



## **Adoptee Rights Law Center**

REPRESENTATION AND ADVOCACY FOR ADULT ADOPTED PEOPLE  
ON ISSUES OF IDENTITY AND US CITIZENSHIP

## **Testimony before the Senate Committee on the Judiciary**

**Vermont Senate • March 23, 2022**

## ORIGINAL BIRTH RECORDS OF ADOPTED PEOPLE

# UNDERSTANDING THIS ISSUE

Understanding the difference between a government record of birth (a birth certificate) and the records generated by an adoption (adoption records) is critical in understanding the scope of an adoptee's right to his or her own basic information and identity.

### Court Records

Court adoption records include information about the specific circumstances and legal issues involved in an adoption. They are confidential court documents, filed with and controlled by the court, not by the Department of Health.

### Original Birth Certificates

Original birth certificates are government records of birth, independent of adoption. When a child is relinquished for adoption, there can be no guarantee that he or she will be adopted. Such a guarantee is legally impossible to make. So is any alleged promise of anonymity.

### Adoption Agency Records

Records of private child-placing agencies are controlled by the agency's own policies as well as by state law and regulations. Adoption agencies have no control over government records and cannot make a legal promise to anyone that someone else's own vital record will remain sealed and unavailable.

*Other records not involved in this issue include maternity home records, hospital records, attorney records, immigration records (for intercountry adoptees), and identifying information held by adoption registries.*



Vermont H.629 • Written Testimony

# THIS ISSUE IN THE REGION

## WHAT'S DONE IN STATES AROUND VERMONT

Massachusetts and Vermont are outliers in this region on the issue of releasing an adopted person's own birth record at age 18. Massachusetts, however, is close to repealing its current restriction. Vermont is also unique in relying on an adoption registry to control release of "identifying information" rather than managing the discreet release of a vital record held by the state Department of Health.



### New York

#### Unrestricted Right

Adult adoptees at age 18, as well as their descendants, may request and obtain a certified copy of the long form original birth record upon request. More than 20,000 requests have been made since enactment of a new law in January 2020. No issues have been reported.



New York also provides identifying information for adopted people who were born outside of New York but adopted within the state. This includes Vermont-born adoptees.

### Maine

#### Unrestricted Right

All adult adoptees at age 18, as well as their descendants, may obtain a copy of their original birth records upon request. Birthparents may file a contact preference form to indicate any preference for contact.\*

Pending Bill

### Connecticut

#### Unrestricted Right

All adult adoptees at age 18, as well as their children and grandchildren, may obtain a copy of their original birth records upon request. The state recently eliminated a date-based restriction to make the right applicable to all adoptees.

### Rhode Island

#### Unrestricted Right

All adult adoptees at age 18 may obtain a copy of their own original birth records upon request. A pending bill expands this to the descendants of adopted people.

### New Hampshire

#### Unrestricted Right

All adult adoptees at age 18, as well as their descendants, may obtain a copy of their original birth record upon request. Birthparents may file a contact preference form to indicate any preference for contact.\*



#### \*A NOTE ABOUT CONTACT PREFERENCE FORMS

In Maine and New Hampshire, birthparents may file a contact preference form that is attached to the original birth record and indicates if the birthparent prefers contact or does not prefer contact. A filed contact preference form has no bearing on the release of the original birth record.

Pending Bill

### Massachusetts

#### Compromised Right

Adopted people born before June 17, 1974, and after December 31, 2007, have an unrestricted right to obtain their own original birth records at age 18. Adult adoptees do not have this right if they were born between 1974 and 2008. A pending bill would eliminate that restriction.

