



(c) Adoptee Rights Coalition, 2013



Information packet prepared for the
National Council of State Legislators
By Jeff Hancock, President
Adoptee Rights Coalition

Please visit:
www.adopteerightscoalition.com

Section One: Our Lobby for Restored Access to our Original Birth Certificates

- Who We Are.
- 1998 Oregon Adoptee Rights Bill
- Organizations in Support.

What are “Adoptee Rights?”

“Adoptee Rights” refers to the movement that seeks to restore retroactive access of adult adoptees to their own original birth certificates (OBCs) through “Access Legislation.” Over 6 million U.S. born adult adoptees have difficulty accessing the birth certificate they were born with. This is because laws in 44 States do not allow adult adoptees to access the birth certificates they were born with the same way all other citizens do.

What is “Open Legislation” and how is it different than “Open Adoption?”

“Open adoption” is a term that refers to contact arrangements made between the original parents and adoptive parents of an adoptee who is under the age of 18. “Access Legislation” refers to bills and laws that allow adult adoptees the same access to their OBCs that those who are not adopted receive. OBC access is about the right to equality. It is not about search, reunion, or contact arrangements.

What is your interest in the “National Council of State Legislators?”

For the past six years, the Adoptee Rights Coalition has worked to raise public awareness outside of the National Conference of State Legislators Summit with the Adoptee Rights Demonstration. Our demonstration includes hundreds of protesters. Our demonstration participants include adult adoptees, original family members, and adoptive family members connected to various forms of adoption. We are also joined by social workers, organization leaders, journalists, and graduate students. While the protest happens outside the convention center each year, there's work going on inside the building as well.

The Adoptee Rights Coalition is proud to be an NCSL Exhibitor. Each year that we are invited back to participate in this esteemed opportunity, it is a direct reflection of the hard work of each of our supporters. For this, we could not be more appreciative.

The Adoptee Rights Coalition is an adoptee-led organization of adult adoptees, original families, and adoptive families that supports legislation that will give all adopted adults unconditional restored access to their own original birth certificates.

The archaic laws that seal the original birth certificates of adopted people are the legacy of a culture of shame that stigmatized infertility, out-of-wedlock birth, and adoption. These laws send a negative message about being adopted. We protest to change these laws and challenge that message.

Adult adoptees in most of the advanced, industrialized nations of the world have unrestricted access to their original birth records as a matter of right. In contrast, adult adoptees in all but six states in the U.S. are forbidden unrestricted access to their own original birth certificates, due to archaic laws that are a legacy of a culture of shame that stigmatized infertility, out-of-wedlock birth, and adoption.

We united for the purpose of educating legislators, the adoption community, and the public about Adoptee Rights. We plan the famous Adoptee Rights Demonstration each year and work directly with legislators and groups within individual States to support their work on this important issue.

Executive Board of Directors

Jeff Hancock, adopted person
President

Diane Crossfield, adopted person
Treasurer

Melanie Recoy, adopted person
Secretary

Claudia Corrigan D'Arcy, original mother
Social Media Director

The Adoptee Rights Coalition Board of Directors is supported by three subcommittees of original parents, adoptive parents, and legislative advisers.

OREGON MEASURE No. 58

Proposed by initiative petition to be voted on at the General Election, November 3, 1998.

REQUIRES ISSUING COPY OF ORIGINAL OREGON BIRTH CERTIFICATE TO ADOPTEES

RESULT OF "YES" VOTE: "Yes" vote requires issuing copy of original Oregon birth certificate to adult adoptees upon request.

RESULT OF "NO" VOTE: "No" vote retains confidentiality of original Oregon birth certificate of adoptees unless court orders disclosure.

SUMMARY: Current Oregon law provides that upon decree of adoption, a new birth certificate generally will be substituted for the original birth certificate, and the original certificate showing birth parent information will not be subject to inspection, unless a court orders disclosure. Measure would require state registrar to issue certified copy of original birth certificate to any Oregon born adopted person 21 years old or older. Establishes same procedures, filing fees and waiting periods for obtaining birth certificate copies for adopted persons as for non-adopted persons.

ESTIMATE OF FINANCIAL IMPACT: No financial effect on state or local government expenditures or revenues.

TEXT OF MEASURE: Upon receipt of a written application to the state registrar, any adopted person 21 years of age and older born in the state of Oregon shall be issued a certified copy of his/her unaltered, original and unamended certificate of birth in the custody of the state registrar, with procedures, filing fees, and waiting periods identical to those imposed upon non-adopted citizens of the State of Oregon pursuant to ORS 432.120 and 432.146. Contains no exceptions.

EXPLANATORY STATEMENT

This measure changes existing law to allow an adopted person 21 years of age or older to obtain a copy of the person's original birth certificate. Current Oregon law prohibits the release of an original birth certificate to such an adopted person without a court order. The law currently requires that upon receipt of a decree of adoption or a report of adoption from a court, the state registrar shall issue a new birth certificate unless the court, the adoptive parents or the adopted person requests otherwise.

This measure requires that upon receipt of a written application the state registrar shall provide a copy of the original birth certificate to an Oregon born adopted person 21 years of age or older. This measure requires that the procedures, filing fees and waiting periods for certified copies of original birth certificates be the same for requests by adopted persons as for non-adopted persons.

This measure applies to persons adopted in the past or in the future. There are no exceptions to this measure.

Committee Members: Appointed by:

- Helen Hill** **Chief Petitioners**
- Shea Grimm** **Chief Petitioners**
- Catherine Dexter** **Secretary of State**
- Jim Wheeler** **Secretary of State**
- Michael Schrunk** **Members of the Committee**

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215. The statement written by the committee was modified and certified by the Supreme Court of the State of Oregon pursuant to ORS 251.235.)

* **November 3, 1998** - Ballot Measure 58 is passed by the voters 57% to 43%

Organizations in Support.

Several major organizations support Adoptee Rights including:

- Holt International
- National Association of Social Workers of Pennsylvania
- The Evan B. Donaldson Adoption Institute
- North American Council of Adoptable Children
- Child Welfare League of America (over 800 member agencies)
- Parents for Ethical Adoption Reform
- The National Adoption Center
- Spence-Chapin Agency
- Hillside Family of Agencies
- Concerned United Birthparents
- Right to Life (Michigan, Indiana, Georgia, and Ohio)
- Ohio Catholic Charities
- Abrazo Adoption Associates
- The North American Council on Adoptable
- Catholic Charities of the Diocese of Albany
- OpenAdoption.org

*Additionally, several major religious groups including: the Episcopal Church and the Presbyterian Church of America support restored OBC access to adult adoptees.

Oregon Measure 58: Judge Paul Lipscomb

“Although some and perhaps many may now quarrel with where that [balance between right of privacy and right to know] has been struck, this court may not set aside Measure 58 unless it runs afoul of the Oregon or United States Constitutions. It is my conclusion that it does not.

“In this country, the non-adopted have free access to their birth information. To deprive adult adoptees of the right to know the basic facts of their birth, social and genetic history in the name of “birth parent confidentiality“ or adoptive parent “concerns“ is morally wrong.”

- Judge Paul Lipscomb

Section Two: Independently Supportive Research.

- Elizabeth J. Samuels Inquiry
- Evan B. Donaldson Executive Summary (2007)
- *Adoption Controversies* by Jane Nast
- Adoptees Deserve Access to Their Birth Records *by Busharis and Hasegawa.*
- North American Council on Adoptable Children (NACAC)
- New York State Citizens' Coalition for Children, by Cornell University.
- “*Adopted Children Should Be Able to View Adoption Records*” Survey by FindLaw



Figure 1 (c) Amanda Woolston

“In all of us there is a hunger, marrow-deep, to know our heritage- to know who we are and where we have come from. Without this enriching knowledge, there is a hollow yearning. No matter what our attainments in life, there is still a vacuum, an emptiness, and the most disquieting loneliness.”

Alex Haley

“For people who are frightened of changes in the adoption law, there is nothing to fear.”

- Washington State Supreme Court Justice Faith Ireland

**"THE IDEA OF ADOPTION:
AN INQUIRY INTO THE HISTORY OF ADULT ADOPTEE ACCESS TO BIRTH
RECORDS"**

By Elizabeth J. Samuels,

Rutgers Law Review #367, 2001, 59 pages

(The following Conclusion is taken from pages 24-26 of the online copy that can be found at:

<http://www.americanadoptioncongress.org/legislation.htm>)

V. CONCLUSION

In sum, adoption law did not proceed in a simple, single step from a period in which court and birth records were closed to the public to a period in which the records were permanently closed to all of the parties. Instead, a more complete and accurate history of the law reveals interim periods, lengthy ones in many states, in which court records were closed to all, while birth records, as recommended by social service and legal authorities, were closed to everyone except the adult adoptees whose births they registered. Laws closing adoption records to the parties were enacted not as a shield to protect birth parents from their adult children's ever learning their identity, but as a sword to prevent them from interfering with the adoptive families raising the children. This rationale was ubiquitous into the 1960s, and it is only later that an additional rationale achieves widespread currency: the rationale of protecting birth parents' lifelong privacy by prohibiting adult adoptees' access to birth records.

