

Tennessee: Sealed Adoption Record Access

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36-1-126. Record kept under seal—Confidential records—Access to certain records—Preservation of records

- (a) (1) After the entry of the final order of adoption;
- (2) After entry of the final order dismissing the adoption;
- (3) After entry of an order revoking the surrender or parental consent;
- (4) After entry of an order dismissing a termination of parental rights proceeding filed in conjunction with an adoption proceeding; or
- (5) Upon conclusion of all termination of parental rights proceedings that were filed in conjunction with an adoption proceeding;

all adoption records, court reports, home studies, preliminary home studies, other reports or other documents or papers or other information concerning the placement or attempted placement of a person for adoption, or other information concerning the litigation of the adoption or attempted adoption of a person, which information is in the office of the judge or clerk of the court where the adoption was filed or where the surrender or confirmation of parental consent or revocation of a surrender or parental consent was taken, or any such records, reports, or documents in the offices of a licensed child-placing agency, a licensed clinical social worker, or in the county,

regional or state offices of the department of health, or in the county, district, and state offices of the department of children's services, shall be placed and remain under seal, except as provided herein or in § 36-1-118(e)(4), or in title 68, and shall be confidential and shall be disclosed only as provided in this part.

- (b) (1) Upon the granting or dismissal of an adoption petition, or after entry of the final order dismissing the adoption or revoking the surrender or the parental consent or upon conclusion of all termination of parental rights proceedings that were filed in conjunction with an adoption proceeding, all records and reports, home studies, and preliminary home studies or other information described in subsection (a) relating to the adoption proceeding and all records, reports and other documents related to the child's placement with the department or the licensed or chartered child-placing agency or licensed clinical social worker and with the adoptive or prospective adoptive family that are in the offices of the department or in the offices of any Tennessee licensed child-placing agency or licensed clinical social worker, shall be forwarded by the county and district offices of the department's social services division and by the licensed child-placing agency or licensed clinical social worker involved in any such proceedings to the state office of the department, which shall place the records under seal and ensure their safekeeping; provided, that copies of any records that relate to a child who is placed or retained in the custody or guardianship of the department or a licensed child-placing agency after the dismissal of an adoption proceeding without further adoption of the child by any person or pursuant to any guardianship or other order of the court pursuant to this part shall be retained as confidential foster care records pursuant to title 37, chapter 2, part 4 and shall be utilized by the department

or licensed child-placing agency for the care, supervision, protection, and treatment of that child as may be necessary.

(2) The licensed child-placing agency, chartered child-placing agency or licensed clinical social worker shall, however, maintain a limited record that indicates the child's date of birth, the date the agency received the child for placement, from whom the child was received and their last known address, with whom the child was placed and their last known address, and the court in which the adoption proceeding was filed and the date the adoption order was entered or the adoption petition dismissed.

(3) The information in the limited record shall be confidential and not open to inspection by any person, except as provided in this part. These records shall be maintained in a locked file or other secure depository by the agency or by the licensed clinical social worker or, if kept in electronic media, shall be maintained in a method that restricts access only to authorized agency personnel or the licensed clinical social worker. The limited record shall only be accessible to authorized agency personnel or the licensed clinical social worker or to authorized personnel of the department in the performance of its duties under this part or for inspection under the department's licensing duties, or as otherwise authorized by this part.

(4) Upon entry of an order of adoption or dismissal of a petition for adoption or dismissal of termination proceedings that were filed in conjunction with an adoption proceeding, or upon revocation of a surrender or parental consent, or modification of an order of guardianship, the clerk of the court where the adoption or surrender proceedings were initiated or filed shall

forward a certified copy of the orders to the adoptions unit in the state office of the department in Nashville.

(5) (A) Any licensed child-placing agency or licensed clinical social worker that or who plans to cease conducting its activities related to the adoptive placement of children, the conduct of home studies, or any other such adoption-related services, shall notify the adoptions unit of the state office of the department in Nashville by certified mail, return receipt requested, thirty (30) days in advance, and shall forward all records related to any adoption-related services it has performed to the department.

(B) The department is specifically authorized to file a complaint and seek any necessary court orders, including injunctive relief of any kind, from any chancery or circuit court to preserve those records from loss or destruction and to obtain possession of those records for their preservation.

(C) Upon receipt of the records, reports, home studies and other information, the department shall take any necessary steps to preserve the records, reports, home studies and other information in accordance with this part. These records, reports, home studies and other information shall be filed as a sealed adoption record or sealed record, and all such records shall be confidential, and shall be otherwise subject to the provisions for access as provided pursuant to this part.