### Vermont

#### Compromised Right

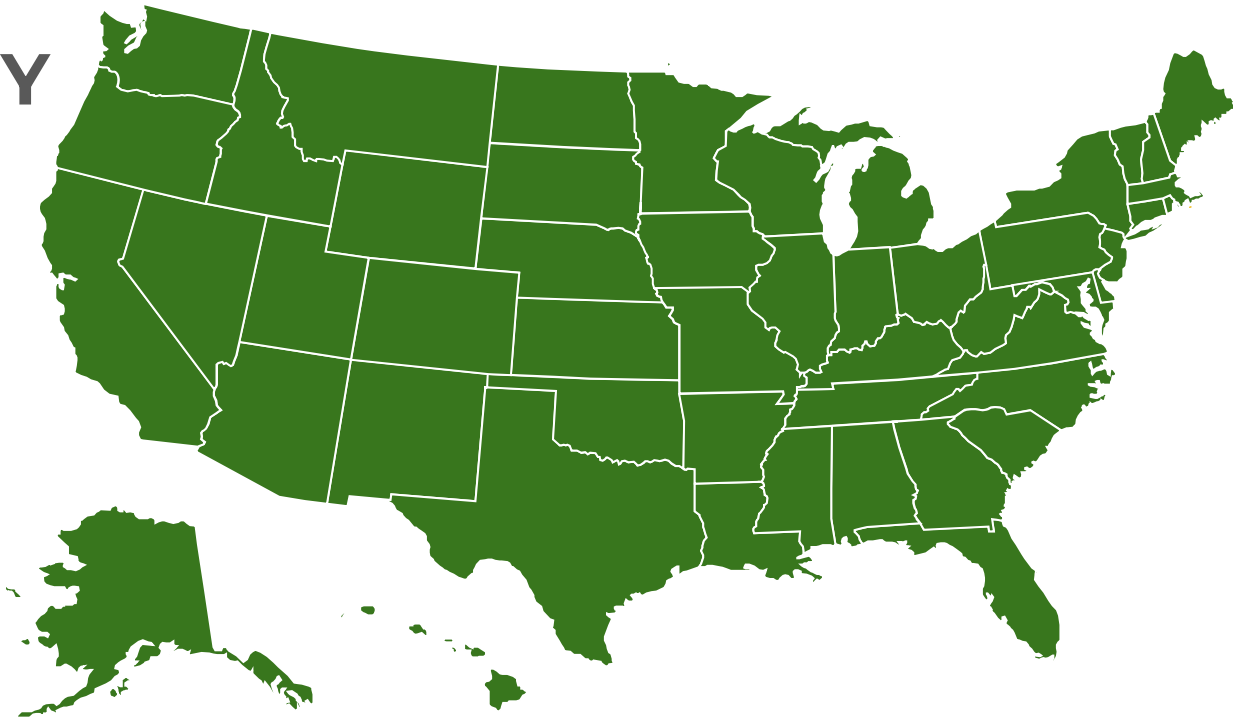
Adult adopted people have no right to request and obtain their own original birth records except through the use of a consent-based adoption registry, and only if a birthparent does not also veto release of "identifying information."

