

## Senate Bill 1360 - Voluntary Post-Adoption Contact Agreements 2010 Fact Sheet

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### The Need for Voluntary Post-Adoption Contact Agreements

More than 31,000 children were served in Pennsylvania's foster care system in 2009. While many of these children have left the foster care system to return to live with their birth parents or other relatives, some children experience circumstances that prevent their return home. Clearly, these children and youth also need permanent homes and adoption is the next best option for their future. Unfortunately, in many instances, the process to legally free children for adoption never occurs, especially for youth 13 or older.

In order to be freed for adoption, the parental rights of the child must be terminated. Yet, the U.S. General Accounting Office reports that a common reason parental rights are not terminated is resistance on the part of an older child to agree to be adopted.<sup>i</sup> For many youth in foster care, the expectation that they would have to completely sever contact with their birth families in order to be adopted often causes fear and opposition to the process.<sup>ii</sup> This resistance likely contributes to the fact while nearly half of all children in foster care in Pennsylvania are 13 and older, only 19 percent of adoptions from foster care involve teens.

In an effort to promote adoption from foster care, the U.S. Department of Health and Human Services recommended more than a decade ago that states establish laws to allow the courts to approve voluntary post-adoption contact agreements between birth and adoptive families that are legally enforceable.<sup>iii</sup> Twenty-three states responded and now Pennsylvania should follow the recommendation of the federal government and establish a formal process in statute for voluntary post-adoption contact agreements. These voluntary agreements are likely to help more children in foster care find a permanent, adoptive family who would be open to allowing them contact with a birth relative.

### Why it Matters

#### *For children....*

- The option to maintain contact with birth relatives may encourage more children, especially older youth, to consider adoption versus long-term foster care.
- Adoptions that allow children to have contact with birth relatives have been shown to have better child behavior outcomes.<sup>iv</sup> Continuing contact also reduces feelings of rejection and abandonment and helps children attach to their adoptive families.<sup>v</sup>
- Proactive cooperation among birth and adoptive parents improves children's socio-emotional outcomes.<sup>vi</sup>

#### *For adoptive parents....*

- Research indicates that adoptive parents have a sense of control over contact with birth families when the contact was planned from the beginning of the child's placement in their home.<sup>vii</sup>
- Researchers also found that when the "adoptive parents were able to regulate boundaries in these complex family systems, ongoing contact was promoted and the feeling of control was maintained."<sup>viii</sup>



### ***For birth relatives...***

- Post-adoption contact agreements facilitate ongoing contact between birth relatives and children, allowing birth relatives to continue a relationship with the children they are unable to care for on a daily basis.<sup>ix</sup>
- Continuing contact helps birth mothers better resolve their grief than mothers who have no continuing contact.<sup>x</sup>

### ***For Pennsylvania...***

- Providing Pennsylvania with a formal process to establish post-adoption contact agreements that are approved by the courts will help facilitate more children being adopted from foster care.
- Post-adoption contact agreements may help expedite the process of adoption by lessening the resistance of birth parents to relinquish their parental rights, which may help decrease the length of time children remain in foster care and are involved in court proceedings.

### **Where are we Now**

The idea of authorizing voluntary enforceable post-adoption contact agreements is not new to Pennsylvania. The Joint State Government Commission made a similar recommendation in its report in 2001. According to the report of the Advisory Committee, a formal process to establish voluntary and enforceable post-adoption contact agreements helps protect the legal rights and best interests of children in the adoption process.<sup>xi</sup>

The option to have post-adoption contact agreements for children adopted from foster care is not routine practice in Pennsylvania. The absence of any formal system to provide such agreements fails to assure appropriate approval, oversight and enforcement.

### **Recommendations**

The Pennsylvania General Assembly should adopt and the governor should sign into law SB 1360. Senate Bill 1360 would provide voluntary and enforceable post-adoption contact agreements for both public and private adoptions as well as taking steps to assure appropriate access to adoption records. With no state fiscal impact, voluntary post-adoption contact agreements are a common sense solution to promote permanency for more children in foster care.

Specifically, amending Pennsylvania's Adoption Act to authorize a formal process to establish voluntary post-adoption contact agreements would benefit children being adopted from foster care in the following ways:

- Provide adoptive parents and birth relatives the option to enter into a formal post-adoption contact agreement that is approved by the courts in conjunction with the adoption decree.
- Allow adopted children to maintain appropriate and agreed upon contact with birth relatives, including siblings, aunts and uncles, grandparents and parents.
- Only authorize that families enter into agreements at the time of the adoption finalization.
- Be enforceable by the courts, but in no case would lack of compliance by any party nullify the adoption. Parties would only be permitted to seek enforcement of an agreement and would be prohibited from seeking monetary damages.

- Ensure that an adoptive family or a child over age 12 has the option to modify an agreement if it is in the best interests of the child.
- Allow all parties and a child age 12 or older the option to terminate an agreement.

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<sup>i</sup> U.S. General Accounting Office. "Report to Congressional Requesters, Foster, States' Early Experiences Implementing the Adoption and Safe Families Act." 1999.

<sup>ii</sup> Knipe, J., & Warren, J. Foster youth share their ideas for change. Washington, DC: CWLA Press. 1999.

<sup>iii</sup> Duquette, Donald N; Hardin, Mark; Dean, Carolyn Payne; Adoption 2002: The President's Initiative on Adoption and Foster Care: Guidelines for public policy and state legislation governing permanence for children United States. Washington, D.C.: Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau.

<sup>iv</sup> Berry, Marianne. "Risks and Benefits of Open Adoption. The Future of Children, V.3,1. 1993.

<sup>v</sup> Lowe, N., Murch, M., Borkowski, M., Weaver, A., Beckford, V., & Thomas, C. (1999). Supporting adoption: Reframing the approach. London: British Agencies for Adoption and Fostering.

<sup>vi</sup> Grotevant, Harold D.; Ross, Nicole M.; Marchel, Mary Ann; McRoy, Ruth G. Adaptive Behavior in Adopted Children: Predictors From Early Risk, Collaboration in Relationships Within the Adoptive Kinship Network, and Openness Arrangements. Journal of Adolescent Research, Apr99, Vol. 14 Issue 2, p231, 17p; (AN 1733998).

<sup>vii</sup> Berry, Marianne. "Risks and Benefits of Open Adoption. The Future of Children, V.3,1. 1993.

<sup>viii</sup> Wolgram, S. (2008). Openness in Adoption: What We Know So Far – A Critical Review of the Literature." Social Work, V.53, Issue 2. Pg. 137.

<sup>ix</sup> Lowe, N., Murch, M., Borkowski, M., Weaver, A., Beckford, V., & Thomas, C. Supporting adoption: Reframing the approach. London: British Agencies for Adoption and Fostering. 1999.

<sup>x</sup> Child Welfare Information Gateway (2003). *Openness in Adoption*. Bulletins for Professionals. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau Retrieved from: [http://www.childwelfare.gov/pubs/f\\_openadoptbulletin](http://www.childwelfare.gov/pubs/f_openadoptbulletin),

<sup>xi</sup> Adoption Act Proposed Revision. Report of the Advisory Committee on Adoption Law. Joint State Government Commission. April 2001. Page 4.