

15.9 Access and Release of Information from Sealed Adoption Records and Other Services	
Application: To All Department of Children's Services Employees	
Authority: TCA: 36-1-102, 36-1-125, 36-1-126, 36-1-127 thru 36-1-141, 36-1-301 thru 36-1-305, Chapter 0250-07-07, Access to Adoption Records Finalized Prior to 1951 and Access to Records Maintained by the Tennessee Children's Home Society; Chapter 0250-07-11; Release of Non-Identifying Information from Records of Adoptions and Transmittal of Medical Information Regarding certain Persons Affected by Adoptions; Chapter 0250-0712, Rules Governing Access to Adoption Records for Adoptions Finalized on or After March 16, 1951	Standards: COA: PA-AS 12.05; PA-AM 4.03
Commissioner:	Date:
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Glossary:

- ◆ Adoptee
 - A person who is adopted or placed for adoption under Chapter 1, Title 1, Chapter 36 of the Tennessee Code Annotated or pursuant to the laws of any State, Territory or foreign country.
- ◆ Adoption Record
 - The confidential records, reports, or documents maintained in any medium by the department's staff, a licensed child-placing agency or a licensed clinical social worker which contain any social, medical, legal or other information concerning a child who is placed for the purpose of adoption
- ◆ Adoptive Parent(s)/Family
 - The person(s) who have been made the legal parents of a child by the entry of an Order of Adoption.
- ◆ Biological Parent(s)
 - Based on a birth certificate, a court order, an unqualified surrender of parental rights or based on an unqualified acknowledgement of parenthood, or any other document contained in the sealed record or the sealed adoption records, the person(s) identified as the birth parent (s) who genetically conceived the adoptee. The information in the sealed records, adoption records and sealed adoption records must be consistent to the identity of the biological parent. (Rules of DCS 0250-7-7, 0250-7-11.
- ◆ Birth Family
 - Members of a child's birth mother's and/or birth father's families.
- ◆ Birth Father
 - The biological father of a child; sometimes referred to as natural father; may or may not be the Legal Father.
- ◆ Birth Mother
 - The biological mother of a child; may or may not be the legal mother.
- ◆ Birth Parents
 - The biological parents of a child.
- ◆ Legal Representative
 - (a) The conservator, guardian, legal custodian, or other person or entity with legal authority to make decisions for an individual with a disability, or an attorney-in-fact, an attorney-at-law representing a person for purposes of obtaining information pursuant to this part, or the legally appointed administrator, executor, or other legally appointed representative of a person's estate, or (b) Any person acting under any durable power of attorney for health care purposes or any person appointed to represent a person and acting pursuant to a living will. (c) For purposes of this definition, "disability" means that the individual is a minor pursuant to any state, territorial, or federal law, or the law of any foreign country or that the individual has been determined by any such law to be in need of a

person or entity to care for the individual due to that individual's physical or mental incapacity or infirmity. Such a person shall exhibit to the Department's satisfaction such authority: (d) Authority to act on behalf of an individual shall be presented to the Department by way of certified copies of orders or powers, or signed statements authorizing representation by attorneys at law. (Rules of DCS 0250-7-7, 2050-7-11, 2050-7-12)

- ◆ Licensed Child Placing Agency
 - Any agency operating under a license to place children for adoption. TCA 36-1-102(28).
- ◆ Lineal Ancestor
 - Any degree of grandparent or great-grandparent, either by birth or adoption. (Rules of DCS 0250-7-11, 0250-7-12).
- ◆ Lineal Descendant
 - A person who descended directly from another person who is the biological or adoptive ancestor for such person, such as the daughter of her mother or granddaughter of her grandmother. (Rules of DCS 0250-7-7, 0250-7-11, 0250-7-12).
- ◆ Post Adoption Records
 - The record maintained by the Department or a licensed or chartered child placing agency, separately from the sealed record or sealed adoption record, containing information about adoptees or the legal or biological relatives subsequent to the completion of an adoption proceeding and which may contain information concerning, but not limited to, the written inquiries from persons requesting access to records, the search efforts of the Department, the response to those search efforts by those persons sought, information which has been requested to be transmitted from or on behalf of any persons entitled to access, any updated medical information and any personal identifying information concerning any persons. This term shall also include the "limited record" as described in § 36-1-126(b). The information in the post-adoption record is confidential and will not be disclosed by the Department or the licensed child-placing agency or a court except as specifically permitted in this chapter, or as may be deemed necessary by the Department in performing its duties under this chapter. (DCS Rule 0250-7-7).
- ◆ Sealed Adoptive Case
 - Any records, reports, or documents that are maintained at any time by any public or private agency or court regarding a child which has an adoption proceeding or a termination of parental rights proceeding about an adoptee or that contain information about a person who was placed for adoption but for whom no adoption order was entered or for whom an adoption proceeding was dismissed or for whom an adoption was not otherwise completed, or that contain information concerning persons in the care of any person or agency, and which records have otherwise been treated and maintained by those persons or entities