Pending Bill



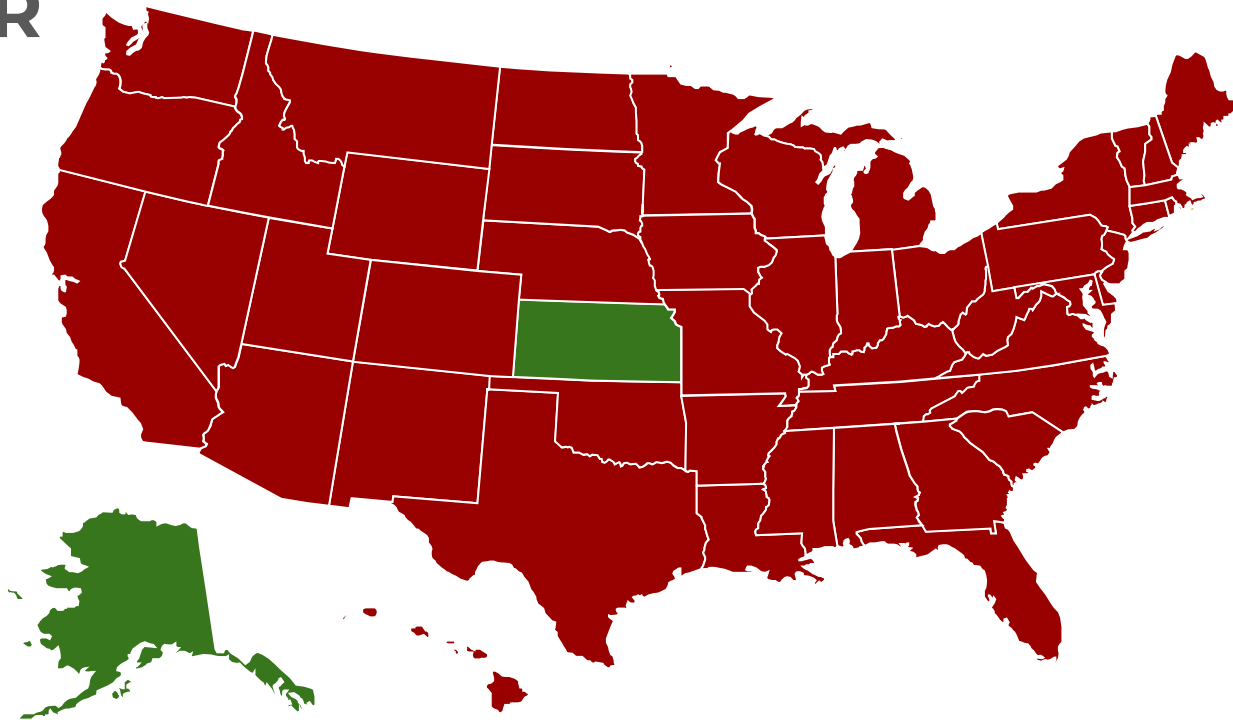
# THE MYTH OF SECRECY

The truth is that historically all adult adopted people born in the United States had an unrestricted right to request and obtain their own original birth certificates.



# THE POWER IT HOLDS

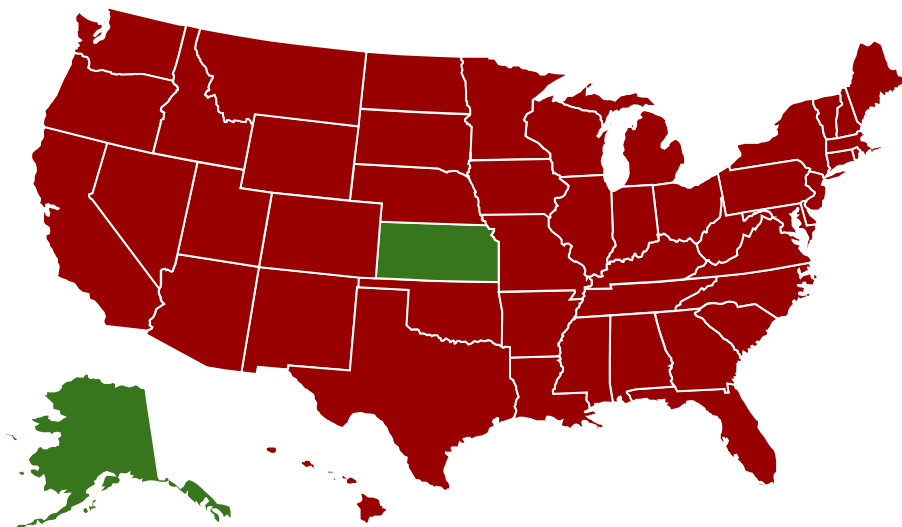
By the early 1980s nearly every state in the United States, except Alaska and Kansas, had sealed their original birth records after adoptions and made them unavailable to the adoptee, even when the adopted person was an adult.



# BUT WHY?

**The reasons** for sealing and making an adopted person's own birth record unavailable **were NOT about birthparent privacy or anonymity**. It was always about three things:

1. Addressing potential public shame of “infertile” adoptive parents;
2. Protecting children from the stigma of being deemed “illegitimate” or bastard children;
3. Specifically preventing birthparents from interfering with the new adoptive family.



