Adopt a New Law: The Argument for Open Adoption Record Access from a Poverty Law Lens[1]

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INTRODUCTION

If forced birth is increasingly the reproductive policy of the United States, there will likely be an increase in interactions with the adoption system.[2] Justice Alito even highlighted this possibility in the *Dobbs* decision overturning *Roe v. Wade*. In the *Dobbs* opinion, Justice Alito advanced arguments that a woman's ability to place a newborn up for adoption without "reason to fear" that the baby would not end up in a good home acts as a modern substitute for abortion.[3] As anti-abortion advocates continue to push for adoption as a substitute for abortion,[4] there should be laws in place that reduce the harm to those interacting with the adoption system. Reforms are especially needed regarding adoptees' abilities to access their birth records such as their original birth certificate. In many states, adoption records and original birth certificates are sealed and cannot be openly accessed by adoptees, effectively sealing away parts of adoptees' identities as a legal policy.[5]

The policy of sealed adoption records in the United States is an inequitable practice that must be changed. The policy harms are most felt by low-income people navigating the adoption process as birth parents and adoptees. The costs associated

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[2] It is difficult to find reliable data on adoption rates due to the secrecy involved in the adoption process and the lack of centralized reporting systems. While adoption rates remain low overall, there is statistical evidence that suggests there are less adoptions when abortion is accessible. Malinda L. Seymore, *Social Costs of Dobbs' Pro-Adoption Agenda*, 57 UC DAVIS L. REV. 503, 509–10 (Nov. 2023).

[3] Dobbs v. Jackson Women's Health Org., 597 U.S. 215, 259 (2022).

[4] Adoption is not a substitute for abortion because it requires a pregnant person to experience all the risks of pregnancy. Adoption is a parenting choice and abortion is a choice about a pregnancy, making them fundamentally different. Seymour, *supra* note 2 at 507.

[5] As of April 2026, only sixteen states have no restrictions on adult adoptees accessing their own original birth certificate. *See* ALA. CODE § 22-9A-12 (1992); ALASKA STAT. ANN. § 18-50-211 (West 1982); COLO. REV. STAT. ANN. § 19-5-305 (West 2021); CONN. GEN. STAT. ANN. § 7-53 (West 2021); GA. CODE ANN. § 31-10-14 (West 2025); KAN. STAT. ANN. § 65-2423 (West 2008); LA. STAT. ANN. § 40:73 (2022); ME. REV. STATE. ANN. tit. 22, § 2768 (West 2009); MASS. GEN. LAWS ANN. ch. 46, § 13 (West 2015); MINN. STAT. ANN. § 259.83 (West 2024); N.H. REV. STAT. ANN. § 5-C:9 (2021); N.Y. PUB. HEALTH LAW § 4138-e (McKinney 2019); OR. REV. STAT. ANN. § 432.228 (West 2013); R.I. GEN. LAWS ANN. § 15-7.2-2 (West 1993); S.D. CODIFIED LAWS § 25-6-15 (2023); VT. STAT. ANN. tit. 15A, § 3-802 (West 2021).

with court filing fees and retaining attorneys to unseal records block low-income people in jurisdictions where adoption records are sealed. These people also do not have the means to pursue extra-legal avenues to access their birth history, such as DNA testing, leaving such information effectively inaccessible. Sealed original birth certificate and adoption records laws perpetuate a harmful stigma that vilifies poverty, disenfranchises low-income individuals from accessing parts of their identities, and reduces reproductive freedom. Keeping adoption records and original birth certificates sealed solidifies in law the wrongful and historically entrenched shame and stigma for adoptees who were originally born into a low-income family—perpetuating the idea that through adoption, an adoptee can be cleansed of their low-income roots and "saved" by a higher-income family. Further harm is then created by blocking low-income adoptees through sealed adoption record laws, who later in life wish to access their birth parents' identities or important family medical history, but cannot due to the barriers and costs associated with gaining access. Overall, a system of sealed adoption records removes birthing individuals' choices and reduces their reproductive autonomy in choosing to pursue adoption, especially when the adoption system can already be a coercive experience for low-income birthing parents. States that do not already allow for open access to adoption records need to pass the proper legislation to create an open adoption record system that stops low-income family identity erasure, recognizes the importance of the right to identity for the adoptee, and empowers the reproductive autonomy of the birthing parent to make the decision that is right for their family as they interact with the adoption system.

Part I of this Paper will provide an overview of the current legal landscape of original birth certificate access across the United States and how the policy of closed records became the standard. Part II of this Paper will analyze how these policies disproportionately harm low-income individuals interacting with the adoption system by promoting stigma around poverty, erasing low-income family identities, and reducing reproductive autonomy. Part III of this Paper will advocate for a state-by-state advocacy approach to change the law to provide greater open access to adoption records and original birth certificates, which recognizes the complexities of the needs of adoptees, adoptive parents, and birth parents navigating an imperfect adoption system.[6]

PART I- BACKGROUND

The evolution of the American legal adoption system coincides with changing attitudes toward poverty and increasing numbers of children whose parents were unable to care for them because of deep poverty. The advent of legislation on intra-U.S. adoption began as urban poverty rose during the 1800s, with the industrial revolution and urbanization.[7] At that time, horrific practices such as "orphan trains" brought poor urban children on trains to various midwestern towns for local townspeople to consider for adoption.[8] From its conception, the adoption and foster care systems of the United States were integrated social welfare initiatives that removed

[6] This Paper is limited in scope to intra-U.S. adoptions and cross-family adoption and does not touch on issues of transnational adoption or kinship adoptions.