(6) (A) The clerks of the courts of this state are specifically authorized to undertake efforts to locate in any public

building in their respective counties any records of adoptions or attempted adoptions of any person by any court, including former county courts or any court that previously had adoption jurisdiction, which records may be in the control or possession of any person or entity. Upon location of these records, if it is determined that the information therein was the result of an adoption that was filed or consummated and the clerk has no prior record of the adoption, the clerk shall record the existence of this adoption record in a special docket book for this purpose, shall maintain the adoption petition, consents or surrenders, and the order in a file for that purpose under this part, and shall transmit to the department certified copies of the adoption petition, the surrenders and consents and the order of adoption, and the originals of any remaining documents in the record that have been located.

(B) Upon receipt of the record, the department shall take any necessary steps to preserve the record, and the record shall be treated as sealed adoption records pursuant to this part.

- (c) (1) The sealed adoption record shall be registered by the department in such a manner as to record the names of the adopted person, the adopted person's birth name, the person's date of birth and social security number, the names of the adoptive parents, and, if possible, any information concerning the names of birth parents of the child that is readily accessible to the department, the court where the adoption was filed, the docket number of the court proceeding, and the date of the adoption decree or the order of dismissal of the adoption petition, the order revoking the surrender, or the order

dismissing the order of guardianship; provided that sealed records may continue to be registered and maintained under prior departmental procedures. The department may record such other information as it shall deem necessary to maintain adequate information concerning the location of the sealed adoption record or sealed record and the means by which to locate such record.

(2) Such registration record shall be maintained in a secure manner so that no unauthorized persons may obtain access to the records. The sealed adoption record shall be placed in a separate sealed folder or in a suitable electronic media format wherein the record can be held under a separate file name, and shall be stored with the division of records management of the department of state, which shall carefully protect and preserve the sealed adoption records or sealed records and shall maintain proper security for the confidentiality of the sealed adoption records or sealed records.

(3) If electronic methods of recording the information contained in the sealed adoption records or sealed records are employed, the departments of children's services and general services shall utilize any necessary methods to ensure the preservation and confidentiality of the electronic records.

(d) (1) The department may open the adoption records, the sealed adoption records, sealed records, or post-adoption records, adoption assistance records, or limited records in subsection (b) in order to perform any duties required under this part, and any specific provision for access to such records contained herein shall not be construed as a limitation on the ability of the department to access such records for such purposes.

(2) Notwithstanding any law to the contrary, including V 68-3-313, the department shall, upon its request, be granted access to and shall be provided a copy of the original birth certificate or any order or record of adoption of the adopted person in the custody of the division of vital records.

(3) For purposes related to any federal or state audit relative to an adoption assistance program or an adoption assistance grant, the department may open any record for the sole and limited purpose of complying with the audit requirements of the federal or state program.

(4) For purposes related to the determination of eligibility of any child for adoption assistance, the departments of children's services and finance and administration, or any successor agencies responsible for the care of children in state custody or guardianship or for administration of the finances for children in state custody or guardianship, may open any adoption record, sealed adoption record, sealed record, post-adoption record, sealed home study records, or adoption assistance record for that limited purpose and may utilize any information in such records in any manner necessary for eligibility determination or adjudication of a claim for such assistance.

(5) (A) For purposes related to the determination of eligibility of any adopted person or any person placed for adoption for any federal or state benefit or any other benefits to which they may be entitled, or to provide to a Title IV-D child support office information necessary to verify the status of an adoption for purposes of determining a current or past child support obligation or for terminating a future obligation for child support, the departments of

children's services and finance and administration, or any successor agencies responsible for the care of children in state custody or guardianship or for administration of the finances for children in state custody or guardianship, may open any adoption record, sealed adoption record, sealed record, post-adoption record, sealed home study records or any adoption assistance record and disclose any information contained in those records that may be necessary to permit determination of:

(i) Eligibility for or correction of payments made to or on behalf of an adopted person; or

(ii) The status of current, past or future child support obligations that are, or may be, due on behalf of any adopted person.

(B) Any information released for any purpose of this subdivision (d)(5) shall be used only for the purposes stated in this subdivision (d)(5), and shall otherwise remain confidential in any agency or court records in which it may appear; and the information shall not be open to the public, except as otherwise provided by this part.

(6) The department may open or utilize for any purpose the adoption record, sealed adoption record, sealed record or the post-adoption record at any time in order to obtain any information concerning any person who may be placed in the custody or guardianship of the department or any other agency of the state or service provider of the state by any court or by the adopted person's parents, or who may be placed with the department or any other agency of the state or service provider

of the state due to any re-surrender of the adopted person to the department by the adopted person's adoptive parents or the person's prospective adoptive parents.