under prior law, practice, policy, or custom as confidential, nonpublic adoption records, sealed adoption records, or post-adoption records of the person, or that may be otherwise currently treated and maintained by those persons or entities as confidential, nonpublic adoption records, sealed adoption records or post-adoption records of the person. The sealed record is confidential and shall be opened only as provided there is a court order pursuant to § 36-1-138.

◆ **Sealed Adoption Records**

- The adoption record which had been prepared or compiled by the clerk or Judge of the court where the adoption petition was filed, by the Department, or a licensed child-placing agency, concerning an adoptee or a person placed for adoption as the record exists subsequent to the entry of an order of adoption or subsequent to the entry of an order of dismissal of the adoption petition. Such record and the information therein shall be confidential and shall be opened only as provided in this part. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to T.C.A. § 36-1-138. (0250-7-7).

◆ **Siblings**

- Persons sharing a common biological or legal parent, including brothers, sisters, step brothers/sisters.

Policy Statement:

The Tennessee Department of Children's Services (DCS) is authorized under specific circumstances to open or access a sealed adoption record and release information or copies of information in those records to eligible individuals and designated administrative and judicial authorities.

Purpose:

Tennessee Department of Children's Services (DCS) is charged to preserve, register and seal all documents and records related to adoptions or re-adoptions that have been finalized in Tennessee. DCS maintains the sealed adoption records as permanent confidential records; not subject to disclosure except as authorized by law. Upon written request or judicial order and under specifically identified circumstances, DCS may access and release information or copies of information from the sealed adoption record to eligible individuals and designated administrative and judicial authorities.

Procedures:

A. Access to Records Finalized Prior to March 16, 1951, and Children's Home Society Records

1. The Department may provide access to records and other papers relating to adoptions of certain persons whose records were sealed, are present in any court record or the person was the subject of a post-adoption record finalized prior to March 16, 1951, or any adoption records maintained at any time by the Tennessee Children's Home Society either before or after March 16, 1951.
2. A potentially eligible person or their legal representative seeking access to the records of an adoptee shall file a written request with the Department either by letter or on the form ***CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services*** provided by the Department.
3. Persons eligible to request access to records and other papers include:
 - ◆ An adoptee twenty-one (21) years of age or older;
 - ◆ The adoptee's birth/adoptive/step or legal parent twenty-one (21) years of age or older;
 - ◆ The adoptee's birth or adoptive siblings twenty-one (21) years of age or older;
 - ◆ The adoptee's lineal descendants/lineal ancestors twenty-one (21) years of age or older; or,
 - ◆ The legal representatives of any person listed above.
4. Upon receipt of a written request made by an adoptee or eligible person, and prior to any release of any records or documents, the Department:
 - ◆ Determines eligibility to access the record;
 - ◆ Verifies the identity and relationship of the requesting party; and,
 - ◆ Secures fees or document fee waiver as outlined in Section G.
5. Any photographs contained in the sealed records of an adoption finalized prior to March 16, 1951, or which exist in any sealed record from the Tennessee Children's Home Society shall be given to the adoptee who requests access to the record. In the event the adoptee is deceased, the original photographs are given to the lineal descendant who first requests the record following the adoptee's death.
6. Adoption records that are one-hundred (100) years or older are declared public record, therefore, no determination of eligibility for access is required. Requests for these records are made through a written request to the Department either by letter or on the form ***CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services***.

B. Access to Adoption Records for Adoptions Finalized on and after March 16, 1951

1. The Department may provide access to adoption records and other papers relating to adoption or attempted adoptions to eligible individuals whose records were sealed, filed in any court record or were closed in any post adoption record, if the

adoption was finalized by entry of an Order of Adoption or an Order of Dismissal or if the adoption petition was filed on or after March 16, 1951. In addition, the Department may provide access to information or other papers relating to an adoption which otherwise was never completed due to the abandonment which occurred on or after March 16, 1951.