[7] Harold D. Grotevant et al., *The Dynamic of Poverty and Affluence in Child Adoption*, *in* THE OXFORD HANDBOOK OF POVERTY AND CHILD DEV. 197, 201 (Rosalind King & Valerie Maholmes eds., 2012).

[8] *Id.*

children from their families based on their poverty status, rather than treating adoption as a separate child welfare issue.[9] The adoption system at the time attempted to solve child poverty by removing a poor child from their impoverished birth parents and placing them into a wealthier family, and instead of economically uplifting and supporting the impoverished family to have the ability to keep their child in a healthy and more financially stable home.

In the early 1900s Progressive Era, families facing poverty were looked upon negatively by the white Christian middle class and often struggled to find adequate support and resources.[10] This lack of resources, especially for poor immigrant families, led to adoption as one of the only options available to families who wanted their child to have a "better life."[11] These children, specifically white children, were viewed as having a clean slate and were not tainted by their "bad seed" poor parents and could be "redeem[ed]" by being placed into a white Christian family.[12] During this time, adoption law reflected the desire for the child to not be marked by their "illegitimate" status, and states enacted laws to block the public from finding the adoptee's records, which contained this information.[13] The law, however, did not block adoptees from accessing their own records.[14]

As poverty soared during the Great Depression, so did the formalization and legalization of the adoption process.[15] Toward the end of the Depression, thirty-nine states had either changed their adoption laws or enacted new ones.[16] However, the "revolution" of the adoption practice in the United States is attributed to the World Wars' increase in children born out of wedlock, and in the decades following World War II, the increase in white, middle-class, childless families looking to adopt.[17] The increased number of children born out of wedlock to young, single, middle-class, white women created a new group of birth parents distinct from birth parents struggling with poverty who were unable to financially care for a child.

In the post-World War II era, the U.S. Children's Bureau, the federal agency charged with setting adoption policy standards, continued advocating for adoption records to be sealed from the public to protect both birth mothers and children from the shame of "illegitimacy."[18] The "birth mother" that paternalistic adoption record laws were attempting to protect were unwed young white women who legislators believed had the chance to leave the stigma of their "poor choices," i.e., having a child out of wedlock, in their past by ensuring secrecy from the public of their pregnancy.[19] This allowed middle or upper-class unwed women to effectively "erase" their past. These birth record laws served to protect the adopted children from the stigma of coming from either poverty or an unwed parent, and created a situation where the

[9] *Id.*
[10] *Id.* at 205.
[11] *Id.*
[12] *Id.* at 205–06.
[13] Elizabeth J. Samuels, *The Idea of Adoption: An Inquiry into the History of Adult Adoptee Access to Birth Records*, 53 RUTGERS L. REV. 367, 369 (2001).
[14] *Id.*
[15] E. WAYNE CARP, FAMILY MATTERS: SECRECY AND DISCLOSURE IN THE HISTORY OF ADOPTION 25 (1998).
[16] *Id.*
[17] *Id.* at 28–29.
[18] Samuels, *supra* note 13 at 387.
[19] Grotevant et al., *supra* note 7 at 206; *id.* at 404.

adopted parents accepted a child removed from their birth origins. The concerns over these three groups—affluent young unwed white birth mothers, adopted children, and affluent adoptive parents—ignored the needs or concerns of low-income birth parents who placed, or were coerced to place,[20] a child for adoption due to their economic constraints. Secrecy was the prevailing goal, rather than harm reduction for birth parents or the importance of identity for adoptees. The Bureau, however, did not intend for the persons with "legitimate reasons," such as adoptees, to be blocked from accessing their own records.[21]

However, beginning in the 1960s, the prevailing view of "adoption as a perfect and complete substitution for creating a family by childbirth" and the continued emphasis on hiding "illegitimacy" led to the complete sealing of adoption records essentially nationwide.[22] By 1960, original birth certificates were available by court order in only twenty-eight states, and original birth certificates could be accessed by adult adoptees in twenty states.[23] Throughout the 1960s, four of the states where adoptees could access their original birth certificates changed their laws to remove access, with thirteen more states doing so after 1970.[24] While the 1960s and 1970s were marked by social movements that pushed for progressive views regarding sexuality, such as "free love" movements and "Second Wave" feminism, adoption law pushed back to enshrine paternalistic values.[25]