(7) The department may open the sealed adoption record or sealed record when a birth certificate in the adopted name was not issued and it becomes necessary to open the sealed adoption record to provide any information to the office of vital records to complete the birth certificate.

(8) The department, the department of general services, or their specifically authorized agents, may open the sealed adoption records, sealed records, or post-adoption records at any time it becomes necessary to perform any tasks related to the preservation of the records, and each department is specifically authorized to utilize any methodology that now exists or that may be developed in the future for the permanent preservation of a sealed adoption record, sealed record or post-adoption record, and they may open the records for the limited purpose of undertaking these preservation methods. This subdivision (d)(8) shall not authorize the release of any information contained in the records to any other person or entity except as specifically authorized by this part, or as may be directly related to the preservation of the records.

(9) After use of the records pursuant to this subsection (d), they shall be re-sealed and returned to storage.

(e) In the event of an appeal from any ruling of the trial court in the adoption proceeding, the clerk shall place the court's record of the adoption proceedings in a sealed file in a locked file or other secure depository or, in the event of the use of electronic storage, the

records shall be maintained in a secure method of storage that restricts access only to the clerk and other persons authorized by the court. These records shall remain confidential and shall not be open to inspection by anyone other than the trial or appellate courts, the clerk, the parties to the proceeding, or the licensed child-placing agencies, or the licensed clinical social worker, or the department or other governmental agencies that have been involved in the case, except by order of the court.

36-1-127. Availability of records to adopted persons and certain other persons for adoptions finalized or attempted prior to certain dates

(a) (1) On March 16, 1951, Chapter 202 of the Public Acts of 1951 became effective. As a result, all records related to persons who had been adopted, all records concerning a person for whom any records were maintained and that may have related to an adoption or attempted adoption and that were treated by the department of human services, the former department of public welfare, the courts, the department of health, or any other information sources as a sealed record or sealed adoption record involving an adoption or attempted adoption of a person, became confidential, non-public records that were not made readily available to persons about whom the records were kept.

(2) It is the intent of the general assembly that all adoption records, court records, sealed records, or sealed adoption records, and post-adoption records and other records or information, except as may otherwise be provided in this part, and that are contained in any information source on and after January 1, 1996, and that were in existence on March 16, 1951,

be made available to eligible persons as provided in this part, and that to that end this is remedial legislation.

(3) It is the further intent of the general assembly, in view of the testimony before the adoption study commission established by Senate Joint Resolution 17 of the Ninety-Eighth General Assembly (1993 session), which testimony demonstrated the great concern by many persons regarding the practices of certain Tennessee adoption agencies in earlier years, that any adoption records, sealed records, sealed adoption records or post-adoption records, or other records maintained at any time by the Tennessee children's home society or its branches or divisions, chartered on June 24, 1913, and authorized under Chapter 113 of the Public Acts of 1919; and any branch or division thereof, including an organization known as the Tennessee children's home society-Shelby County division, which was referenced in the report of the Tennessee department of public welfare to Governor Gordon Browning dated June 12, 1951, shall also be made available to eligible persons in accordance with this part, whether such records were completed or sealed before, on, or after March 16, 1951, and whether any persons subject to the care and supervision of such agency or its branches were ever actually adopted, and to that end this is remedial legislation.

(b) Effective January 1, 1996, pursuant to the requirements of subsections (g) and (h), and subject to the restrictions in the following sections or subsections:

- (1) (A) All adoption records, sealed records, sealed adoption records, post-adoption records, home studies, or any other records or papers, existing prior to March 16, 1951, and relating to the adoption or attempted adoption of a

person, which adoption was finalized by completion of the adoption by the entry of an order of adoption or an order of dismissal of the adoption proceeding prior to March 16, 1951; or which adoption was otherwise never completed due to the abandonment, prior to March 16, 1951, of any further necessary activity related to the completion of the adoption, and which records were sealed or closed by the court before that date, or where the record or other evidence demonstrates that a person was surrendered for adoption prior to March 16, 1951; or

(B) Any adoption records, sealed records, sealed adoption records, post-adoption records, or any other records or papers, existing prior to March 16, 1951, and relating to the adoption or attempted adoption of a person that before the effective date of Chapter 532 of the Public Acts of 1995 [see Compiler's Notes], have been treated as, or have been determined by the department or any other information source to be, cases of adoptions finalized by the completion of the adoption by the entry of an order of adoption or by entry of an order of dismissal of the adoption prior to March 16, 1951; or that have been treated by or are determined by the department as finalized adoptions due to the abandonment, prior to March 16, 1951, of any further necessary activity related to the completion of the adoption, or where the record or other evidence demonstrates that a person was surrendered for adoption prior to March 16, 1951; or

