# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

### FIRST REGULAR SESSION-1999

Legislative Document

No. 181

S.P. 78

In Senate, January 11, 1999

An Act Providing for Post-adoption Contact in Limited Situations.

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator LaFOUNTAIN of York. Cosponsored by Representative PLOWMAN of Hampden and Senator PENDLETON of Cumberland, Representative: SULLIVAN of Biddeford.

ß	ec. 1. 18-A MRSA Art. IX, Part 5 is enacted to read:
	ec. 1. 10-A WINDA Ait. IA, I ait 5 is enacted to read:
	PART 5
	COMMUNICATION OR CONTACT AGREEMENTS
<b>§</b> 9-501	. Application; jurisdiction
of a c termin the cu consen	a) This Part applies to the adoption or proposed adoption child who is or was the subject of a jeopardy petition and ation proceedings under Title 22, chapter 1071, who is instody of the department and whose birth parent or parents to the termination of parental rights under Title 22, n 4055, subsection 1, paragraph B, subparagraph (1).
SECCIO	ii 4055, Subsection I, paragraph B, Subparagraph (17.
	b) Notwithstanding section 9-104, the District Court
_	jurisdiction over a child who is or was the subject of a
	dy petition and termination proceedings under Title 22
	r 1071 continues to have jurisdiction over the adoption of
chat c Part.	hild and any communication or contact agreement under this
art.	
<b>8</b> 9-502	. Communication or contact agreement; authorized; approval
<b>U.</b>	
I	he prospective adoptive parent or parents and the birth
	or parents of a prospective adoptee may enter into an
	ent regarding communication or contact after the adoption
The a	greement is not enforceable unless approved pursuant to
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The acsection	greement is not enforceable unless approved pursuant to n 9-503 by the court.  . Guardian ad litem; appointment; order approving
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The acsection	greement is not enforceable unless approved pursuant to n 9-503 by the court.  . Guardian ad litem; appointment; order approving agreement; considerations  a) Before approving an agreement under section 9-502, in
The action S9-503	greement is not enforceable unless approved pursuant to n 9-503 by the court.  . Guardian ad litem; appointment; order approving agreement; considerations  a) Before approving an agreement under section 9-502, is cospective adoptee is not already represented by a guardian
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The acsection Section (the product of the product o	greement is not enforceable unless approved pursuant to n 9-503 by the court.  . Guardian ad litem; appointment; order approving agreement; considerations  a) Before approving an agreement under section 9-502, is cospective adoptee is not already represented by a guardian tem, the court shall appoint a guardian ad litem who shall ent the best interests of the prospective adopted ning the agreement.  b) Upon motion of one of the prospective adoptee's birthes or a prospective adoptive parent, the court may enter an approving the agreement if the terms of the agreement are din writing by the prospective adoptive parent or parents.

- the birth parent or parents and the maintenance of birth-family
  history would be in the best interests of the prospective adoptee.

  (c) In determining if the agreement is in the best interests of the prospective adoptee, the court shall consider the following factors as favoring communication between the prospective adoptee and the birth parent or parents:
- (1) Whether the prospective adoptee and birth parent or parents lived together for a substantial period of time;

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- (2) Whether the prospective adoptee exhibits attachment or bonding to the birth parent or parents; and
- (3) Whether the adoption is a foster-parent adoption when the birth parent or parents have relinquished the prospective adoptee due to an inability to adequately parent the prospective adoptee.
- 20 (d) If the court approves the agreement, the birth parent or parents are entitled to notice of the adoption proceedings to the extent authorized by the terms of the agreement.

### §9-504. Failure to comply with court order; effect

Failure to comply with the terms of an order entered pursuant to section 9-503 is not grounds for setting aside an adoption decree, for revocation of a written consent to adoption after the consent has been approved by the court, or for revocation of a relinquishment of parental rights after the relinquishment has been accepted in writing by the court as provided in Title 22, section 4055, subsection 1, paragraph B, subparagraph (1).

### §9-505. Enforcement of order; modification; exceptional circumstances arise

- An order entered pursuant to section 9-503 may be enforced by a civil action, and the prevailing party may be awarded, as part of the costs of the action, reasonable attorney's fees. The court may not modify an order issued under section 9-503 unless it finds that the modification is necessary to serve the best interests of the adoptee and:
  - (a) The modification is agreed to by the adoptive parent or parents and the birth parent or parents; or
- (b) Exceptional circumstances have arisen since the order was entered that justify modification of the order.

	Sec. 2.	<b>22 MRS</b>	A §4056,	sub-§3,	as	enacted	by	PL	1979,	c.	733,
§18,	is ame:	nded to	read:								

3. Parent not entitled to participate in adoption proceedings. A Except as provided in Title 18-A, section 9-503, a parent whose rights have been terminated shall is not be entitled to notice of the child's adoption proceedings, not have any right to object to the adoption or participate in the proceedings.

#### **SUMMARY**

This bill is modeled on the Nebraska law providing for continued contact between an adoptee and the adoptee's birth parents pursuant to an agreement entered into by the birth parents and the adoptive parents.

This bill creates the opportunity for parents of a child who is the subject of a child protective action to consent to the termination of their rights but continue to have contact with the child. The contact must be in accordance with an agreement entered into between the birth parents and the adoptive parents. The agreement is not enforceable unless the District Court that has jurisdiction over the child protective proceeding approves the agreement.

Failure to comply with the agreement does not affect the validity of the adoption. The order may be modified if the parties agree or if the court determines that exceptional circumstances have arisen since the order was entered that justify modification of the order.