The observation that "law is culture" [FN431] is nowhere more apt than in this history of adoption law. The earliest laws prohibiting adult adoptees' access to birth records reflected not an instrumental goal of protecting birth parents from discovery by adult adoptees but instead *435 a social understanding of adoption as a perfect and complete substitute for creating a family by childbirth. As a widespread legal regime of partial secrecy developed--with court records sealed and birth records closed to all except adult adoptees--negative social meanings became attached to adult adoptee interest in birth families, and the understanding became firmly established that lifelong secrecy was an essential feature of adoptions in which the birth and adoptive parents did not know one another. The potency of this understanding was apparent from the 1960s onward, when it was increasingly threatened by radical social change. The understanding itself and the social meanings associated with it were increasingly discounted and were directly challenged by the individual actions and group advocacy of adoptees and birth parents. At the same time, in defensive constructions of the understanding and meanings, adoptees' interest in birth families came to be seen as being in conflict with birth parents' right to or guarantee of lifelong anonymity, and a substantial minority of states moved to extinguish adult adoptees' legal right to access birth records.

It is no wonder that to many adoptees and birth parents the law has seemed painfully incongruent with experience. Those adoptees who have sought and been unable to obtain identifying information, either through a variety of private channels or through public registries, have felt acutely the stern social opprobrium of sealed birth records laws. Birth parents who have supported adoptees' opposition to closed records have felt, understandably in light of the history recounted here, that lifelong anonymity was a harsh consequence of their circumstances rather than a benevolently bestowed protection. The pain caused by having one's deepest feelings met with official censure is conveyed by open records advocates' quotation of a florid but fervent statement by a government authority. In an unpublished trial court decision reversed by the South Carolina Supreme Court, the judge wrote:

The law must be constant with life. It cannot and should not ignore broad historical currents of history. Mankind is possessed of no greater urge than to try to understand the age-old questions: "Who am I?" "Why am I?" Even now the sands and ashes of the continents are being shifted where we made our first steps as man. Religions of mankind often include ancestor worship in one way or another. For many, the future is blind without a sight of the past. Those emotions and anxieties that generate our thirst to know the past are not superficial and whimsical. They are real and they are "good cause" under the law of man and God. [FN432]

Although the movement of the states toward greater openness *436 has been slow and cautious, it has been nationwide and its pace has been accelerating sharply in recent years. [FN433] The numerous passive and active registries are being supplemented or supplanted by the growing number of states opening all records, re-opening records not closed at their inception, opening records prospectively, or opening all or some records subject to disclosure vetoes by birth parents. These changes both reflect and foster the difficult process of deconstructing lifelong secrecy. It may be expected that one day the number of states opening birth records will reach a critical "tipping point," [FN434] a point after which a majority of states will reject lifelong secrecy as expeditiously as they once embraced it.

EVAN B. DONALDSON ADOPTION INSTITUTE

“For the Records: Restoring a Legal Right for Adult Adoptees”

Executive Summary, November 2007

Prepared & Funded by: The Evan B. Donaldson Adoption Institute

2007 Evan B. Donaldson Adoption Institute

120 East 38th Street

New York • NY • 10016

(212) 925-4089 • www.adoptioninstitute.org

“In all of us there is a hunger, marrow deep, to know our heritage, to know who we are and where we have come from. Without this enriching knowledge, there is a hollow yearning; no matter what our attainments in life, there is the most disquieting loneliness.”

-- Alex Haley (Roots)

BACKGROUND AND SUMMARY OF KEY ISSUES

Few questions are more heatedly debated in the world of adoption today than whether adult adopted persons should have routine access to their original birth certificates and other documents from their agency and court adoption files. In most states, they are legally prohibited from obtaining such information, except by petitioning a court for its permission. In only two states, Kansas and Alaska, have adopted persons – upon reaching the age of majority – always had access to their original birth certificates. In the rest of the country, at various times over the past 70 years, statutes have sealed these records and prohibited access to the information. Since 1996, six states – Alabama, Delaware, Maine, New Hampshire, Oregon and Tennessee – have re-established adult adopted persons’ direct access to their birth and/or adoption records.

Principally, these new laws have provided individuals with access to their original birth certificates, which usually contain identifying information about their birthparents; fewer states to date have permitted access to information in the adoption agencies’ and courts’ records, which generally contain more detailed information about the birthparents and the circumstances of the individual’s birth and adoption. These states’ experiences, as well as those of states that have considered changes in their relevant laws but have not amended them to date, provide insights that previously were not available to inform policy discussions on this issue. The arguments of proponents and opponents of “opening” adoption records provide the basis for a synthesis of the key elements. In addition, states’ experiences as they have implemented new access laws provide the foundation for a fuller examination of the impact of allowing adult adopted persons to obtain their birth certificates (and, sometimes, their adoption records). As a consequence, the policy debate can now advance from speculation about the appropriateness, wisdom and impact of such legal changes to a more informed consideration of their personal, practical and social effects on real people’s real lives.

This policy paper is the result of the broadest, most extensive examination to date of the various issues related to state laws governing adult adopted persons’ access to their original birth certificates and/or adoption records. The information and recommendations in this paper are drawn from a review and analysis of past and current state laws; legislative history in states across the country; decades of experience on relevant issues; and the body of research relating to sealed and open records on the affected parties.

PRINCIPAL FINDINGS

This analysis highlights the key role that legal and social impact arguments have played in support of and opposition to statutory changes that provide adult adopted persons with access

to their birth and/or adoption records. This debate and the experiences of various states reveal the following:

- Adopted persons are the only individuals in the United States who, as a class, are not permitted to routinely obtain their original birth certificates. This prohibition on access to one's personal information raises significant civil rights concerns, particularly given the growing understanding of the need to know one's history, heritage, medical and genealogical data.
- □ Denying adult adopted person's access to information related to their births and adoptions has potentially serious, negative consequences with regard to their physical and mental health. As recognized by the U.S. Surgeon General's office in its Family History Initiative, biological family medical history is vital to prevention, early diagnosis and treatment, particularly with regard to diseases and conditions for which individuals may be genetically predisposed, such as heart disease, cancer, and certain mental health conditions.
- □ As states have amended their laws to provide adult adopted persons with access to their birth and/or adoption information; there has been no evidence of the sorts of negative consequences predicted by opponents of changing these laws, including intrusive behavior such as stalking by adopted persons who receive their personal information.
- Similarly, there has been no evidence that the lives of birthmothers have been damaged as a result of the release of information to the children (now adults) whom they relinquished for adoption. In debates leading to these legal changes, opponents had uniformly stated that birthmothers object to the release of birth information and to being contacted by their children. In the states that have amended their laws, however, few birthmothers have expressed the desire to keep records sealed or the wish *not* to be contacted; indeed, in the vast majority of cases, the converse appears to be true.
- Another assertion by critics of changing these laws – that abortion rates rise as a result of such access – is not supported by the experiences of states that have re-opened records (or have never closed them); in fact, the data indicate that reopening records may reduce abortion rates and may increase adoption rates.
- For many adopted persons, the desire to obtain their records is entirely separate from any desire to search for their birthmothers or other relatives; they simply believe – as a human and civil right – that they are entitled to the same basic information about themselves that people raised in their birth families receive as a matter of course. Indeed, many who do get their birth certificates or other documents never search, while others successfully search (a growing phenomenon because of the internet) without any of their documents. Moreover, adopted adults who choose to search invariably make clear that their decisions are not a rejection of their adoptive parents but a desire to learn more about themselves and, in growing numbers, adoptive parents support and assist their adult children's searches.
- □ Research shows that knowledge of what happened to the children they relinquished for adoption plays a powerful role in the resolution of birthmothers' grief, thereby suggesting that providing access to birth and/or adoption information can have other positive consequences.
- □ There has been scant evidence that birthmothers were explicitly promised anonymity from the children they relinquished for adoption. Relinquishment documents provided to courts that have heard challenges to states' new "open records" laws do not contain any such promises. To the extent that adoption professionals might have verbally made such statements, courts have found that they were contrary to state law and cannot be considered legally binding.

- □In addition to the states that have reopened birth and/or adoption records to all adult adopted persons, a growing number of states have restored access more narrowly – typically to (1) individuals who were adopted prior to the state’s law sealing this information and/or to (2) individuals adopted after the effective date of the statute providing access. These statutes have created a “sandwich” situation in which individuals caught in between – adopted a day too early or too late – are precluded from obtaining their documents. These situations raise significant civil rights and fairness issues by denying access to personal information to a selectively defined group of adults.

