

Adoption Act

Changes to Adoption Legislation in Newfoundland and Labrador

Effective April 30, 2003

The *Adoption Act* is new legislation which governs adoptions in Newfoundland and Labrador. The Act represents a significant shift in how adoption services are provided in this province.

Highlights of the new Act include:

- an open records system for adoptions;
- a disclosure veto or no-contact declaration is available to protect the privacy of parties to adoptions which were finalized prior to the proclamation the Adoption Act (April 30, 2003);
- authority for adoptions will be delegated to regional Directors of Adoption with the regional health and community services and integrated health boards; however, authority for inter-provincial and inter-country adoptions will remain with the provincial Director of Adoption;
- children under age 12 years will have input into their adoption;
- openness agreements whereby birth parents and adoptive parents may agree to an ongoing exchange of information or contact;
- infants can be directly placed with prospective adoptive parents chosen by the birth parents and approved by the Director of Adoption;
- one or two adults jointly may apply to adopt a child;
- relative/step parent adoptions will not have to go through the Director of Adoption to complete an adoption; self help kits will be available for this purpose;
- adoption agencies may be licenced to process adoption applications and provide pre- and post-placement support to children, birth families and adoptive parents;
- ratification of the Hague Convention on inter-country adoption.

[Questions and Answers](#)

[Brochure on the Adoption Act](#)

Adoption Act

Questions & Answers

April 30, 2003

Q: Why has Newfoundland and Labrador implemented new adoption legislation?

A: Previous legislation, the Adoption of Children Act, was 50-years-old and did not meet the changing needs of children and society. Newfoundlanders and Labradorians have been asking for changes in adoption policies and law, and as a result of comprehensive public consultations, the Adoption Act was developed.

Q: Is the new Adoption Act consistent with the new Child, Youth and Family Services Act?

A: Yes. The new Adoption Act is consistent with the Child, Youth and Family Services Act which has clearly articulated principles and emphasizes prevention and early intervention services and the involvement of child, youth, families and communities in decisions that affect them. The child will be the center of every adoption.

Q: Who can apply to adopt a child?

A: The new Adoption Act allows for one adult alone or two jointly to apply to adopt a child. In addition, one adult may apply to the court to jointly become a parent of a child with the birth parent of a child. These changes differ from the existing Act which only allowed a single person or a married couple to adopt.

Q: Will birth parents be able to choose prospective adoptive parents for their child?

A: Yes. The Adoption Act will allow birth parents to select the prospective adoptive parents for their child. This can be done either through specific parents being named by the birth parents and approved by the Director of Adoption, or through choosing from the non-identifying profiles of approved adoptive applicants.

Q: Will the Adoption Act allow contact to be maintained between a child placed for adoption and birth family following the finalization of an adoption?

A: Yes. The Act allows for openness agreements, meaning that birth parents and adoptive parents may agree to an ongoing exchange of information or contact. Openness can vary from sharing letters or pictures through a third party, after the adoption is finalized, to birth parents having personal contact with the adoptive family throughout the child's life. The adoptive parents may also enter into an agreement with another birth relative, foster

parent, or significant other who has a relationship with the child. All such agreements are made voluntarily and when it is in the best interest of a child to do so.

Q: Will children be involved in the decision to be adopted?

A: Yes. All children 12 years of age or older must give consent to their adoption. Children under age 12 years will have knowledge of the adoption process and their views must be considered in the adoption process.

Q: Will relatives and step parents have to go through the Director of Adoption to adopt a child of a birth relative or birth parent?

A: No. The new Act will allow relatives/step parents to complete an adoption without having to go through the Director of Adoption. SELF HELP KITS will be available for this purpose. Relatives and step parents may also seek community resources and/or licensed adoption agencies to help them through this process.

Q: Will adoption subsidies be available to prospective adoptive parents?

A: Yes. The adoption subsidy program will remain to ensure services and financial support is available to children with special needs and/or families who require these services to be successful with their adoption.

Q: What will be the responsibilities of the Provincial Director of Adoption?

