
A BILL FOR AN ACT

RELATING TO ADOPTION RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Section 578-15, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
- 3 "(b) Upon the entry of the decree, [~~or upon~~] the later
4 effective date of the decree, or [~~upon~~] the dismissal or
5 discontinuance or other final disposition of the petition, the
6 clerk of the court shall seal all records in the proceedings;
7 provided that upon the written request of the petitioner or
8 petitioners, the court may waive the requirement that the
9 records be sealed[-]; provided further that the natural parent
10 may place, change, or remove a contact preference in the sealed
11 record at any time prior to or after the final disposition of
12 the petition. The seal shall not be broken and the records
13 shall not be inspected by any person, [~~including the parties to~~
14 ~~the proceedings,~~] except in the following circumstances:
- 15 (1) Upon order of the family court upon a showing of good
16 cause;
- 17 (2) For adoptions [~~which~~] that occurred prior to January
18 1, 1991, after the adopted individual attains the age



1 of eighteen and upon submission to the family court of
2 a written request for inspection by the adopted
3 individual or the adoptive parents in accordance with
4 the following:

5 (A) Within sixty calendar days after receipt of a
6 request for inspection, the family court, by
7 certified mail with return receipt requested,
8 shall mail to the last known address of each
9 natural parent a notice of the request for
10 inspection of adoption records, a copy of the
11 request for inspection and copies of any
12 accompanying letters, photographs, or other
13 documents submitted in support of the request.
14 The notice shall inform the natural parent that
15 unless an affidavit signed by the natural parent
16 requesting confidentiality is received by the
17 family court within sixty calendar days of the
18 date of receipt of the notice, the natural parent
19 will be deemed to have waived any rights of
20 confidentiality and the records shall be subject
21 to inspection by the adopted individual or the
22 adoptive parent who submitted the request. The



1 notice shall also inform the natural parent that
2 an affidavit requesting confidentiality for a
3 period of ten years may be filed. A blank
4 affidavit to be completed and signed by the
5 natural parent shall be mailed with the notice;

6 (B) If the family court has received a return receipt
7 for the notice but an affidavit requesting
8 confidentiality is not received by the family
9 court within sixty calendar days of the date of
10 receipt of the notice, the family court shall
11 allow inspection under this section;

12 (C) If the notice is returned as undeliverable to a
13 natural parent, the family court shall designate
14 an agent or agency to conduct a good faith and
15 diligent search to locate the natural parent and
16 to provide the notice and all other documents
17 required under subparagraph (A). The search
18 shall extend over a period not to exceed one
19 hundred eighty calendar days. Contacts with
20 natural parents by a designated agent or agency
21 under this section shall be personal, whenever
22 possible, and confidential. The family court



1 shall provide the designated agent or agency with
2 a copy of the request for inspection and copies
3 of any accompanying letters, photographs, or
4 other documents submitted in support of the
5 request, and the designated agent or agency shall
6 present the copies to the natural parent when
7 contacted. The family court and the designated
8 agent or agency shall ensure that no person other
9 than a natural parent or the agent or agency
10 through which a natural parent obtained
11 assistance for the adoption is informed of the
12 adoptive individual's existence and the
13 relationship to the natural parent;

14 (D) If a natural parent cannot be located after the
15 search conducted under subparagraph (C), the
16 family court shall allow inspection under this
17 section;

18 (E) If an affidavit requesting confidentiality is
19 received by the family court within sixty
20 calendar days of the date of receipt of the
21 notice provided under subparagraph (A) or (C),



1 the family court shall not allow inspection
2 during the effective period of the affidavit;

3 (F) If a ten-year affidavit is filed under
4 subparagraph (E), the natural parent may refile
5 affidavits every ten years thereafter to maintain
6 confidentiality, or the natural parent may file
7 an affidavit effective for the remainder of the
8 natural parent's lifetime. All affidavits
9 subsequent to the initial affidavit may be filed
10 within ninety calendar days before the last
11 effective day of the initial affidavit. If there
12 is no effective affidavit on file with the family
13 court at the time a request for inspection is
14 received by the court, the court shall allow
15 inspection under this paragraph;

16 (G) An affidavit requesting confidentiality shall be
17 effective until the last day of the period for
18 which the affidavit was filed, until the natural
19 parent revokes the affidavit, or until the
20 natural parent is deceased, whichever occurs
21 sooner; and



