

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: February 19, 1998 Revised: 03/05/98 _____

Subject: Adoption/Sibling Communication

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Geraci</u>	<u>Moody</u>	<u>JU</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>CF</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill adds siblings to the individuals who may have continuing contact pending adoption with a child whose parents' rights have been terminated. Communications as well as contact is provided for in the bill and that communication or contact may include, but is not limited to, visits, letters and cards, or telephone calls.

The bill provides statutory authority for continuing communication or contact after an adoption is final. Communications or contact may include, but is not limited to, visits, letters and cards, or telephone calls. Post-adoption contact may occur by court order in adoptions of foster children to allow post-adoption communication or contact among separated siblings who are not included in the adoption, if such communication or contact is found to be in the best interests of the children.

The bill also provides criteria to be considered by the court in determining the best interests of the child and for review of the appropriateness of the ongoing communication or contact if necessary. The continuing validity of the adoption is not contingent upon the post-adoption communication or contact nor shall the ability of the adoptive parents and child to relocate within or outside the State of Florida be impaired by the communication or contact.

The bill becomes effective upon becoming law.

This bill substantially amends sections 39.469 and 63.022, Florida Statutes.
This bill creates section 63.0427, Florida Statutes.

II. Present Situation:

Currently, s. 39.469(7), F.S., provides that if a court terminates parental rights, it may order that the parents or relatives of the parent whose rights are being terminated be allowed to maintain some contact with the child *pending adoption* if the best interests of the child are served by the continued contact. If the child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted. The statutes do not further address continued contact between the adoptee and parents or relatives of parents whose parental rights are terminated after the adoption is final.

Continued contact with siblings is not addressed except in legislative intent in s. 39.45, F.S., which provides that, “When two or more children in foster care are siblings, every reasonable attempt shall be made to place them in the same foster home; in the event of permanent placement of the siblings, to place them in the same adoptive home; and, if the siblings are separated, to keep them in contact with each other.”

Currently, Florida law contains no provision for continuing communication or contact between the child to be adopted and parents, siblings, other relatives or nonrelatives after the finalization of an adoption. Ch. 63, F.S. The law provides that a “judgment of adoption terminates all legal relationships between the adopted person and the adopted person’s relatives, including the birth parents . . . so that the adopted person thereafter is a stranger to his or her former relatives for all purposes. . . .” s. 63.172(1)(b), F.S.

III. Effect of Proposed Changes:

The bill establishes statutory authority for continuing communication and contact after the finalization of an adoption by court order in adoptions of foster children. The child who is subject to adoption will be allowed to request continuing contact or communication among separated siblings when such contact is in the best interest of the children. In determining the best interests of the children, the court shall consider:

- Any previous orders of the court under s. 39.469(5), F.S.
- Recommendations of the department, foster parents if other than the adoptive parents, and the guardian ad litem.
- Statements of the prospective adoptive parents.
- Any other relevant and material information.

If it is determined that such continuing contact serves the best interests of the child to be adopted, the bill provides the following:

- The court order shall state the nature and frequency for the communication or contact.
- The court order shall be made a part of the final adoption order.
- The continuing validity of the adoption shall not be contingent upon ongoing communication or contact.

- The ability of the adoptive parents and child to change residence within or outside the state shall not be impaired by the order of continuing contact.

The adoptive parent may petition for review at any time if the adoptive parent believes that the best interests of the adopted child are being compromised. During the review process:

- The court may order mediation for the parties.
- The department is not required to be a party to the review.

While current law requires that every reasonable effort be made to keep siblings together, often placement can be secured for one sibling but not others, or for siblings separately but not together. This places children who are bonded, often significantly to each other in the absence of parental bonding, in the position of remaining indefinitely in foster care or being separated forever from each other. The bill proposes a method to eliminate this dilemma when the court finds it appropriate by permitting contact and communication determined to be in the adopted child's best interest. The availability of a review process keeps the child's best interest paramount.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The effect on judicial workload of an additional consideration in an adoption hearing or additional reviews is indeterminate.

VI. Technical Deficiencies:

The wording of both the title, at page 1, lines 4-5, and bill, at page 1, lines 19-20 need clarification that it is a sibling of the dependent child that the bill would permit the contact with rather than “siblings of the parent.”

VII. Related Issues:

None.

VIII. Amendments:

#1 by Judiciary:

Technical amendment to clarify that communication is between child and siblings of the child, not siblings of the parents. (WITH TITLE AMENDMENT)