



Adoption Council of Canada
Conseil d'adoption du Canada

ACC's Position Statement regarding Quebec Adoption Act (2009)

Brief

There is much to be applauded in Quebec's new adoption Act, *An Act to Amend the Civil Code and other Legislative Provisions as Regards Adoption and Parental Authority*. With its emphasis on openness and information sharing between adoptees, adoptive families, and original families, it is an important step forward in adoption practice in Canada. Unfortunately, however, Quebec has missed the mark on some important issues and the Act fails to follow the best practices in adoption advocated by the Adoption Council of Canada (ACC) and other major adoption groups in Canada.

Openness Agreements

By recognizing openness agreements, Quebec is recognizing the very real links between adoptees and their families of birth. Research demonstrates that openness benefits not only the adoptee but all family members. The ACC supports the legalization of openness agreements and applauds Quebec for moving in this direction.

Filiation

By giving adoptees' a surname comprised of both their original and adoptive family names, Quebec recognizes that adoptees have a connection with both families. The ACC is pleased that this connection is recognized but questions whether a joint surname will benefit all children adopted beyond infancy. Many children adopted from the child welfare system do not wish to have their adopted status marked in such a public fashion. The ACC supports openness in adoption and does not believe that the age of the adoptee influences whether s/he has a connection with his/her family of birth.

Adoption Disclosure

The ACC applauds Quebec's decision to permit adopted adults and their birth parents access to identifying information. Every person has a right to know his/her origins and ethnic background. Every birth parent has the right to know the name of his/her adult child.

It is because every adopted adult and birth parent has a right to this information, however, that the ACC deplors Quebec's decision to limit this access to a select group of individuals. Adoptees and birth parents involved with an adoption that takes place before a date selected by the government will be unable to access any information about

themselves and their adult children. The ACC questions Quebec's decision to ignore the precedent set by British Columbia, Newfoundland, Alberta, and Ontario where records are open to all adoptees and birth parents regardless of the date of the adoption.

Birth mothers never signed documents that promised them anonymity. The vast majority of birth parents support open records as is evidenced by the small percentage of individuals that have filed vetoes in jurisdictions where this is allowed. Quebec is not listening to its constituents most affected by this legislation. Adopted adults and birth parent in Quebec support open records.

The ACC believes that every adoptee and birth parent has an unqualified right to access information about themselves and their adult children. The ACC recognizes that while adopted adults and birth parents have an unqualified right to identifying information about family members, they also have a right to maintain privacy. As a result, the ACC supports the use of a Contact Preference form. On this form, an adopted adult or birth parent may indicate his/her preference for reunion. The ACC does not support vetoes of any kind finding them punitive, discriminatory, and unnecessary

NOTE: the ACC's position statement on access to records is included below.

ACC POSITION STATEMENT: ACCESS TO RECORDS

The Adoption Council of Canada (ACC) believes that sealed adoption records perpetuate secrecy and shame within adoption.

The United Nations Convention on the Rights of the Child recognizes in Part 1, Article 8 "the right of the child to preserve his or her identity, including nationality, name and family relations..." In accordance with the UN position, the ACC believes that every adoptee has the right to his/her original identity including his/her medical and ancestral history. Furthermore, every birth parent has the right to know the name of his/her adult adopted child. The ACC recognizes that every individual has the right to search for and approach relatives free from government interference. Should both parties agree, the ACC supports the right of individuals separated by adoption to associate freely and without restriction.

The ACC holds that:

* Every adopted adult has an unqualified right to access his/her original birth certificate, the court files pertaining to his/her adoption, and his/her personal files held by the adoption agency, government, and/or licensee.

* Every birth parent has an unqualified right to access the amended and original birth certificates of his/her adult adopted child, along with the court files, any document that he/she signed at the time of surrender, and his/her personal files held by the adoption agency, government, and/or licensee.

* Birth siblings and birth grandparents of adopted adults have an unqualified right to access the amended birth certificate of the adopted person.

* Adult direct descendants of adopted adults have an unqualified right to access the original birth certificate of the adopted person.

The ACC recognizes that while adopted adults and birth parents have an unqualified right to identifying information about family members, they also have a right to maintain privacy. As a result, the ACC supports the use of a Contact Preference form. On this form, an adopted adult or birth parent may indicate his/her preference for reunion. The ACC does not support vetoes of any kind finding them punitive, discriminatory, and unnecessary.

The ACC believes it is the responsibility of provinces, territories, and all child placement agencies to create, support and adequately fund adoption disclosure registries that actively seek birth relatives or adoptees, upon registration of any of these parties. It is the further responsibility of all provinces, territories, and child placement agencies to make voluntary counselling available for any individual contemplating search and reunion and to preserve all birth and adoption records for future retrieval.

The ACC further believes that although adoption law in Canada is a provincial matter, the federal government has an obligation under the terms of the United Nations Convention on the Rights of the Child to ensure that the terms of the Convention are implemented throughout all provinces and territories in accordance with the General Guidelines of Implementation of the Convention issues in October 2003 that state:

The Committee reiterates that in all circumstances, the State which ratified or acceded to the Convention remains responsible for ensuring the implementation of the Convention throughout the jurisdiction.

The ACC also agrees with the United Nations Committee on the Rights of the Child that federal governments must ensure there are “safeguards to ensure that decentralization or devolution does not lead to discrimination in the enjoyment of rights by children in different regions.”