and%20adoptive%20parents%2C%20weighing%20advantages%20and%20challenges. (last visited March 24, 2025).

¹⁴ *Id.*

¹⁵ Child Welfare Information Gateway. (2018). *Postadoption contact agreements between birth and adoptive families*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, p. 1, <https://www.childwelfare.gov/resources/postadoption-contact-agreements-between-birth-and-adoptive-families/> (last visited March 24, 2025).

PACAs have become more prevalent in recent years due to several factors, including:¹⁶

- Many adopted children, especially older children, have attachments to one or more birth relatives with whom ongoing contact may be desirable.
- Birth parents who participate in selecting an adoptive family may have a wide range of families to choose from for adoption and may base their decision on the willingness of the adoptive parent(s) to allow postadoption contact.
- Contact and communication with birth relatives can be a resource for adoptive parents and adopted children for information about the child's medical, social, and cultural history.

For a PACA to be enforceable, it must generally be approved by the court that has jurisdiction over the adoption.¹⁷ Generally, all parties to be included in the agreement must agree in writing to all terms of the agreement prior to the adoption finalization. The court may approve the agreement only if all parties agree to its provisions, and the court finds the agreement is in the best interests of the child.¹⁸ In multiple states, the court must consider the wishes of or obtain written consent of the adoptive child if they are 12 years of age or older.¹⁹ In other states, that age is 14 years.²⁰

Florida Law Governing Postadoption Communication

Florida law provides a process that allows a child adopted from the child welfare system to seek continued communication with his or her siblings, or their biological parents or other specified relatives after an adoption.²¹ A child can have the court consider the appropriateness of postadoption communication if the child's parents had their parental rights terminated and whose custody has been awarded to the department pursuant to [s. 39.811, F.S.](#), and is now the subject of a petition for adoption under [ch. 63, F.S.](#)²²

This postadoption communication and contact may include, but is not limited to, visits, written correspondence, or telephone calls. In determining the appropriateness of the postadoption communication or contact, the court shall consider the following information:²³

- Any orders of the court pursuant to [s. 39.811\(7\), F.S.](#)
- Recommendations of the DCF, the foster parents if other than the adoptive parents, and the guardian ad litem.
- Statements of the prospective adoptive parents.
- Any other information deemed relevant and material to the court.

If postadoption communication or contact is in the best interest of the child, the court will enter an order stating the nature and frequency of the communication or contact.²⁴ This order must be included in the final adoption order, but the adoption's continuing validity is not contingent upon the postadoption communication or contact. Further, postadoption communication or contact is not allowed to impair the ability of the adoptive parents and child from changing residence within or outside Florida.²⁵

Florida allows the adoptive parent to petition for review of a communication or contact order if the adoptive parent believes the best interests of the adopted child are being compromised.²⁶ Upon this petition, the court may order the postadoption communication or contact to be terminated or modified; however, the court is prohibited from increasing the contact between the adopted child and siblings, birth parents, or other relatives without the

¹⁶ *Id.*, p. 2

¹⁷ *Id.*, p. 3

¹⁸ *Id.*

¹⁹ *Id.*; Arizona, California, Connecticut, Indiana, Louisiana, Massachusetts, Pennsylvania, Rhode Island, and Utah.

²⁰ *Id.*; Delaware, Georgia, Nebraska, New Mexico, New Hampshire, Oregon, Vermont, Virginia, and the District of Columbia.

²¹ S. [63.0427, F.S.](#)

²² S. [63.0427\(1\), F.S.](#)

²³ S. [63.0427\(1\), F.S.](#)

²⁴ S. [63.0427, F.S.](#)

²⁵ S. [63.0427, F.S.](#)

²⁶ S. [63.0427\(2\), F.S.](#)

consent of the adoptive parents. During review of the postadoption communication or contact, the court may order the parties to engage in mediation.²⁷

Best Interest of the Child Factors

Throughout all family law proceedings involving a minor child, the primary focus of the court is on the best interest of the minor child. Thus, when determining any issue involving child custody, the judge must first assess how his or her order would impact the child. Florida law provides a non-exhaustive list of 20 factors that a court must consider to determine the best interests of a minor child.²⁸ Pursuant to [s. 61.13\(3\), F.S.](#), the factors affecting the welfare and interests of the child and the circumstances of the family, include, but are not limited to the:

- Demonstrated capacity and disposition of each parent to facilitate and encourage a continuing parent-child relationship, honor the timesharing schedule, and accommodate necessary changes.
- Anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.
- Demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child.
- Length of time the child has lived in a stable environment and the desirability of maintaining continuity.
- Geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- Mental health, physical health, and moral fitness of the parents.
- Home, school, and community record of the child.
- Reasonable preference of the child.
- Demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including the child's friends, teachers, and daily activities.
- Demonstrated capacity and disposition of each parent to:
 - Provide a consistent routine; and
 - Communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or evidence that a parent has or has had a reasonable cause to believe that he or she or his or her minor child or children are in imminent danger of becoming victims of an act of domestic violence.
- Evidence that either parent has ever knowingly provided false information about to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.
- Particular parenting tasks customarily performed by each parent, including the extent to which parenting responsibilities were undertaken by third parties.
- Demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.
- Demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.
- Capacity and disposition of each parent to protect the child from the ongoing litigation regarding child custody.
- Developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.
- Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

Mediation

²⁷ S. [63.0427\(2\), F.S.](#)

²⁸ S. [61.13\(3\), F.S.](#)

Mediation refers to the process by which parties to a dispute talk about their issues and concerns through the assistance of a mediator. The mediator acts as a neutral third-party and is not allowed to decide who is right or wrong or tell the parties how they should resolve their dispute. The goal of mediation is to attempt to reach an agreement which resolves some or all of the issues being disputed between the parties. Mediation is often a less confrontational and more amicable alternative to judicial court action requiring intervention and, ultimately a decision and court order, from a judge.

Mediation is governed by [ch. 44, F.S.](#), and Rule 12.740, [Florida Family Law Rules of Procedure](#). Unless otherwise provided under [s. 44.405, F.S.](#), all mediation communications are confidential. As such, a participant to a mediation must not disclose a mediation communication to a person other than another mediation participant or a participant’s attorney.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	13 Y, 0 N	3/27/2025	Jones	Mathews
Human Services Subcommittee				
Judiciary Committee				