

Act 101 - Frequently Asked Questions

Voluntary Post-adoption Contact Agreements

In private adoptions, birth parents and adoptive parents pay for mediation services to assist in developing post-adoption contact agreements. If a county agency is involved in the adoption, can SWAN units of service be used to obtain mediation?

A. Yes. If the child is in the custody of the county children and youth agency and in out of home placement, the child is eligible for SWAN services. SWAN services may be requested to assist in the development of a post adoption contact agreement. Ideally, the placement unit of service can be used to facilitate the mediation however, the service can be incorporated into any SWAN unit of service. Should the facilitated process reach a point of dispute resolution, mediation services may be requested by the county through the SWAN affiliate if the affiliate provides them. Mediation services may be requested by the family after adoption regarding modification, enforcement or discontinuance of an agreement. This can be provided through a SWAN affiliate within the scope of the post permanency units of service. The affiliate may provide the service or recommend where services are available.

Will DPW provide mediation training to those who want to take on this role?

No. It is each agency's responsibility to ensure a trained mediator is available if the agency wishes to perform these services.

In cases where adoptive and birth families plan to share photos, letters, emails, etc. are they required to have a binding agreement presented to and approved by the court, or is it still possible for them to have an informal agreement?

Act 101 does not remove the ability for people to enter into an informal agreement. Keep in mind, however, that informal agreements are not approved by the court and cannot be enforced if the adoptive family at some point decides to discontinue sharing the information they had agreed to previously.

In adoptions arising out of juvenile dependency proceedings, is it the county or the SWAN affiliate who is required to notify families and youth about the option to enter into voluntary agreements?

The county children and youth agency.

What if birth parents cannot be located or will not sign the agreement?

Act 101 creates an **option** for adoptive families and birth relatives to enter into voluntary agreements for post-adoption contact. Birth parents who cannot be located will lose the

opportunity to explore the possibility of an agreement with the adoptive family. Birth parents who do not desire to enter an agreement do not need to do so.

Does Act 101 apply to cases where termination of parental rights occurred prior to the effective date of the act?

Yes. Act 101 became effective on April 25, 2011 and the post-adoption contact agreement provisions apply to any adoption finalized on or after that date, regardless of the date of termination of parental rights.

If an adoptive family enters into a post-adoption contact agreement and later seeks an attorney's assistance to modify the agreement, is funding available to pay the attorney's fees?

No. The adoptive family would bear responsibility for paying their attorney.

Pennsylvania Adoption Information Registry (PAIR)

Will PAIR be releasing information to parties involved without any emotional support for those who need it? What if parties need help through the contact and search process?

The PAIR will not provide emotional support. Parties who wish to have contact can work with the court that finalized the adoption or the agency that managed the adoption. The court or agency will assign an authorized representative who will work to arrange contact and who will have the necessary expertise to provide support through the process.

Courts and agencies may be providing information to the PAIR from the same adoption file, which duplicates each other's effort. Should each court or county establish their own process for how to manage providing this information to the PAIR?

Yes. However, courts and agencies should collaborate and develop a protocol for uploading information to the PAIR.

Is it correct to assume that identifying information about the adoptive parents and the child's adoptive name are not to be included in any records sent to PAIR?

No, that is not correct. The adoptive parents' names and the child's adopted name are included on some of the forms used by the PAIR.

Why is the adoptee asked about her pregnancies and menstrual periods? These questions are very personal and will not help the adoptee find the birth parent.

Act 101 allows for the sharing of information with an adoptee's descendants. Gynecological information may be pertinent to future generations of the adoptee's family. Adoptees may provide as much or as little information as they choose to the PAIR.

Can the Act 101 form be used for permanent legal custody cases, or is it only used for children being adopted?

Act 101 pertains to adoptions only.

Most children from the child welfare system receive their background information or child profile, or their adoptive parents receive it, prior to adoption so why are we now required to provide it to the PAIR?

Although the information is provided to families who adopt children from the child welfare system, there is no way of knowing if that information is actually ever provided to the adoptee. Act 101 ensures that the child's social and medical history information is maintained so it can be provided not only to the adoptee upon their request, but also to their descendants.

The medical information required (birth information, immunization, dental records, illnesses, surgeries hospitalization, handicaps, allergies and medications) could be 30-50 pages that need to be scanned and then sent as .pdf files. Can agencies simply submit a child profile since it includes a medical information summary and searchers can contact the specific agency for more detailed information?

