



National Clearinghouse on Child Abuse and Neglect Information National Adoption Information Clearinghouse



Gateways to Information: Protecting Children and Strengthening Families

State Statutes Series 2004

Access to Family Information by Adopted Persons

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

Nonidentifying information is generally limited to descriptive details about an adopted person and the adopted person's birth relatives. Nonidentifying information may include the following:

- Date and place of the adopted person'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 occupation at the time of the adoption
- Reason for placing child for adoption
- Existence of other children born to each birth parent

Nearly all States allow the adopted person to have access to nonidentifying information about birth relatives, generally upon written request. The adopted person must be an adult, usually at least 18 years of age, before he or she may access this information. Approximately¹ 37 States² and American Samoa have provisions in statute that allow access to nonidentifying information to an adoptive parent or a guardian of an adopted person who is still a minor. Some States³ allow birth parents access to nonidentifying information, and some States⁴ give such access to adult birth siblings. Additionally, States are allowed to charge a reasonable fee for providing the information. Policies on what information is collected and how that information is maintained and disclosed vary from State to State.

Nonidentifying Information

¹ The word *approximately* is used to stress the fact that the States frequently amend their laws, so this information is current only through June 2004.

² Idaho, Iowa, Kentucky, Maryland, Nebraska, Nevada, New Jersey, New York, Oklahoma, Oregon, Rhode Island, South Carolina, and Wisconsin do not provide in statute for access to nonidentifying information for adoptive parents.

³ All but 14 States (Alaska, Connecticut, Hawaii, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, Pennsylvania, Texas, Virginia, and West Virginia), allow access to nonidentifying information to birth parents.

⁴ Approximately 21 States allow access to nonidentifying information to adult birth siblings: Arizona, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, New Mexico, New York, Ohio (if the birth parent is deceased), Oklahoma, Oregon, Rhode Island, South Carolina, Utah, Vermont, and Wyoming.

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The Clearinghouses are services of
U.S. Department of Health and Human Services
Administration for Children and Families
Children's Bureau



Identifying Information

Restrictions on Release of Nonidentifying Information

A few jurisdictions are more restrictive about the release of information from adoption records. New Jersey and Guam require a party to obtain a court order before any information can be released. In Indiana and Pennsylvania, the person whose information is being sought must provide consent before information about him or her can be released. In Colorado, any party to the adoption can request that information not be disclosed.

The statutes in Illinois and Kansas allow the adoptive parents to receive medical and family information about the birth family. In addition, the adoptive parents may request the department to contact the birth parents any time, postadoption, for additional health information when there is a medical need.

Identifying information is considered to be data that may lead to the positive identification of an adopted person, birth parents, or other birth relatives. Identifying information includes the current name of the person, but usually also includes an address or other contact information so that adopted persons and birth relatives can use the information to arrange personal contact with one another. The statutes in nearly all States⁵ permit the release of identifying information when the person whose information is sought has consented to the release.

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 system whereby individuals directly involved in adoptions can indicate their willingness or unwillingness to have their identifying information disclosed.⁶ Approximately 33 States⁷ have established some form of a mutual consent registry. Procedures for mutual consent registries vary significantly from State to State. Most registries require consent of at least one birth parent and an adopted person over the age of 18 or 21, or of adoptive parents of an adopted person who is still a minor, in order to release identifying information. Currently, 26 of the States⁸ that have registries require the parties seeking to exchange information to file affidavits consenting to release of their personal information. However, seven States⁹ will release information from the registry upon request, unless the affected party has filed an affidavit requesting nondisclosure.¹⁰

Approximately 22 States¹¹ allow biological siblings of the adopted individual to seek and release identifying information upon mutual consent. No consent is required for adopted persons in Louisiana and Texas to receive identifying information about birth parents who are deceased. Many States ask a birth parent to specify at the time of consent or relinquishment whether they are willing to have their identity disclosed to the adopted

⁵ The statutes in American Samoa and Puerto Rico do not currently address the issue of release of identifying information.

⁶ Christine Adamec & William L. Pierce, *The Encyclopedia of Adoption* 184 (Facts on File, Inc. 2000).

⁷ Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, and Wisconsin.