RECOMMENDATIONS

Much has been learned from the states that have reopened their records, as well as from those that have considered changes in relevant laws. Based on historical, social science and practice research, along with an analysis of the experiences of those states, the following recommendations are made to advance the development and implementation of sound public policy:

1. Amend every state’s laws to restore unrestricted access for adult adopted persons to their original birth certificates.

States’ experiences in providing this information make clear that there are minimal, if any, negative repercussions from taking this important policy step. Outcomes appear to have been overwhelmingly positive for adult adopted persons and birthparents alike; the predicted adverse outcomes, particularly for birthmothers, have not come to fruition. To support states in amending their laws, it is recommended that:

2. Involved organizations, including the Adoption Institute, should monitor state legislative activity on an ongoing basis.

States that are considering the introduction of legislation to provide adult adopted persons with access to their birth and adoption information, or that have introduced such legislation, should be routinely identified and activity within them should be tracked. The intent is to gather information about the scope and nature of legislative proposals in order to assess how best to further them.

3. Advocates, legislators and affected parties from across the U.S. should convene to identify strategies that can support policy changes.

Individuals who have been actively engaged in efforts to change state laws on this issue should be brought together to contribute their collective wisdom and experience. To date, efforts to change pertinent laws have focused solely on individual states rather than on broader, more strategic efforts. A valuable next step would be to assemble knowledgeable individuals from around the U.S. to discuss what they have learned and to jointly develop resources and tools that identify:

- key tactical and strategic components to legislative advocacy on the issue of birth or adoption records access
- □major players in any state’s strategy to educate policy-makers, both within and outside of that state.
- critical messages in a legislative advocacy strategy to amend state laws regarding the access issue
- successful tactics and strategies in educating legislators and influencing the legislative process
- □effective responses to inaccurate assertions, speculations or data that are not borne out by research or experience

4. Within three years of enactment, revisit state laws that create a “sandwich” situation in which some adult adopted persons are denied access to their birth/adoption information.

The experiences of states that have opened birth/adoption information to some but not all adopted persons should be examined to learn how implementation has affected birthparents, adopted persons and adoptive families. If there are minimal or no adverse consequences, as might be assumed based on the experiences of states that have fully reopened records to all adopted persons, these laws should be revisited and those who had been excluded should be provided unrestricted access to their information.

5. Conduct research to expand the understanding of the experiences of adopted persons, birthparents and adoptive parents in relation to the issue of access to records. The following types of research activities should be implemented:

Develop and utilize mechanisms to collect and analyze data on the outcomes for adopted persons and birthparents following changes in state law. Some states have developed mechanisms to track outcome data following statutory changes regulating adult adopted persons’ access to their birth and adoption records, but not all states have done so. Specifically, states should be assisted in developing processes to collect data on the:

- number of adult adopted persons who request birth and adoption information that is made available by statute
- number of birthparents who, when authorized to do so, object to the release of information and/or contact
- documented incidents of harassment or other inappropriate behavior by adult adopted persons or birthparents
- adoption rates for the affected state before and after law changes, along with analysis of trends over time
- abortion rates for the affected state before and after law changes, along with analysis of trends over time

6. Conduct qualitative research about the experiences of adult adopted persons and birthparents in states that reopen birth and/or adoption records.

In addition to data on outcomes and trends, much more needs to be learned about the experiences of the people most directly affected after access laws are amended. Qualitative studies involving interviews with adult adopted persons, birthparents and other family members are vital to the understanding of the impact of legal changes.

7. Conduct more rigorous research on the perspectives of birthparents regarding adult adopted persons’ access to their information.

The current body of research on birthparents’ perspectives is extremely limited: there are few studies, the existing ones are dated, and each has methodological limitations that affect generalization. Well-designed studies, involving quantitative and qualitative methods, are needed to provide a strong knowledge base on birthparents’ perspectives regarding access and contact. Qualitative research with birthmothers, in particular, is needed to develop a clearer understanding of the extent to which they may have concerns about the reopening of records.

8. Build on the experiences of states that have restored access to original birth certificates to expand adopted adults’ access to information in their adoption agency and court records.

Much is being learned from states’ experiences following the restoration of adopted adults’ access to their original birth certificates and from the experiences of the more limited

number of states that have provided their access to information in adoption agency and court records. This knowledge base can provide a basis for policy changes that would provide adopted adults with full access to their personal histories. These experiences should be documented and utilized in ongoing policy development on these issues.

5. Develop education programs to provide accurate data and counter mythology and misinformation.

The debates on legislative proposals to change state laws on access to their birth and adoptive records have taken place not only in state legislatures, but also in the “court of public opinion.” It is essential that information be developed to educate the public, the media and policy-makers about the key issues; create a more-accurate knowledge base; and counter the erroneous information and assumptions that can undermine a well-informed debate.

6. Focus attention at the national level on state law and policy approaches on the issue of access to birth and adoption records.

Although state law regulates access to birth and adoption records, ongoing attention to the relevant issues at the national level is essential – by including this subject on national organizations’ policy agendas, offering presentations at national conferences, and providing information in national organizations’ publications. Leadership in positioning this issue nationally is essential to ensuring that state policy decisions are supported by the most up-to-date, relevant, and accurate information.

CONCLUSION

Providing adopted persons with the same rights as their counterparts who are raised in their biological families is a matter of legal equality, ethical practice and, on a human level, basic fairness. Furthermore, it is an essential step toward placing adoptive families, families of origin, everyone connected to them – and, indeed, adoption itself – on a level playing field within society, without the stigma, shame and inequitable treatment they have experienced in the past. One of these rights – access to birth certificates and other documents – has been heatedly debated for decades, including intense speculation about the repercussions of permitting adopted persons to obtain their information once they reach the age of majority. Today, the question no longer needs to be discussed in theory, because the knowledge base has grown substantially as a result of research, policy debates, and individual states’ experiences in implementing new statutory approaches that restore access.

By synthesizing and analyzing the expanding body of knowledge, this policy paper by the Evan B. Donaldson Adoption Institute provides the necessary foundation for advancing sound public policy that recognizes the right of adopted persons to know their personal histories. There is no evident benefit to waiting any longer for statutory reform; the recommendations in this paper provide a blueprint for the critically needed next steps.

This report was researched and written by Madelyn Freundlich, Senior Research Fellow of the Adoption Institute. Special thanks to Alexandra Altman, Ann Wilmer, Laura Lacci and Joy Park for their research assistance. Appreciation is also extended to the attorneys and legal scholars who provided their expertise, research assistance and vetting of drafts of this document: Fred Greenman, Elizabeth Samuels, Bruce Boyer and Jeff Donaldson. Adoption Institute Executive Director Adam Pertman also provided input and research, and edited this document for publication.

Send questions and comments to info@adoptioninstitute.org.
All contents (c) 2007 by the Evan B. Donaldson Adoption Institute.

ADOPTION CONTROVERSIES: Should adoptees have access to their birth records?

September 10, 1999 – Volume 9, Issue 34

By Jane C. Nast, President, American Adoption Congress.

Written for The CQ Researcher, August 1999.

As an adoptive parent, I have spent two decades working with and for those whose lives have been impacted by closed adoption laws, and learned that secrecy, sealed records and the failure to recognize loss issues are the major flaws of the current system.

Who loses? Adopted persons and their adoptive families, who are denied medical and social history -- sometimes with life-threatening results that reverberate through future generations. Birth families, who lose the right to ever know the fate of the child they relinquished for adoption.

Who benefits? An industry lobbying for government regulations that deny adopted persons access to information that belongs to them. Lawmakers closed adoption records because they were convinced by the social work community that records must be hidden from the “prying eyes of the public” to “protect” adoptive parents from birth families and spare adopted children the “stigma of illegitimacy.” It was also believed environment superseded heredity. In my opinion, it was a social experiment based on the mores and limited scientific knowledge of those times. In today's society, the system of sealed records and secrecy is archaic.

Currently, opponents of honesty and openness in adoption claim that “confidentiality was promised to birth parents”; that birth mothers “would abort” if they believed their unborn children might one day learn their names; and that state mutual-consent registries work. These allegations are undocumented and anecdotal. None have ever been confirmed by a single shred of evidence.

Adoptees Deserve Access to Their Birth Records

Fall 2005 Adoptalk, by Barbara Busharis and Pam Hasegawa.

An adoptee and adoptive mother, Barbara Busharis works as an attorney, and is an adjunct instructor at Florida State University's College of Law, where she teaches a family law seminar. Pam Hasegawa, who is co-chair of communications for the American Adoption Congress, is an adopted person as well as an adoption educator and photographer.

Adoptees' desire to access birth records has been an emotionally and politically charged issue for the past 30 years. Public debate over the issue has created an interesting and somewhat peculiar flow and counter-flow of efforts to amend vital statistics laws. For those who support an adoptee's right to know his or her history, an understanding of the debate, states' responses, and the history of sealed records is essential. With this information in hand, we can take concrete steps toward openness while respecting the rights of everyone involved.