No. Although a summary of medical information is contained in the child profile document, it is not specific or detailed. The information may be on file for many years before it is requested, and the information request may not come from the adoptee but from the adoptee's descendants. By the time of the request, the information needed may no longer be on file at the medical facility that treated the adoptee. Agencies should upload all medical information contained in the child's agency record.

Does PAIR receive only non-identifying information in the child profiles? If that is so, then the placing agency would be the only one to release identifying information. Is that correct?

No. That is not correct. Identifying information contained in the child profile, including the birth and legal family information such as their names, addresses and contact information, is provided as an attachment to the child profile. The attachment with the birth or legal family's information is not provided to the adoptive family at the time of the adoption. However, the child profile attachment is a part of the child profile and as such must be uploaded to the PAIR. Should a request for identifying information later be submitted by an adoptee, and if the birth or legal family has authorized the release of identifying information, that attachment and any other identifying information will be shared with the adoptee. If, however, no authorization to release identifying information is on file, the PAIR will redact the record and remove all identifying information, including the attachment to the child profile, before releasing the information to the adoptee.

Are social histories meant to be non-identifying? School records that include the names of schools may constitute identifying information.

No. Social histories do contain personal information such as medical, familial and educational information, all of which must be uploaded to the PAIR. However, under Act 101 PAIR will release identifying information only if an authorization to release it is on file. If no authorization to release identifying information is on file, then PAIR will redact the record, and all identifying information will be removed before providing it to the requestor. No record should be redacted prior to uploading it to the PAIR.

How does an adopted child personal submit information if the adoptee does not know which agency did the adoption?

The adoptee should fill out the Adoptee Registration and Authorization Form and provide as much information as possible. The PAIR will then attempt to match the information provided with information on file at the Division of Vital Records.

How does the PAIR crosswalk with other databases used in counties, such as the CAPS and KIDS systems?

Currently it does not. When Pennsylvania develops a statewide information system, it may.

If the private provider or SWAN affiliate doing the finalization did not write the child profile, can they still submit it to the PAIR?

Yes. Agencies and the courts need to collaborate to determine who will be responsible for uploading the information to the PAIR.

Do the child profiles still require signatures?

Yes.

If affiliates learn about updated medical history after the finalization, are they obligated to report it to PAIR?

No.

Can agency personnel fill out and sign the Birth Parent Authorization and Registration Form to ensure that the birth parent's medical history is provided to PAIR?

No. Only birth parents may fill out and sign the form. Agency staff may assist a birth parent with filling out the form, but it must be signed by the birth parent.

If an adoption is finalized in Maryland for a Pennsylvania child, will access to the records and information be in Maryland?

Act 101 does not apply to an adoption finalized in another state. The adoption laws of the other state would govern access to records. If, however, the adoption occurs in another state or country, but is registered in Pennsylvania, the agency and court are required to register the adoption with the PAIR.

Release of Information and Access to Records

Do birth siblings need their birth parents' consent to search for an adopted sibling?

It depends whether the birth siblings who want to search remained in the custody of the birth parents while they were growing up. Act 101 permits birth siblings who are 21 or older to search for each other. If both siblings were adopted, but by different families, they may search. If only one sibling was adopted, but the other did not grow up in the custody of the birth parent, they may search. A birth sibling who grew up in the custody of the birth parent needs the birth parent's consent to search, unless the birth parent is deceased or incapacitated.

Does Act 101 allow youth whose parents' rights were terminated and who have aged out of the child welfare system to search for members of their birth families?

No. Act 101 only requires agencies to perform searches on adoptees and birth relatives of adoptees.

Who has to do the searches; who can do the searches?

Searches are conducted either by the court that finalized the adoption, the agency that coordinated the adoption or a successor agency. The court or agency will appoint an authorized representative to conduct the search. Individuals who wish to serve as authorized representatives must complete a training program required by the Department of Public Welfare.

When someone requests a search, what kind of documentation is needed to start the search? A driver's license? Other form of identification?

None is required per the statute or the bulletin. Requestors sign a form stating:

I certify that the above information is accurate and complete to the best of my knowledge and belief and submitted as true and correct under penalty of law (section 4904 of the Pennsylvania Crimes Code).

Can an agency use electronic storage for any of the ACT 101 required record keeping?

Yes. However, agencies should ensure that all electronic records are backed up on a second server and that all servers are protected from fire and water damage.