(2) All adoption records, sealed records, sealed adoption records, post-adoption records, or any other papers or records, existing either before or after March 16, 1951, concerning a person who was subject to the care and supervision, or subject

to placement for foster care or adoption, by any agency described in subdivision (a)(3), or which records were maintained by any child care or child-placing agency that had, either before or after March 16, 1951, subsequently assumed the care and supervision of a child who had previously been subject to the care and control of an agency described in subdivision (a)(3), whether or not the adoption of such person was the plan, whether the person was placed for the purpose of adoption or whether the adoption was finalized by entry of an order of adoption or by order of dismissal of the adoption, whether the adoption was attempted, or was otherwise never completed due to failure to file an adoption petition or due to the abandonment of any further necessary activity related to the completion of the adoption, either before or after March 16, 1951; and

(3) Which records are in the office of the clerk of the adoption court, in the offices of the department of health, in the office of any child-placing agency, whether or not it is chartered or licensed, in the state, district, or county offices of the department of children's services, or in any other information source, shall be made available to the following eligible persons:

(A) An adopted person or a person subject to subdivision (b)(1) and (2) who is twenty-one (21) years of age or older for whom an adoption record, sealed record, sealed adoption record, post-adoption record, or other record or paper is, nevertheless, maintained;

(B) The parents of any person described in subdivision (b)(3)(A);

(C) The siblings of any person described in subdivision (b)(3)(A);

(D) The lineal descendants, twenty-one (21) years or older, of any person described in subdivision (b)(3)(A);

(E) The lineal ancestors of a person described in subdivision (b)(3)(A); or

(F) The legal representatives of the person described in subdivisions (b)(3)(A)-(E).

(c) Effective July 1, 1996, pursuant to the requirements of subsections (g) and (h), and subject to the restrictions in the following sections or subsections:

- (1) (A) All adoption records, sealed records, sealed adoption records, post-adoption records, or any other records or papers for a person relating to the adoption or attempted adoption of a person, which adoption was finalized by the completion of the adoption by the entry of an order of adoption or an order of dismissal of the adoption proceeding on or after March 16, 1951, or which records relate to an adoption or attempted adoption where the adoption petition was filed on or after March 16, 1951, or that was otherwise never completed, due to the abandonment, as determined by the department, on or after March 16, 1951, of any further necessary activity related to the completion of the adoption, and which records are in the office of the clerk of the adoption court, in the offices of the department of health, in the office of any child-placing agency, whether or not it is chartered or

licensed, in the state, district, or county offices of the department of children's services, or in any other information source, shall be made available to the following eligible persons:

(i) An adopted person or a person subject to subdivision (c)(1)(A) who is twenty-one (21) years of age or older on whom an adoption record, sealed record, sealed adoption record, post-adoption record, or other record or paper is maintained;

(ii) The legal representative of a person described in subdivision (c)(1)(A)(i).

(B) Information from any records of an adopted person, or any person otherwise subject to subdivision (c)(1)(A) for whom records are otherwise maintained, shall be released by the department or any other information source only to the parents, siblings, lineal descendants, or lineal ancestors, of the adopted person or of a person for whom records are maintained as described in subdivision (c)(1)(A), and only with the express written consent given to the department by the adopted person or of a person for whom records are maintained as described in subdivision (c)(1)(A), twenty-one (21) years of age or older, or such person's legal representative, and, notwithstanding any other of the following provisions of this part to the contrary, the adopted person or a person for whom records are maintained as described in subdivision (c)(1)(A), such person's legal representative shall, under no circumstances, be required to take any affirmative action pursuant to the contact veto provisions of this part to protect the confidentiality of such identifying

information; provided, that nothing herein shall be construed to prevent access to identifying information in the records of the adopted person as otherwise permitted or required pursuant to §§ 36-1-125, 36-1-126 and 36-1-138.

(C) If an adopted person or a person for whom records are maintained as described in subdivision (c)(1)(A) is deceased or is disabled as defined for purposes of appointment of a conservator under title 34, the lineal descendants of such person may petition the court pursuant to § 36-1-138(c)(7), to be given access to the records of such person. A lineal descendant given access pursuant to this subdivision (c)(1)(C) is subject to all the requirements of the contact veto process.

(2) Notwithstanding any other law to the contrary, §§ 36-1-139 and 36-1-141 as such sections existed immediately prior to January 1, 1996, shall be revived and shall continue in full force and effect from May 15, 1996, and shall expire on July 1, 1996, to provide a method for contact with siblings and biological parents as provided therein until the effective date of the contact veto process.