The History of Sealed Records

Legal expert Elizabeth Samuels writes that sealed birth records, far from being a well-established tradition, did not exist before the mid-20th century and were not widespread until after the 1960s. In many places, records were even sealed in two steps—first from public scrutiny and later from those named in the records. This progression of closing records arose from the emerging idea that families formed through adoption should be indistinguishable from those formed by birth. According to Professor Samuels, 20 states still allowed adoptees to see their birth records as late as the 1960s. Other states did not seal birth records until the 1980s and 1990s.

In addition, not only was the trend toward secrecy less than universal, it came as society was profoundly altering its perception and treatment of adoptees and unmarried birth parents. During the 1970s, search and reunion support groups sprang up all over the country. Then, in 1978, the Department of Housing, Education, and Welfare (HEW) assembled a panel of experts (including a birth parent and an adoptee) to draft model uniform adoption legislation.

Proposed in 1980, the act recommended that adult adoptees have access to their original birth certificates, as well as court and agency records about their adoption. Unfortunately, the proposed legislation energized groups that wanted adoption to remain secret. The act HEW finally endorsed did not address adoption records, and a system of unequal treatment under the law—whereby adoptees were denied the right to access birth information that everyone else enjoyed—continued to become more entrenched.

Throughout the 1980s and into the early 1990s, no state reversed its sealed records laws and some that had resisted the trend to seal records finally capitulated. Pennsylvania sealed birth records in 1985; Alabama officially sealed its records in 1991. Only Kansas and Alaska continued to give adoptees the opportunity to access their birth records.

Ironically, even while states upheld their sealed record laws, many considered search and reunion issues in the 1980s. More adult adoptees were seeking information about their origins, so many states created intermediary or registry systems. Registries, though, were a “compromise” supported by closed record advocates, and were highly restrictive. Some systems required adoptees to obtain their adoptive parents’ permission; at least one had a counseling requirement. Such restrictions, coupled with a lack of funding and publicity, kept registries from accomplishing even their limited goal of passive matching.

Legislative Responses to Allowing Adoptees Access to Birth Records

Despite evidence that most people with adoption experience support access to birth information—including results of a mid-1990s study of adoptive parents’ attitudes toward openness by Cornell University and the New York State Citizens’ Coalition for Children—access bills have been repeatedly stymied. In part, because so many still do not understand when and why adoption records were first sealed, debates have tended to revolve around reunion issues, and ignore the fact that states have been keeping records on citizens that a select few cannot see.

Even when legislators have supported adoptees’ right to their records, the unfounded yet prevalent belief that birth parents were promised confidentiality has led to hybrid systems in which an adoptee’s ability to access records hinges on the year of birth, type of adoption, and whether the adoptee already has information. In several states, adoptees born either after access legislation came into force, or before records were sealed, can access their records if a birth parent does not object. Adoptees born in

the interim, however, must use confidential intermediaries or the state registry to seek information.

States where access to birth certificates depends on the year of birth or adoption include Colorado, Maryland, Michigan, Montana, Ohio, and Vermont. In Texas, recent legislation allows adoptees who already know their birth parents' names to obtain a copy of their original birth certificates. And in Virginia, court records for private placements taking place after 1984 are available to adoptive parents, adult adoptees, and birth parents named in the records.

Supporters of access to records believe that the right to know one's history should not be revoked because of one's birth date, how one was adopted, or whether information was deliberately or inadvertently shared with one's parents. Past arguments about seeking contact with birth parents, while compelling, took the focus off how adoptees experience differential treatment under the law. In recent years, the emphasis has turned back to legal issues, and led to a more balanced approach in open records laws passed during the last 10 years.

Access legislation began to gain momentum in 1994 when Tennessee revised its adoption code to recognize adult adoptees' right to copies of court, agency, and birth records—not just original birth certificates. Opponents sued in state and federal courts to prevent the access provisions from taking effect. In September 1999, however, the state Supreme Court upheld the law and records finally began to be issued.

In 1998, Oregon voters passed Measure 58, a ballot initiative that gave adult adoptees the right to access their original birth certificates. As in Tennessee, open record opponents launched court challenges, but once again the law was upheld. Within a month after Measure 58 went into effect in May 2000, more than 3,650 adoptees had applied to receive copies of their original birth certificates.

Oregon's system of access allows birth parents (through a non-binding contact preference option) to state whether they would prefer direct contact with a relinquished child, contact through an intermediary, or no contact at all. This contact preference model, which has since been duplicated in Alabama and New Hampshire, creates a way to respect birth parent wishes without denying adoptees access to their birth records.

Supporting Record Access Today

Although we have made important strides, far too many adoptees cannot yet access information that children who grow up in their birth families take for granted. Fortunately, we can all do something to help ensure that access laws are introduced, supported, and eventually passed in every state. For instance:

- Clarify the history of sealed records in conversations with colleagues and triad members. Sealed records are an extremely recent "tradition," and ever since states began keeping adoptees' information away from them, an intense debate has been raging.
- Be aware of groups that are likely to oppose efforts to open records. Efforts to keep adoptees from viewing their records have typically been supported by certain right-to-life advocates, the Catholic Conference of Bishops, and some chapters of the American Civil Liberties Union and state bar associations. Leading the fight, the National Council for Adoption, with member agencies like LDS Social Services, has aggressively testified about the alleged dangers of unsealing adoption records.
- Discuss records access with a variety of people and groups because you never know who might support the cause. Start with adoptees, NACAC representatives, adoption and mental health professionals, child advocates, and foster parent

associations, but don't forget other groups. Some adoptive parent groups support adoptees' right to access their records, and the right-to-life movement is not uniformly opposed to more openness. Some church-affiliated agencies have actively supported contact between adoptees and birth parents, and in 1992, the directors of NJ Catholic Charities Maternity and Adoption Programs endorsed the right of adult adoptees to have unencumbered access to their birth certificates.

- Help others to understand that the arguments opponents typically put forward are baseless. The Tennessee litigation in the mid-1990s rebutted claims that restoring adoptee access to birth records would result in more abortions. In fact, sealing records did not slow the rate of abortion, and granting access to records has not increased the rate at all. In addition, court decisions in Tennessee and Oregon have confirmed that there was never an absolute guarantee of birth parent confidentiality in any adoption.

Kathy Ledesma, Oregon's adoption program director, wrote in a recent letter that in the five years since Measure 58 took effect, "there has been nearly no negative fallout from the open birth records measure/legislation." In addition, the numbers of birth parents making adoption plans and would-be adoptive parents trying to adopt from private agencies have not decreased as feared. "We here in Oregon," Ledesma concludes, "have learned...that in the crafting of public policy, the fears of a few...cannot necessarily be generalized to all of the public that is affected."

- Be deliberate about the language you use to talk about adoptee access issues. For example, the phrase "opening adoption records" is misleading because it suggests people want to grant unfettered access to the records. "Restoring adoptee access to birth records" more accurately describes what we support. In the same way, "Giving adopted children their records" is misleading while "Allowing adopted adults to obtain their birth records" is more exact.
- Meet with a state legislator in your district and explain how adoptees and their families are affected by sealed records. If he or she is responsive, recommend that the legislator draft a bill to address the issue. If your legislator is not responsive, visit your state legislature's web site to see who has introduced adoption-related bills. Or call a child advocacy group to ask which state lawmakers support bills pertaining to children's and families' civil rights.
- Investigate organizations that promote access. Concerned United Birthparents (www.cubirthparents.org) and the American Adoption Congress (www.americanadoptioncongress.org) are national groups. State groups include Maine's Access 2006 (www.obcforme.org), the Minnesota Coalition for Adoption Reform (www.adoptreform.org), New Jersey Coalition for Adoption Reform and Education (www.nj-care.org), and Texas Coalition for Adoption Reform (www.txcare.org).

By understanding how birth records came to be sealed, and debates that have kept them closed, we can help free adoptees from the closet of secrecy. Prospective adoptive parents now routinely learn about "acknowledging differences" rather than denying them. Sealed records were originally premised on the denial of differences, to make adoptive families appear like birth families. The rationale that they are somehow crucial to maintaining adoptive families now must be recognized as outdated and unneeded.

North American Council on Adoptable Children (NACAC)

970 Raymond Avenue, Suite 106
St. Paul, MN 55114

Adoptive Parents' Attitudes Toward Openness
"IT'S TIME TO SPEAK FOR OURSELVES"

Adoptive Parents' Attitudes Toward Openness in Adoption Records:
Summary of A Study of NYS Adoptive Parents Conducted in 1994-1995

A survey was distributed to adoptive parents in New York State through agencies and adoptive parent groups and associations. Response to the survey resulted in a sample of 1,274 adoptive parents in 743 adoptive families.