- 1 (H) Where two natural parents are involved and
2 confidentiality is waived under this paragraph by
3 only one natural parent, the inspection of the
4 records shall not include any identifying
5 information concerning the other natural parent;
- 6 (3) For adoptions occurring after December 31, 1990, in
7 accordance with the following:
- 8 (A) Each natural parent shall be informed of the
9 procedures required under this paragraph if the
10 natural parent desires to maintain
11 confidentiality after the adopted individual
12 attains the age of eighteen;
- 13 (B) Within ninety calendar days before the adopted
14 individual attains the age of eighteen a natural
15 parent may file an affidavit with the family
16 court to request confidentiality and the natural
17 parent may refile affidavits every ten years
18 thereafter to maintain confidentiality or the
19 natural parent may file an affidavit effective
20 for the remainder of the natural parent's
21 lifetime. All affidavits after the initial
22 affidavit may be filed within ninety calendar



1 days before the last effective day of the initial
2 affidavit;

3 (C) If a natural parent declines or fails to file an
4 affidavit under subparagraph (B), the family
5 court shall allow inspection of the record by the
6 adopted individual or the adoptive parents at any
7 time after the adopted individual has attained
8 the age of eighteen; and

9 (D) Where two natural parents are involved and
10 confidentiality is waived under this paragraph by
11 only one natural parent, the inspection of the
12 records shall not include any identifying
13 information concerning the other natural parent;

14 (4) For all adoptions, regardless of date of occurrence,
15 after the adopted individual attains the age of
16 eighteen and upon submission to the family court of a
17 written request for inspection by a natural parent;
18 provided that the adopted individual shall have the
19 same rights and obligations applicable to natural
20 parents under paragraphs (2) and (3), including rights
21 of notice and opportunity to file affidavits
22 requesting confidentiality.



1 (5) For all adoptions, regardless of date of occurrence,
2 after the adopted individual attains the age of
3 eighteen and upon submission of an affidavit by a
4 natural parent consenting to the inspection of records
5 by the adoptee or an affidavit submitted by an adoptee
6 consenting to the inspection of records by the natural
7 parents; provided that where only one natural parent
8 files an affidavit for consent, the inspection of
9 records shall not include any identifying information
10 concerning the other natural parent; and provided
11 further that the family court shall provide the
12 adopted individual with a copy of the contact
13 preference filed in the sealed record at the time the
14 request for inspection is submitted to the court;

15 (6) For all adoptions, regardless of date of occurrence,
16 if a natural parent places a contact preference into
17 the sealed adoption record indicating an acceptance of
18 personal contact, the effect of any previously-filed
19 affidavit requesting confidentiality is suspended. If
20 a natural parent later places a contact preference
21 into the sealed adoption record declining personal



1 contact, any current affidavits requesting
2 confidentiality shall be reinstated;
3 ~~[(6)]~~ (7) Upon request by the adopted individual or the
4 adoptive parents for ethnic, racial, health, or
5 genetic information contained in the records
6 ~~[concerning ethnic background and necessary medical~~
7 ~~information]~~, notwithstanding any affidavit requesting
8 confidentiality; or
9 ~~[(7)]~~ (8) Upon request by a natural parent for a copy of
10 the original birth certificate.

11 As used in this subsection~~[7]~~: ~~["natural parent"]~~
12 "Contact preference" means a notarized written statement
13 from a natural parent indicating whether the natural parent
14 accepts or declines personal contact with the adopted individual
15 when the adopted individual attains the age of eighteen. If the
16 natural parent accepts personal contact, contact information
17 shall be included in the contact preference and shall be kept
18 current by the natural parent.

19 "Natural parent" means a biological mother or father~~[, or a~~
20 ~~legal parent who is not also the biological parent]~~."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Adoption; Records; Proceedings; Contact Preference

Description:

Allows a natural parent to insert a contact preference, indicating whether the natural parent accepts or declines personal contact with the adopted individual, into the sealed adoption records; clarifies procedures for requesting inspections of adoption records and maintaining confidentiality of parties to an adoption; requires the family court to provide adopted individual with a copy of the natural parent's contact preference; defines contact preference. Effective 07/01/2050.
(SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

