
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. The seal shall not be broken and the records
10 shall not be inspected by any person[~~, including~~] except by the
11 parties to the proceedings[~~, except~~] in the following
12 circumstances:

13 (1) Upon order of the family court upon a showing of good
14 cause;

15 (2) For adoptions which occurred prior to January 1, 1991,
16 after the adopted individual attains the age of
17 eighteen and upon submission to the family court of a
18 written request for inspection by the adopted



1 individual or the adoptive parents in accordance with
2 the following:

3 (A) Within sixty calendar days after receipt of a
4 request for inspection, the family court, by
5 certified mail with return receipt requested,
6 shall mail to the last known address of each
7 natural parent a notice of the request for
8 inspection of adoption records, a copy of the
9 request for inspection and copies of any
10 accompanying letters, photographs, or other
11 documents submitted in support of the request.

12 The notice shall inform the natural parent that
13 unless an affidavit signed by the natural parent
14 requesting confidentiality is received by the
15 family court within sixty calendar days of the
16 date of receipt of the notice, the natural parent
17 will be deemed to have waived any rights of
18 confidentiality and the records shall be subject
19 to inspection by the adopted individual or the
20 adoptive parent who submitted the request. The
21 notice shall also inform the natural parent that
22 an affidavit requesting confidentiality for a



1 period of ten years may be filed. A blank
2 affidavit to be completed and signed by the
3 natural parent shall be mailed with the notice;

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

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



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

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

16 (E) If an affidavit requesting confidentiality is
17 received by the family court within sixty
18 calendar days of the date of receipt of the
19 notice provided under subparagraph (A) or (C),
20 the family court shall not allow inspection
21 during the effective period of the affidavit;



- 1 (F) If a ten-year affidavit is filed under
2 subparagraph (E), the natural parent may refile
3 affidavits every ten years thereafter to maintain
4 confidentiality, or the natural parent may file
5 an affidavit effective for the remainder of the
6 natural parent's lifetime. All affidavits
7 subsequent to the initial affidavit may be filed
8 within ninety calendar days before the last
9 effective day of the initial affidavit. If there
10 is no effective affidavit on file with the family
11 court at the time a request for inspection is
12 received by the court, the court shall allow
13 inspection under this paragraph;
- 14 (G) An affidavit requesting confidentiality shall be
15 effective until the last day of the period for
16 which the affidavit was filed, until the natural
17 parent revokes the affidavit, or until the
18 natural parent is deceased, whichever occurs
19 sooner; and
- 20 (H) Where two natural parents are involved and
21 confidentiality is waived under this paragraph by
22 only one natural parent, the inspection of the



1 records shall not include any identifying
2 information concerning the other natural parent;

3 (3) For adoptions occurring after December 31, 1990, and
4 on or before December 31, 2011, in accordance with the
5 following:

6 (A) Each natural parent shall be informed of the
7 procedures required under this paragraph if the
8 natural parent desires to maintain
9 confidentiality after the adopted individual
10 attains the age of eighteen;

11 (B) Within ninety calendar days before the adopted
12 individual attains the age of eighteen a natural
13 parent may file an affidavit with the family
14 court to request confidentiality and the natural
15 parent may refile affidavits every ten years
16 thereafter to maintain confidentiality or the
17 natural parent may file an affidavit effective
18 for the remainder of the natural parent's
19 lifetime. All affidavits after the initial
20 affidavit may be filed within ninety calendar
21 days before the last effective day of the initial
22 affidavit;



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

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

12 (4) For adoptions occurring after December 31, 2011, the
13 family court shall allow inspection of the record of
14 adoption by the adopted individual or the adoptive
15 parent or parents at any time after the adopted
16 individual has attained the age of eighteen, unless
17 the natural parent or parents have filed an affidavit
18 with the family court to request confidentiality,
19 which affidavit may be refiled by the natural parent
20 or parents every ten years thereafter to maintain
21 confidentiality;



1 [~~4~~] (5) For all adoptions, regardless of date of
2 occurrence, after the adopted individual attains the
3 age of eighteen and upon submission to the family
4 court of a written request for inspection by a natural
5 parent; provided that the adopted individual shall
6 have the same rights and obligations applicable to
7 natural parents under paragraphs (2) [~~and~~], (3), and
8 (4), including rights of notice and opportunity to
9 file affidavits requesting confidentiality~~[-]~~;

10 [~~5~~] (6) For all adoptions, regardless of date of
11 occurrence, after the adopted individual attains the
12 age of eighteen and upon submission of an affidavit by
13 a natural parent consenting to the inspection of
14 records by the adoptee or an affidavit submitted by an
15 adoptee consenting to the inspection of records by the
16 natural parents; provided that where only one natural
17 parent files an affidavit for consent, the inspection
18 of records shall not include any identifying
19 information concerning the other natural parent;

20 [~~6~~] (7) Upon request by the adopted individual or the
21 adoptive parents for information contained in the
22 records concerning ethnic background and necessary



1 medical information[, ~~notwithstanding any affidavit~~
2 ~~requesting confidentiality~~]; or

3 ~~[(7)]~~ (8) Upon request by a natural parent for a copy of the
4 original birth certificate.

5 As used in this subsection, "natural parent" means a biological
6 mother or father, or a legal parent who is not also the
7 biological parent."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on January 7, 2059.



Report Title:

Adoption; Records; Proceedings

Description:

Amends provisions of the code relating to adoption records and the secrecy of proceedings and records, allowing access to adoption records by parties to the proceedings under certain circumstances. Effective January 7, 2059. (HB1407 HD1)

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