# UNITED STATES OF OBC



**Adoptee Rights Law Center**

Info on individual states available at

[adopteerightslaw.com/usa](https://adopteerightslaw.com/usa)

**10**

## **UNRESTRICTED**

Unrestricted means an adult adoptee may apply for and obtain their own original birth certificate without any restrictions or conditions, other than following regular procedures for obtaining a state vital record. Ten states currently have restored or have always secured the right of adult adoptees to request and obtain their own original birth records.

**23**

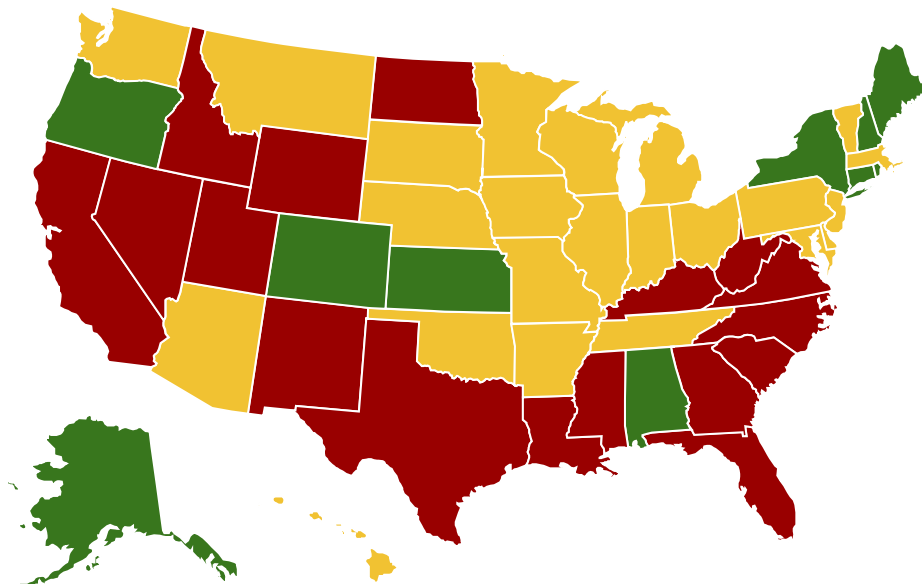
## **COMPROMISED**

Compromised means that that states have limited the rights of adult adoptees to obtain their own original birth certificates in various ways, including birth parent disclosure vetoes, redaction of identifying information, or restrictions based on the date of birth or adoption.

**18**

## **RESTRICTED**

Restricted typically means that adult adoptees have no specific rights to request and obtain their own original birth certificates, except by court order.



Map current as of February 2022

# RESTRICTED STATES

18

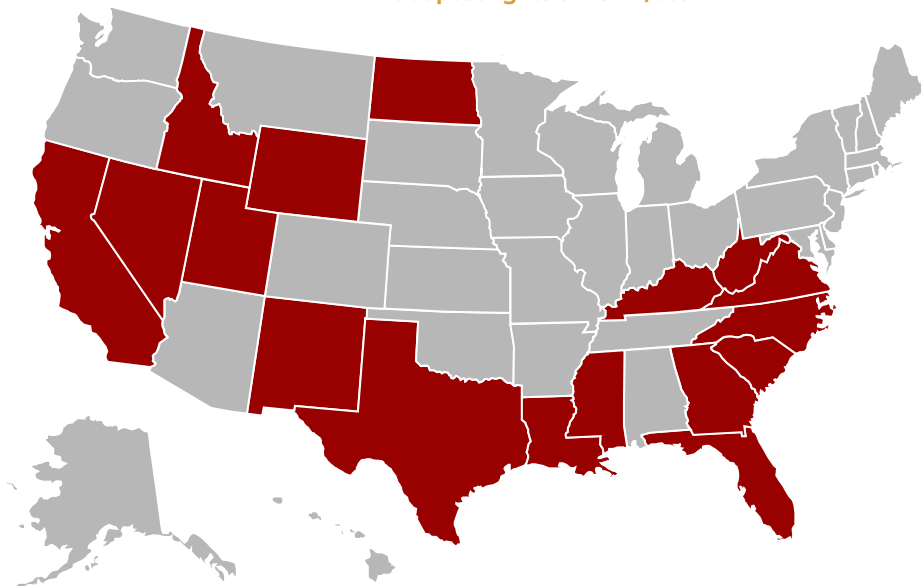
Restricted typically means that adult adoptees have no specific rights to request and obtain their own original birth certificates, except by court order. This includes the District of Columbia.