These social revolutions, including the emphasis of financial benefits for single mothers, which normalized children out of wedlock and single parenthood, threatened the regime of secrecy and state laws on adoption records, which continued to prioritize identity erasure and secrecy for birth parents.[26] Evolving understandings of the psychological needs of both birth parents and adoptees to connect and general openness to single parenthood threatened the "right to privacy" for birth parents discussed in lawmakers' rhetoric and the courts.[27] For lawmakers pushing for sealed record laws, the ability to protect adopted parents' interests in the secrecy of their child's origins without interference from birth parents and preserve the adoption system status quo superseded adoptee and birth parent interests in connection.[28]

In most states today, adoptees are in practice at the mercy of the court to access their adoption records, and face multiple legal hurdles. These hurdles greatly impact low-income individuals who cannot pay court fees or access secondary means to

[20] Planned Parenthood reports that many pregnant people find interactions with the adoption system to be coercive. If the choice in the adoption process is taken away from the pregnant person, feelings of grief and loss of the child are amplified. Organizations such as Saving Our Sisters provide resources for pregnant people who are facing adoption coercion. *Pressure and Coercion in Adoption*, PLANNED PARENTHOOD FED'N OF AM. (2025), https://www.plannedparenthood.org/learn/pregnancy/considering-adoption/pressure-and-coercion-in-adoption; *About*, SAVING OUR SISTERS (2024), https://savingoursistersadoption.org/#.
[21] Carp, *supra* note 15 at 41–42.
[22] Samuels, *supra* note 13, at 409.
[23] *Id.* at 379.
[24] *Id.* at 380–81.
[25] *Id.* at 418.
[26] *Id.* at 424.
[27] *Id.*
[28] *Id.*

finding out genetic information, such as purchasing DNA testing kits.[29] DNA testing kits and accessing the technology to use these online services are not an equitable solution to the issue of sealed records because low-income people are essentially blocked from these means due to cost. Even if a low-income person uses the court system to access their records, they may be blocked by filing fees or not have the means to follow-through with their case due to the administrative process that takes time, an understanding of the legal system, and multiple prolonged interactions with the court that can proceed for months or years before gaining a judicial decision on the matter. For example, the District of Columbia adoption record law hinges on a court[30] balancing the i birth parents' interests and the adoptive parents' privacy, and if access to the records would "protect or promote" the adopted child's welfare.[31] Adopted children in the District, even late in their adult life, cannot access their adoption records as a right.[32] Even one parent stating they want to keep their identity a secret could override an adopted child's interest in their family history and possibly block them from accessing life-saving family medical history.

These petitions also require a decision on the matter to be made by a judge. Adoption un-sealing petitions depend on the judge's discretion to grant or deny them. If a judge deems these petitions as a non-priority either due to other more pressing matters on their docket or their personal convictions about the adoption system, these petitions can go unanswered for years or indefinitely.[33] If it is months or years before a response by the court on the petition, a low-income individual who might have put time, effort, and money into filing a petition could face feelings of defeat or frustration with the judicial system and be unable to even access the court's ruling if housing or contact situations have changed since the original filing and they are unable to receive updates about their case.

On the other hand, states have been moving toward an open record policy as the default—making legislative schemes such as D.C.'s antiquated and highlighting the need for change. As of 2026, over sixteen states have moved towards allowing open access by adoptees to their original birth certificates.[34] In January 2025, the Virginia House passed a bill that would permit adult adoptees to access their original birth certificates if passed by the Virginia Senate.[35] This active movement is spearheaded by

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[29] Genetic testing is becoming increasingly popular as a way for adoptees to find out genetic information, such as family history and medical information. *See* Catherine Kunz, *Genetic Testing for Adoptees: Key Considerations and Benefits*, NAT'L COUNCIL FOR ADOPTION (July 29, 2024), https://adoptioncouncil.org/publications/genetic-testing-for-adoptees-key-considerations-and-benefits/.

[30] Uniquely in D.C., anyone who was adopted between 1937 and 1956 can petition the United States District Court for the District of Columbia to access their sealed adoption records because adoptions were not filed with the D.C. Superior Court until 1956. This group of petitioners, most of whom are over seventy years old, are at liberty of the courts and the judge they get assigned. *Adoption Petitions*, U.S. DIST. CT. FOR THE DIST. OF COLUMBIA (2025), https://www.dcd.uscourts.gov/adoption-petitions.

[31] D.C. CODE § 16-311.

[32] *See id.*

[33] *See also* Hege Stein Helland, *Tipping the scales: The power of parental commitment in decisions on adoption from care*, 119 CHILDREN & YOUTH SERV. REV. 105693 (2020) (analyzing the different factors that influence judges in the legal adoption process).

[34] *Supra* note 5.

