

Access in Ontario

On May 14, 2008 Ontario passed its new adoption disclosure law!

After a long struggle, advocates for open records celebrated in the legislature as Ontario became the fourth province to grant both adopted adults and birth parents access to information.

Beginning in June 2009, adopted adults will gain access to their original birth registration which contains their name at birth and the names of their birth parents. Birth parents will be able to access information from their adult child's original and amended birth registrations, learning their child's name after adoption and finding validation in receipt of the original documents they had filled out at the time of the birth. Both adopted adults and birth parents may file a no contact notice and /or a disclosure veto.

While these vetoes are disappointing they do represent a necessary compromise. We know from looking at other jurisdictions with vetoes, in Canada and elsewhere, that fewer than 5% of people will choose to file one. Compromise is necessary because a judge ruled in 2007 that it was unconstitutional for the government to release adoption information without providing individuals with the means to block its release.

An earlier incarnation of this law had allowed unrestricted access to information for both adopted adults and their birth parents. It was the most progressive piece of legislation in North America because it provided both adoptees and birth parents with the information they sought. Unfortunately a group of three adoptees and one birth father launched a constitutional challenge claiming that their privacy had been violated. The judge who heard the case waited until two days after the new law came into effect in 2007 before releasing his judgment and deeply disappointing those people who had sent in applications for information during that two day period. The Ontario government chose not to appeal the judge's decision. Instead they introduced a new bill that allowed for release of information but respected the judge's decision by including a disclosure veto.

Our May 14th victory was bittersweet as we mourned the law we almost had and celebrated the law we had won. Built into the law is an automatic 5 year review and we remain hopeful that meaningful changes can be achieved at that time. In the meantime, we will celebrate with the vast majority of Ontario adoptees and birth parents who will, for the first time since 1927, have access to information about themselves and their adult children.

Wendy Rowney