2. A potentially eligible person or their legal representative seeking access to the records of an adoptee shall file a written request with the Department either by letter or on the form ***CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services***.
3. Persons eligible to request access to the adoption record include:
 - ◆ The adoptee twenty-one (21) years of age or older;
 - ◆ The adoptee's birth/adoptive/step or legal parent twenty-one (21) years of age or older;
 - ◆ The adoptee's birth or adoptive siblings twenty-one (21) years of age or older;
 - ◆ The adoptee's lineal descendants/lineal ancestors twenty-one (21) years of age or older; or,
 - ◆ The legal representative of any person listed above.
4. Upon receipt of the written request for access from the adoptee or eligible person and prior to release of any records or documents, the Department:
 - ◆ Verifies the identity and relationship of the requesting party;
 - ◆ Secures fee(s) related documents as outlined in Section G of this policy;
 - ◆ Determines eligibility for access to the record.
5. No access to the adoptive record of an adoptee or any person whose record is otherwise maintained shall be provided by the Department to persons identified in number three (3) above without the express written consent of the adoptive person. If an adoptee or a person whose record is otherwise maintained is deceased or disabled, the lineal descendants of such person may petition the court to be granted access to the records.
6. No access to identifying information from the adoptive record shall be released either to the adoptee or other eligible persons without the written consent of the biological parent if such record indicates by any evidence that, with respect to the adoptee, the biological parent was a victim of rape or incest. If the biological parent is deceased or if a conservator of the person and property of such person has been appointed, the lineal descendants of such person may petition the court to be granted access to records.
7. No access to identifying information in any adoption record, sealed record, post adoption record or adoption assistance record shall be granted:
 - ◆ To any parent, pre-adoptive guardian, sibling, lineal descendant or lineal ancestor of a person under twenty-one (21) years of age; or,

- ♦ To any parent or pre-adoptive guardian, a sibling, lineal ancestor, spouse or legal representative of the person whose rights were involuntarily terminated for cause in a termination of parental rights proceeding; or,
 - ♦ To any person(s) whom the sealed adoption record or the post adoption record indicate were guilty of a crime of violence or neglect involving the person who was placed for adoption or who was the subject of the termination of parental rights by court action or by surrender or parental consent.
8. The requesting person will only have access to information which is part of the adoption records, sealed records, sealed adoption records and post-adoption records at the time access to the records is allowed.

C. Release of Non- Identifying Information Concerning Biological or Legal Family Records of Adoptions

1. The Department may release non-identifying information to eligible individuals whose records are maintained by the Department as sealed records, sealed adoption records or as post-adoption records.
2. A potentially eligible person or their legal representative seeking to secure release of non-identifying information shall file a written request with the Department either by letter or on form ***CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services.***
3. Persons eligible to request and receive non-identifying information includes:
 - ♦ An adoptee eighteen (18) years of age or older;
 - ♦ The adoptive parents or guardian of an adoptee under eighteen (18) years of age;
 - ♦ The biological or legal relatives of the adoptee;
 - ♦ The lineal descendants of the adoptee; or,
 - ♦ The legal representatives of any person listed above.

Note: An alleged parent/relative is not eligible to receive non-identifying information.

4. The information released shall be limited to only the following:
 - ♦ The date and time of the adoptee's and such person's weight and other physical characteristics at birth;
 - ♦ The age of the adoptee's biological relatives at the time of birth;
 - ♦ The nationality, ethnic background, race and religious preference of the biological or legal relatives;
 - ♦ The educational level of the biological or legal relatives, general occupation and any talents or hobbies;

- ◆ A general physical description of the biological or legal relatives, including height, weight, color of hair, color of eyes, complexion and other similar information;
 - ◆ Whether the biological or legal parent had any other children, and if so, any available non-identifying information about such children; and
 - ◆ Available health history of the adoptee and the person's biological or legal relatives, including specifically, any psychological or psychiatric information that would be expected to have any substantial effect on the adoptee's mental or physical health.
5. No information from the sealed adoption record or post-adoption record is released that would lead to the discovery of the identity or whereabouts of the biological or legal relatives of the adoptee.

D. Medical Information

1. Any person may file a written request with the Department either by letter or on form ***CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services*** to seek additional or updated information for a medically established need if documented by written evidence from a licensed health care professional or a licensed health care facility.
2. The Department shall, at no charge, contact the persons who have access to, who have or may have knowledge of such information and request the persons contacted provide such information to the Department for transmittal to the treating professionals or health care facility of the requesting party.
3. Such information shall be provided to the Department by means of a specific release for a stated purpose and the release shall be time limited.
4. The Department shall update its post-adoption records with any medical, psychological or psychiatric information provided by an adoptive person or otherwise eligible person if the information is provided in the form of a letter or other written evidence from a licensed health care professional or from a licensed health care facility that explains the health care status of persons who may be affected and why the transmission of such information is necessary.
5. Upon receipt of the information, the Department shall, at no charge to any person listed:
 - ◆ Conduct a diligent search for a person or persons who may be affected;
 - ◆ If located, notify the applicable eligible persons of the availability and nature of this information; and,
 - ◆ Provide eligible persons instructions on how to formally request the information through the completion and submission of a written request or

using form ***CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services***.

