



STATE STATUTES

CURRENT THROUGH DECEMBER 2019

Access to Adoption Records

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Although adoptive parents are provided nonidentifying background information about the child they plan to adopt, in nearly all States the privacy interests of adoptive parents, adoptive children, and birth families are protected by making all files related to the adoption process confidential and withheld from public access. To ensure that ongoing privacy needs are met, records of adoption court proceedings and the child's original certificate of birth are sealed after an adoption is finalized.

The need for information about the birth family does not always end when the adoption has been finalized. Persons who have been adopted may need to access information from the records to obtain updated medical history, while some adoptees seek identifying information about birth family members in order to contact their families of origin. For this publication, statutes were collected for all States, the District of Columbia, American

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Samoa, Guam, the Northern Mariana Islands, and Puerto Rico, and the results indicate that 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.

NONIDENTIFYING INFORMATION

Nonidentifying information includes the health, behavioral health, developmental, educational, and social histories of the child and the child's parents and other birth relatives. This type of information is provided to the adoptive parents at the time of the adoption.¹ 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, American Samoa, Guam, and Puerto Rico have provisions in statutes that allow access to nonidentifying information by an adoptive parent or a guardian of a minor child who has been adopted. Nearly all States allow an adult 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.²

Approximately 26 States allow birth parents access to nonidentifying information, generally about the health and social history of the child.³ In addition, 15 States give such access to adult birth siblings.⁴ Policies on what information is collected and how that information is maintained and disclosed vary from State to State.

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. In Pennsylvania, nonidentifying information is available through a registry or the court or agency that handled the adoption. Guam requires a party to petition the court before any information can be released.

¹ For more information about the types of information provided to adoptive parents prior to the child's adoption, see the Child Welfare Information Gateway publication [Providing Adoptive Parents With Information About Adoptees and Their Birth Families](#).

² Idaho, Nevada, and New Jersey provide nonidentifying medical and social information about the birth family to adopting parents at the time of placement but do not otherwise address the issue of access to nonidentifying information in statute.

³ The word "approximately" is used to stress the fact that the States frequently amend their laws. This information is current through December 2019. The States that allow birth parents access to nonidentifying information are Alabama, Arizona, Arkansas, Connecticut, Delaware, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania (if the adopted person is at least age 21), Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and West Virginia.

⁴ Arizona, Colorado, Michigan, Mississippi, Montana, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Utah, and Vermont

Nonidentifying information that is generally available 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. In Georgia, any medical information about the birth family that is received by the department or child-placing agency must be provided to the adoptive parents or adult adoptee.

IDENTIFYING INFORMATION

Identifying information is information from the disclosure of adoption records or elsewhere that may lead to the positive identification of birth parents, the adult adoptee, or other birth relatives.⁵ 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.⁶ 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.⁷

Access to information is not always restricted to birth parents and adoptees. Approximately 37 States allow birth siblings of the adoptee to seek and release identifying information upon mutual consent.⁸

Some States have imposed limitations on the release of identifying information. Arkansas, Mississippi, South Carolina, and Texas require the adopted person to undergo counseling about the process and potential implications of search and contact with his or her birth family before any information is disclosed. In Connecticut, release of identifying information is prohibited if the department or child-placing agency that possesses the information determines that the requested information would be "seriously disruptive to or endanger the physical or emotional health of the person whose identity is being requested."⁹

⁵ Adoptive parents of adult adoptees are generally not permitted access to identifying information about the adoptees' birth families. There are exceptions to this. For example, in California, Colorado, Illinois, Indiana, Louisiana, Maine, Montana, New Mexico, North Dakota, Ohio, Pennsylvania, and Washington, an adoptive parent may apply for or consent to the release of identifying information on behalf of an adoptee who is still a minor. These provisions also do not apply when, prior to finalization of the adoption, the birth and adoptive parents agreed to postadoption contact. For more information on this, see the Information Gateway publication, [Postadoption Contact Agreements Between Birth and Adoptive Families](#).