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# COMPROMISED STATES



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23

Age-Based • Donut Holes

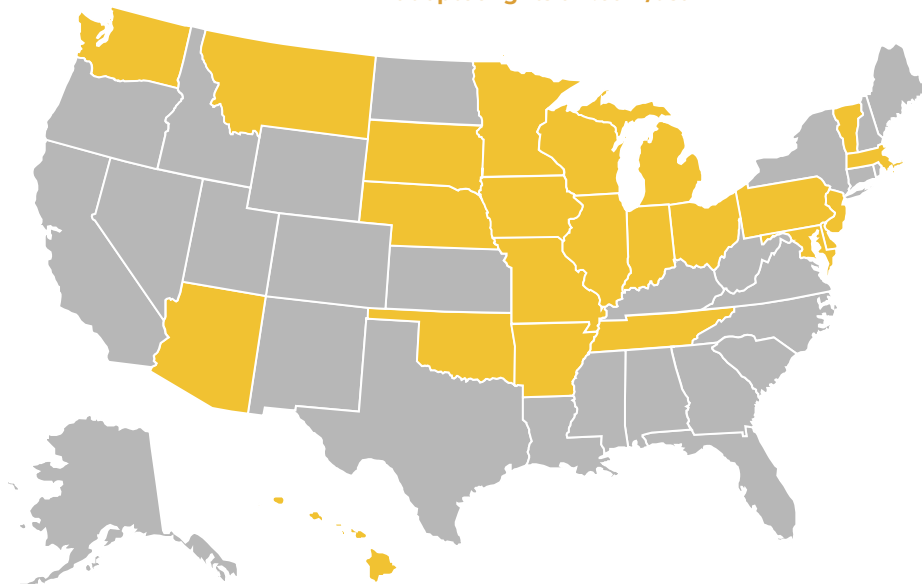
Excessive Fees • Parental

Consent • Zombie Veto • GED

Requirement • Court Records

Only • Registry Requirement

REDACTIONS



# EQUAL RIGHTS STATES



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Info on individual states available at  
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# 10