(3) On July 1, 1996, the contact veto registry process and records access procedure established pursuant to subdivision (c)(1) and subsections (d)-(h) and other sections of this part shall become effective for access to records and contact by eligible persons under this part as set forth in subdivision (c)(1) and any other provisions of this part.

- (4) Effective January 1, 1996, the basis for judicially-ordered opening of all records pursuant to this part shall be the provisions set forth in § 36-1-138 and any other relevant provisions of this part.
- (d) No contact, whether by personal contact, correspondence, or otherwise, shall be made in any manner whatsoever by those requesting persons who are subject to the provisions of subsection (c), or any agent or other person acting in concert with those requesting persons, with any person or persons eligible to file a contact veto under the provisions of §§ 36-1-128 – 36-1-131, except as permitted pursuant to those sections.
- (e) (1) Except in cases arising pursuant to subsection (b) or § 36-1-138, no access to identifying information in any adoption record, sealed record, sealed adoption record, post adoption record or adoption assistance record shall be granted:
- (A) To any parent, pre-adoptive guardian, sibling, lineal descendant or lineal ancestor of a person under twenty-one (21) years of age; or
 - (B) At any time to any parent or pre-adoptive guardian, or to a sibling, lineal ancestor, or spouse or legal representative of the person whose rights were involuntarily terminated for cause in a termination of parental rights proceeding; or
 - (C) To any persons whom the sealed record, sealed adoption record or the post adoption record indicates 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.

(2) Notwithstanding any other law to the contrary, no identifying information from the sealed records, sealed adoption records or post adoption records shall be released without the written consent of the biological parent if such records indicate that, with respect to the adopted person, the biological parent was the victim of rape or incest. If a biological parent for whom records contain such information is deceased or if a conservator of the person and property of such person has been appointed under title 34, the lineal descendants of such person may petition the court pursuant to the same procedures established pursuant to § 36-1-138(c)(7) to be given access to identifying information of the biological parent. A lineal descendant given access pursuant to this subsection (e) is subject to all requirements of the contact veto process.

(f) The adoption record, sealed adoption record, sealed record, or post-adoption record requested by the persons stated in subsection (c) shall be made available only after completion by the requesting party of a sworn statement agreeing that such person or persons shall not contact or attempt to contact in any manner, by themselves or in concert with any other persons or entities, any of the persons eligible to file a contact veto pursuant to § 36-1-128, until the department has completed the search of the contact veto registry as provided in § 36-1-130 or pursuant to § 36-1-131, and that such person or persons understand the legal remedies for violation of the contact veto. The sworn statement shall contain language, which shall be acknowledged by the requesting party, concerning the existence of the contact veto procedure and the legal remedies for breach of the contact veto.

(g) (1) Access by any eligible person under any subsection of this section to any records held by the department, the court, the department of general services or health, or any licensed child-placing agency or licensed clinical social worker may only be had after verification of the identity of the requesting party and written authorization by the department is received by those information sources from the department.

(2) If the department does not have a sealed record, sealed adoption record, or post-adoption record, and if the person seeking information concerning the history of an adopted person has a copy of the order of adoption from a Tennessee court, or in cases where the adoption was handled by any agency described in subdivision (a)(3), a copy of an order of adoption from any other court and/or any other proof of the person's care, supervision, or placement for adoption by any agency described in subdivision (a)(3), and any other proof of the adoption of the person in Tennessee, any of which, in the discretion of the department is satisfactory to prove that the person is an eligible person, the department may issue a statement to that person permitting that person to obtain access to any records held by any other information source.

(h) (1) A request for access to an adoption record, sealed adoption record, sealed record, or a post-adoption record, pursuant to this section, shall be made in writing to the department.

(2) The writing shall include the following information:

(A) The name, date of birth, address, and telephone number of the person requesting the access;

(B) Information, including legal documents or affidavits, if available, that establish the person's legal relationship to any person under this section or that otherwise establishes the person's right to request access;

(C) Any other information that the department requires to establish the person's identity, to locate records involving the requesting parties or the persons with whom contact may be sought, and to establish the person's right to request access; and

(D) Identification of any person or persons or class of persons, if any, with whom the requesting party seeks contact; provided, that this provision shall not apply to persons seeking information pursuant to subsection (b).

(3) If the information in the written request does not establish the person's right to have access to the records, the department will search the sealed adoption and post-adoption records, including those of other alleged siblings, if available, for information that may establish the person's right to have such access.