⁶ New Jersey, the District of Columbia, American Samoa, and Guam require a court order for release of identifying information. In Hawaii, an adult adoptee, adoptive parent, or birth parent may file with the court a written request to inspect the sealed adoption record. The Virgin Islands requires a court order for release of information to any person other than the adult adoptee. Statutes in Puerto Rico require a court order for release of any information from the adoption records to interested parties.

⁷ A compelling reason might include, for example, a serious medical condition requiring a blood relative or genetic link, or access to medical records.

⁸ Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wyoming

⁹ See Connecticut Gen. Stat. § 45a-751.

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 and Puerto Rico have established some form of a mutual consent registry.¹⁰

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.¹¹

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.¹² 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 either file their consent to release identifying information or to register their refusal to be contacted or to release identifying information.¹³ The written permission may be referred to as a consent, waiver, or authorization form.

ACCESS TO AN 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 adoptees to obtain a court order to gain access to their original birth certificates. In approximately 19 States, the District of Columbia, American Samoa, and Guam, a court order is still

¹⁰ Arizona, Arkansas, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Michigan, Missouri, Nevada, New Hampshire, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia

¹¹ The States that will release identifying information unless a nonconsent form 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 (for adoptions finalized after 1996), and Vermont (for adoptions finalized after 7/1/1986).

¹² States using confidential intermediaries include Alabama (when consent is not on file), Colorado, Florida (to contact family members who have not registered with the adoption registry), Illinois (to obtain updated medical information), Michigan (when consent is not on file), Montana, North Carolina, North Dakota, Oklahoma, Virginia, Washington, and Wyoming.

¹³ Alabama, Alaska, California, Georgia, Kentucky, Massachusetts, Minnesota, Mississippi, Nebraska, New Hampshire, New Mexico, Pennsylvania, and Wisconsin

required.¹⁴ In Massachusetts, however, evidence of a parent's willingness to provide information about her identity to the adoptee shall be considered sufficient for granting an order to release the information contained in the original birth certificate. In many States, the laws are changing to allow easier access to these records. Some of the means for providing information access include the following:

- Through a court order when all parties have consented¹⁵
- At the request of the adult adoptee¹⁶
- At the request of the adoptee, unless the birth parent has filed an affidavit denying release of confidential records¹⁷
- When eligibility to receive identifying information has been established with a State adoption registry¹⁸
- When consents from the birth parents to release identifying information are on file¹⁹

¹⁴ Arizona, California, Florida, Georgia, Hawaii, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Montana (for adoptions finalized on or after 10/1/1985 and before 10/1/1997), Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, South Dakota, West Virginia, and Wyoming

¹⁵ Idaho, Mississippi, and the Northern Mariana Islands

¹⁶ Alabama, Alaska, Arkansas (with the birth parents' names redacted at their request), Connecticut (for adoptions finalized on or after 10/1/1983), Illinois (for adopted persons born prior to 1/1/1946), Maine, Montana (for adoptions finalized before 10/1/1985), New Jersey, New York, Oregon, Pennsylvania (with the birth parents' names redacted at their request), and the Virgin Islands

¹⁷ Colorado (effective 1/1/2016), Delaware, Illinois (for adopted persons born on or after 1/1/1946), Maryland (for adoptions finalized on or after 1/1/2000), Minnesota (for adoptions finalized on or after 8/1/1997), Montana (for adoptions finalized on or after 10/1/1997), Nebraska (for adoptions finalized on or after 7/20/2002), Ohio (for adoptions finalized after 1996), 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

¹⁸ Indiana (for adoptions finalized after 12/31/1993), Michigan, Rhode Island, Tennessee, Texas, Utah, Vermont, and Virginia

¹⁹ Missouri, Nebraska (for adoptions finalized on or after 9/1/1998), South Carolina, Utah (for adoptions finalized on or after 1/1/2016), and Wisconsin

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