

Information on Obtaining the Release of Confidential Adoption Records

The purpose of this information is to assist individuals in their efforts to obtain the release of confidential adoption records from the Unified Judicial System of South Dakota and certain South Dakota agencies and/or adoption agencies. Many of the adoptions in South Dakota go through the South Dakota Department of Social Services Child Protection Services Division.

While South Dakota law does allow some information in adoption records to be inspected or copied without a court order by adoptive parents and their attorneys, representatives of the Department of Social Services (DSS), or the adoptee upon reaching the age of eighteen, no information that would tend to identify the parent or other biological relative of the adoptee can be released without a court order. However, in order to ensure that no identifying information is released, the Courts and other SD state offices and/or adoption agencies involved will generally require you to get a court order before providing access to their records. SDCL 25-6-15.

(For additional information, go to dss.sd.gov/childprotection/adoption/records.aspx)

To request a court order, the Petitioner (person requesting access) must complete and file a PETITION FOR RELEASE OF CONFIDENTIAL ADOPTION RECORDS (UJS-285) with the Court. Also, the Petitioner will need to complete a NOTICE & ADMISSION OF SERVICE OF HEARING NOTICE & PETITION FOR RELEASE OF CONFIDENTIAL ADOPTION RECORDS (UJS-286). This form notifies DSS or the adoption agency of the Petition and the hearing thereon. SDCL 25-6-15. Lastly, the Petitioner will need to prepare a draft ORDER FOR RELEASE OF CONFIDENTIAL ADOPTION RECORDS (UJS-287). The Instructions and Checklist to help you fill out these three forms are on page 2 of this document. Please note that the decision to grant or deny a petition for the release of confidential adoption records is at the judge's discretion.

If you do not know what agency has the adoption records, or what Court the adoption proceedings occurred in, you can contact the Division of Child Protection Services or the Vital Records Office for assistance.

**SD Dept. of Social Services
Child Protection Services
700 Governors Drive
Pierre, SD 57501
Phone: 605-773-3227**

**SD Dept. of Health
Office of Vital Records
207 East Missouri Ave, Suite 1-A
Pierre, SD 57501
Phone: 605-773-4961**

Checklist and Instructions for Individuals Requesting the Release of Confidential Adoption Records

PLEASE READ ALL INTRUCTIONS BEFORE BEGINNING TO FILL OUT ANY DOCUMENTS. IT IS IMPORTANT TO FOLLOW ALL INSTRUCTIONS CAREFULLY. USE BLACK INK ONLY.

- _____ 1. Verify where the adoption proceedings occurred with DSS-Division of Child Protection Services or the Office of Vital Records. Once verified, contact the Clerk of Courts for that county to determine the case number for the adoption proceeding. If no number is found, you will need to fill out a Civil Case Filing Statement (UJS-232). Only fill out the Information for Petitioner.

- _____ 2. **Fill out the Petition for Release of Confidential Adoption Records (UJS-285)**: You are the Petitioner. The top part of the Petition is the Caption. Complete the Caption by filling in the County name, Circuit number (“First,” “Second,” . . . “Seventh” – check the UJS website to verify), and your name on the Petitioner line. If you have confirmed the underlying adoption court cast number with the Clerk of Courts, you can insert that in the file number. Otherwise, the Clerk of Court will fill in the file number when you file the Petition and Civil Case Filing Statement.

- _____ 3. Complete SECTION 1 on the Petition (UJS-285). You must fill in all blanks and answer all questions completely. You must explain why you want access to the information you are requesting. The Vital Records Office and DSS or the adoption agency involved will usually have more information than what is included in the Court record. If you want access to all information regarding the adoption, you need to check the “All Records” box under what confidential information you are requesting.

- _____ 4. Take the partially completed Petition to a Notary or SD Clerk of Court to complete SECTION 2. DO NOT complete any part of that section until then. YOU MUST ONLY SIGN IN FRONT OF THE NOTARY OR COURT CLERK! Make a photocopy or obtain a copy of the Petition for your records.

- _____ 5. Fill out a portion of the **Notice & Admission of Service of Hearing Notice & Petition for Release of Confidential Adoption Records (UJS-286)**. Complete the Caption as provided above. Fill in the blanks after “TO” with the name and address for a contact with DSS-Division of Child Protection Services or the adoption agency for the adoption.

- _____ 5. Provide the original, ink-signed and completed Petition (and the Civil Case Filing Statement, if a new case is necessary) to the Clerk of Court and notify the Clerk you are seeking adoption records. If a new case is necessary, you will need to pay the filing fee or, if you cannot pay the fee, you must complete the **Motion & Order to Waive Filing Fee (Form UJS-305)**. The Clerk will then file these documents.

- _____ 6. Have the Clerk of Court fill out the second paragraph of the **Notice & Admission of Service of Hearing Notice & Petition for Release of Confidential Adoption Records (UJS-286)**. This establishes the date, time, and location of the hearing in which the Judge decides whether to order the release of the adoption information.

- _____ 7. Fill in the case number in the Caption and the remaining blanks on the first two pages of the form and sign the form. Make a copy of the completed form for your records and mail the original form,

along with a self-addressed and stamped envelope, to DSS or the adoption agency contact you specified on the form. Signatures from DSS or the agency must be original. FAX/electronic signatures are not acceptable. Make sure that you have included your full and correct address so they can return the form to you. You cannot obtain an order authorizing release of the records until the appropriate agency involved has been notified and proof of that notification is filed with the Court.

- _____ 8. On the **Order for Release of Confidential Adoption Records form (UJS-287)**, only fill in the Caption – County name, Circuit number, case number, and your name – on the top of the form. The Judge will complete the rest if they approve your request.
- _____ 9. When you have received the signed **Admission of Service** back from DSS or the other adoption agency, file it and the draft ORDER with the Clerk of Court in the county where the adoption record is filed. The Clerk will present it to the Judge for review.
- _____ 10. A hearing then occurs in which the Judge talks with you personally about your request before deciding. DSS or the adoption agency cannot support or contest these requests.
- _____ 11. If the Judge approves your request and signs the, **Order for Release of Confidential Adoption Records form (UJS-287)**, you will be able to access and copy the Court's adoption file, or portions thereof, as specified in the Order. You must get certified copies of the ORDER from the Clerk of Court to present to Vital Records and DSS or the adoption agency to get access to their records.