

## Cooperative Postadoption Agreements

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### Issue

Describe the laws on cooperative postadoption agreements and the circumstances in which a birth parent may have contact with his or her child after the child is adopted.

### Summary

When a probate or Superior Court considers an adoption petition, it may authorize postadoption communication or contact between the child and his or her birth parents if it is in the child's best interest. The court may grant postadoption communication or contact privileges if:

1. each intended adoptive parent consents to it,
2. the intended adoptive parent and either or both birth parents execute a cooperative agreement as described below and file it with the court,
3. the child consents to the communication or contact if he or she is age 12 or older, and
4. the cooperative postadoption agreement is approved by the court (CGS §§ [17a-112\(c\)](#), [45a-715\(i\)](#)).

The law specifies (1) circumstances in which birth and adoptive parents may enter into postadoption agreements and (2) acknowledgments that must be included in such an agreement. It also permits the court to modify or terminate the agreement at any time if doing so is in the child's best interest.

## **Cooperative Postadoption Agreements**

Before a court terminates the parental rights of a child's birth parents, either or both birth parents and an intended adoptive parent may enter into a cooperative postadoption agreement regarding communication or contact between the birth parents and the adopted child. The birth and adoptive parents may enter the agreement if the:

1. child is in DCF custody (if the adoption proceedings are in Superior Court),
2. court has not yet entered an order terminating parental rights, and
3. birth parent or parents agree to a voluntary termination of parental rights.

The postadoption agreement is only applicable to the parents who are party to it. The child's attorney or guardian ad litem (GAL), if any, may be heard on the agreement in court. There is no presumption of communication or contact between the birth parents and intended adoptive parent without such an agreement in place (CGS §§ [17a-112\(b\)](#), [45a-715\(h\)](#)).

## ***Acknowledgments***

The agreement must include acknowledgments (1) by either or both birth parents that the termination of parental rights is irrevocable, even if the adoptive parents do not abide by the terms of the agreement and (2) by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the agreement. The agreement may also include (1) a provision for communication between the child and either or both birth parents, (2) a provision for future contact between either or both birth parents and the child or an adoptive parent, and (3) maintenance of medical history for any birth parent who is a party to the agreement (CGS §§ [17a-112\(d\) & \(e\)](#), [45a-715\(j\) & \(k\)](#)).

## ***Sibling Contact***

*When considering an adoption petition, the court must also consider the appropriateness of postadoption contact between the child and his or her sibling. If the court determines such contact is in the child's best interests, it must order the child to have access to and visitation rights with the sibling until the adopted child turns age 18.*

*By law, the court must consider several factors when determining if postadoption sibling contact is appropriate (e.g., the age of the children, their relationship, the opinions of the siblings and adoptive parents) ([CGS §§ 45a-715\(o\)-\(s\)](#)).*

## ***Modification, Enforcement, and Termination***

By law, the court's order approving the agreement must be made part of the final order that terminates parental rights. The finality of the parental rights termination and adoption is not affected by implementation of the agreement's terms nor does the agreement limit the ability of the adoptive parents to move within or outside of Connecticut (CGS §§ [17a-112\(f\)](#), [45a-715\(l\)](#)).

By law, disagreement between the adoptive and birth parents or litigation brought to enforce or modify the agreement does not (1) affect the validity of the termination or the subsequent adoption or (2) serve as a basis for orders affecting the child's custody. The court cannot act on a petition to change or enforce the agreement unless the petitioner has attempted to or actually participated in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute and allocate any cost for the mediation or proceedings (CGS §§ [17a-112\(g\)](#), [45a-715\(m\)](#)).

If the probate court issued the order permitting postadoption contact or communication, an adoptive parent, GAL for the child, or the court on its own motion may, at any time, petition for review of an order permitting the birth parents to contact or communicate with the child if the adoptive parent believes that the child's best interests are being compromised. If the Superior Court issued the order, those parties or the court may petition for review of the order if the petitioner alleges that the review would be in the child's best interest. The court may terminate the communication or contact or set conditions on it if it finds that doing so is in the child's best interest (CGS §§ [17a-112\(h\)](#), [45a-715\(n\)](#)).

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