Characteristics of the Sample: The mean age of adopted children in the survey was 9.07 years. Adopted children were predominantly female and white. The majority of children in the sample were adopted through a public agency, and lived in the home as a foster child prior to the adoption. Compared with children adopted privately or through a private agency, children in the sample who were adopted through a public agency were found to enter an adoptive home at a significantly older age, and take longer to be adopted. Children who were of an "other" race were more likely to be female and to be adopted internationally. Compared with white children and children of an "other" race, African American children were more likely to live in the home as foster children prior to adoption, spend longer time in the home prior to adoption, and be adopted at an older age.

Mean age of both adoptive parents and spouses/partners was approximately 47 years. Adoptive parents and spouses/partners were predominantly white, married, with college degrees, employed professionally, and members of an adoptive parent group. The majority of adoptive families were two-parent, dual-earner families. Single-parent families were more likely to be headed by an African-American female, and an unemployed parent. Adoptive families were, on average, larger than families in the general New York State population. For the majority of families in the sample this was their first adoption. Approximately 17 percent of sample families had other adopted/foster children living in the home. Thirty-eight percent of sample adoptions were interracial.

The Adoptive Child's Contact With Their Birth Parents: Only 16.6 percent of adopted children in the sample had any contact with a birth parent, and this contact was likely to be seldom but not regular. Approximately 40 percent of adopted children in the sample knew the name of their birth mother, and 23 percent knew the name of their birth father. If there was contact with a birth parent, adopted children in the sample were far more likely to have contact with their birth mother compared with their birth father. White adopted children and adopted children of an "other" race were far more likely to have contact with their birth mother compared with their birth father. Children who lived in the home as a foster child prior to the adoption were far more likely to have contact with a birth parent. Older adopted children were far more likely to want to maintain contact with a birth parent. Adopted children who lived in the home as a foster child prior to the adoption were far less likely to want to maintain contact with a birth parent.

Adoptive Parents' Attitudes Toward Openness in Adoption Records: In the survey instrument adoptive parents were asked their opinions relating to a set of three questions regarding various aspects of the law covering a child's access to their adoption records (birth certificates). These questions were:

* Statement 1. NYS law should allow an adult adoptee to obtain a copy of his or her original birth certificate.

* Statement 2. At what age should an adopted person have access to his/her Birth Certificate?

* Statement 3. An adult adoptee's right to obtain an original birth certificate should be retroactive. In other words, all adult adoptees should have access regardless of when they were adopted.

In response to Statement 1, 83.7 percent of adopted parents and 72.6 percent of spouses/partners either agreed or strongly agreed that an adult adoptee should be able to obtain a copy of his/her original birth certificate. Only 8.8 percent of adoptive parents and 20.7 percent of spouses/partners disagreed or strongly disagreed with this statement. In response to Statement 2, 39.2 percent of adoptive parents and 31.6 percent of spouses/partners thought that access to birth certificates should be made available at age 18. The majority of both adoptive parents (44.3 percent) and spouses/partners (42.0 percent) thought that such access should be reserved until age 21. In response to Statement 3, 78.9 percent of adoptive parents and 66.0 percent of spouses/partners agreed that access to birth certificates should be retroactive.

In summary, the majority of adoptive parents thought that New York State law should allow an adoptee to obtain a copy of their original birth certificate, and that this access should be retroactive (access should be given regardless of when the child was adopted). The majority of adoptive parents thought that access to an original birth certificate should be restricted to a time when the adopted child has reached maturity (21 or older). African American adoptive parents and those who adopted their child through a public agency were, on average, more open to the concept of an adopted child having access to their birth records.

Using a summary measure of openness it was found that older adoptive parents were significantly more open to the concept of disclosure in adoption records. It was found that older, white (compared with African-American) and male spouses/partners were significantly more open to the concept of disclosure in adoption records. Furthermore, spouses/partners living in homes where the adopted child was white (compared with African American) or where the child had lived in the home as a foster child prior to the adoption, were significantly more open to the concept of disclosure in adoption records.

Dividing sample parents by gender, it was found that older female adoptive parents were significantly more open to the concept of disclosure in adoption records, and female adoptive parents were significantly more open to the concept of disclosure in adoption records, and female adoptive parents who had fostered their child prior to adoption were significantly less open to the concept of disclosure in adoption records. Male adoptive parents who had fostered their child prior to adoption and those who had adopted a white child (compared with an African American child) were significantly less open to the concept of disclosure in adoption records.

Last modified: April 27, 2009

FOR IMMEDIATE RELEASE

Adopted Children Should Be Able to View Adoption Records, Says New Survey by FindLaw

MOUNTAIN VIEW, Calif., Nov. 25, 2003 – An overwhelming majority of Americans believe adopted children should be granted full access to their adoption records when they become adults, according to a new survey by the legal Web site FindLaw (<http://www.findlaw.com>).

President Bush has declared November as National Adoption Awareness Month. A new national survey conducted by FindLaw found eighty-four percent of Americans believe adopted children should be allowed to view their adoption records upon becoming adults. The survey used a representative sample of 1,000 adults nationwide. Only twelve percent said adopted children should not be granted full access to their adoption records.

By some estimates, six million Americans were adopted as children. Currently, adopted children in many states are only allowed to view partial or edited versions of their adoption records, which often omits information such as original birth name, name of birth parents and place of birth. Several states are currently considering legislation that would fully open adoption records.

"The survey results come as no surprise," said R. David Cousineau, President and CEO of Holt International Children's Services, a leading adoption agency. "We have placed more than 40,000 children with adoptive families. Our experience with three generations of adoptees has provided consistent evidence that adoptive families understand and believe in the necessity of adoptees to know their birth history. It is the fundamental right of all individuals to have access to information about themselves. For adoptees, that includes access to their own birth records with the same equity as other individuals are entitled."

Opponents of open records policies believe unrestricted access to birth information would violate the right to privacy of the birth parents, who made their adoption decisions based on what they believed was a guarantee of privacy.

Additional information on adoptions and other family law issues can be found on free legal information Web sites such as <http://www.findlaw.com>.

As Adoptees Seek Roots, States Unsealing Records.

By Wendy Koch, USA TODAY, 2008

When Maine State Sen. Paula Benoit got a bill passed last year (2007), she got more than a new law: She found pieces of her past. For years, Benoit, 52, had wondered about the parents who had put her up for adoption. That helped lead her to support a plan to give adult adoptees access to their original birth certificates. After the bill passed, Benoit learned the names of her birth parents and their hometown. She e-mailed a colleague, Sen. Bruce Bryant, who represents that area and supported her bill, and asked whether he knew them.

His reply: The deceased couple were his grandparents.

"Oh, for the love of God, I need to call him and say, 'I'm your aunt,' " Benoit recalls thinking. "Can the world be any smaller?" There was more: Bryant's brother, Mark, serves in Maine's House of Representatives — and had opposed Benoit's bill. "It's too open," he says, adding that birth mothers expected privacy when they placed children for adoption years ago. He says he's happy Benoit is in his family but worries the new law may force some birth parents into contact they do not want

Three lawmakers, two points of view, one family.

As unusual as Benoit's story is, the debate within her family over whether adult adoptees should be able to learn more about their backgrounds is echoing across the nation. Last year, Maine was one of three states to pass laws to give such adoptees full or partial access to their original birth certificates — more than in any year since 2000, according to a USA TODAY analysis of state records. Massachusetts approved access for those born before July 1974, when records were sealed, or after January 2008. North Carolina approved indirect access through a state-appointed intermediary. When its law takes effect next January, Maine will become the eighth state to give adult adoptees full access to their birth records, which list birth parents' names.

The controversial push to open adoption records is driven in part by the increased interest among many Americans in finding their ancestral roots. Many adult adoptees may be able to find their birth parents without an original birth certificate by searching databases and the Internet, but the official record makes it easier. Some adoptees want to establish a relationship with birth parents; others are more interested in family medical histories. Some don't want to contact their birth parents; they simply want to know their past.

"For 52 years, I know I've been loved," Benoit says of her adoptive parents, who are alive and support her desire to know birth relatives. Even so, she says, she wondered whom she looked like. She wondered why, despite diet after diet, she couldn't lose weight. "Does obesity run in my family?" she'd ask herself.

"This is really about identity and the truth of a human being's existence," Darryl McDaniels, known as the rapper DMC, told lawmakers last month in New Jersey, where bills to open birth records have languished for decades. McDaniels, 43, learned at 35 that he was adopted and has since backed a bill to unseal birth certificates. "We never start a book from Chapter 2," he said. "As adoptees, we live our lives from Chapter 2."

