



*Current Through
June 2009*

Access to Adoption Records

In nearly all States, adoption records are sealed and withheld from public inspection after an adoption is finalized. Most States have instituted procedures by which parties to an adoption may obtain both nonidentifying and identifying information from an adoption record while still protecting the interests of all parties.

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www.childwelfare.gov/systemwide/laws_policies/statutes/infoaccessap.cfm

To find statute information for a particular State, go to

www.childwelfare.gov/systemwide/laws_policies/state/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at

www.childwelfare.gov/systemwide/laws_policies/statutes/infoaccessapall.pdf



Nonidentifying Information

Nonidentifying information generally is limited to descriptive details about an adoptee and the adoptee's birth relatives. This type of information is generally provided to the adopting parents at the time of the adoption. Nonidentifying information may include the following:

- Date and place of the adoptee's birth
- Age of the birth parents and general physical description, such as eye and hair color
- Race, ethnicity, religion, and medical history of the birth parents
- Educational level of the birth parents and their occupations at the time of the adoption
- Reason for placing the child for adoption
- Existence of other children born to each birth parent

All States and American Samoa have provisions in statute that allow access to nonidentifying information by an adoptive parent or a guardian of an adoptee who is still a minor. Nearly all States allow the adoptee to access nonidentifying information about birth relatives, generally upon written request. Usually the adoptee must be at least age 18 before he or she may access this information.¹

Approximately 28 States allow birth parents access to nonidentifying information, generally to the health and social history of the child.² In addition, 15 States give such access to adult birth siblings.³ Policies on what information is collected and how that information is maintained and disclosed vary from State to State.

¹ California, Idaho, Nevada, and New Jersey allow access to adopting parents only.

² The word approximately is used to stress the fact that the States frequently amend their laws. This information is current through June 2009. The States that allow birth parents access to nonidentifying information are Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and West Virginia.

³ Arizona, Colorado, Indiana, Michigan, Mississippi, Montana, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Utah, and Vermont.

Restrictions on Release of Nonidentifying Information

Some jurisdictions are more restrictive about the release of information from adoption records. New York, Oklahoma, and Rhode Island require the person seeking nonidentifying information to register with the State adoption registry. Pennsylvania and Guam require a party to petition the court before any information can be released.

Nonidentifying information generally includes medical and health information about the child and the child's birth family at the time of the adoptive placement. Alabama, Illinois, Kansas, Maryland, Minnesota, Mississippi, and Wyoming statutes allow adoptive parents to request that the State adoption registry contact birth parents when additional health information is medically necessary.

Identifying Information

Identifying information is disclosure of records or other information that may lead to the positive identification of birth parents, the adoptee, or other birth relatives. Identifying information may include current or past names of the person, addresses, employment, or other similar records or information. Statutes in nearly all States permit the release of identifying information when the person whose information is sought has consented to the release.⁴ If consent is not on file with the appropriate entity, the information may not be released without a court order documenting good cause to release the information. A person seeking a court order must be able to demonstrate by clear and convincing evidence that there is a compelling reason for disclosure that outweighs maintaining the confidentiality of a party to an adoption.⁵

Access to information is not always restricted to birth parents and adoptees. Approximately 36 States allow biological siblings

⁴ New Jersey, the District of Columbia, American Samoa, and Guam require a court order for release of identifying information. The Virgin Islands requires a court order for release of information to any person other than the adult adopted person. Statutes in Puerto Rico require a court order for release of any information from the adoption records to interested parties.

⁵ A compelling reason might include, for example, a serious medical condition requiring a blood relative or genetic link or access to medical records.

of the adoptee to seek and release identifying information upon mutual consent.⁶

Some States have imposed limitations on the release of identifying information. Arkansas, Mississippi, South Carolina, and Texas require the adoptee to undergo counseling about the possible consequences of search and contact with his or her birth family before any information is disclosed. In Connecticut, release of identifying information is prohibited if it is determined that the requested information would be seriously disruptive to any of the parties involved.

Mutual Consent Registries

A mutual consent registry is one method many States use to arrange the consents that are required for release of identifying information. A mutual consent registry is a means for individuals directly involved in adoptions to indicate their willingness or unwillingness to have their identifying information disclosed. Approximately 30 States have established some form of a mutual consent registry.⁷

Procedures for mutual consent registries vary significantly from State to State. Most registries require consent of at least one birth parent and an adoptee over the age of 18 or 21, or of adoptive parents if the adoptee is a minor, in order to release identifying information. Most States that have registries require the parties seeking to exchange information to file affidavits consenting to the release of their personal information. However, eight States will release information from the registry upon request unless the affected party has filed an affidavit requesting nondisclosure.⁸

⁶ Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wyoming.

