TITLE 174 VITAL RECORDS

CHAPTER 6 RELEASE OF MEDICAL HISTORY, ORIGINAL BIRTH CERTIFICATE, AND RELATIVE'S INFORMATION FOLLOWING THE ADOPTION OF A NEBRASKA BORN PERSON.

6-001 SCOPE: These regulations apply to:

1. The release of information to the person adopted or for whom relinquishment or consent for adoption was given prior to September 1, 1988, as defined in Neb. Rev. Stat. §§ 43-120 to 43-146;
2. The release of information to the person adopted or for whom relinquishment or consent for adopted was given on or after September 1, 1988, as defined in Neb. Rev. Stat. §§ 43-107, 43-119, 43-129, and 71-626.01; and
3. The release of information to the heir of an adopted person, as defined in Neb. Rev. Stat. § 43-146.17.

~~These regulations~~ Sections 6-003, 6-005 and 6-006 of this chapter do not apply to persons subject to the Nebraska Indian Child Welfare Act.

6-002 DEFINITIONS

Biological family includes, but is not limited to, siblings, parents, grandparents, aunts, and uncles.

Child placing agency means an agency licensed by the Nebraska Department of Health and Human Services Division of Public Health as provided in Neb. Rev. Stat. §§ 71-1901 to 71-1906.01.

Completed written request means that an access form has been completed with all required information and properly signed by the requester and submitted with the statutory fee and any required documentation.

Court means a court of competent jurisdiction which granted the adoption.

Department means the Nebraska Department of Health and Human Services Division of Public Health ~~Finance and Support~~.

Heir means a direct biological descendent of an adopted person.

Putative father means the presumed father of a child.

Relative means the biological parents or biological siblings of the adopted person.

6-003 REQUIREMENTS FOR ACCESS TO RECORDS ABOUT ADOPTED PERSONS

6-003.01 Procedures for access to information about persons adopted or for whom a relinquishment or consent for adoption was given prior to September 1, 1988.

6-003.01A A person adopted or for whom a relinquishment or consent for adoption was given prior to September 1, 1988 requesting access to names of relatives or his or her original certificate of birth must:

1. Have been born in the State of Nebraska;
2. Have attained at least the age of 25; and
3. Submit to the Department:

    a. A written request on a form provided by the Department, a copy of which is Attachment A, incorporated in these regulations by this reference. Only requests which are complete will be considered;
    b. Evidence of having attained at least the age of 25 years;
    c. Evidence of the dates of adoption or placement for adoption;
    d. Evidence of having been born in the State of Nebraska; and
    e. The required search fee.

6-003.01B The Department, upon receipt of a complete written request, will determine if a consent form has been signed and filed by any relative of the adopted person and whether an unrevoked nonconsent form is on file with the Department from the biological parent or parents or from the adoptive parent or parents. Copies of relative consent forms are Attachments B and C, copies of biological and adoptive parent nonconsent forms are Attachments D and E, and a copy of the revocation of consent form is Attachment F, all incorporated in these regulations by this reference.

6-003.01C The Department will disclose the information on a consent form when:

1. A consent form has been signed and filed and is unrevoked, and
2. No nonconsent form has been filed by an adoptive parent or parents, or by a biological parent or parents.

6-003.01D The Department will disclose the information listed on a consent form and provide a copy of the original birth certificate to an adopted person when:

1. A consent form has been signed and filed by the biological parents or by the biological mother of a child born out-of-wedlock and is unrevoked, and
2. No nonconsent form has been filed by an adoptive parent or parents, or by a biological parent or parents.

6-003.01E When no consent forms have been filed or if the consent form has been revoked and no nonconsent form has been filed by the biological parent or parents or the adoptive parent or parents, the Department will disclose the following information to the adopted person:

1. The name and address of the court which issued the adoption decree;

2. The name and address of the child placing agency, if any, involved in the adoption; and
3. The fact that a child placing agency may assist the adopted person in searching for relatives.

