
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]~~ except by the
14 parties to the proceedings~~[, except]~~ in the following
15 circumstances:
16 (1) Upon order of the family court upon a showing of good
17 cause;



1 (2) For adoptions which occurred prior to January 1, 1991,
2 after the adopted individual attains the age of
3 eighteen and upon submission to the family court of a
4 written request for inspection by the adopted
5 individual or the adoptive parents in accordance with
6 the following:

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



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1 confidentiality and the records shall be subject
2 to inspection by the adopted individual or the
3 adoptive parent who submitted the request. The
4 notice shall also inform the natural parent that
5 an affidavit requesting confidentiality for a
6 period of ten years may be filed. A blank
7 affidavit to be completed and signed by the
8 natural parent shall be mailed with the notice;

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

15 (C) If the notice is returned as undeliverable to a
16 natural parent, the family court shall designate
17 an agent or agency to conduct a good faith and
18 diligent search to locate the natural parent and
19 to provide the notice and all other documents
20 required under subparagraph (A). The search
21 shall extend over a period not to exceed one



1 hundred eighty calendar days. Contacts with
2 natural parents by a designated agent or agency
3 under this section shall be personal, whenever
4 possible, and confidential. The family court
5 shall provide the designated agent or agency with
6 a copy of the request for inspection and copies
7 of any accompanying letters, photographs, or
8 other documents submitted in support of the
9 request, and the designated agent or agency shall
10 present the copies to the natural parent when
11 contacted. The family court and the designated
12 agent or agency shall ensure that no person other
13 than a natural parent or the agent or agency
14 through which a natural parent obtained
15 assistance for the adoption is informed of the
16 adoptive individual's existence and the
17 relationship to the natural parent;

18 (D) If a natural parent cannot be located after the
19 search conducted under subparagraph (C), the
20 family court shall allow inspection under this
21 section;



- 1 (E) If an affidavit requesting confidentiality is
2 received by the family court within sixty
3 calendar days of the date of receipt of the
4 notice provided under subparagraph (A) or (C),
5 the family court shall not allow inspection
6 during the effective period of the affidavit;
- 7 (F) If a ten-year affidavit is filed under
8 subparagraph (E), the natural parent may refile
9 affidavits every ten years thereafter to maintain
10 confidentiality, or the natural parent may file
11 an affidavit effective for the remainder of the
12 natural parent's lifetime. All affidavits
13 subsequent to the initial affidavit may be filed
14 within ninety calendar days before the last
15 effective day of the initial affidavit. If there
16 is no effective affidavit on file with the family
17 court at the time a request for inspection is
18 received by the court, the court shall allow
19 inspection under this paragraph;
- 20 (G) An affidavit requesting confidentiality shall be
21 effective until the last day of the period for



1 which the affidavit was filed, until the natural
2 parent revokes the affidavit, or until the
3 natural parent is deceased, whichever occurs
4 sooner; and

5 (H) Where two natural parents are involved and
6 confidentiality is waived under this paragraph by
7 only one natural parent, the inspection of the
8 records shall not include any identifying
9 information concerning the other natural parent;

10 (3) For adoptions occurring after December 31, 1990, and
11 on or before December 31, 2016, in accordance with the
12 following:

13 (A) Each natural parent shall be informed of the
14 procedures required under this paragraph if the
15 natural parent desires to maintain
16 confidentiality after the adopted individual
17 attains the age of eighteen;

18 (B) Within ninety calendar days before the adopted
19 individual attains the age of eighteen a natural
20 parent may file an affidavit with the family
21 court to request confidentiality and the natural



1 parent may refile affidavits every ten years
2 thereafter to maintain confidentiality or the
3 natural parent may file an affidavit effective
4 for the remainder of the natural parent's
5 lifetime. All affidavits after the initial
6 affidavit may be filed within ninety calendar
7 days before the last effective day of the initial
8 affidavit;

9 (C) If a natural parent declines or fails to file an
10 affidavit under subparagraph (B), the family
11 court shall allow inspection of the record by the
12 adopted individual or the adoptive parents at any
13 time after the adopted individual has attained
14 the age of eighteen; and

15 (D) Where two natural parents are involved and
16 confidentiality is waived under this paragraph by
17 only one natural parent, the inspection of the
18 records shall not include any identifying
19 information concerning the other natural parent;

20 (4) For adoptions occurring after December 31, 2016, the
21 family court shall allow inspection of the record of



1 adoption by the adopted individual or the adoptive
2 parent or parents at any time after the adopted
3 individual has attained the age of eighteen, unless
4 the natural parent or parents have filed an affidavit
5 with the family court to request confidentiality,
6 which affidavit may be refiled by the natural parent
7 or parents every five years thereafter to maintain
8 confidentiality;

9 ~~(4)~~ (5) For all adoptions, regardless of date of
10 occurrence, after the adopted individual attains the
11 age of eighteen and upon submission to the family
12 court of a written request for inspection by a natural
13 parent; provided that the adopted individual shall
14 have the same rights and obligations applicable to
15 natural parents under paragraphs (2) ~~and~~, (3), and
16 (4), including rights of notice and opportunity to
17 file affidavits requesting confidentiality~~[-]~~;

18 ~~(5)~~ (6) For all adoptions, regardless of date of
19 occurrence, after the adopted individual attains the
20 age of eighteen and upon submission of an affidavit by
21 a natural parent consenting to the inspection of



1 records by the adoptee or an affidavit submitted by an
2 adoptee consenting to the inspection of records by the
3 natural parents; provided that where only one natural
4 parent files an affidavit for consent, the inspection
5 of records shall not include any identifying
6 information concerning the other natural parent;
7 provided further that the family court shall provide
8 the adopted individual with a copy of the contact
9 preference filed in the sealed record at the time the
10 request for inspection is submitted to the court;

11 (7) For all adoptions, regardless of date of occurrence,
12 if a natural parent places a contact preference into
13 the sealed adoption record indicating an acceptance of
14 personal contact, the effect of any previously filed
15 affidavit requesting confidentiality is suspended. If
16 a natural parent later places a contact preference
17 into the sealed adoption record declining personal
18 contact, any current affidavits requesting
19 confidentiality shall be reinstated;

20 ~~[(6)]~~ (8) Upon request by the adopted individual or the
21 adoptive parents for ethnic, racial, health, or



1 genetic information contained in the records
2 ~~[concerning ethnic background and necessary medical~~
3 ~~information, notwithstanding any affidavit requesting~~
4 ~~confidentiality]; or~~

5 ~~[(7)]~~ (9) Upon request by a natural parent for a copy of the
6 original birth certificate.

7 As used in this subsection~~[7]~~: ~~["natural parent"]~~

8 "Contact preference" means a notarized written statement
9 from a natural parent indicating whether the natural parent
10 accepts or declines personal contact with the adopted individual
11 when the adopted individual attains the age of eighteen. If the
12 natural parent accepts personal contact, contact information
13 shall be included in the contact preference and shall be kept
14 current by the natural parent.

15 "Natural parent" means a biological mother or father~~[7 or a~~
16 ~~legal parent who is not also the biological parent]."~~

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



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1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Clay
Ryan
Ch. C.

JAN 22 2016



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Report Title:

Adoption; Adoption Records; Proceedings

Description:

Amends requirements relating to adoption records and the secrecy of proceedings and records. Allows access to adoption records by parties to the proceedings under certain circumstances.

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