[35] *Virginia's HB550 Passes the House!*, CAPITOL COALITION FOR ADOPTEE RIGHTS (Jan. 29, 2024), https://capitoladoptees.org/virginias-hb550-passes-the-house/.

nation-wide adoptee rights organizations such as Bastard Nation,[36] Adoptees United,[37] and localized coalitions such as the Capitol Coalition for Adoptee Rights[38] fighting in their individual states. The organizations push for open access to adoption records as a human right to access your identity.[39] Individuals against this policy continue to emphasize the importance of protecting birth parents' privacy,[40] though this concern is often misplaced and ignores the possibility that open access would allow greater healing for birth parents, adoptees, and adoptive parents alike.[41]

PART II- ANALYSIS

Any adoption record policy must seek to reduce harm that disproportionately affects low-income people interacting with the adoption system. Closed record policies disproportionately affect low-income people by promoting wrong and harmful stigma around poverty, erasing family histories, and reducing reproductive autonomy. The best policy to accomplish these goals is to make all adoption records open for the adoptee, the birth parent, and the adopted family, and not through more complicated, unequal, and inadequate administrative schemes such as disclosure or contact veto registries.

A. Working Against Stigma

One of the harms an open record policy works toward alleviating is the stigmatization and stereotyping of people in poverty. By removing barriers to accessing birth parents' identities and history, it uplifts birth parents as an important part of an adopted child's identity. It sends an important message that having low-income birth parents is not something that needs to live in secrecy, but, instead, can be a positive part of an adoptee's identity. A closed record system, on the other hand, reinforces that birth parents, especially low-income birth parents, are not worth knowing, understanding, or contacting. The closed record system serves, in practice, to erase the birth parents' stories and identities from an adoptee's life, which is often the story of a low-income family.

Stereotypes of low-income people in the United States are based on the societal notion that the U.S. is a meritocracy where, with effort and talent, one can succeed.[42] This allows for the U.S. to rationalize societal inequality by justifying poverty as an individual failure, rather than failures of economic and social systems.[43] The idea that low-income people are irresponsible, lazy, or uncaring translates to views of birth parents who place children for adoption.[44] Notably, poor birth mothers in the

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[36] *See Mission Statement*, BASTARD NATION (2025), https://bastards.org/mission-statement/.
[37] *See About*, ADOPTEES UNITED INC. (2025), https://adopteesunited.org/about/.
[38] *See About*, CAPITOL COAL. FOR ADOPTEE RTS. (Feb. 3, 2020), https://capitoladoptees.org/what-you-need-to-know/.
[39] *See Truth*, ADOPTEE RTS. L. CTR. PLLC (2025), https://adopteerightslaw.com/truth/.
[40] *See What Promises Were Made to Birth Mothers?*, GA. ALL. FOR ADOPTEE RTS. (March 6, 2024), https://gaallianceforadopteerights.org/promises/.
[41] *Infra* Part II (providing analysis on why open access is the most harm-reductive approach to adoption records).
[42] Kathryn A. Sweeney, *The Culture of Poverty and Adoption: Adoptive Parent Views of Birth Families*, 16 MICH. FAMILY REV. 22, 23 (2012).
[43] *Id.* The concept of a meritocracy also allows the U.S. to claim its views on poverty are "colorblind" and that poverty is a result of individual lack of effort instead of recognizing the economic impacts of racism. *Id.*
[44] *Id.*

U.S. are viewed as less deserving of compassion than poor birth mothers from other countries because poverty in other countries is attributed to failures of larger economic systems.[45] In an interrogative study conducted on adoptive parents' conceptions of birth parents, adoptive parents often focused on the birth parents' individual "bad" choices that led to the need to place a child for adoption, and that they must be generally "lacking values, drive, or ambition to adequately care for a child financially."[46]

A closed adoption record system reinforces these stereotypes when the adoptee is blocked from understanding their birth parents' identities and situations as a matter of law. Given adoptive parents' stereotypes of birth parents,[47] it is also important that an adoptee is not blocked from accessing their birth parents' identities because of adoptive parent interests.[48] Adoptee rights organizations such as Bastard Nation view accessing their identities in their adoption records as a human right.[49] Adoptees have taken these arguments, unsuccessfully, to the courts in attempting to find the right to identity as encompassed in the *Griswold v. Connecticut* right to privacy.[50] Creating a presumption of openness in adoption records, especially for adult adoptees, helps adoptees to construct their identities around their adoption and allows access to family medical information.[51] The openness also would allow adoptees to develop connections and understandings with birth parents in adulthood, which would help, over time, break down stereotypes about poverty and reduce the erasure of low-income families from adoptees' lives. Openness would also remove the administrative barriers that adoptees face in the process of accessing records, such as court filing fees, which could block low-income adoptees from accessing vital medical history and their familial identities.

B. Birth Parent Autonomy

A policy on adoption records must also promote the autonomy of the birthing mother in the adoption process. This is especially important for low-income women interacting with the adoption system who already face barriers in accessing reproductive healthcare.[52] Due to the unaffordability of abortion or the inaccessibility of abortion in restrictive states,[53] many low-income women are forced to carry

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[45] *Id.* at 25.

[46] *Id.* at 30.

[47] *Id.* at 33 (concluding "adoptive parents recognized some structural boundaries that led birth parents to place, yet relied on culture of poverty arguments that blamed parents for making "bad" choices").

