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"Open Adoptions" In Virginia

Effective 2009, by statute (Virginia Code Section 16.1-283.1), the child's birth parent or parents can enter into written post-adoption contact and communication agreements with the adoptive parent or parents. This agreement may include provisions about sharing information about the child's health, education and welfare, as well as photographs. It is not, however, the adoption of this statute that is so significant. People have been making these agreements, formally and informally, for years. These agreements unfortunately were totally unenforceable in any court. They relied on the adoptive parents keeping their promise.

Also in 2009, the General Assembly enacted Section 63.2-1228.1 which provides a process for the circuit court to approve the post adoption contact and communication agreements (PACCA) to make them enforceable by the court. The court also will, unless otherwise provided, maintain jurisdiction to enforce or modify the terms of the PACCA. The court can compel compliance by the adoptive parents. The court can change the terms if there has been a material change of circumstances.

Failure to comply with the PACCA will not undermine the finality of the adoption or the termination of parental rights, but it does provide enforcement power to back up agreements to keep birth parents apprised of information about their children.

Hopefully, this will create a greater comfort zone for birth parents to permit adoptions to be finalized.

Mary G. Commander has been handling Adoptions in Virginia since 1981. She wrote the book on Adoptions in Virginia. She handles Agency, Interstate, International, Parental Placement, Step-Parent, Adult and Contested Adoptions throughout the state.

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