⁷ Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Michigan, Missouri, Nevada, New Hampshire, New York, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia.

⁸ The States that will release identifying information unless a nonconsent has been filed are Hawaii, Indiana (for adoptions finalized after 12/31/1993), Maryland (for adoptions finalized after 1/1/2000), Michigan (for adoptions finalized before 5/28/1948 or after 9/12/1980), Minnesota (for adoptions finalized after 8/1/1982), Nebraska (for adoptions finalized after 9/1/1998), Ohio, and Vermont (for adoptions finalized after 7/1/1986).

Other Methods of Obtaining Consent

States that have not established registries may use alternative methods for disclosing identifying information. Search and consent procedures authorize a public or private agency to assist a party in locating birth family members to determine if they consent to the release of information. Some States have a search and consent procedure called a confidential intermediary system.⁹ With this system, an individual called a confidential intermediary is certified by the court to have access to sealed adoption records for the purpose of conducting a search for birth family members to obtain their consent for contact. Other States use an affidavit system through which birth family members can file either their consent to the release of identifying information or to register their refusal to be contacted or to release identifying information.¹⁰ The written permission may be referred to as a consent, waiver, or authorization form.

Original Birth Certificate

When an adoption is finalized, a new birth certificate for the child is customarily issued to the adoptive parents. The original birth certificate is then sealed and kept confidential by the State registrar of vital records. In the past, nearly all States required a court order for adoptees to gain access to their original birth certificates. In approximately 26 States, the District of Columbia, American Samoa, Guam, and Puerto Rico, a court order is still required.¹¹ However, in many States, the laws are changing to allow easier access to these records. Some of those laws allow information access:

- Through a court order when all parties have consented¹²
- At the request of the adult adoptee¹³

⁹ States using confidential intermediaries include Alabama (when consent is not on file), Colorado, Illinois (to obtain updated medical information), Michigan (when consent is not on file), Montana, North Carolina, North Dakota, Oklahoma, Virginia, Washington, and Wyoming.

¹⁰ Alabama, Alaska, California, Kentucky, Massachusetts, Minnesota, Mississippi, Nebraska, New Hampshire, New Mexico, Pennsylvania, and Wisconsin.

¹¹ Arizona, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Virginia, West Virginia, and Wyoming.

¹² Idaho, Mississippi, and the Northern Mariana Islands.

¹³ Alabama, Alaska, Maine, Oregon, and the Virgin Islands.

- At the request of the adoptee unless the birth parent has filed an affidavit denying release of confidential records¹⁴
- When eligibility to receive identifying information has been established with a State adoption registry¹⁵
- When consents from the birth parents to release identifying information are on file¹⁶

Where Information Can Be Located

To find contact information for a State agency or department that assists in accessing adoption records, go to Child Welfare Information Gateway's National Foster Care and Adoption Directory and search under Accessing Adoption Records:

www.childwelfare.gov/nfcad

See the Adoption Search and Reunion section of the Child Welfare Information Gateway website at www.childwelfare.gov/adoption/search/ for more information on searching for birth relatives, including a link to the International Soundex Reunion, a free mutual consent reunion registry for people seeking birth relatives: www.isrr.net/.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

¹⁴ Delaware, Montana (for adoptions finalized on or after 10/1/1997), Maryland (for adoptions finalized on or after 1/1/2000), Minnesota (for adoptions finalized on or after 8/1/1997), Nebraska (for adoptions finalized on or after 7/20/2002), Ohio, Oklahoma (for adoptions finalized on or after 11/1/1997 when there are no birth siblings under age 18 who have been adopted), and Washington (for adoptions finalized on or after 10/1/1993).

¹⁵ Illinois (for adoptions finalized after 1/1/2000), Indiana (for adoptions finalized after 12/31/1993), Michigan, Rhode Island, Tennessee, Utah, and Vermont.

¹⁶ Colorado (effective 1/1/2006), Nebraska (for adoptions finalized on or after 9/1/1998), Pennsylvania, and Wisconsin.