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SENATE BILL NO. 1139

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 21, 2019)

(Patron Prior to Substitute—Senator Favola)

*A BILL to amend and reenact §§ 16.1-283.1 and 63.2-1220.2 of the Code of Virginia, relating to post-adoption contact and communication agreements.***Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-283.1 and 63.2-1220.2 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-283.1. Authority to enter into voluntary post-adoption contact and communication agreement.**

A. In any case in which a child has been placed in foster care as a result of (i) court commitment, (ii) an entrustment agreement entered into by the parent or parents, or (iii) other voluntary relinquishment by the parent or parents, or in *any case in which the parent or parents have voluntarily consented to the adoption of the child*, the child's birth parent or parents may enter into a written post-adoption contact and communication agreement with the pre-adoptive parent or parents as provided in Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. *Unless the parental rights of the birth parent or parents have been terminated pursuant to subsection E of § 16.1-283, a local board of social services or child welfare agency required to file a petition for a permanency planning hearing pursuant to § 16.1-282.1 may inform the birth parent or parents and shall inform the adoptive parent or parents that they may enter into such an agreement and shall inform the child if he is 14 years of age or older that he may consent to such an agreement.*

B. The court may consider the appropriateness of a written post-adoption contact and communication agreement entered into pursuant to subsection A and in accordance with Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 at the permanency planning hearing pursuant to § 16.1-282.1 and, if the court finds that all of the requirements of subsection A and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 have been met, shall incorporate the written post-adoption contact and communication agreement into an order entered at the conclusion of such hearing.

§ 63.2-1220.2. Authority to enter into post-adoption contact and communication agreements.

A. In any proceeding for adoption pursuant to this chapter, the birth parent(s) and the adoptive parent(s) of a child may enter into a written post-adoption contact and communication agreement. A post-adoption contact and communication agreement may include, but is not limited to, provisions related to contact and communication between the child, the birth parent(s), and the adoptive parent(s) and provisions for the sharing of information about the child, including sharing of photographs of the child and information about the child's education, health, and welfare. *Unless the parental rights of the birth parent or parents have been terminated pursuant to subsection E of § 16.1-283, a local board of social services or child welfare agency required to file a petition for a permanency planning hearing pursuant to § 16.1-282.1 may inform the birth parent or parents and shall inform the adoptive parent or parents that they may enter into such an agreement and shall inform the child if he is 14 years of age or older that he may consent to such an agreement.*

B. Any post-adoption contact and communication agreement entered into by the birth parent(s) and the adoptive parent(s) of a child shall include acknowledgment by the birth parent(s) that the adoption of the child is irrevocable, even if the adoptive parent(s) do not abide by the post-adoption contact and communication agreement, and acknowledgment by the adoptive parent(s) that the agreement grants the birth parent(s) the right to seek to enforce the post-adoption contact and communication provisions set forth in the agreement. The petitioner for adoption shall file such agreement with other documents filed in the circuit court having jurisdiction over the child's adoption.

C. In no event shall failure to enter into a post-adoption contact and communication agreement with identified adoptive parent(s) after a valid entrustment agreement or consent to the child's adoption is executed, or failure to comply with a post-adoption contact and communication agreement, affect the validity of (i) the consent to the adoption, (ii) the voluntary relinquishment of parental rights, (iii) the voluntary or involuntary termination of parental rights, or (iv) the finality of the adoption.

D. No birth parent(s) or adoptive parent(s) of a child shall be required to enter into a post-adoption contact and communication agreement.