[48] In D.C., adoptive parent interests in keeping birth parents' identities a secret from the adoptee has been an interest courts consider in deciding whether to keep adoption records sealed. *See e.g., In re* C.A.B., 384 A.2d 679, 679–80 (D.C. 1978) (finding an evidentiary hearing must be conducted to determine the delicate interests of affected individuals).

[49] *Supra* note 36.

[50] Caroline B. Fleming, *The Open Records Debate: Balancing the Interests of Birth Parents and Adult Adoptees*, 11 WM. & MARY J. OF WOMEN & THE L. 461, 471 (2005) (citing *Does v. Oregon*, 993 P.2d 822 (Or. 1999)).

[51] Naomi Cahn & Jana Singer, *Adoption, Identity, and the Constitution: The Case for Opening Closed Records*, 2 U. OF PA. J. OF CONST. L. 150, 175 (1999).

[52] Low-income women who do not have insurance coverage for abortion can struggle to find the money to pay for an abortion, to travel for an abortion, and otherwise access reproductive health care. *See generally* Heather D. Boonstra, *Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters*, 19 GUTTMACHER POL. REV. 46, 46 (2016).

[53] The states with the most restrictive abortion bans continue to have the worst rates of child poverty. In almost half of states that have total abortion bans, at least one in five children live with families

unintended pregnancies to term.[54] When reproductive choice is already restricted or stripped away, it is vital that if a woman chooses adoption, the policy on accessing her identity by the birth child takes the most empowered and harm-reducing approach. It is also important to recognize that not all low-income women choose adoption, but have adoption forced upon them by child-welfare systems or face coercion by adoption services.[55] This is especially true for women of color, who are more likely than their white counterparts to have a child forcibly removed and placed for adoption.[56] For these women, returning choice wherever possible is vital.

Today, most birthing mothers relinquish their babies due to constraints on financial resources.[57] In a recent study on mothers who gave a baby up for adoption, conducted by Gretchen Sisson in her work *Relinquished: The Politics of Adoption and the Privilege of American Motherhood*, Sisson found that most mothers whose children entered the adoption system were unemployed, and sixty-four percent had less than $5,000 reported income.[58] They were twice as likely as the average birthing person to be on Medicaid.[59] From a different study detailed by Sisson, twenty-eight percent of mothers relinquishing children lived in chronic poverty, and one in every five birthing mothers relinquishing a child faced homelessness at the time of the adoption.[60] Today, adoption is not a means of deferring motherhood, as a majority of the birthing mothers relinquishing a child had other children when they chose adoption.[61]

While some women fit the stereotype of who lawmakers view as the ideal birth mother—the more affluent young or teenage girl who "made a mistake"—that does not apply to most women today who relinquish a child for adoption. Therefore, the policy on adoption record access must adequately support the needs of the women who do relinquish their children; namely, low-income women. The decision to relinquish a child is a very complicated and emotional one.[62] A woman, for any number of reasons, might want their identity shielded after they place a child up for adoption, such as stigma, internalized shame, or to create distance from a painful memory. This decision, however, should be made by birth mothers, and not paternalistic legislators attempting to act in the "best interest" of birth mothers when every birth mother's situation is unique and personal. Blanketly sealing adoption records in the name of secrecy for the birth mother wrongfully removes the birth mother's choice in the process. Openness grants birth mothers the most autonomy to choose how they

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that are below federal poverty level. Linda A. Jacobsen, *States With Abortion Bans Continue to Rank Among Worst for Child Well-being*, PBS (Nov. 4, 2024), https://www.prb.org/articles/states-with-abortion-bans-continue-to-rank-among-worst-for-child-well-being/.

[54] See generally, Ashley L. O'Donoghue et al., *Restricted Abortion Access and Adoptions*, 179 JAMA PEDIATRICS 691, 793–94 (2025) (finding that as TRAP laws were enacted, entries into the foster care systems increased).

[55] *Supra* note 20.

[56] *See generally* DOROTHY ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD (2022) (exploring the racism of the child welfare system that discriminately removes black children from their families).

[57] GRETCHEN SISSON, RELINQUISHED: THE POLITICS OF ADOPTION AND THE PRIVILEGE OF AMERICAN MOTHERHOOD 70 (2024).

[58] *Id.*

[59] *Id.*

[60] *Id.* 70–71.

[61] *Id.* at 70.

[62] *Id.*

respond to attempted contacts, and does not require the state to make the choice for them.

