

Adoption Records

in Nova Scotia



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Adoption Records in Nova Scotia
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Adoption records are a sensitive and personal matter. Some people prefer to keep this information private. Others want to know about their birth families or the children who have been adopted.

In the spring of 2019, the Minister of Community Services said that Nova Scotians would be consulted about how to share information from adoption records.

The Department of Community Services is beginning this consultation now and wants to hear from you.

How has information from adoption records been treated in the past?

Adoptions have been recorded in Nova Scotia for more than 100 years. Since the mid-1940s, adoption records have been sealed. This means that neither the courts nor the government shared information from adoption records with anyone. This way, the birth mother could keep her privacy. Adoptive parents could also be certain that the birth parents would not get involved in the child's life. This was thought to be in the best interests of the adopted child. Information from adoption records was shared only in special cases.

This was at a time when having a child outside of marriage was often not accepted. Mothers who placed children for adoption expected their privacy to be protected. Some even left home to keep the pregnancy a secret. Adoption records were sealed to protect the privacy of the birth parents, the adopted child, and the adoptive parents.

About 31,800 adoptions have been granted since the mid-1940s.

In 1996, the Nova Scotia government passed the *Adoption Information Act*. The goal of this law is to balance the right to know with the right to privacy. The Adoption Disclosure Program was created to give access to background and medical information, but not identifying information, to the following people:

- adopted persons
- birth parents
- adoptive parents

It also lets adopted persons and birth parents share identifying information with everyone's consent.

Since it was passed in 1996, there have been no major changes to the Adoption Information Act. However, attitudes toward adoption have changed greatly over the years.

In 1999, the government put forward a bill that would have let it share the identities of birth parents or adopted persons with the other parties to the adoption without their consent. After hearing from the public, it decided not to go ahead with this bill.

Over the years, adoption practices in Nova Scotia and around the world have changed. We now understand the importance of birth families in the lives of adopted children. In the last 10 years, Nova Scotia adoptions have become more open. (Openness can mean many things. Some adoptive parents send yearly updates to birth parents through a Department of Community Services social worker. Some birth parents and adoptive families contact each other directly.) For most adoptions, this openness is seen as positive but there may be some situations where birth parents or adoptive parents wish to remain anonymous, or where openness is not considered to be in the child's best interests.

Many adopted persons are now looking for information about their birth parents. These are some of the things they want to know:

- their own family history
- medical information
- background information
- how to connect directly with their birth family

Most just want to gain a greater understanding about themselves by learning about their birth families.

Some birth parents are also looking for information about their children who were adopted. Some may want to share new medical information. Some just want to know that their children are well cared for and loved.

How does the current Adoption Disclosure Program work?

If you were adopted and are 19 or older, you can ask Adoption Disclosure Program staff for a summary of all available non-identifying information recorded in your adoption file. This may include:

- physical descriptions of your birth parents and siblings (they must be 19 or older)
- their education levels
- available medical information
- the reason for the adoption

You can also add your name to the Passive Adoption Register if you are one of the following:

- an adopted person (aged 19 or older)
- a birth parent
- a birth and adoptive relative (in some circumstances)
- An adopted child under age 19 with your adoptive parents' permission

This register is a list of adults who want to contact adopted persons, birth parents, or birth siblings. If the person you are looking for wants to contact you, Adoption Disclosure Program staff can help you to connect. When you add your name to the Passive Adoption Register, you also get all non-identifying information that is available from the adoption record, even if the other person is not on the list.

You can also ask staff to search for your birth parent or your adult adopted child. You can ask them to find out these things:

- if they would like to share identifying information with you
- if they would like to contact you or let you contact them

If they agree, Adoption Disclosure staff will share the information. If the person you are looking for has died, staff may share their identifying information with you.

What if someone does not want to have contact?

Some people do not want to have contact and there are many reasons for this. As examples, some birth parents have never told anyone about a child who was adopted and some adopted persons do not feel ready to meet their birth parents. Some people have deeply personal reasons for keeping their distance.

If the person the Adoption Disclosure Program has found does not wish to share identifying information, it will not be shared. They are encouraged, however, to give as much non-identifying information as possible, especially medical information. They are then assured that they will not be contacted again.

Are there some cases where identifying information is shared without consent?

Yes, but these are rare. Identifying information can be shared with a birth parent or adopted child if there are serious concerns about that person's health, safety, or well-being, and the other person cannot be found.

Such information can also be shared without consent to Crown-Indigenous Relations and Northern Affairs Canada to recognize status under the Indian Act for those who have a right to it.

Who are Adoption Disclosure Program staff?

They are experienced social workers.

In 2017-18, more than 130 people asked the Adoption Disclosure Program to find their birth family members. They also asked for non-identifying background information. Most of these people added their names to the Passive Adoption Registry.

How are adoption records shared in other places?

All Canadian provinces and territories, except Nova Scotia and Prince Edward Island, have open adoption records laws. This means that information that identifies you as a party to an adoption can be shared with the other party without your consent. These provinces also have tools that let you keep your information private if you want to. Two of these tools are:

- Disclosure Vetoes
- Contact Notices

Disclosure Vetoes

A Disclosure Veto is a document you file with the government stating that you do NOT agree to sharing information that can identify you. If you want information that identifies a party to your adoption and there is a Disclosure Veto on file, you will not receive that information.

In provinces that have introduced open adoption records laws, Disclosure Vetoes are usually only available to those whose adoptions took place before the new laws were passed.

In Ontario, a Disclosure Veto was added to the law in 2008 after the Ontario Superior Court ruled that allowing access to past confidential adoption records was unconstitutional.