**ALASKA** - ALWAYS

**KANSAS** - ALWAYS

**OREGON** - 1998

**ALABAMA** - 1999

**NEW HAMPSHIRE** - 2005

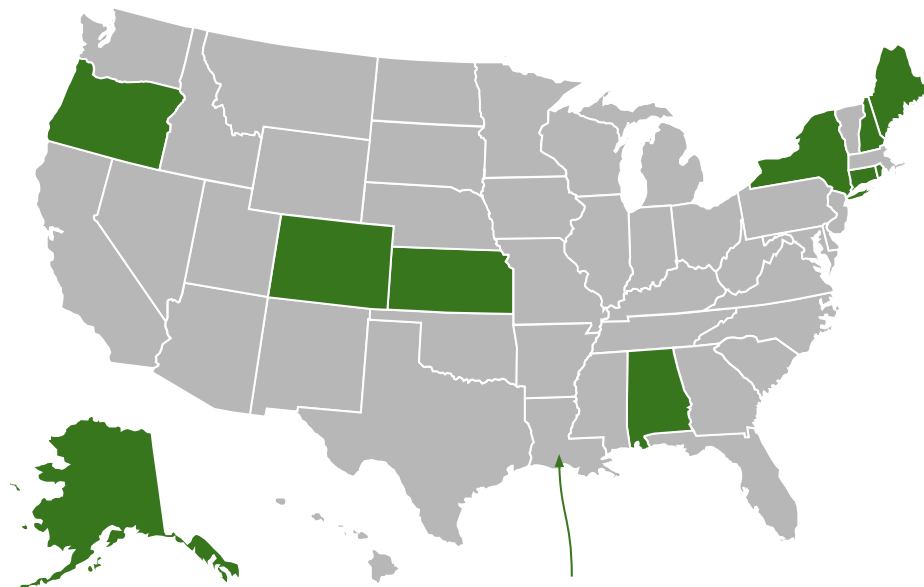
**MAINE** - 2008

**RHODE ISLAND** - 2012

**COLORADO** - 2015

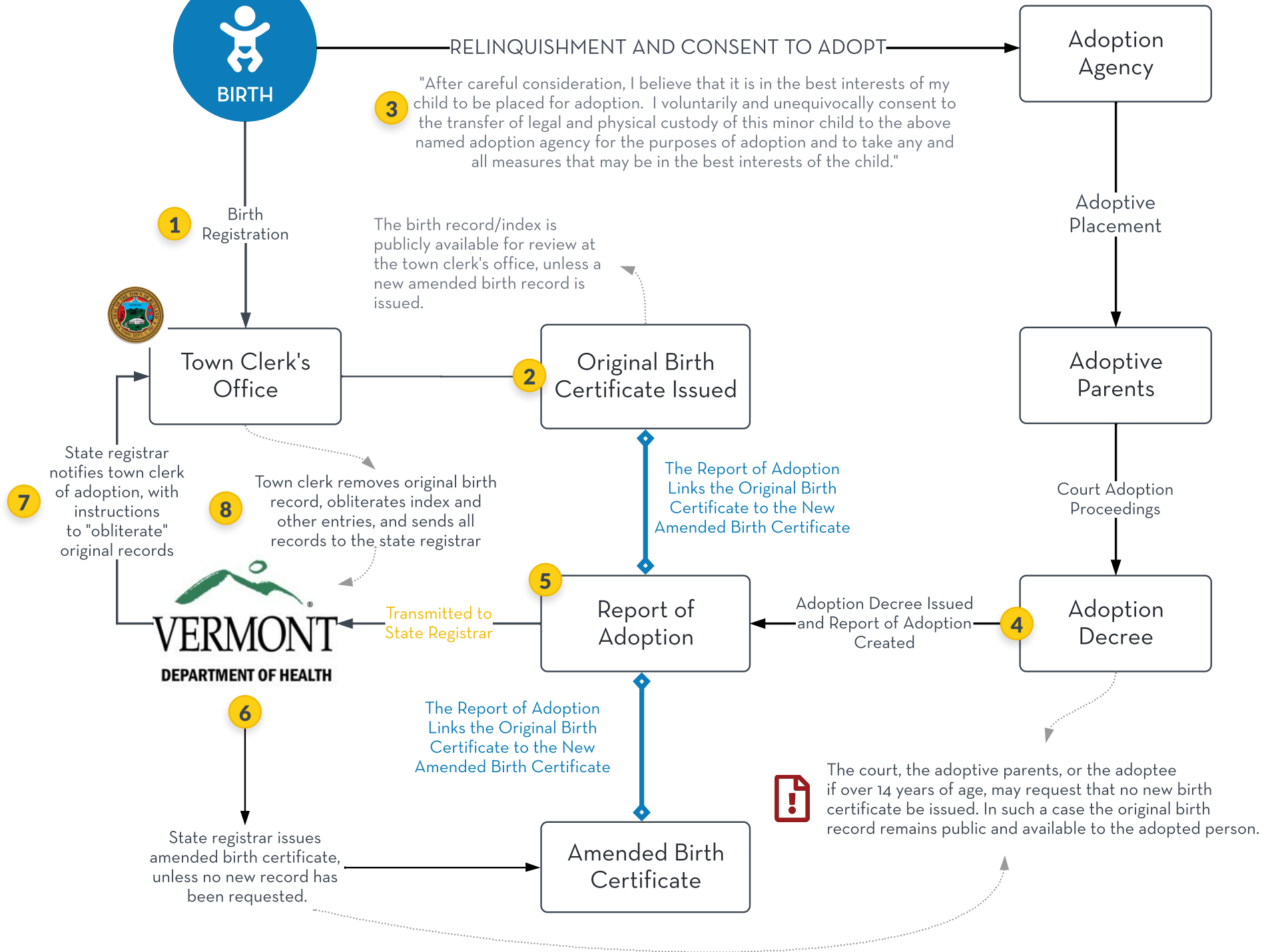
**NEW YORK** - 2020

**CONNECTICUT** - 2021



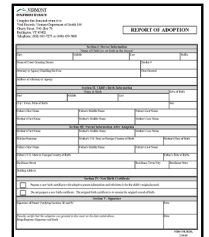
Louisiana has a bill on the House floor today that would restore an unrestricted right to adopted people to obtain their own birth records

# VERMONT: Original Birth Certificates

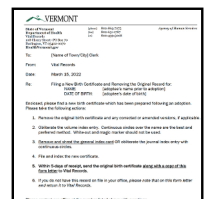


## Additional Details and Context

- 1 All births in Vermont are required to be reported to a town clerk or to the state registrar on a form provided by the state registrar. Births must be reported within five days of birth.
- 2 After registering a report of birth, the town clerk or state registrar issues a birth certificate. The certificate contains all information about the birth, with limited exceptions related to medical, health, and social security information. The birth certificate and the birth index is considered public information available for review at the state registrar or town clerk's office.
- 3 If an adoption of a child is contemplated, all named birthparents must consent to the adoption and release the child for adoption, giving up all rights and custody over child. A relinquishment and consent to adopt does not affect the original birth certificate on file with the town clerk and state registrar.
- 4 Adoption occurs only after court approval and issuance of a decree of adoption. If an adoption does not occur, the original birth certificate remains available to the child and is reviewable in the office of the town clerk or state registrar. Upon completion of an adoption, the court completes a report of adoption.
