
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 a contact preference into the sealed record at any
11 time prior to or after the final disposition of the petition.

12 The seal shall not be broken and the records shall not be
13 inspected by any person, ~~[including the parties to the~~
14 ~~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 occurred prior to January 1, 1991,~~
18 ~~after the adopted individual attains the age of~~



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

17 ~~(6)~~] (3) Upon request by the adopted individual or the
18 adoptive parents for ethnic, racial, health, or
19 genetic information contained in the records
20 ~~[concerning ethnic background and necessary medical~~
21 ~~information, notwithstanding any affidavit requesting~~
22 ~~confidentiality]; or~~



1 [~~(7)~~] (4) Upon request by a natural parent for a copy of
2 the original birth certificate.

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

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

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

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

16



Report Title:

Adoption; Records; Proceedings; Contact Preference

Description:

Amends provisions of the code relating to adoption records; allows access to adoption records by parties to the proceedings upon showing of good cause or upon submission of a written request to the Family Court. 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; defines contact preference. Effective January 7, 2059. (SD1)

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