6-003.01F When the Department has information indicating that both biological parents of the adopted person are deceased, or, if only one biological parent is known and the information indicates that parent is deceased and, no nonconsent form has been filed by an adoptive parent or a biological parent, the Department will disclose to the adopted person all information on the adopted person's original birth certificate regarding such deceased parent or parents.

6-003.01G When a nonconsent form has been filed by the biological parent or parents, the Department will not disclose any information on the original birth certificate of the adopted person to any person until after the death of the biological parent filing the nonconsent form and the death of the spouse of the biological parent without a court order.

6-003.01H When a nonconsent form has been filed by the adoptive parent or parents, the Department will not disclose any information on the original birth certificate of the adopted person prior to the death of the adoptive parent and his/her spouse, if he or she signed the form, without a court order.

6-003.02 Procedures for access to information for persons for whom a relinquishment or consent for adoption was given on or after September 1, 1988.

6-003.02A A person for whom a relinquishment or consent for adoption was given on or after September 1, 1988 requesting access to the names of relatives or to his or her original birth certificate must:

1. Have been born in the State of Nebraska;
2. Have attained at least the age of 21 years; and
3. Submit to the Department:

   a. A verified complete access form provided by the Department, a copy of which is Attachment G, incorporated in these regulations by this reference. Only requests which are complete will be considered;
   b. Evidence of having attained the age of 21 years;
   c. Evidence of having been born in the State of Nebraska; and
   d. The required search fee.

6-003.02B The Department, upon receipt of a complete written request, will determine if there is on file by a biological parent of the adopted person, an unrevoked nonconsent form, a copy of which is Attachment H, incorporated in these regulations by this reference.

6-003.02B1 If no nonconsent form has been filed by a biological parent of the adopted person, the Department will release to the adopted person the following information:

1. The name and address of the court which issued the adoption decree;
2. The name and address of the child placing agency, if any, involved in the adoption;
3. The fact that a child placing agency or the ~~Department of Health and Human Services~~ DHHS Division of Children and Family Services may assist the adopted person in searching for relatives;
4. A copy of the adopted person's original birth certificate; and
5. A copy of the adopted person's medical history and any medical records on file with the Department.

6-003.02B2 If an unrevoked nonconsent form has been filed by a biological parent of the adopted person, the Department will release to the adopted person a copy of the adopted person's medical history. The medical history will not include the names of the biological parents or relatives of the adopted person or any other identifying information. The Department will not disclose to the adopted person any information contained on the original birth certificate or any other information to any person prior to the death of the biological parent without a court order.

6-003.03 Disclosure of Information to a Child Placing Agency or the ~~Department of Health and Human Services~~ DHHS Division of Children and Family Services.

6-003.03A If an adopted person of at least 21 years of age for whom relinquishment or consent to adoption was given on or after September 1, 1988 is unable to obtain information about the adopted person's relatives and there is no unrevoked nonconsent form from a biological parent on file with the Department, the Department will:

6-003.03A1 Verify for the child placing agency or ~~Department of Health and Human Services~~ the DHHS Division of Children and Family Services, that no unrevoked nonconsent form is on file.

6-003.03A2 Upon receipt of a written request and the required search fee from the child placing agency or ~~Department of Health and Human Services~~ the DHHS Division of Children and Family Services, release to the child placing agency or ~~Department of Health and Human Services~~ the DHHS Division of Children and Family Services any information available from Department records regarding the names and locations of the relatives of the adopted person. The child placing agency or ~~Department of Health and Human Services~~ the DHHS Division of Children and Family Services must keep such information confidential.

6-003.03A2a When any information regarding relatives of an adopted person is provided by the Department to a child placing agency or the ~~Department of Health and Human Services~~ DHHS Division of Children and Family Services, the Department must record in the records of the adopted person the following:

1. The nature of the information disclosed.
2. The name and employer of the person to whom the information was disclosed; and
3. The date of the disclosure.