As the situation in New Jersey suggests, unsealing birth certificates often has been difficult. Bills to do so were proposed in at least seven other states last year but did not pass. Some proposals, such as those in New Jersey, have been stymied by opposition from the National Council for Adoption and some Catholic bishops, abortion opponents and civil libertarians. Thomas Atwood, president of the council, which represents adoption agencies, says birth

mothers were promised privacy and if that promise is broken, fewer women will choose adoption over abortion. Despite the opposition, "the general trend is clear: Adoptees are being given access, state by state," says Fred Greenman, legal adviser to the American Adoption Congress, which supports open birth records. Greenman reconnected with his daughter in 1991, more than 30 years after agreeing to her adoption. The daughter's husband made the first call and set up a meeting. "We spent the whole day at the dining room table talking," he recalls. He says most birth parents welcome contact, as he did, and adoptees deserve to know their past.

Last year's increase in access laws also reflects a larger trend toward openness in adoption, as more birth parents seek to stay in contact with kids they relinquish. "There's far more acceptance of it being open," says Herbert Brail, head of the American Academy of Adoption Attorneys. That was not the case decades ago when many women, under the stigma of unmarried pregnancy, felt forced to relinquish their babies, says Ann Fessler, author of *The Girls Who Went Away*, a 2006 book about women who gave up children in the 1950s and 1960s. Fessler, an adoptee, says many of the women she interviewed have "tremendous guilt." She says they want contact with their children, and about half have it. The rest, she says, feel they have no right to it but wonder about their children. Fessler, 58, says women in their mid-70s and 80s, are — like her own birth mother — often more reticent about a reunion. She wrote her 77-year-old mother a letter, then a postcard, and waited more than a year but got no response. So she called. "I was very, very nervous — kind of shaking," she says. Her mother was friendly on the phone, so they met in person a few months later. "We chatted like crazy," Fessler says. Now, however, they have "minimal" contact. Her mother has not told her other three children about Fessler. "She's still torn about whether she can come out about this," Fessler says.

Eileen McQuade, president of the American Adoption Congress, says unsealing birth records has not created problems in the states that have done so — Alabama, Delaware, New Hampshire, Oregon and Tennessee. Two other states, Alaska and Kansas, have never sealed birth records. Delaware allows full access except when birth parents object.

Abortion rates have declined in the states that allow full access to records, as they have nationwide. Most birth parents in Alabama, New Hampshire, Oregon and Tennessee have consented to contact with their children or the release of records, according to records reviewed by USA TODAY. After Oregon began releasing records in 2000, few birth mothers complained, says E. Wayne Carp, author of *Adoption Politics: Bastard Nation & Ballot Initiative 58*, a book on the state's experience. As each state opens records, others will follow, says Adam Pertman, executive director of the Evan B. Donaldson Adoption Institute, which favors unsealing records. "Success breeds success."

A battle of legal rights

The legislative battles often pit an adoptee's right to his or her birth certificate against a birth mother's right to privacy.

"People have a right to their birth records," says Marley Greiner, founder of Bastard Nation, a group pushing to unseal records. There is no such legal right, Atwood counters, adding that birth mothers believe they were promised privacy when states sealed records. He says many won't speak out because they have other kids or spouses who don't know about the adoption. Birth records were sealed not to give birth mothers anonymity but to protect adoptive parents from interference from birth parents, says Elizabeth Samuels, a professor at the University of Baltimore School of Law. She says some were sealed to protect adoptees from the stigma of illegitimacy. If birth mothers or adopted children really want to find each other, Atwood says, they can list their names in registries set up by states.

Not all states have registries. Many that do make few matches, says Marri Rillera of the International Soundex Reunion Registry, which gives adoptees and birth parents free help in

finding each other. In Texas, about 8,500 adoptees, siblings and birth parents have registered. One or two matches are made each month, says Patricia Molina, who oversees the registry. "A registry is not the answer," Rillera says. "Open records are." She says some companies charge thousands of dollars to search records and some adoption agencies charge \$400 to \$500 for non-identifying information about birth parents, such as age, medical history, ethnicity and religion. An adoptee's search will be quicker and cheaper if birth records are open, she says. "Frankly, I'd like to be out of business." 'We've had mixed emotions' At least 19,000 adoptees have asked for their birth certificates in Alabama, Delaware, New Hampshire, Oregon and Tennessee. "I've seen a lot of people whose hands shake" when they get the record, says Melanie Orman, adoption coordinator for New Hampshire. She says many had met their birth mother or knew her name but wanted the piece of paper as a record of their past.

Birth mothers can be distressed. Orman got a call from an angry woman who said she was awakened at 11 p.m. by a call from someone who said, "You're my mother." She says the woman felt her privacy had been invaded. "We've had mixed emotions: happy, sad, upset," says Carolyn Jones, coordinator of post-adoption services at the Tennessee Department of Children's Services. Adoptees seeking birth certificates are "routine now," says Carol Sanders at Oregon's Center for Health Statistics. From June 2000 through November 2007, 9,571 adoptees sought records in Oregon. Of 564 birth parents who filed forms on whether they wanted contact, 85 said no. "I've seen very few who say no," says Dorothy Harshbarger, Alabama's registrar of vital records. She estimates 95% of birth parents allow contact. She says a few complained after records were unsealed in 2000, but not many since then.

A dozen states provide partial access to original birth certificates, depending on the date of the adoption and the permission of birth parents. Another dozen allow indirect access through a state-appointed intermediary if birth parents agree. In other states, adoptees need court approval. In Illinois, which allows access via an intermediary, 25% of the parents decline contact, says Nancy Golden, co-director of the Midwest Adoption Center, a group that does adoption counseling. She says the women may have kept the birth a secret or may fear anger from the adoptee. She says reunions usually are positive if people don't expect too much. Still, she says the experience can be "overwhelming."

Illinois state Rep. Sara Feigenholtz, who plans to sponsor a bill this year to fully open records, says she was in her 20s when she found her birth mother. The woman's first response: "What took you so long?" McQuade was 19, a college freshman, when she relinquished a baby girl in 1966. "I felt so powerless and shameful," she recalls. She later married the father and had two more daughters, but they didn't discuss their first child. "We hoped the pain would go away," she says, "but it never did." Then came the phone call on Nov. 28, 1997, about 9:30 p.m. "I'm calling from New York," a woman said. "I knew what it was immediately," McQuade recalls. The caller, a friend of her first child, asked if the parents wanted contact. They did. The friend handed the phone to the daughter. Mother and daughter spoke for the first time, neither sure what to say. McQuade started by telling her family medical information. "It was kind of indescribable — terrified, excited, surreal," says her daughter Kathleen Laing. "We e-mailed every day for a year. It was incredibly intense."

They met in person the following July 4th weekend. "It was a complete roller coaster," McQuade says, from joy and hope to sadness at missing so many years. She says their reunion is "a fairy tale come true" that prompted her activism. Benoit says that after she began pushing to unseal Maine's birth records, she asked a judge for her own. He said no. Later, to her surprise, she received a letter from the court that included her birth mother's name. She still does not have her original birth certificate. She says the Bryants invited her to a Christmas party and other get-togethers. "Our family is happy to know her," Mark Bryant says. Benoit says her birth mother was poor and about 50 when she was born, and did the right thing in relinquishing her baby. If her birth mother were alive, Benoit says, "Boy, would I love to put my arms around her and thank her."

http://www.usatoday.com/news/nation/2008-02-12-adoption_N.htm#

Section Three: Erroneous Myths & Supporting Arguments

- A Guide to Adoptee Friendly States
- Myths About Adoptees' Access to Their Original Birth Certificates
- "Abortion Claims Unsubstantiated" by Joyce Bahr, President NYSARUI.
- "How Adoption in America Grew Secret" by Elizabeth J. Samuels
- Georgia Tann & The Tennessee Children's Home Society.
- Minneapolis-St. Paul Star Tribute Article

Presently in the United States the following states allow for adult adoptee access to their Original Birth Certificates whether in part or in whole:

ACCESS STATES:

- Alabama
- Alaska
- Kansas
- Maine
- New Hampshire
- Oregon
- Rhode Island
- Tennessee

PARTIAL ACCESS STATES:

- Colorado
- Delaware
- Illinois
- Massachusetts
- Montana
- Ohio
- Vermont
- Nebraska

STATES WITH PROPOSED LEGISLATION:

- Connecticut
- Florida
- Georgia
- Indiana
- Maryland
- Michigan
- Minnesota
- Missouri
- New Jersey
- New York
- North Carolina
- Oklahoma
- Pennsylvania
- South Dakota
- Virginia
- Washington

A right is not a right, in America, unless it extends to all Americans.

--Archibald Cox, Special Prosecutor, Watergate, 1973.

Myths About Adoptees' Access to Their Original Birth Certificates

The results based on states that have instituted adoption reform and recorded in hard data, are as follows:

MYTH #1: Only a small number of adopted persons want to know their birth information.

In a study of American adolescents, the Search Institute found that 72 percent of adopted adolescents wanted to know why they were adopted, 65 percent wanted to meet their birth parents, and 94 percent wanted to know which birth parent they looked like.

