

Introduced by

Senator Hogan

Representatives Dobervich, O'Brien, Schreiber-Beck

1 A BILL ~~for an Act to create and enact a new section to chapter 14-15 of the North Dakota~~  
2 ~~Century Code, relating to open adoption.~~ for an Act to provide for a legislative management  
3 study regarding open adoption policies.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 ~~SECTION 1. A new section to chapter 14-15 of the North Dakota Century Code is created~~  
6 ~~and enacted as follows:~~

7 ~~**Postadoption communication or contact agreements.**~~

8 ~~1. For purposes of this section, unless context requires otherwise, "birth relative"~~  
9 ~~includes parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether by~~  
10 ~~blood, adoption, or marriage, of a minor child who is being adopted.~~

11 ~~2. An adoptive parent and a birth relative may enter an agreement regarding~~  
12 ~~postadoption communication or contact between a minor adoptee, adoptive parent,~~  
13 ~~and a birth relative.~~

14 ~~3. An agreement under this section is legally enforceable if the terms of the agreement~~  
15 ~~are contained in a written court order. A court may enter an order under this section~~  
16 ~~before a decree of adoption is granted.~~

17 ~~4. Failure to comply with an order under this section is not grounds for:~~

18 ~~a. Setting aside an adoption decree; or~~

19 ~~b. Revocation of consent to adoption.~~

20 ~~5. An order entered under this section may be enforced by filing a petition or motion with~~  
21 ~~the court which includes a certified copy of the order and an affidavit that the parties~~  
22 ~~have mediated or attempted to mediate the dispute.~~

23 ~~6. The court may not modify an order under this section unless the court finds the~~  
24 ~~modification is necessary to serve the best interests of the minor adoptee and:~~

- 1 ~~a. The modification is agreed to by the parties to the agreement; or~~  
2 ~~b. Exceptional circumstances have arisen since the agreed order was entered~~  
3 ~~which justify modification of the order.~~

#### SECTION 1. LEGISLATIVE MANAGEMENT STUDY - OPEN ADOPTION POLICIES

5 **REVIEW.** During the 2023-24 interim, the legislative management shall consider studying the  
6 state's policies and relevant case law regarding open adoptions to determine the feasibility and  
7 desirability for legislation relating to clarifying communication and the rights of biological  
8 parents.

9 1. The study must include:

- 10 a. Existing state policies regarding open adoptions;  
11 b. The current practices of collection and storage of personal, contact, and medical  
12 information of biological parents;  
13 c. Benefits and consequences of adopting legislation that would extend legal  
14 enforceability to open adoption agreements;  
15 d. Best practices for keeping birth children and their adoptive parents aware of  
16 health complications in biological family members over time;  
17 e. Any information relevant to open adoption or open adoption agreements that the  
18 legislative management deems important in understanding the totality of the  
19 issue;  
20 f. The potential financial costs to adoptive families, adoption agencies, and the  
21 court system; and  
22 g. Any barriers to extending legal enforceability to open adoption agreements in the  
23 state of North Dakota.

24 2. The legislative management may seek the assistance of the department of health and  
25 human services and adoption agencies that partner with the state of North Dakota.

26 3. The legislative management shall report its findings and recommendations, together  
27 with any legislation necessary to implement the recommendations, to the sixty-ninth  
28 legislative assembly.