- 5 The court forwards a report of adoption to the state registrar. The report of adoption must contain "information in the court's record . . . that is necessary to locate and identify the adoptee's birth certificate." The court, the adoptive parents, or the adoptee if over 14 years of age, may request that no new birth certificate be issued.
- 6 Unless no new amended birth certificate is requested, the state registrar issues a new amended birth certificate. The original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection or copying until 99 years after the adoptee's date of birth, except as provided otherwise by law.
- 7 For birth certificates registered prior to July 1, 2019, the state registrar shall notify the town clerk with custody of the certificate, who shall substitute the new or amended birth certificate for the original birth certificate.
- 8 Pursuant to instructions from the state registrar, town clerks must remove the original birth certificate, shred or obliterate the birth index and any other entries containing the birth name of the adopted child, and forward the original birth certificate and all removed records to the state registrar.

A thumbnail image of a "Report of Adoption" form. The form is titled "REPORT OF ADOPTION" and includes sections for "ADOPTIVE PARENTS", "ADOPTEE", and "ADOPTION". It contains various fields for names, dates, and other identifying information.

Report of  
Adoption  
Form

A thumbnail image of a document titled "VERMONT" with the subtitle "Instructions to Town Clerks". It includes a "TO:" field for the Town Clerk and a "DATE:" field for the date of the instruction. The document provides detailed instructions regarding the handling of birth certificates and adoption records.

Instructions to  
Town Clerks



# CONTACT

Gregory D. Luce  
Adoptee Rights Law Center PLLC  
4629 1ST AVE S  
MINNEAPOLIS MN 55419

[adopteerrightslaw.com/press](https://adopteerrightslaw.com/press)

 [@adopteelaw](https://twitter.com/adopteelaw)

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[greg@adopteerrightslaw.com](mailto:greg@adopteerrightslaw.com)

(612) 221-3947