Contact Notices

A Contact Notice is a notice filed with the government stating that you are willing to share information that can identify you but

- you do NOT want to be contacted
- OR
- you agree to be contacted only under the circumstances set out in the notice

A Contact Notice may also include information you are willing to share, such as family and medical information.

You can apply for a Contact Notice whether your adoption took place before or after your province or territory passed its open adoption law.

It is against the law to disobey a Contact Notice.

Where do they have open adoption records laws?

In 1996, British Columbia was the first province to pass open adoption records laws. Since then, all other Canadian provinces and territories have such laws except Prince Edward Island and Nova Scotia. Prince Edward Island has already consulted with the public, and in the fall of 2018, it announced plans to introduce an open adoption records law.

Great Britain, Australia, France, Mexico, Scotland, Norway, New Zealand, Israel, and Finland all have open adoption records laws. A number of states in the United States also have such laws.

How do I have my say?

There have not been any major changes to the Adoption Information Act since 1996. Since that time, attitudes about adoption have changed. Before government considers any changes to the law, it is important to hear from you, particularly if you are one of the following:

- an adopted child
- a birth parent
- an adoptive parent
- a family member of any of the above
- someone who is interested in adoption records

Adoption, and information from adoption records, are often sensitive and personal matters for those who have been directly affected.

The Department of Community Services wants to hear what you have to say on this important subject. There are 3 ways to have your say:

- Complete the [Adoption Records Survey](#) online. You do not give identifying information in the survey.
- Send a written submission by email to adoption.records@novascotia.ca. Use the questions listed on pages 5 to 6 as a guide for your submission.
- Attend one of the information sessions that will be held in communities across Nova Scotia in November and December. We will announce dates and locations soon.

Who will know I took part in the consultation?

Only a few people will know you took part in the consultation. These are

- Department of Community Services staff who receive written submissions
- Those who attend information sessions with you

If you want to retain confidentiality, please fill out the [online survey](#).

The results of this consultation will be presented in a public report. The report will not use anyone's name or identifying information. However, all answers are part of the public record. As such, they may be disclosed in line with Nova Scotia's Freedom of Information laws.

You have until **January 3, 2020** to complete the online survey or send a written submission.

Thank you for taking part.

Survey questions

The survey has the following 8 questions. There is also room to add your own comments.

1. What is your connection to adoption? Check all that apply.

- Adopted child
- Birth parent of an adopted child
- Adoptive parent
- Family member. What is your relationship? _____
- Other, explain: _____
- Prefer not to say

Sharing information from adoption records

Currently Nova Scotia law allows a summary of all non-identifying information in an adoption record to be shared. Identifying information can only be shared with written consent or when there are serious concerns about a person's health, safety, or well-being, and the other person cannot be found.

Open adoption records means that the government may share identifying information about one of the parties with the other party without consent. For example, an adopted child could learn the identities of their birth parents without their consent. Similarly, birth parents could learn the identities of their children who were adopted, once the child is an adult without their consent.

2. Do you think our current law gives enough access to identifying information?

- Yes
- No

Feel free to comment.

3. If Nova Scotia decides to change the Adoption Information Act, do you think that identifying information contained in new adoption records should be shared without consent?

Yes

No

Feel free to comment.

4. Do you think there are benefits to sharing identifying information from adoption records without consent?

Yes

No

If yes, describe the benefits.

5. Do you have concerns about sharing identifying information from adoption records without consent?

Yes

No

If yes, describe your concerns.

Using Disclosure Vetoes

The provinces and territories that have open adoption records include some kind of Disclosure Veto in their laws. A Disclosure Veto is a document you file with the government stating that you do NOT want to share information that can identify you. If you want information that identifies a party to your adoption and there is a Disclosure Veto on file, you will NOT receive that information.

6. If Nova Scotia passes an open adoption records law, to which adoptions should a Disclosure Veto apply?

- all adoptions—those granted before and after the law changed
- only adoptions granted before the law changed

Feel free to comment

7. If Nova Scotia passes an open adoption records law, how should we treat past refusals to release identifying information?

- Consider past refusals as a Disclosure Veto.
- Ask those who want to keep their information private to file a Disclosure Veto.

Feel free to comment

Additional Comments

8. Use this space for any comments you would like to add.

Glossary

Adoption Disclosure Program – program set up under the *Adoption Information Act*. Through experienced social workers, it offers services to the following people:

- adopted children
- birth parents
- birth siblings
- adoptive parents

The services include the following:

- maintaining the Passive Adoption Register
- preparing non-identifying summaries
- conducting searches for adopted children or birth parents
- helping adopted children and birth parents to contact each other

Contact Notice – a notice filed with the government stating that you are willing to share information that can identify you but

- you do NOT want to be contacted
- OR
- you agree to be contacted only under the circumstances set out in the notice

Such a notice may also include information you are willing to share, such as family and medical information.

Disclosure Veto – a document you file with the government stating that you do NOT want to share information that can identify you. If you want information that identifies a party to your adoption and there is a disclosure veto on file, you will NOT receive that information.

Identifying information – any information that would reveal the identity of another party to the adoption. This includes the following:

- names
- birth dates
- where someone lives
- where someone works
- what someone does for a living

Open records laws – laws that let the government share information about one of the parties to an adoption with the other party without consent.

Openness – refers to how much information will be shared or how much contact will be had between adoptive parents and birth parents at the time of an adoption. For example, it may mean that adoptive parents send yearly updates to birth parents through a social worker from the Department of Community Services. Or birth and adoptive families may contact each other directly.

Non-identifying information – any information from an adoption record that would not reveal the identity of a person. This includes the following:

- medical history
- physical description
- interests
- level of education

Passive Adoption Register – a list of the names of people who want to contact the other party to their adoption.



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