6-003.03B The ~~Department of Health and Human Services~~ DHHS Division of Children and Family Services or child placing agency which receives information from the Department as provided by these regulations must file a written report with the Department within nine months of receipt of the information. The report must include the following information:

6-003.03B1 Whether a relative of the adopted person was located and whether a contact between the relative and the adopted person has been arranged or has occurred; or

6-003.03B2 If no relative has been located, the efforts made to identify and locate relatives of the adopted person.

6-003.04 Access of an adopted person's heir to original adoptive information upon proof of death of the adopted person, the adopted person's biological parent(s), and the spouse(s) of the biological parent(s), or when at least 100 years have passed since the birth of the adopted person, as provided in Neb. Rev. Stat. § 43-146.17.

6-003.04A After July 20, 2002, an heir 21 years of age or older of an adopted person may request access to the adopted person's original adoptive information by providing to the Department:

1. A completed Request for Access to Adoptive Birth Information by Heir, a copy of which is Attachment I, incorporated in these regulations by this reference;
2. Evidence that s/he is an heir of the adopted person;
3. Evidence that s/he is 21 years of age or older;
4. Evidence that the adopted person is deceased;
5. Evidence that the adopted person's biological parent(s) is/are deceased;
6. Evidence that the spouse(s) of the biological parent(s) is/are deceased; and
7. The required fee as established in 174 NAC 6-005.03.

6-003.04A1 Upon receipt of the required fee, the information in items 1-6 above, and verification of the information as valid, the Department will release to the heir of the adopted person all information on file, including but not limited to:

1. The name and address of the court that issued the Adoption Decree;
2. The name and address of the child placing agency, if an agency was involved;
3. A copy of the adopted person's original birth certificate;
4. A copy of the adopted person's medical history and any medical records on file with the Department; and
5. Any vital records documents identified during the research to link documents.

6-003.04B After July 20, 2002, an heir 21 years of age or older of an adopted person may request access to the adopted person's original adoptive information if at least 100 years has passed since the adopted person's birth by providing to the Department:

1. Evidence that s/he is an heir of the adopted person;
2. Evidence that s/he is 21 years of age or older; and

3. The required fee as established in 174 NAC 6-006.

6-003.04B1 Upon receipt of the required fee, the information in items 1 and 2 above, and verification of the information as valid, the Department will release to the heir of the adopted person all information on file, including but not limited to:

1. The name and address of the court that issued the Adoption Decree;
2. The name and address of the child placing agency, if an agency was involved;
3. A copy of the adopted person's original birth certificate; and
4. A copy of the adopted person's medical history and any medical records on file with the Department.

6-004 MEDICAL HISTORY: A complete medical history must be filed for every person adopted or for whom relinquishment or consent for adoption was given on or after September 1, 1988. The medical history must include, if available, a medical history of the biological mother and father and their biological families, unless the child is foreign born or abandoned. The medical history of the biological parents must include the race, ethnicity, nationality, Indian tribe when applicable and in compliance with the Nebraska Indian Child Welfare Act, or other cultural history, if available. The medical history must be submitted on a form provided by the Department, copies of which are Attachments J and K, incorporated in these regulations by this reference.

6-005 SCHEDULE OF FEES

6-005.01 For each search of the files, a fee as provided in Neb. Rev. Stat. § 71-612.

6-005.02 For each certified copy of a birth certificate, an additional fee of $1.

6-005.03 For each request by an heir of an adopted person for original birth information on the adopted person, as provided in 174 NAC 6-004, a fee of $100. This fee includes review of the request, correspondence with the heir, and up to four hours of research to link documents. If more than four hours of research time is required, a fee of $25 for each additional hour or partial hour will be charged. The fee may be waived by the Department if the requesting party shows that the fee would work an undue financial hardship on the party.

6-006 REVOCATION OF NONCONSENT FORM

6-006.01 A revocation of nonconsent by biological parent(s) may be filed at the option of the biological parent(s). The filing of this form will allow the release of information to the adopted person. Copies of the forms to be used are Attachments L and M, incorporated in these regulations by this reference.