A: The Provincial Director will maintain responsibility for placement of children for adoption, and for finalizing inter-provincial adoptions, once the probationary period has been completed. The Provincial Director will remain the central authority for inter-country adoptions. The Provincial Director will also vault all records when the Court has finalized the adoptions.

Q: Will there be any delegation of the Provincial Director's authorities under the new Act?

A: Yes. Directors of Adoption will be designated by Health and Community Services and Integrated Health Boards in each region of the province. These directors will have responsibility for adoptions in their respective region. They will approve all adoption applications except those for inter-provincial and inter-country adoptions. They will also be responsible for licensing and monitoring adoption agencies.

Q: What role will licensed adoption agencies have in relation to adoptions?

A: Licensed adoption agencies will be able to:

- a) provide counseling to birth parents who may plan adoption for the child;
- b) process applications for prospective adoptive parents who wish to adopt provincially, inter-provincially, or internationally;
- c) provide post-placement support to adoptive parents including preparation of probationary progress reports required prior to the finalization of adoption;
- d) provide progress reports on a child following finalization of the adoption, particularly as these relate to international adoptions;
- e) provide counseling to children, birth parents, and/or adoptive parents throughout the life process of adoption;
- f) assist with the completion of openness agreements, and assist parties with any issues which may arise.

Q: Will all adoptive applicants have to adopt through a licensed adoption agency?

A: No. Health and Community Services and Integrated Health Boards will continue to provide services to children, birth parents, and prospective adoptive parents in every region of the province.

Q: Does the Adoption Act provide for an open or closed records system?

A: The *Adoption Act* mandates open records for all adoptions finalized under it. Adoptions completed under the *Adoption Act* are not subject to disclosure vetos or no-contact declarations. When the adoptee becomes 19 years old, the information held by the Vital Statistics Division of the Department of Government, Services and Lands will be released upon request to adoptees and/or birth parents.

Q: What does open records mean?

A: An adopted person 19 years of age or older may apply to the Vital Statistics Division to obtain a copy of their birth registration and adoption order. These documents will include the name of their birth parents at the time of birth.

Birth parents of adopted people who are 19 years of age or older may apply to the Vital Statistics Division for a copy of the adopted person's birth registration and adoption order to learn the person's adoptive name.

Q: What protection of records exist for adoptions completed under the previous *Adoption of Children Act*?

A: Persons who wish to maintain their privacy under the new legislation have the option of filing a disclosure veto and/or a no-contact declaration. This will respect past promises of confidentiality.

Q: What is Government doing to ensure that persons involved in adoptions under previous legislation are informed of their ability to file disclosure vetoes and/or no-contact declarations?

A: Persons wishing to file a disclosure veto/no-contact declaration will have one year from April 30, 2003 to do so. Information about the new Adoptions Act will be brought to the public's attention in a variety of ways including the media, distribution of literature and direct contact with persons currently registered with the Post Adoptions Services Program of the Department of Health and Community Services.

Q: What about vetoes filed with the Post Adoption Services Program?

A: Persons who filed vetoes with the Post Adoption Services Program must re-file a disclosure veto or no-contact declaration with the Vital Statistics Division.

Q: What is the approval procedure for inter-provincial adoptions in the Adoption Act?

A: There is no change. All adoption applications, assessment and placements must be approved by the Provincial Director. Any adoptive parent wishing to adopt a child from another province or territory must meet the provincial standards and policies related to prospective adoptive parents.

Q: What has changed with regards to inter-country adoptions in the Adoption Act?

A: With the proclamation of the Adoption Act, Newfoundland and Labrador has ratified and will adhere to the principles of the *Hague Convention* on inter-country adoptions. Approval is given by a Provincial Director of Adoption who is the central authority. All documentation related to inter-country adoptions will be forwarded to the country of origin by the provincial director.



Access to Adoption Information

Changing from a Closed Record
to an Open Record System

April 30, 2003

GOVERNMENT OF
NEWFOUNDLAND
AND LABRADOR

What is changing with regard to access to records?