36-1-128. Contact veto registry—Persons eligible to have names entered

(a) The department shall establish and maintain a contact veto registry for the purposes of permitting registration of the willingness or unwillingness of the persons or classes of persons named herein for contact with persons eligible to have access to any records covered by this part; provided, that the contact veto registry shall not be applicable to records requested pursuant to [§ 36-1-127\(b\)](#).

(b) The following persons may have their names entered in the registry either to file a contact veto or to give consent to contact:

(1) A parent, sibling, spouse, lineal ancestor, or lineal descendant of an adopted person or a person for whom records are maintained as described in [§ 36-1-127\(c\)\(1\)\(A\)](#), either before or after such persons reach twenty-one (21) years of age.

(2) The legal representative of any person described in subdivision (b)(1).

(c) The registry shall contain the following information:

(1) The name of each person who has duly filed a contact veto or who has given consent for further contact;

(2) The address given by the person as the address at which any personal, postal, or telephone contact shall be made by the department;

(3) The date and place of birth of the person, if known;

(4) Any persons whom the person who files a contact veto wishes to exclude from the application of the contact veto pursuant to [§ 36-1-130\(a\)\(6\)\(A\)\(i\)](#);

(5) The name, address, and telephone number of the person requesting contact so as to be notified in the event that the contact veto is withdrawn or varied;

- (6) The method of contact, if any, to which the person consents, including contact through one (1) or more third parties; and
- (7) Any other information that eligible parties wish to release to the other eligible parties.
- (d) Within ninety (90) days of January 1, 1996, and periodically thereafter on at least an annual basis, through the use of public service announcements and other forms of media coverage as may be available without cost, the department shall announce the existence of the registry and its services.

36-1-129. Procedures for filing contact veto or giving consent

- (a) (1) A person eligible to file a contact veto or give consent for further contact may notify the department in writing on a form supplied by the department that such person does or does not object to contact being made with such person by any person or group of persons who are eligible to establish contact. The department shall supply the necessary form upon request of any persons eligible to have their names entered on the registry.

(2) A contact veto is not effectively filed or consent properly given unless the person provides the department with satisfactory proof of such person's identity and completes and files with the department a form from the department containing the relevant information in § 36-1-128(c) and pays any necessary fees.

- (b) As part of the surrender under § 36-1-111 or as part of a parental consent, a biological parent or guardian shall indicate in the appropriate place on the surrender or parental consent document

whether or not such person wishes to file a contact veto or give consent for further contact, and shall complete the information requirements for registration on the contact veto registry on a form supplied by the department containing the relevant information in § 36-1-128(c). A contact veto is not effectively filed or consent properly given unless the person surrendering or giving a parental consent completes such form at the time of the surrender or parental consent or properly files the form with the department at a later time; provided, that no fee for filing a contact veto or consent to contact shall be required if the veto or consent is completed at the time of the surrender or parental consent. If, for any reason, the person failed to complete a consent for contact or a veto at the time of the surrender or parental consent, the person may do so at a later time after compliance with all provisions for filing, including the payment of all necessary fees.

(c) By filing a contact veto that complies with the requirements of this section, a person is entitled to notification of any inquiry requesting contact with the filing person.

(d) Forms for filing consents for contact or for filing contact vetoes shall be made available by the department in the offices of the clerks of courts with adoption jurisdiction and in the department's state office and county offices.

36-1-130. Access to records–Search of registry–Restrictions on contact

(a) (1) When a request is made for access to an adoption record, sealed adoption record, sealed record or a post-adoption record by a person eligible to have access, that person shall identify in writing on the form supplied by the department, the

persons or classes of persons who are eligible under § 36-1-128 to refuse or allow contact with whom the person wishes to establish contact, if any, and shall submit the sworn statement required by § 36-1-127(f).

(2) Upon submission of the sworn statement and after proper identification of the requesting party, the department shall grant access to the records requested. Notwithstanding § 68-3-313, upon receipt of a copy of the sworn statement required by § 36-1-127 or upon notification from the department, the division of vital records of the department of health shall grant access to a copy of an adopted person's original or amended birth certificate.

(3) No person requesting access to the records, whether acting alone or in concert with any other person, persons or entities, shall at anytime contact or attempt contact with any person or persons who are eligible to file a contact veto until the completion of the search by the department pursuant to this section and § 36-1-131. A violation of this prohibition shall make the requesting party, the party's agents, or any person or persons acting in concert with them subject to the legal remedies pursuant to § 36-1-132.

(4) If the person eligible to request access to the records does state on the form a desire to contact any person who is eligible to file a contact veto, then the department shall search the contact veto registry to determine whether a contact veto has been filed or whether consent has been given for further contact with the person who is sought.