Psychological literature has established that whether mental or actual, searching is an understandable, common and part of healthy adaptation for adopted persons. (A Psychosocial Model of Adoption Adjustment by David Brodzinsky, Marshall Schechter and Robin Marantz Henig).

In Oregon, as of February 1, 2007, seven years after passage of approving access in 2000, 9193 adult adoptees have requested and 8,878 have received their original birth certificates.

MYTH #2: Most birthmothers want to forget the past and not have "old wounds reopened."

Through registries and data collected in states and countries where access was legislated, 95% of birthparents who were contacted wanted reunion. (1989 Maine Department of Human Resources Task Force on Adoption)

In Oregon, only 0.25% of birthparents requested no contact.

MYTH # 3: Birthmothers need to be protected from searching adoptees.

Adopted persons are most often reticent to pursue reunion in fear of risking rejection.

Birthparents have the same protections under the law as anyone else. They have the right of privacy and boundaries as does everyone, but privacy does not equal secrecy. Privacy is about healthy boundaries; secrecy prevents people from having information about themselves.

Researcher John Triseliotis from University of Edinburgh found in 25 years of study that adoptees needed genealogical and background information to confirm their identity based on both adoptive and birth family. In researching the impact of opening records in Great Britain, he found those who did search "did so with considerable forethought. Furthermore, the vast majority are over-careful not to hurt anyone's feelings." (In Search of Origins: The Experience of Adopted People by John Triseliotis).

Ninety-four percent of non-searching birthmothers when contacted by their adult birth children were pleased, according to a recent British study. ("The Adoption Triangle Revisited: A Study of Adoption Search and Reunion Experiences," British Association for Adoption and Fostering, 2005)

MYTH # 4: Lifting secrecy will increase abortion.

Data from states where access exists reveals that if access has had any effect on adoptions and abortions, it was to increase adoptions and decrease abortions.

Since adult adoptees in Oregon and Alabama obtained access to their original birth certificates in 2000, abortions have declined much faster in those states than in the nation as a whole. Between then and 2003 (the last year for which national data are available) resident abortions declined 10% in Oregon and 13% in Alabama, but only 2% in the nation as a whole. In other words, after adoptees gained access in those states, abortions declined five times as fast as in the country as a whole.

Workers at pro-life centers such as Birthright report that young women today will only choose adoption if they are assured of updates or contact with the adoptive family. Gretchen Traylor, Birthright counselor in Minnesota, says, "When adoption is under consideration, the young woman's overriding concern is that she will be unable to contact her child later in life, and that the child will not be able to find her as well. Pregnant women tell me that if such contact is NOT available, they would rather abort."

In a national survey of 1,900 women having abortions, not one woman cited the inability to choose a confidential adoption as a factor in her decision to have the abortion. "Reasons for Terminating an Unwanted Pregnancy," Guttmacher Institute, 2003.

A September 24, 2004 (Page D1) Wall Street Journal article reports that those parts of the country practicing open adoption currently do not have enough couples to adopt infants being relinquished by birth parents wanting open adoption.

MYTH #5: Opening up adoption will break up adoptive families.

With a law that gives adults access to their original birth certificates, nothing changes while the adoptee is a child under the care of adoptive parents. Birth information and contact with birth family does not replace one's relationship to adoptive parents but rather leads to a more cohesive identity for some adult adoptees.

Research from the United Kingdom on the results of access found that the loyalty and love adopted people felt towards their adoptive parents and family did not lessen as a result of the search and reunion process. In some cases adopted people reported that the experience of searching enhanced their relationship with their adoptive families. (British Association for Adoption and Fostering, 2004).

Many therapists believe the process of finding past history is so helpful to the adoptee that it strengthens the adoptee's relationships with their adoptive families.

After New Zealand allowed adult adoptee access to adoption records, researchers found that reunion actually strengthened relationships between adoptees and their adoptive parents, often laying fantasies about birth family to rest. Results showed that adopted children and adults can

successfully integrate two or more families into their lives. Finding birth relatives does not mean they relinquish their adoptive ones. (The Right to Know Who You Are, Keith C. Griffith)

Research conducted by the University of Minnesota and University of Texas reveals that parental fears about entitlement in open adoptions were unfounded, and in many ways, contact with the birth family strengthened the bond between adoptive parents and children. (Openness in Adoption, Harold D. Grotevant and Ruth G. McRoy)

MYTH # 6: Adoptees conceived by rape or incest (and birthmothers too) will be devastated by search, reunion and/or learning truth about origins.

While unsavory details of one's past are not pleasant to cope with, they still are a part of one's life. Denying access to one's personal information about himself/herself is robbing that person of his/her heritage. The contents of the information are not as important as the fact that information becomes available, and questions are able to be answered.

New Zealand found that adult adoptees can better cope with such traumatic revelations than with not having any information. Oddly enough, many had already fantasized the event. Most adoptees know that in exploring the unknown void of their origins, anything is possible, realizing that there must have been difficulties or they would not have been placed for adoption. This information remaining secret increases the shame. The reality, once it is confronted, is less than the enormity of the secret.

One adoptee conceived from rape said, "When we met things were pretty tense between us. I knew that my birthmother was holding back something. I asked her and she told me. We both held each other tight and bawled for about an hour. Then we shared exactly what had happened and we shared our hurts and fears. It was one of my birthmother's fears that one day I would find her and ask her. And now that traumatic time had come. Somehow, in the sharing of our deep personal grief feelings, we built up a relationship. We now understand each other on an issue that no one seems to understand." (The Right to Know Who You Are, Keith C. Griffith)

© <http://www.americanadoptioncongress.org>

Each year the Adoptee Rights Coalition stages an Adoptee Rights Protest at the National Council of State Legislators annual summit. Please visit our booth at the summit for information on what your state can do to promote adoptee rights.

Unsubstantiated Claims Unsealing Birth Certificates for Adult Adoptees will Increase Numbers of Abortions

By Joyce Bahr, 2010

Pro adoption secrecy opponents of the 1996 Tennessee open records legislation claimed the new law would increase the number of abortions and decrease numbers of abortions. They argued women would rather abort than bear children and place them for adoption if they knew the children could later find them. The court battle was unsuccessful for them as the open records statute was upheld by both the Tennessee Supreme Court and the U.S. Court of Appeals for the Sixth Circuit. Claims by pro secrecy opponents were debunked. Proponents of open records were able to show statistical Comparisons adoptions and abortions over time and between different states was proof that open records does not increase numbers of abortions. Data from states with open records indicates numbers of adoptions have not decreased.

A recent study by the Guttmacher Institute, Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives concluded the decision to is typically motivated by multiple, diverse and interrelated reasons. The themes of responsibility to others, and resource limitations such as financial constraints, and lack of partner support recurred throughout the study.

Many Christians are concerned according to a 2005 article in the New York Times titled One More ‘Moral Value’: Fighting Poverty. Glen E. Stassen, a professor of Christian Ethics at Fuller Theological Seminary, Pasadena, California, said his students, who were largely conservative, agreed that poverty should be a part of the moral values discussion. “A lot of Christians who are worried about abortion see poverty as a pro-life issue, because if you undermine the safety net for poor mothers, you’ll increase the abortion rate and the mortality rate”. Dr. Stassen said, “We’ve seen that happen since welfare reform, just as the Catholic Bishops predicted”.

The welfare reform Dr. Stassen is referring to was enacted in the 1980’s and was referred to as a Baby Cap by the Catholic Bishops. Dr. Stassen like most Christian leaders says nothing about the possibility of a higher abortion rate if birth certificates are unsealed. Many Christian agencies such as Catholic Charities and Lutheran Child and Family Services assist adoptees and birth/natural parents in their search, and are in favor of open records. Many adoptees and birth/natural parents are Christians.

According to Bill Betzen a Catholic Social worker from Texas who is pro open records, “*Christian Social workers have been conducting outreach throughout the country informing people about the option of open adoption and many are opting for it over abortion.*” Like many advocates for open records Bill believes the higher abortion rate theory with unsealing birth certificates is irrelevant. There are no studies, nor is there any data to prove unsealing birth certificates will increase the abortion rate. Claims by the National Council for Adoption and a small number of Christian pro secrecy advocates are unsubstantiated.

2013 UPDATES: ¹National Council for Adoption no longer supports the argument that restored OBC access will lead to increased abortions. ²Several statewide “Right to Life” groups presently endorse restoring OBC access, including Michigan, Ohio, and Georgia. ³The Ohio Catholic Church endorses Ohio Bill H.B.61, which will grant each adoptee restored OBC access.

How Adoption in America Grew Secret

by Elizabeth J. Samuels, (reprinted with permission of the author)

They've become a standard of news features, magazine articles and movie plots: the stories of men and women, adopted at birth, who decide to seek out their biological parents. The urge for reunion seems so elemental that a plethora of organizations has sprung up to assist adoptees in their search. Today, the Internet is replete with Web sites offering registries to help adoptees and their birth families find each other by matching up information such as dates and places of birth. But many adoptees "in search" are not able to find information through these organizations or official state registry systems. Their only hope is access to original records, such as their un-amended birth certificates. And this, unfortunately, is a source of information that remains largely closed to them, even though, as studies now show, most birth parents are open to being found.