The new *Adoption Act* provides for greater openness in the release of adoption information. Adoptees adopted under the new Act, at age 19, will be able to apply to Vital Statistics for:

- A copy of their original birth registration; and
- A copy of their adoption order.

When adoptees who are adopted under this Act reach their nineteenth birthday, their birth parents will be able to apply to Vital Statistics for:

- A copy of the adoptee's original birth registration;
- A copy of the amended birth registration with the adoptee's name following adoption; and
- A copy of the adoption order with adoptive parent information removed to respect their right to privacy.

The *Adoption Act* recognizes government's commitment of confidentiality under the *Adoption of Children Act*. For adoptions finalized under any former Acts, prior to the proclamation of the *Adoption Act*, persons are able to file a disclosure veto to prevent identifying information from being released through the birth registration or adoption order.

How is confidentiality protected for those adoptions completed under previous legislation?

Adoptees, age 18 years and over, and birth parents whose adoptions were finalized under any previous Acts, prior to the proclamation of the *Adoption Act*, and who wish to maintain their confidentiality, have two options:

1. A disclosure veto can be filed with the Vital Statistics Division of the Department of Government Services and Lands. This will prevent government from releasing identifying information of the person who filed the disclosure veto.
2. A no-contact declaration can be filed with the Vital Statistics Division. This allows the release of a copy of the original birth registration and the adoption order, but personal contact with the person who filed the declaration is legally prohibited. Violating a no-contact declaration can result in summary conviction with penalties of a fine up to \$10,000 or a term of imprisonment up to 90 days, or both.

What if I want to maintain my privacy, but also want to provide certain kinds of information, such as medical history, to the other person?

The choice to file a disclosure veto or a no-contact declaration is a personal one. Many adoptees and birth parents feel, even though they are not able to proceed with contact, that it is important to explain their choice, and in some cases, wish to pass along details of their family and medical

history. This can be done by filing a written statement with the Vital Statistics Division.

If the adoption was finalized prior to the proclamation of the Adoption Act (April 30, 2003), when can I file a disclosure veto or a no-contact declaration?

Persons wishing to file a disclosure veto or a no-contact declaration have one year to do so. There will be a one year delay, from time of proclamation on April 30, 2003, before the Vital Statistics Division will begin releasing information. This allows adoptees and birth parents time to file a disclosure veto or no-contact declaration with the Vital Statistics Division.

How can I file a disclosure veto or a no-contact declaration?

A brochure explaining how to file a disclosure veto or no-contact declaration is available from the Vital Statistics Division or any Government Service Centre. Contact information for the Vital Statistics Division is found on the back page of this brochure or you may contact your local Government Service Centre

How long will a disclosure veto and no-contact declaration stay in effect?

The disclosure veto or no-contact declaration remains in effect until canceled in writing by the person who filed it or, until one year after the death of the person who filed it.

What if I have already filed a disclosure veto with Post Adoption Services? Do I have to file again with Vital Statistics?

Yes. In order to prevent your information from being released, you must file a disclosure veto or no-contact declaration with the Vital Statistics Division.

What about individuals who are not sure how they want to proceed? Is there support available for adoptees and birth parents?

Individuals who want information regarding issues related to the release of identifying information or reunions can contact Post Adoption Services at (709) 570-8406 or they can call 1-800-709-2719.

How will the new Adoption Act change Post Adoptive Services and the delivery of services?

The post adoption registry will continue to operate and people already registered will not have to re-register. However, there will be some significant changes in services due to the new *Adoption Act*. Services will be expanded to include:

- Search for birth children at the request of birth parents
- Search for a broader circle of extended family for adoptees

Searches will not be conducted in cases where adoptions were finalized under the former Act if a disclosure veto or no-contact declaration has been filed. Services may also be accessed through adoption agencies licenced under the new Act.

For further information on disclosure vetos or
no-contact declarations:

Vital Statistics, Department of Government Services and Lands
Government of Newfoundland and Labrador
PO Box 8700, Confederation Building
St. John's, NL, Canada A1B 4J6
www.gov.nf.ca/gsl/gsl/vs

Health and Community Services at 1-800-709-2719