

JAN 26 2022

A BILL FOR AN ACT

RELATING TO ADOPTION.

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

1 SECTION 1. The legislature finds that the effect of
2 adoption as provided for under state law impacts the ability for
3 an adopted individual or the individual's natural family to
4 succeed to a homestead lease or application on the department of
5 Hawaiian home lands applicant waiting list. The purpose of this
6 Act is to allow an adopted individual to benefit both by
7 relationship through a natural parent and through an adoptive
8 parent while also allowing the adopted individual and member of
9 the individual's natural family to continue to have the same
10 familial relationship. This Act does not affect the other
11 requirements under the Hawaiian Homes Commission Act, 1920, as
12 amended, or administrative rules beyond recognition of
13 relationship between individuals.

14 SECTION 2. Section 578-16, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§578-16 Effect of adoption. (a) A legally adopted
17 individual shall be considered to be a natural child of the

1 whole blood of the adopting parent or parents as provided in the
2 Uniform Probate Code, relating to the descent of property.

3 (b) The former legal parent or parents of an adopted
4 individual and any other former legal kindred shall not be
5 considered to be related to the individual as provided in the
6 Uniform Probate Code except as provided in this section.

7 (c) An adopted individual and the individual's adopting
8 parent or parents shall sustain towards each other the legal
9 relationship of parents and child and shall have all the rights
10 and be subject to all the duties of that relationship, including
11 the rights of inheritance from and through each other and the
12 legal kindred of the adoptive parent or parents, the same as if
13 the individual were the natural child of the adopting parent or
14 parents.

15 (d) Except as provided in subsection (e), all legal duties
16 and rights between the individual and the individual's former
17 legal parent or parents shall cease from the time of the
18 adoption; provided that, if the individual is adopted by a
19 person married to a legal parent of the individual, the full
20 reciprocal rights and duties [~~which~~] that theretofore existed
21 between the legal parent and the individual, and the rights of
22 inheritance as between the individual and the legal parent and

1 the legal relatives of the parent, as provided in chapter 560,
2 shall continue, notwithstanding the adoption, subject only to
3 the rights acquired by and the duties imposed upon the adoptive
4 parents by reason of the adoption.

5 (e) Notwithstanding subsections (b) and (d), if an
6 individual is adopted before that individual attains the age of
7 majority and:

8 (1) The individual is adopted by a spouse of a natural
9 parent of the individual; or

10 (2) The individual is adopted by a natural grandparent,
11 aunt, uncle, or sibling of the individual or the
12 spouse of a natural grandparent, aunt, uncle, or
13 sibling;

14 then for the purposes of interpretation or construction of a
15 disposition in any will, trust, or other lifetime instrument,
16 whether executed before or after the order of adoption, and for
17 purposes of determining heirs at law, the rights of the adopted
18 individual and the individual's descendants with respect to the
19 individual's natural family shall not be affected by the
20 adoption, and they shall be included in any determination of
21 heirs or members of any class, unless specifically excluded by
22 name or class.

1 (f) An adopted individual, who by reason of subsection (e)
2 would be a member of two or more designation or classes pursuant
3 to a single instrument, both by relationship through a natural
4 parent and through an adoptive parent, shall be entitled to
5 benefit by membership in only one of these designations or
6 classes, which shall be the larger share.

7 (g) Notwithstanding any other provision of this section,
8 the effect of adoption for the purposes of determining a
9 disposition or other designation or for determining heirs at law
10 in accordance with the Hawaiian Homes Commission Act, 1920, as
11 amended, or administrative rules shall allow any adopted
12 individual to benefit both by relationship through a natural
13 parent and through an adoptive parent while also allowing for
14 the adopted individual and member of the individual's natural
15 family to continue to have the same familial relationship.

16 ~~[(g)]~~ (h) For purposes of this section, if a person has
17 been adopted more than once, the term "natural parent" includes
18 an adopting parent by an earlier adoption.

19 ~~[(h)]~~ (i) An individual legally adopted under the laws of
20 any state or territory of the United States or under the laws of
21 any nation shall be accorded the same rights and benefits in all
22 respects as an individual adopted under this chapter."

S.B. NO. 3105

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

S.B. NO. 3105

Report Title:

Department of Hawaiian Home Lands; Adoption

Description:

Allows an adopted individual to benefit both by relationship through a natural parent and through an adoptive parent in a disposition or other designation as provided for in accordance with the Hawaiian Homes Commission Act, 1920, as amended, or administrative rules. Allows the adopted individual and individual's natural family to continue having the same familial relationship.

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

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO ADOPTION.

PURPOSE: To allow an adopted individual to benefit both by relationship through a natural parent and through an adoptive parent in a disposition or other designation provided for in accordance with the Hawaiian Homes Commission Act, 1920, as amended, or administrative rules while also allowing the adopted individual and individual's natural family to continue to have the same familial relationship.

MEANS: Amend section 578-16, Hawaii Revised Statutes.

JUSTIFICATION: The effect of adoption could impact the ability for an adoptive individual to succeed to a homestead lease or to the applicant's application rights on the waiting list. This proposal allows an adopted individual to benefit both by relationship through a natural parent and an adoptive parent while also allowing for the adopted individual and member of the individual's natural family to continue to have the same familial relationship.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended, by allowing an adopted individual to benefit both by relationship through a natural parent and through an adoptive parent.

Impact on the department and other agencies: This proposal could minimize any amendments that could have a detrimental impact to the general public while addressing the nuances specific to the department.

SB. NO. 3105

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.