(5) The department shall only search for those persons with whom the requesting party seeks contact.

(6) (A) (i) If a person files a contact veto in conformity with this part, the contact veto shall, in addition, automatically protect and apply to the person's spouse, siblings or future siblings, lineal descendants and lineal ancestors and any spouses of those other persons, but may exclude from such protection and application, by specific reference, any such relatives or spouses where permission is given to the department in writing by the person filing the contact veto. If, because contact vetoes or consents are filed on the same date, the department is unable to determine which was filed first, the contact veto shall be deemed to be the first filed.

(ii) The person filing the automatic veto or giving consent to contact may vary or withdraw the automatic veto or consent that has been given upon satisfactory proof of identity and by making such request in writing to the department.

(iii) If a request is made by an adopted person or person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative, to have contact with a person to whom the automatic veto under subdivision (a)(6)(A)(i) applies or to have contact with a person who is otherwise eligible to file a contact veto, the department shall attempt to contact those persons for whom a contact request is made who are listed on the registry or,

if not listed on the registry, shall attempt contact pursuant to the search requirements of § 36-1-131.

(iv) If a request is made under this part to have contact with an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A) by a parent, sibling, lineal descendant, lineal ancestor of such person, or the legal representative of the requesting party, the department shall make a diligent effort to contact the adopted person or the person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representatives, based upon information contained in any records that it maintains pursuant to this part or based upon other information that it is given by the parent, sibling, lineal descendant, lineal ancestor or the legal representative of such persons.

(v) In the circumstances described in subdivision (a)(6)(A)(iii) or (a)(6)(A)(iv), the department shall determine if any of these persons wish to consent to contact with the requesting party or whether they wish to confirm, alter, vary or withdraw a contact veto, or in the case of an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), whether they wish to release any identifying information.

(vi) If the adopted person or person for whom records are maintained as described in § 36-1-

127(c)(1)(A), is twenty-one (21) years of age or older, or such person's legal representative, wishes to permit contact or wishes to release identifying information, such person may give written direction to the department relative to the desire for contact or the extent of identifying information such person wishes to release; provided, that notwithstanding any other provisions of this part to the contrary, they shall not be under any affirmative duty to use any of the procedures for filing any contact veto pursuant to this part to prevent contact or to prevent the release of any identifying information from any record subject to this part, and no identifying information from any record shall be made available to any other persons without the written consent to the department by an adopted person or person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative; provided, that nothing herein shall be construed to prevent access to identifying information in the records of the adopted person as otherwise permitted or required pursuant to §§ 36-1-125, 36-1-126 and 36-1-138. If written direction is given by an adopted person or person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative, to permit contact or the release of certain identifying information, the department shall require the requesting party to sign a sworn statement similar to that required under § 36-1-127(f), acknowledging the restrictions on contact or use

of any identifying information permitted or allowed under this subdivision (a)(6)(A)(vi).

(vii) The spouse of the person filing an automatic veto and the siblings, lineal descendants and lineal ancestors and any spouses of those persons, or the legal representatives of any persons eligible to file a contact veto, may also give written consent to the department for release from the automatic veto that may have been filed prior to such person's filing with the contact veto registry, and the person, or the person's legal representative, may alter or vary the automatic veto as it applies specifically to that person, and, if contacted by the department pursuant to this part in response to a search request, may agree to contact.

(B) The restrictions of § 36-1-132 shall apply to the persons enumerated in subdivision (a)(6)(A)(i) or their agents or persons acting on their behalf.

(C) If a person who is contacted pursuant to this part agrees to contact before any other person files a contact veto pursuant to this part, the provisions of subdivision (a)(6)(A)(i) shall not apply to that person.

- (b) (1) If a contact veto has been filed, the department shall notify the person with whom contact has been sought of the inquiry concerning the request for contact. Such person shall have the opportunity to confirm the veto, vary it, or withdraw it.

(2) If a contact veto that has been filed with the department remains intact or is filed as a result of a search pursuant to § 36-1-131, or if a consent to contact is altered to withdraw the ability to have contact, the department shall notify the requesting party of this fact and the requesting party shall not be permitted contact with the person sought.

(3) If the contact veto remains intact, or if the adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative, refuses contact or refuses to release identifying information, the person making the request for contact or information may place such person's name, address and telephone number in the registry to request notification from the department should the contact veto be varied, altered or withdrawn or permission for release of identifying information be given, or such requesting person may, in writing, permit the department to release such person's name, address and telephone number to the person who had entered the contact veto or who had denied contact or who had denied the release of identifying information, and that person may contact the requesting person at such person's discretion without further involvement of the department.