C. Ineffective Alternatives: The Contact Veto and the Disclosure Veto

A policy option that seems on its face to be an improvement for all parties but in reality fails in treating adoptees as equals in their rights to access their identities, as non-adopted people are allowed to by law, is the contact veto. The contact veto was active in states such as Tennessee. Until the law was repealed in 2022 based on arguments that the law was unfair and discriminatory to adoptees, birth parents in Tennessee could file a "veto" with social services so that adoptees would face criminal and civil penalties for contacting their birth parents.[63] If a contact veto is in place, the ability to remove a veto is an important feature considering the pressure low-income women often feel from adoption agencies in the adoption process to make decisions to adopt quickly.[64]

A contact veto also differs from a disclosure veto, where the information, including the identities of the birth parents, is fully blocked from being released.[65] In comparison, a contact veto allows for the adoption records to be released to the adoptee, allowing the adoptee to often view names and medical histories, but penalizes the adoptee either civilly or criminally for contacting the birth parent when a contact veto is in place.[66] While both the disclosure veto and contact veto correctly begin to shift the presumption from secrecy to openness, the contact veto attempts to go a step further in allowing the adoptee to understand their familial and medical history without violating a birth parent's privacy concerns.[67] However, contact veto provisions can go too far, and adoptees can face prison time for attempting to access parts of their identity.[68] Criminal implications or monetary civil penalties for attempted contacts would disproportionately harm low-income adoptees who may not have the resources to navigate the criminal justice system or pay civil fines. Additionally, contact vetoes are inequitable because they criminally or civilly punish conduct of adoptees, such as reaching out to someone connected to their genetic history, that would be perfectly legal for non-adoptees to do.

Secrecy, in the disclosure veto context, wrongfully takes the conception of "privacy" beyond what is necessary to block an adoptee from gaining valuable information about themselves.[69] The Georgia Alliance for Adoptee Rights articulates the important distinction between secrecy and privacy.[70] Birth parents under an open records system with or without a contact veto still retain the protection the law affords,

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[63] *See e.g.*, Gregory D. Luce, *Tennessee Dumps its Contact Veto,* ADOPTEE RTS. L. CTR. PLLC (Nov. 28, 2022), https://adopteerightslaw.com/tennessee-repeals-contact-veto/.

[64] Danielle Cohensedgh, *The Pressure for Birth Mothers Facing Poverty To Give Their Child Up for Adoption*, GEO. J. ON POVERTY L. & POL'Y ONLINE (Oct. 11, 2023), https://www.law.georgetown.edu/poverty-journal/blog/the-pressure-for-birth-mothers-facing-poverty-to-give-their-child-up-for-adoption/.

[65] Fleming, *supra* note 50 at 476.

[66] *Id.*

[67] *Id.*

[68] Claire Moodie, *Fight to end contact veto restraining order preventing adopted people contacting their family*, ABC NEWS (Dec. 15, 2022), https://www.abc.net.au/news/2022-12-16/people-who-have-been-adopted-push-to-end-restraining-orders/101573656 (describing the impact of the Australian contact veto).

[69] *Id.*

[70] *Myths About Adoptees Obtaining Original Birth Certificates*, GA ALL. FOR ADOPTEE RTS. (2025), https://gaallianceforadopteerights.org/myths/.

such as anti-harassment and stalking laws, but these privacy rights do not amount to a right to secrecy.[71]

Adoptee rights organizations have pushed back on contact vetoes due to their possible infringement on accessing records and contacting birth parents, which they view as a human right.[72] While this is a valid concern, it must be balanced with constitutional interests of surrounding parenthood and privacy.[73] Adoptive parents have also brought constitutional challenges to the records law that allow open access, even with a contact veto in place, based on the belief that their "familial rights" and their "reproductive privacy" in their decision to adopt were infringed upon.[74] The Sixth Circuit, however, in *Doe v. Sundquist,* rejected the familial privacy claims of adoptive parents and focused its conclusions on confidentiality of information and in upholding the constitutionality of the Tennessee open record statute when the contact veto provision was still intact.[75] Since Tennessee removed the contact veto provision in 2022, the law has not been challenged, possibly further indicating a change in the sentiments of the adoptive parents based on available data on the psychology of adoptees and the need to access their identities as non-adopted people are able to. A contact veto could also be seen as inadequate considering genetic testing that would allow for genetic matches to occur without birth parent consent, but it is difficult to create adequate law in light of an ever-changing genetic technology landscape.[76]

In an imperfect system of adoption, it is difficult to craft a perfect solution. Openness, with an emphasis on individual rights to avoid harassment, is the best policy option that supports birth parents' interest in privacy and allows adoptees to access their original birth certificates the same as non-adopted individuals.

Part III- POLICY

Adoption record access is controlled by the state where the adoption took place. To create change in the thirty-five states that currently have compromised or restricted[77] access to original birth records for adoptees, state legislation is the only way to effectively change the law. This is a very active area of legislation across multiple states.[78] As recently as May 13, 2025, Georgia Governor Brian Kemp signed into law SB100, "Andee's Law," which restores the unrestricted access of original birth records