- ♦ Any and all new or updated information shall be maintained in the postadoption record.
- 6. Any notification or request required to be made by the Department as part of a search to update medical information regarding an adoptee who is under age eighteen (18) shall be made with:
 - ♦ The adoptee legal parent(s);
 - ♦ Birth parents; or
 - ♦ The legal representative of any eligible party.

Note: Such parents or legal representative shall make decisions relative to release of information or provision of information pursuant to this section.

E. Court Ordered Release of Information

1. Upon service of an order from a court, the Department may open and release any designated information from a record of an adoption proceeding, the adoption record, post-adoption record or adoption assistance record under the specific conditions the court has determined necessary to serve the best interests of the adoptee or of the public.
2. The conditions or requirements outlined in the order may include:
 - ♦ Information needed for treating or preventing a physical, psychological or psychiatric condition affecting any person;
 - ♦ Information needed to establish legal status or standing for inheritance or for property rights determination or for the determination of legal relationships for third parties;
 - ♦ Information necessary to prosecute or defend a legal proceeding and that alternative information sources or other means of accomplishing this end are not available;
 - ♦ A public agency requires the disclosure of the information in such record for purposes directly related to its authorized duties and such information cannot be obtained by any other method or that further delay in obtaining information that may result in harm to the adoptee, adoptee's biological parents or biological or legal relatives or to the public;
 - ♦ Petitioner is an individual who has sought disclosure under §§ 36-1127, 36-1-133, 36-1-134 and 36-1-135 and claims to have been improperly denied access to the record;

- ◆ Petitioner is an individual who alleges wrongful denial of access to the record pursuant to §36-1-127(e)(1)(B) or (C); or
 - ◆ Petitioner is a lineal descendant of a deceased or disabled adoptee seeking access to the record.
3. All such orders are served on the Commissioners of the Department of Children's Services and the Department of Health by certified mail, return receipt requested or by personal service upon the Commissioners or a duly designated agent of either Commissioner. A copy of the order shall be maintained in the sealed adoption record.
 4. Upon written request of a party seeking necessary information in the file or record of an adoption proceeding or in a sealed record, post-adoption record or adoption assistance, the Department may disclose the identity of the court in which such proceeding was filed and, if known, the docket number or county in which the adoption record, sealed adoption record or sealed record is located. This disclosure is to assist the party in filing a written sworn motion before the court of original jurisdiction or in the chancery or circuit court as appropriate.

F. Access to Adoption Records by DCS, Other State and Federal Authorities

1. Upon its own request or in conjunction with a request from other state or federal authorities or pursuant to a court order, the Department may open an adoption record, sealed home study record, post-adoption record, adoption assistance record or limited record to:
 - ◆ Grant access to and provide a copy of the original birth certificate or any order or record of adoption of the adoptee which is in the custody of the Division of Vital Records;
 - ◆ Comply with the audit requirements of the Federal or State Adoption Assistance Program or an Adoption Assistance Grant;
 - ◆ Determine eligibility of any child for Adoption Assistance or the adjudication of a claim for assistance for any child in state custody or guardianship in association with the Department of Finance and Administration;
 - ◆ Determine eligibility of any adoptee or any person placed for adoption for any Federal, State, or other benefits or to provide to a Title IV-D Child Support office information necessary to verify the status of an adoption to determine a current or past child-support obligation or for terminating a future obligation for child support for children in state custody or guardianship in association with the Department of Finance and Administration;
 - ◆ Obtain any information concerning any person who:

- Is placed in the custody or guardianship of the Department or any other agency or services provider of the state by any court; or
 - Is placed in the custody or guardianship of the Department or any other agency or services provider by the adoptee's parents; or
 - Who is placed with the Department or any other agency or service provider of the state due to any re-surrender of the adoptee to the Department by the adoptee's adoptive parents or the prospective adoptive parents.
 - ◆ Provide any information necessary to the office of vital records to complete the birth certificate when the birth certificate in the adopted name was not issued; and
 - ◆ Perform any necessary tasks related to preservation of the records.
2. All administrative requests for access to a sealed record and release of information from that record shall be filed in writing with the Access to Sealed Adoption Records Unit on the form ***CS-1025, Administrative Request to Access Sealed Adoption Record and Release of Information***. A copy of that written request are maintained in the sealed Adoption Record.
 3. After use of the records, they shall be re-sealed and returned to storage.

