

**THE RIGHT OF THE CHILD TO HAVE CONTACT WITH BOTH PARENTS:
COMMENTS IN VIEW OF RECENT DEVELOPMENTS IN DUTCH LAW**

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SUMMARY

This contribution discusses the amendment to section 1: 377a lid 1 *BW* of 1 March 2009, in Dutch law. According to this provision a child has the right to have contact with both parents as well as with those who have sufficient close personal links with the child. The parent who is not responsible for the physical care of the child has the right and *obligation* to have contact with the child. The question whether the South African law, through the provisions of section 28 of the Constitution and the Children's Act, provides such a right and obligation, is investigated. Even though the conclusion is reached that the South African law indirectly provides such right and obligation, it is argued that the explicit recognition thereof in the Children's Act would provide a statutory legal duty on parents to have and maintain contact with their child. This would enhance legal certainty. Attention is also given to the enforcement of such right of the child.

KEYWORDS

Alternative care; enforcement of right to contact; family care; obligation to have contact, parental care, parental responsibilities and rights, right to contact (of child with both parent)

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