

DISCUSSION PAPER

# Opening of Sealed Adoption Records

**Opening of Sealed Adoption Records**  
*Discussion Paper*

Department of Social Development

Province of New Brunswick  
P.O. 6000  
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[www.qnb.ca](http://www.qnb.ca)

## Preamble

The provincial government recognizes that attitudes among New Brunswickers about adoption are changing. An increasing number of adults who were adopted want to know about their birth parents and meet them. Often, they feel they can only fully understand themselves and their lives by knowing about their original family. Increasingly, they and others involved in adoptions want greater openness and access to information. **It is the belief of some that communication with immediate and extended birth families helps adopted children develop and maintain a sense of identity.**<sup>1</sup>

These are the reasons behind this discussion paper, *Opening of Sealed Adoption Records*. The provincial government, through the Department of Social Development, is inviting individuals and families to comment on the principal recommendation proposed in this document: establishing an **open** framework under which adopted persons and biological parents would have a right of access to each other's identifying information under certain circumstances. This would be achieved by amending the *Family Services Act*. [<http://laws.gnb.ca/en/showdoc/cs/F-2.2>]

Information about how to comment and participate in this citizen engagement process is found at the end of this discussion paper.

## Introduction

New Brunswick has maintained adoption records for over 100 years. Current legislation, the *Family Services Act*, regulates the adoption of all individuals in New Brunswick maintaining that the adoption must be in the best interests of the child.

Under the *Family Services Act*, adoption records are sealed and the identities of children, birth parents and adoptive parents are protected. Societal views of adoption have varied over the years and at one point it was believed that information concerning adoption should be confidential to protect all parties involved.

New Brunswick moved toward a more open approach when amendments to the *Family Services Act* were proclaimed on Feb. 1, 2008. The Minister of Social Development was given the authority to mediate "openness agreements" allowing for various levels of contact agreed to by the birth parents and adoptive parents.

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<sup>1</sup> This sentence was emended on April 10, 2014.

Four provinces and one territory have already moved toward open adoption records:

- British Columbia (1996);
- Newfoundland and Labrador (2003);
- Alberta (2005);
- Ontario (2008); and
- the Yukon (2010).

Other jurisdictions that presently maintain open adoption records:

- In the United States, Kansas and Alaska;
- England;
- Scotland;
- South Wales;
- Finland;
- Israel; and
- New Zealand.

### **Current post-adoption disclosure program in New Brunswick**

The Department of Social Development maintains the Post-Adoption Disclosure Registry for:

- adult adoptees (those 19 or older and whose adoption has taken place in New Brunswick);
- birth parents; and
- adult birth siblings who want to contact each other.

The Vital Statistics Branch of the Department of Government Services is responsible for managing identifying information, which consists of the original birth registration and the adoption order.

The Post-Adoption Disclosure Registry responsibilities include:

- Helping adoptees and birth relatives contact each other when they are matched after both have placed their names on the passive register.
- Helping with searches when either adoptees or birth relatives ask for assistance in finding the person they are seeking
- Providing non-identifying information about each other to adoptees, adoptive parents and birth relatives.

- Completing priority searches on behalf of adoptees and/or birth parents who are experiencing a serious medical issue and need more health information.
- Sharing non-identifying information between adoptive parents and birth parents who have agreed to the sharing of that information before the adoption was finalized. For example, this information may include pictures of the child, progress reports on the child from the adoptive parents, gifts and cards.

**Recommendation:  
Open the Post-Adoption Disclosure Registry**

Based on research into best practices and a jurisdictional review, the provincial government, through the Department of Social Development, is proposing to modernize the Post-Adoption Disclosure Registry.

It is proposed that the *Family Services Act* be amended to open sealed adoption records to give adult adoptees and biological parent(s) access to information identifying each other if certain criteria are met.

Sealed adoption records in New Brunswick would be opened to permit the following after the adoptee's 19th birthday:

- Birth parent(s) could receive a copy of the adoption order that would include the adoptee's name following adoption. A biological father would be required to be named on the original birth registration in order for him to access identifying information.
- Adoptees could receive a copy of their original birth registration with their birth name and the names of their biological parent(s) that may be on file.

This information would be available on application and would not require consent of the other party.

Once a birth parent or adoptee receives the identifying information, he or she would decide whether to conduct a search to locate the other person(s). The Department of Social Development could provide information or suggestions about conducting independent searches in addition to providing the services of the Post-Adoption Disclosure Registry.

## **Disclosure veto**

Those provinces and territory that have allowed the opening of sealed adoption records have included the option of a disclosure veto. Adoptees or birth parent(s) involved in adoptions finalized prior to enacting legislation, and who do not want their identifying information released, would have the option to file a disclosure veto to keep their adoption records sealed.

In New Brunswick, a veto would prevent the release of identifying information for those adopted prior to enacting amendments to the *Family Services Act*, including the information about the original birth registration and adoption order.

- It is proposed that a birth parent(s) could place a veto on their file at any time. To ensure this veto is in place prior to the adopted child requesting the identifying information, it is recommended that birth parent(s) place the veto on the file prior to the child's 19th birthday.
- It is proposed that the adoptee could place a veto on his or her file any time after his or her 18th birthday. This would ensure that safeguards are in place prior to when the access to identifying information takes effect on the adoptee's 19th birthday.
- If a person chooses to place a veto on his or her file, he or she would have the option of filing a statement of any information that he or she wishes to disclose; for example, family and medical health histories.
- A veto could be cancelled at any time by the person who filed it upon written notice.

## **Contact notice options**

It is proposed that options be included in the *Family Services Act* to allow all individuals (adoptees and birth parents) to express their preferences for the release of identifying information – either through a contact preference notice or a no-contact notice. These options would be available for both adoptions that took place prior to and after any amendments to the act take effect. This option would allow for the release of the identifying information and would tell the other party how he or she would like to be contacted, such as email, telephone, or through a third party.

It is proposed that individuals who do not wish to be contacted would be able to file a no-contact notice. This option would prevent the other party from contacting the person who filed the notice. It would be an offence to violate a no-contact notice.

Individuals who file a no-contact notice would be able to make a statement of information they may wish to disclose, such as family and medical health histories.

- It is proposed that a birth parent(s) could place a notice on their file at any time. To ensure the notice would be in place prior to the child requesting the identifying information, it would be recommended that they place it on file before the child's 19th birthday.
- It is proposed that the adoptee could place a notice on his or her file any time after his or her 18th birthday. This would ensure that safeguards are in place before access to identifying information takes effect on the adoptee's 19th birthday.

### **Responding to this discussion paper**

The provincial government acknowledges the complex balancing act required when opening sealed adoption records once adoptees reach the age of majority. Research supports the sharing of identifying information about their history while balancing the right of individuals to their privacy.

Many individuals and families are affected by adoption policies. This is a sensitive and deeply personal issue. It is important that New Brunswickers have the opportunity to voice their perspective and opinions on the changes that are being proposed.

Please contact the Department of Social Development:

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*The deadline for submissions is May 30, 2014.*

The information you provide will be administered in accordance with New Brunswick's *Right to Information and Protection of Privacy Act*.

All comments are welcome. Thank you for participating.