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[71] *Id.*
[72] Luce*, supra* note 63.
[73] Cahn & Singer, *supra* note 51 at 169.
[74] *Id.* at 170.
[75] *Id.* at 170–71.
[76] Vivian J. Salles Vieira Pinto, HUMAN RTS. HERE (Jan. 19, 2024), https://www.humanrightshere.com/post/balancing-the-right-to-know-of-adoptees-and-privacy-of-biological-families-is-the-contact-veto-provision-the-way-to-go.
[77] Adoptee Rights Law Center categorizes state law on adoptees' access to original birth records into three categories: unrestricted, compromised, and restricted. A "compromised" state is one that "discriminatorily" restricts access to birth records through various administrative hoops including adoptive parent consent, redaction of information, disclosure vetoes, or differentiating rights based on adoption date. "Restricted" states are ones where an adopted person has no right to obtain their original birth records unless granted by court order or through consent or proven death of birth parents. Gregory D. Luce, *Interactive Maps: The Right to Obtain Your Own Original Birth Certificate,* ADOPTEE RTS. L. CTR. PLLC (Jan. 1, 2025), https://adopteerightslaw.com/maps/.
[78] *Adoptee Rights Legislation: States*, ADOPTEES UNITED (May 13, 2025), https://adopteesunited.org/legislation/state/ (tracking current legislation effecting adoptee rights across states).

to adoptees in Georgia.[79] SB100 had unanimous support across party lines in the Georgia State Senate, proving that open record access can and should be a bipartisan issue.[80] Georgia, and the work of the Georgia Alliance for Adoptee Rights, serves as a blueprint for a state legislative campaign for adoptee rights to original birth records. A campaign to open birth record access has to be led by adoptee voices and stories, combat myths, stereotypes, and misconceptions that legislators have in order to gain bipartisan support.

The movement to open adoptee birth record access should be led by adoptee voices and stories. Many people do not realize that even adult adoptees themselves are blocked from accessing their own original birth certificates. Since many people not in contact with the adoption system do not know this is an issue adopted people face, they also do not understand the harm the current system causes adopted people. Adoptee rights organizations are already effectively organizing adoptee voices and spreading the word that the current legal scheme needs to change. These organizations often also bring together adopted parents and birth mothers as well, who believe that open access is the best option for all involved in the adoption.[81]

Since it is a state-by-state fight to change the law, state-focused adoptee rights organizations, like the Georgia Alliance for Adoptee Rights, are the most effective way to organize and rally together adopted people in their respective states. This allows the advocates to tailor their advocacy strategies to their unique political climates. There must also continue to be national organizations such as Bastard Nation[82] and the Adoptee Rights Coalition[83] to bring together various state advocacy groups to learn from and support each other's state movements.

One constraint these alliances can have, because they are more informal grassroots advocacy organizations of affected individuals, they may not be formally organized as a 501(c)(3) non-profit. The Georgia Alliance for Adoptee Rights, in their fight in Georgia, faced hurdles in raising funds because of their unregistered status.[84] While the grassroots nature of the movement is what makes it so effective in disseminating the adoptees' stories, the movement should not be held back by constraints on resources. To solve this issue, it is important for the alliances to connect with legal support and organizers who are effective at fundraising to support the movement both structurally and monetarily.

Shedding light on the realities and harms the closed record system will inevitably lend itself to combatting wrongful conceptions legislators have about the need to maintain closed records. Most resistance to changing the current law comes from misconceptions that are disproven by current research on adopted people, birth parents, and adoptive parents.[85] For example, Jamie Weiss, co-founder of the Georgia

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[79] *Governor Brian Kemp Signs SB100 "Andees's Law," Ending Decades of Discrimination Against Georgia Adoptees*, GA All. for Adoptee Rts. (May 13, 2025), https://gaallianceforadopteerights.org/governor-brian-kemp-signs-sb100-andees-law-ending-decades-of-discrimination-against-georgia-adoptees/.

[80] S.B. 100 (GA Gen. Assemb., 2025-2026 Reg. Sess.) ("Andee's Law).

[81] For example, the committee of the Georgia Alliance for Adoptee Rights has not only adopted people but also birth mothers. *Committee*, GA ALL. FOR ADOPTEE RTS., https://gaallianceforadopteerights.org/committee/.

[82] *Supra* note 36.

[83] *About ARC*, ADOPTEE RTS. COAL. (2025), https://www.adopteerightscoalition.com/about.

[84] Telephone Interview with Jamie Weiss, Co-founder, GA All. for Adoptee Rts. (May 21, 2025) (on file with author).

[85] *Supra* note 70.

Alliance of Adoptee Rights, stated that one of the largest hurdles in convincing legislators to vote on the open records bill in Georgia was the incorrect understanding of the right to privacy for birth parents.[86] Legislators believed that when a birth mother went through with an adoption, she was given a promise of anonymity, and by allowing access to original birth certificates, they would be betraying birth mothers.[87] This concern was not unique to Georgia, as it was a critical issue in Maryland as well. In her testimony in support of the Maryland version of an open original birth certificate bill, Professor of Law Elizabeth Samuels analyzed decades of adoption documents signed by birth mothers and found that none of the documents garunteed that the birth mother would retain confidentiality or remain anonymous.[88] Despite this being the truth, myths surrounding the adoption process still perpetuate, and one of the main advocacy tasks of an effective adoptee rights movement will inevitably be myth-busting.[89] Informational campaigns by the adoptee rights organizations will be vital in educating both legislators and the general public.