G. Processing Procedures

1. All written requests or completed forms requesting access or other services, accompanying documents, or payment of related fees are mailed to:

Tennessee Department of Children's Services
Access and Services to Sealed Records Unit
UBS Tower
315 Deaderick Street, 9th Floor
Nashville, Tennessee 37243
2. The written request or form must include the following information:
 - ◆ Name, date of birth, residential address and email address, telephone number and original signature of the person requesting service;
 - ◆ Information, including legal documents or affidavits, which establishes the person's legal relationship to a person involved in the adoption or which otherwise establishes the person's right to request access;
 - ◆ Any other information the Department requires to establish the person's identity;
 - ◆ If the information in the written request does not establish the person's right to have access to the records, the Department searches available sealed

adoption records, and post-adoption records including those of other alleged siblings, for information which may establish the person's right to access.

3. Requests are processed in the order of receipt unless the Department, in its sole discretion, determines that life threatening or medically terminal circumstances involving the requesting party warrant taking a particular request out of order.
4. No authorization for access to records shall be processed or copies of records provided until the required fees have been paid or fee related documents have been received unless the Department, in its sole discretion, determines that life threatening or medically terminal circumstances involving the requesting party warrant processing.
5. If the information provided cannot determine eligibility or related fees are not received, the Department denies access to the record. In these cases, the Department notifies the requesting party of this determination in writing. The notice advises the person of their right to request a fair hearing pursuant to the Department's rules if they wish to challenge denial. The notice contains the form **CS-0403, Appeal for Fair Hearing**.
6. Any person who may be eligible to access records maintained by Tennessee Children's Home Society must receive authorization from the Department or the court to access the records.
7. When a request is made and no sealed record or sealed adoption record has been registered with the Department, the Department notifies the requestor of this information. If additional information is obtained that may lead to the location of a record, the Department assists in searching for the record and notifies the requestor of the outcome of the search.
8. Home studies pertaining to foster and/or adoptive parent and/or information relating to counseling of a biological mother regarding crisis pregnancy counseling are removed prior to review and/or copying of the record for the eligible person.

H. Fees

1. Fees For Services:

a) Access

- ◆ \$150.00 Initial Request for Access
- ◆ \$50.00 For Each Re-Order of a Record After the Initial Request
- ◆ \$50.00 for providing access to a Post-Adoption Record
- ◆ \$.25 per page for costs of copying any records requested
- ◆ \$50.00 Letter of Authorization After the Initial Request

b) Non-Identifying Information

- ◆ \$45.00 Initial Written Request for records

c) Up-dated Medical Information:

- ◆ No charge

- d)** Payments for services shall be directed to the address in Section I above. Payments by mail may be made by personal check, cashier's check or money order payable to the Department of Children's Services. Cash is accepted only when hand-delivered to the Records Access Services Unit upon appointment. Currently, the Department is unable to process fees by any other payment form.

2. Fee Waiver:

- a)** Fees can be waived for services provided under circumstances as outlined in this section.
- b)** A fee waiver is considered upon request of the individual applying for services.
- c)** Individuals are eligible for fee waivers if the person currently receives:
- ◆ Families First or Temporary Assistance for Needy Families (TANF) or any other means-tested case assistance program;
 - ◆ Food stamps or any other means-tested food assistance program;
 - ◆ Medicaid, TennCare or any other means-tested medical assistance program;
 - ◆ Supplemental Security Income (SSI) under Title XVI of the Social Security Act; or,
 - ◆ Any other means-tested program where the person would fall below Federal Poverty Guidelines as published in the Federal Register.
- d)** The person requesting the fee waiver is required to provide written verification of current eligibility for any of the above designated programs from the administering agency.
- e)** If the person does not receive any means-tested programs or cannot show verification of eligibility of a means-tested program they do receive, the person can submit an Affidavit of Income and Resources for Waiver of Sealed Record Fees, which is a sworn declaration of the source and amount of income and resources, for consideration. If the sworn affidavit reflects the person's family unit income as below the current threshold in the Federal Register and the family unit's non-exempt resources does not exceed \$1,000, the fee for specific services requested is waived.
- f)** All fee related documents shall be mailed to the address listed in Section I above.

Forms:

[CS-1025, Administrative Request to Access Sealed Adoption Record and Release of Information](#)

[CS-0403, Appeal for Fair Hearing](#)

[*CS-1026, Request Access to Sealed Adoption Record/Release of Information and Other Services*](#)

[*CS-1028, Affidavit of Income and Resources for Waiver of Sealed Records Fees*](#)

Collateral Documents:

None