In fact, most birth parents may never have objected. The general public assumption seems to be that, from the beginning, adoption records were closed in large part to protect the birth mother's identity. But that isn't the case at all -- as I discovered when I undertook to research a question arising from my own family's experience. The child my sister had surrendered for adoption was able to locate us in the late 1980s because my sister had given birth in England, where records have been open to adult adoptees since 1975.

As I saw what profound satisfaction mother and daughter experienced getting to know each other, I began to wonder why almost every U.S. state had decided to close records to the adult children of adoption in the first place. What I found surprised me. Legal adoption in America only came into being starting in the second half of the 19th century, and at first all adoption records were open to the public. When they began to be closed, it was only to the general public, and the intent was to protect adoptees from public scrutiny of the circumstances of their birth. *Later, as states began to close records to the parties themselves, they did so not to provide lifelong anonymity for birth mothers, but the other way around -- to protect adoptive families from possible interference or harassment by birth parents.*

One of the most prominent actors in the development of adoption law in the mid-20th century was the Children's Bureau, an arm first of the U.S. Department of Labor and later of the Department of Health, Education and Welfare. In the 1940s and '50s, the bureau advised that birth and adopters who did not know one another should not have access to information about each other. But it also said that original birth certificates should be available to adult adoptees. As one of the bureau's consultants put it in 1946, "every person has a right to know who he is and who his people were."

In the '40s and '50s, most state laws did permit adult adoptees to view their birth records. But by 1960, 26 states were making both original birth records and adoption court records available only by court order. Twenty other states still made the birth records available on demand, but over the following 30 years, all those states but three -- Alaska, Kansas and South Dakota -- closed records to adult adoptees.

Why were states closing their records even before 1960, when the reasons being advanced were all about protecting adoptive families, and not birth parents? The historical record suggests that birth mothers were in fact seeking a measure of confidentiality. What the mothers wanted, however, was not to prevent the adoptive parents and the children they had surrendered from discovering their identities, but to prevent their families and communities from learning of their situations. A powerful reason for the earliest closings of birth records to adult adoptees may simply have been that it was consistent with an emerging social idea about adoption: that it was a perfect and complete substitute for creating a family by childbirth, so the adopted child had no other family and would never be interested in learning about any other family.

Once most states sealed records for everyone except adult adoptees -- and many states foreclosed access even to them -- the record-sealing laws themselves may have helped foster the notion that lifelong secrecy is an essential feature of adoption. Adult adoptees increasingly felt discouraged from seeking information about their birth families, and those who did were viewed as maladjusted. By the 1970s, legal comments and court opinions started to talk about the reason for permanently sealed records in terms of birth parents' rights to lifelong anonymity. And states continued to pass laws foreclosing adult adoptees' access to birth records.

Since the adoptees' rights movements began in the 1970s, it has encountered stiff opposition to its efforts to win legal access to birth records. Only in the past six years have adoptees won an unqualified right to view records in three states -- Tennessee, Oregon and Alabama. Also, Delaware joined Nebraska in making records available if birth parents have not filed an objection. Around the country, legislatures are considering similar laws, but these are exceedingly limited gains for a movement nearly 30 years old.

Recently, celebrating Family History Month, Sen. Orrin G. Hatch encouraged Americans to "*find out more about where they came from*" because "*researching ancestry is a very important component of identity.*" As more state legislatures contemplate giving adult adoptees the right to research their ancestry, they should understand that once it was considered entirely natural and desirable to let adoptees learn who their people were.

Elizabeth Samuels is a professor at the University of Baltimore School of Law.
© 2001 The Washington Post Company

Adoption Scandal Basis for 'Stolen Babies'
March 24, 1993|By SUSAN KING, Los Angeles Times

HOLLYWOOD -- To childless couples, Georgia Tann was a salvation. From 1924 to 1950, Tann headed the Tennessee Children's Home Society, a highly respected adoption agency. During her tenure, permanent homes were found for more than 5,000 babies. Joan Crawford, Mary Pickford and Dick Powell and June Allyson were just a few of the famous people who received their children from the home. But Tann guarded a deep, dark secret: a vast majority of these children were actually stolen from their natural parents.

Lifetime's new movie, *Stolen Babies*, premiering Thursday, dramatizes this shocking true story. Lea Thompson stars in the drama as a county welfare agent who works closely with the society, only to discover the illegality in adoption procedures; Mary Tyler Moore plays Tann. Executive producer Kim Moses' interest in Tann was sparked when she read an article about her in a newspaper. But when she contacted the welfare department, the governor's office and the public relations office of Tennessee, everyone disavowed knowledge of Tann. *"I felt that was curious, since it covered such a long period of time,"* Moses says. *"I think it is really a mar on the state of Tennessee. It is something they are not happy about, so they really don't want to make it a part of that history."*

So Moses and her partners, Ian Sander and J. Moses, began doing independent research. They found a social worker in Tennessee who had taken over the home after Tann died of cancer in 1950, and was responsible for writing the current laws to protect adopted children. *"She was the first one to be suspicious of Georgia Tann because she was putting together statistics (on adoptions),"* Moses says. *"There was a high percentage of children in the adoption system in Tennessee from (a certain) county who had mental problems. There were repetitive adoptions. People would bring them back because of their behavior."* Though there also were a number of Tennessee families awaiting children, there were large numbers of out-of-state adoptions. In Tennessee, adoptions were free, but Tann was able to charge any amount for out-of-state adoptions. *"Why would they be adopting so many children from out of state when in Tennessee they were still waiting for children?"* Sander says.

The stolen children came mainly from poor, uneducated families. *"Many of the homes they were adopted to were financially very well off,"* Moses says, *"even though they were not from good backgrounds. There was this story where they was a little girl who was adopted out to a wealthy family, and she ate garbage because they didn't feed her. But then there were other children who did get to college."* Tann's rule endured, Sander says, because of the Tennessee political machine. She worked with Judge Camille Kelly to "legally" get the children away from their natural parents.

"When there was a judge who went up against them, he found himself absolutely exiled on the bench," Sander says. *"There was a flu epidemic and 40 children died because (Tann) wouldn't give them penicillin because she thought it was too expensive. When a doctor tried to uncover that, he found himself out of a job."*

No one was ever prosecuted for the illegal adoptions. Tann destroyed many of the adoption records. She died before she was brought to trial; Judge Kelly resigned her post.

Moore was drawn to the project because she felt that Tann was a fascinating character. *"I wanted to play that character because I am sure she was a product of her time,"* says Moore, who is almost unrecognizable as the matronly Tann. *"If you have a choice between raising a child in a wealthy home with little love, or a poor home with a lot of love, there is no question the children would do better in the wealthy home. That was the conventional wisdom."*

http://articles.sun-sentinel.com/1993-03-24/features/9302010688_1_kim-moses-georgia-tann-adoptions

2013 UPDATE: Following the success of the film "Stolen Babies" the Tennessee State Legislature restored adult adoptees access to their Original Birth Certificates in 1998.

Citations

- Samuels, Elizabeth J. “*The Idea of Adoption: An Inquiry into the History of Adult Access to Birth Records.*” Rutgers Law Review #367, 2001, pages 24-26.
- Pertman, Adam. “*For the Records: Restoring a Legal Right for Adult Adoptees*” The Evan B. Donaldson Adoption Institute Executive Summary. November 2007.
www.adoptioninstitute.org. 12 April 2013.
- Nast, Jane. “*Adoption Controversies: Should adoptees have access to their birth records?*” The CQ Researcher, Volume 9, Issue 34. August 1999.
- Busharis and Hasegawa. “*Adoptees Deserve Access to Their Birth Records.*” Adoptalk Magazine. Fall 2005.
- North American Council on Adoptable Children (NACAC).”*The History of Sealed Records.*” Web. 2005. www.nacac.org.
- New York State Citizens' Coalition for Children. “*IT’S TIME TO SPEAK FOR OURSELVES*” Adoptive Parents’ Attitudes Toward Openness in Adoption Records: Cornell University Press. 1994-1995, updated 2009.
- Koch, Wendy. “*As Adoptees Seek Roots, States Unsealing Records.*” USA TODAY, 2008.
- Myths About Adoptees' Access to Their Original Birth Certificates. 2007.
americanadoptioncongress.org
- Samuels, Elizabeth J. “*How Adoption in America Grew Secret.*” The Washington Post Company. 2001.
- NBC. “*Tennessee: Adoptee From Black Market Ring Finds Family*” WSM-TV Nashville. May 24, 2011.
- King, Susan. “*Adoption Scandal Basis for ‘Stolen Babies’*” Los Angeles Times March 24, 1993