⁸ Arkansas, Colorado, Connecticut, Georgia, Idaho, Illinois, Iowa, Louisiana, Maine, Maryland, Missouri, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin.

⁹ Delaware, Hawaii, Indiana, Michigan, Minnesota, Ohio, and Vermont.

¹⁰ In Indiana, this applies only to adoptions finalized after 12/31/93. In Michigan, this applies only to adoptions finalized on or after 9/12/80. In Vermont, this applies only to adoptions finalized on or after 7/1/86. For adoptions finalized prior to those dates, consent must be on file.

¹¹ Arizona, California, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Montana, Nevada, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Vermont, and Wyoming.

person when he or she is age 18 or 21.¹² If consent is not on file, the information may not be released without a court order documenting good cause to release the information.¹³ 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.

Some States have imposed some limitations on the release of identifying information. Mississippi and South Carolina require the adopted person to undergo counseling about the possible consequences of contact with his or her 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.

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 States¹⁴ have a type of search and consent procedure called a confidential intermediary system. In 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 States¹⁵ use an affidavit system through which birth family members can file either their consent to the release of identifying information or a nonconsent to register his or her refusal to be contacted or to release identifying information. 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. In the past, nearly all States required a court order for adopted persons to gain access to their original birth certificates. In approximately 28 States,¹⁶ the District of Columbia, American Samoa, Guam, and Puerto Rico, a court order is still required to gain access to the original birth certificate, but in many States, the laws are changing to allow easier access to these records. Some of the methods now available include:

- Available through court order when all parties have consented¹⁷
- Available upon request to the adult adopted person¹⁸
- Available upon request to the adopt adopted person unless the birth parent has filed an affidavit denying release of confidential records¹⁹

¹² Joan H. Hollinger et al., *Adoption Law and Practice* § 13-A.01 (2001).

¹³ In New Jersey, the District of Columbia, Guam, and the Virgin Islands, identifying information can be released only by order of the court.

¹⁴ New Mexico, Oklahoma, Washington, and Wyoming.

¹⁵ Alabama, Alaska, Arizona, California, Florida, Kansas, Kentucky, Massachusetts, Mississippi, Montana, Nebraska, New Hampshire, North Carolina, Northern Mariana Islands, and Virginia.

¹⁶ Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, and Wyoming.

¹⁷ Minnesota, North Dakota, and the Northern Mariana Islands.

¹⁸ Alabama (at age 19), Alaska (at age 18), Kansas, Maryland (at age 21), New Hampshire (effective 1/1/05), and the Virgin Islands.

- Available to persons who have established their eligibility to receive identifying information through a State adoption registry²⁰
- Available when consents to release of identifying information from the birth parents are on file²¹

For contact information for the State agency or department that assists adopted persons in accessing adoption records, go to the National Adoption Information Clearinghouse's National Adoption Directory (<http://naic.acf.hhs.gov/general/nad/index.cfm>) and search under State Reunion Registry or State Confidential Intermediary Service.

This publication is a product of the State Statutes Series prepared by the National Adoption Information Clearinghouse (NAIC). 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.

Electronic copies of this publication may be downloaded from the Clearinghouse website at <http://naic.acf.hhs.gov/general/legal/statutes/infoaccessap.cfm>.

- To find statute information for a particular State, go to <http://naic.acf.hhs.gov/general/legal/statutes/search> and select the specific State and topic.
- To find information on all the States and Territories, view the complete PDF at <http://naic.acf.hhs.gov/general/legal/statutes/infoaccessapall.pdf> or call the Clearinghouse at (888) 251-0075 or (703) 352-3488 to order a copy.

¹⁹ Delaware, Montana (for adoptions finalized on or after 10/1/97), Nebraska (for adopted adults age 25 or older), Oklahoma (for adoptions finalized on or after 11/1/97 and there are no birth siblings under age 18 who have been adopted), and Washington (for adoptions finalized on or after 10/1/93).

²⁰ Idaho, Illinois (for adoptions finalized after 1/1/2000), Indiana (for adoptions finalized after 12/31/93), Michigan, Rhode Island, Tennessee, and Vermont.

²¹ Mississippi, Pennsylvania, and Wisconsin.