While tedious, the most effective strategy is likely a legislator-by-legislator process to dispel the individual misconceptions each legislator has and lead them to the reality and facts of the situation in order to push them to ultimately support the bill. Since many adoptees will not have experience in approaching legislators or developing an advocacy strategy for passing a bill, a lobbyist could be the most effective resource an adoptee rights alliance can employ. This was the case for the Georgia Alliance for Adoptee Rights early on in their advocacy journey.[90] However, for the Georgia Alliance, a lobbyist, while effective in strategy, at times took away some of the grassroots control and storytelling that made the alliance so effective at its core.[91] In Georgia, the alliance was ultimately able to get the bill passed in the year they did not hire a lobbyist, indicating that the need for a lobbyist may be dependent on the organizing and legislative experience of the advocates and the capacity of the alliance to effectively reach each legislator.[92]

In Georgia, Andee's Law was able to gain almost unanimous bipartisan support.[93] Maintaining bi-partisan nature of access to original birth records will likely be imperative in the success of an open record bill. Weiss also noted that open record bills have only passed when there was a trifecta in the state where the Governor, House, and Senate were held by the same party.[94] It historically has not mattered if the trifecta is by Republicans or Democrats.[95] A trifecta lends itself to incredibly effective and united legislating, and adoptee rights organizations should harness its power when available as an opportune time to advocate for legal change. Since the issue is not partisan, the party of the trifecta does not limit the movement.

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[86] *Supra* note 84.
[87] *Supra* note 84.
[88] *Proponent Testimony on House Bill 61 Before the House Judiciary Committee*, 2013 Reg. Sess. 3 (Md. 2013) (statement of Elizabeth J. Samuels, Prof. of Law of the Univ. of Baltimore Sch. of L.).
[89] *Supra* note 68 (demonstrating the need to spread information to dispel myths legislators and the public have).
[90] *Supra* note 84.
[91] *Id.*
[92] *Id.*
[93] *Supra* note 79.
[94] *Supra* note 84.
[95] *Id.*

This does not mean that advocacy when a trifecta is not present is ineffective or a waste of time. In Georgia, the movement that ultimately saw Andee's Law passed was built on decades of advocacy efforts that laid the groundwork for the bill's ultimate success.[96] Coalition building through pushing for original birth certificate access will continue to be fruitful for the adoptee advocacy fights beyond open record access.

It also aids the cause that these bills target one specific issue: access to original birth certificates. It is important that this issue does not get entangled with the issue of abortion, which is very partisan in current times. A myth some opponent legislators have is that removing secrecy will lead more women to choose abortion over adoption.[97] The data indicates that in the states where adoptees do have access, the ability to access records had minimal effect, and if it did affect the rate of abortion and adoption, it increased adoption and decreased abortion.[98] In a study of over 1,900 women, the ability to have a confidential adoption was not something women who had an abortion cited as a reason for terminating their pregnancy.[99] Adoption record access is a separate issue from abortion, and advocates should continually reinforce how open record access is not entangled with the issue of abortion to maintain its bi-partisan status. The bill's positive impact on reproductive autonomy, however, should not be minimized to legislators who would respond positively to those lines of reasoning.

In Georgia, Andee's Law was sponsored by a Republican, Randy Robertson.[100] Weiss believed this helped the bill be viewed as unrelated to reproductive rights debates.[101] Previous failed versions of the bill were sponsored by Democrats that lacked a trifecta majority.[102] It is unclear if the Republican sponsorship increased the odds of the bill's adoption, but if available in other Republican-leaning states, it may be fruitful to approach Republicans first for sponsorship to hammer home that the issue of original birth record access is not entangled with other, more partisan reproductive issues.

In conclusion, continuing the adoption system instead of fixing root issues that cause child relinquishment, such as inadequate access to reproductive health care and systemic poverty, is a policy choice.[103] The need for adoption could decrease drastically if the United States actually addresses the issue of poverty. Any policy moving forward involving the adoption system needs to uplift the voices of birth parents and adoptees and strive to reduce the harm for those vulnerable in the adoption process. Open access to adoption records is a human right for adoptees. The right to identity is vital for both adoptees and their birth parents and must be supported through adequate legislation. It is time for adoption record law to strive toward more openness and equality.[104]

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[96] *History of Georgia Adoptee Rights*, GA ALL. FOR ADOPTEE RTS. (2025), https://gaallianceforadopteerights.org/history/.
[97] *Supra* note 70.
[98] *Id.*
[99] *Id.*
[100] *Supra* note 84.
[101] *Id.*
[102] *Supra* note 96.
[103] Michelle Merritt, *We Should Be Fighting for a World Without Adoption*, THE NATION (Oct. 17, 2022), https://www.thenation.com/article/society/adoption-parenting-choice/.
[104] Please visit adoptees rights organizations such as Bastard Nation and Adoptees United to get involved in movements to open adoption record access in your state.