

The Intent

The intent of this Act is to expedite and promote permanency through adoption of children in foster care.



To read the Act in its entirety see Office of Children, Youth and Families (OCYF) Bulletin 3350-11-01 entitled "Act 101 of 2010"

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*Promoting permanency for
children and youth by
providing comprehensive support
to adoptive, foster and kinship
families*

Voluntary Post Adoption Contact Agreement (Act 101)



On October 27, 2010, Governor Edward G. Rendell signed Senate Bill 1360 into law. This amendment to the Adoption Act (23 Pa.C.S.A. Domestic Relations Chapters 21-29), known as Act 101 of 2010, became effective April 25, 2011. Act 101 of 2010 increases the options for "openness" in Pennsylvania's adoption process in several ways. The act creates a mechanism for families to enter into legally enforceable, voluntary agreements for post-adoption contact between adoptive families and birth relatives.

This agreement allows for continuing contact or communication between the child(ren) and the birth relative or between the adoptive parent and the birth relative.

An agreement cannot be entered for a child who is 12 years of age or older, without his or her consent. The agreement must be one that:

1. is in the best interest of the child;
2. recognizes the parties' interests and desires for ongoing communication or contact;
3. is appropriate given the role of the parties in the child's life; and
4. is subject to approval by the court.

The Agreement must be filed with a court that is authorized to finalize the adoption of the child (i.e. a court with authority under the Pennsylvania Adoption Act) and must be approved on or before the date of any adoption decree. Agreements are not legally enforceable unless they have been approved by the court. An agreement shall cease to be enforceable on the date the child turns 18 years of age unless the agreement otherwise stipulates or is modified by the court.

Development of the agreement is a process that may involve agency staff, attorneys, adoptive parents, birth relatives and children. At all times, the best interest of the subject child should be the paramount consideration. The process should consider the developmental stage, the emotional and social background of the child, and the wishes of the child (if they can be ascertained) as well as the dynamics between the parties.

Act 101 provides that the agreement shall be filed with the court that finalizes the adoption, and that the court shall approve the agreement if it finds that the agreement has been entered knowingly and voluntarily and is in the best interest of the child. However, the Act does not indicate when the parties may or should begin working on the terms of an agreement. In many cases, the best time to begin encouraging the parties to discuss the possibility of entering into an agreement is when it becomes apparent that the agency's efforts at reunification have not been successful and that adoption may be the most appropriate alternative for the child. Beginning those discussions at this time allows the birth parents to adjust to the idea of adoption, and may allow a contested termination to become a voluntary relinquishment.

Formal Modification:

Formal modification is making changes to an agreement that have been approved by the court and thereby legally enforceable. Formal modification of an agreement can only be sought by the adoptive parent or the subject child who is 12 years of age or older. In order to seek formal modification to an agreement, action must be filed in the court that finalized the adoption. Before the court may enter an order modifying an agreement, it must find by clear and convincing evidence that modification serves the needs, welfare and best interest of the child.

Informal Modification:

Parties may also informally modify an agreement. This could be done to ensure the agreement is appropriate considering the development and needs of the child over time, as well as any minor accommodations needed that may not warrant court involvement, such as changing the time or location of contact. Informal modifications are not legally enforceable because they are not approved by the court. Informal modification can be done when parties can agree as to what is in the best interests of the child which will prevent the need to return to the court.