

A Bill for an Act Relating to Consent to Adoption.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Persons as to whom consent not required or whose consent may be dispensed with by order of the court.

- (1) Persons as to whom consent not required:
  - (A) A parent who has deserted a child without affording means of identification for a period of ninety days;
  - (B) A parent who has voluntarily surrendered the care and custody of the child to another for a period of two years;
  - (C) A parent of the child in the custody of another, if the parent for a period of at least one year has failed to communicate with the child when able to do so;
  - (D) A parent of a child in the custody of another, if the parent for a period of at least one year has failed to provide for the care and support of the child when able to do so;
  - (E) A natural father who was not married to the child’s mother at the time of the child’s conception or birth and who does not fall within the provisions of section 578-2(a) (3) or (4) or (5);
  - (F) A parent whose parental rights have been judicially terminated under the provisions of sections 571-61 to 571-63, or under the provisions of any other state or other law by a court or other agency having jurisdiction to take such action;
  - (G) A parent judicially declared mentally incompetent or mentally retarded if the court dispenses with such parent’s consent;
  - (H) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably.
  - (I) A parent of a child who has been in the custody of a petitioner under this chapter for a period of at least one year and who entered the United States of America as a consequence of extraordinary circumstances in said child’s country of origin, by reason of which extraordinary circumstances the existence, identity or whereabouts of said child’s parents is not reasonably ascertainable or there is no reasonable means of obtaining suitable evidence of the child’s identity or availability for adoption.
- (2) Persons whose consent may be dispensed with by order of the court.
 

The court may dispense with the consent of a parent who comes within section 578-2(a) (3) or (4) or (5) herein, upon a finding that:

  - (A) The petitioner is the stepfather of the child and the child has lived

with his legal mother and the petitioning stepfather for a period of at least one year; or

- (B) The adjudicated, presumed or concerned father has not filed a petition to adopt said child, or the petition to adopt said child filed by the said father has been denied; or
- (C) The adjudicated, presumed or concerned father is not a fit and proper person or is not financially or otherwise able to give the child a proper home and education.”

SECTION 2. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notice of hearing; minor parent; consent authorizing selection of adopted parents. No hearing of a petition for adoption shall be had unless each of the living parents of the child who falls within the provisions of paragraph 2(a) and who has not consented to the proposed adoption, but who is alleged to come within the provisions of paragraphs (b) (1) (A), (B), (C) and (D) or (b) (2) of this section, and any man whose name appears as father on the child’s birth certificate, shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof. Such notice need not be given to any parent whose parental rights have been legally terminated as hereinabove provided or whose consent has been filed with the court.

The minority of a child’s parent shall not be a bar to the right of such parent to execute a valid and binding consent to the adoption of such child.

Any parental consent required hereunder shall be valid and binding even though it does not designate any specific adoptive parent or parents, if it clearly authorizes the department of social services and housing, or a child placing organization approved by the department under the provisions of section 346-17 or some proper person not forbidden by law to place a child for adoption, to select and approve an adoptive parent or parents for the child.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

(Approved April 23, 1976.)

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\*Edited accordingly.