(c) If consent for contact is shown from the registry records or is given by the person with whom contact is sought either by withdrawing or varying the veto, or if the adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative, gives permission for contact or for release of identifying information, the department shall, in conformity with the consent or the varied or altered veto, notify the person making the original request of this fact and shall provide such information as may be available to establish contact or shall provide such identifying information as may be released from any record in

conformity with this part by the adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative.

(d) If the persons or classes of persons who are the subject of the search were not located on the registry or could not be notified at the address designated in the registry, the department shall follow the procedures under § 36-1-131.

36-1-131. Search of sealed adoption record, sealed record or post-adoption records—Opportunity to veto contact

(a) If, after a search has been made of the registry, then either no person with whom contact was requested was located on the registry or the person named on the registry could not be notified at the address designated in the registry, then the department shall search the sealed adoption record, sealed record or the post-adoption records in its possession for information concerning the location of the person who is the subject of the search and shall conduct a diligent search for such person.

(b) (1) Upon locating such person whose relationship to the requesting party is confirmed by the person sought or whose relationship to the requesting party is or has been confirmed by other evidence satisfactory to the department, the department shall notify such person of the inquiry and of the department's determination of relationship to the requesting party.

(2) (A) Such person whose relationship to the requesting party is confirmed as provided in subdivision (b)(1), or that person's legal representative, may file a written consent with the registry.

(B) If the person wishes to veto contact, the person must, unless such person is an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A) or a person for whom an automatic veto applies pursuant to § 36-1-130(a)(6)(A)(i), file a contact veto pursuant to §§ 36-1-128 and 36-1-129 and must pay any necessary fees, within ninety (90) days of the date the department gives oral or written notice of that time period for filing a contact veto. If the contact veto is timely and effectively filed pursuant to this part, then the department shall notify the requesting party in writing and no contact shall be permitted with that person with whom contact was sought. If the contact veto is not timely and effectively filed, the department shall notify the person requesting the search, and that person shall be permitted to attempt contact with the person or persons sought unless such person is an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), or unless such person is a person for whom an automatic veto applies pursuant to § 36-1-130(a)(6)(A)(i). Written notice shall be effective upon the date the notice is sent.

(c) If the person who is the subject of the search whose relationship to the requesting party has been confirmed by evidence satisfactory to the department cannot be located after diligent search, including the sending of notice to the last known mailing address of such person, and, unless such person is an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A) or unless such person is a person for whom an automatic veto applies pursuant to § 36-1-130(a)(6)(A)(i), the department shall inform the person requesting the search of this fact in writing, and that person shall be

under no further restrictions pursuant to § 36-1-130 against contact with the person who has been sought.

36-1-132. Violation of contact veto a misdemeanor–Injunction and damages–Attorney’s Fees–Using information to injure persons whose names were obtained

(a) Any person who has filed a contact veto pursuant to this part or the adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person’s legal representative, shall have a cause of action in the circuit or chancery court for injunctive relief and for compensatory and punitive damages against any person or entity who or that has violated the provisions of the contact veto or for violation of any restrictions on contact with the adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A).

(b) Venue for such action shall be in the county of the residence of the plaintiff, or, if the plaintiff resides out of state, in the county where the adoption petition was originally filed, or if no petition was filed, or if its venue is unknown, in the chancery or circuit court of any county with a population of one hundred thousand (100,000) or greater as established by the federal census of 1990 or any subsequent census.

(c) A certified copy of the sworn statement that was signed pursuant to § 36-1-127(f) or v 36-1-130(a)(6)(A)(vi), by the person against whom the action is brought for violation of the contact veto shall be admissible in the action under this section as conclusive evidence of that person’s knowledge of the restrictions imposed by a contact veto or the restrictions imposed by § 36-1-130.

(d) Any person who has filed a contact veto or an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), or such person's legal representative, who has prevailed in an action under subsection (a) shall be entitled to recover attorney's fees and all costs of the proceeding from the opposing party or parties.

(e) Any action under this section shall be brought within three (3) years of any contact or attempted contact or violation of other restrictions on contact in violation of this part.

(f) Any person who, after obtaining information under this part, uses such information to cause injury to the person whose name was obtained under this part, commits a Class A misdemeanor. Further, any person who has been injured pursuant to this subsection (f) shall have a cause of action in the circuit or chancery court for injunctive relief and damages, including both compensatory and punitive damages, against any person who uses the information in violation of this subsection (f).

(g) Any person who, in violation of this part, contacts or causes to be contacted a person with respect to whom the contacting person or person causing the contact knows a contact veto has been filed pursuant to this part commits a Class B misdemeanor.