

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: March 13, 1998 Revised: _____

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>Crosby</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 264 adds siblings to the individuals who may have continuing contact, pending adoption, with a child whose parents' rights have been terminated. Communication, as well as contact, is provided for in the bill; communication or contact may include, but is not limited to, visits, letters and cards, or telephone calls.

This bill also provides statutory authority for continuing communication or contact after an adoption is final. Post-adoption contact may occur by court order in the adoption of foster children to allow post-adoption communication or contact among separated siblings who are not included in the adoption. The court must find that this communication or contact is in the best interests of the children.

This bill also provides criteria the court will consider in determining the best interest of the child and in reviewing the appropriateness of ongoing communication or contact, if necessary. The continuing validity of the adoption is not contingent upon post-adoption communication or contact nor shall the adoptive parent and child's ability to relocate within or outside the State of Florida be comprised by this communication or contact.

Senate Bill 264 is 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 parental rights are terminated, a court may order some contact with the child and the parents or relatives of the parent whose rights are being terminated. This contact will continue *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 once the adoption is final.

Continued contact with siblings is not addressed except in the legislative intent stated at s. 39.45(2), F.S. This section 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. See 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:

Senate Bill 264 establishes statutory authority for a court to order continuing communication and contact after the finalization of the adoption of a foster child. The child who is the subject of an 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.
- The recommendations of the department, the 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, SB 264 provides:

- 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 the 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. The court may order the communication terminated or the court may order conditions which the court determines are in the best interest of the child. During this 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 situation may place 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. By permitting contact and communication determined to be in the adopted child's best interest, this bill proposes a method to eliminate the above mentioned dilemma when the court deems it appropriate. 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:

The adoptive parent may petition for review at any time if the adoptive parent believes that the continuing communication with the child is not in the best interest of the adopted child. The court cost or mediation cost could have a fiscal impact. This impact is indeterminable.

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 and 5, and the bill, at page 1, lines 19 and 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.” (See Amendment #1 by Judiciary.)

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)