

## ADOPTION PROCEDURES AND FORMS

This Memorandum supersedes all previous Family Court memoranda regarding adoption and will be effective **June 1, 2002**.

### I. CASE FLOW

#### A. **PETITION FOR ADOPTION (CONSENT)**

This petition should be used if **all** consents required pursuant to Section 578-2(a) of the Hawai'i Revised Statutes, as amended, have been obtained.

The Court will not review the *Petition for Adoption (Consent)* prior to filing. All documents listed in the Initial Documents To Be Filed Section below and any subsequent filings should be presented for filing at the Documents Receiving Section of the Legal Documents Branch located on the First Floor of the **Ronald T.Y. Moon Kapolei Courthouse, 4675 Kapolei Parkway, Kapolei, Hawai'i 96707**, or of the **Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai'i 96813**. The hours for filing documents are 8:00 a.m. to 4:15 p.m., Monday through Friday, except State Holidays. The cost to file the petition is \$100.00 + \$65.00 (surcharge) + \$50.00 (computer system surcharge) for a total of \$215.00. There is no additional cost to file a motion in an adoption case.

#### 1. INITIAL DOCUMENTS TO BE FILED:

- a. Petition for Adoption (Consent)
- b. *Adoption Information Sheet*
- c. *Notice to DHS of Pendency of Action*
- d. *List of Exhibits*. The following documents should be attached to the List of Exhibits:
  - 1) Certified copy of Child's Birth Certificate (**NOTE**: Copy must be certified by the custodian of records where the certificate was issued. This copy will not be returned as after this adoption is completed, a new birth certificate will be issued with the name(s) of the adoptive parent(s).
  - 2) *Medical Certificate* for the Child.
  - 3) Death Certificate of Parent(s), if applicable.
  - 4) *Consent by Child (Age 10 or Over) to Adoption*, if applicable.
  - 5) Consent(s) of Parent(s). One of the following forms should be



In accordance with the Americans with Disabilities Act, as amended, and other applicable state and federal laws, if you require accommodation for a disability, please contact the ADA Coordinator at the First Circuit Family Court office by telephone at 954-8200, fax 954-8308, or via email at [adarequest@courts.hawaii.gov](mailto:adarequest@courts.hawaii.gov) at least ten (10) days prior to your hearing or appointment date.

*Please call the Family Court Service Center at 954-8290 if you have any questions about forms or procedures.*

obtained from each living parent:

- a) *Specific Consent to Adoption of [ ]Mother [ ]Father [ ]Other.*
  - b) *General Consent to Adoption of [ ]Mother [ ]Father [ ]Other.*
  - c) *Release of Child for Adoption.* (**NOTE:** This form is specifically for an alleged natural father to sign. A legal or adjudicated father should not use this form.)
- 6) Marriage Certificate of Petitioner(s), if applicable.
  - 7) *Declaration of Adoptive Parent(s) (Re: HRS section 578-15).* (**NOTE:** The statute does not allow for the waiver of this requirement.)
  - 8) Copy of Divorce Decree(s) for Petitioner(s) or Legal Parent.
  - 9) Selection and Approval of Adoptive Parent(s) (by person authorized to place the child for adoption), if applicable.
  - 10) ICPC 100A Form, if applicable. (**NOTE:** Interstate Compact for the Placement of Children (ICPC) requirements must be met if the child(ren) is/are transported from another state to Hawai'i for the purpose of adoption and the child(ren) and adoptive parent(s) are not blood related.)
  - 11) Copy of Adoptive Home Study, if child was placed by an agency or if ICPC applies.
  - 12) Affidavit of Birth Background, if applicable.
  - 13) Consent of Legal Custodian or Guardian, if applicable.
  - 14) Copy of Order Appointing Guardian of the Person of a Minor.
  - 15) Any other exhibit(s) which may support the granting of the *Petition for Adoption.*
- e. Envelope with *Medical Information Fly Sheet* attached, which includes the following documents in the envelope:
- 1) *Medical Record Release Form.* (One for each natural parent.)
  - 2) *Medical Information Form.* (One for each natural parent.)
  - 3) Mother's medical records of the child(ren)'s birth and Mother's release of the records.
- NOTE:** If any of the above is unavailable, an ex parte motion to waive this requirement must be submitted to the Court.

2. MAILING OF NOTICE TO DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES (DHS):
  - a. A filed copy of the *Notice to DHS of Pendency of Action* and a copy of the *Adoption Information Sheet* must be mailed to the Director of Human Services at the address reflected on the notice, by certified mail, return receipt requested.
  - b. The Director has twenty-one (21) days after the receipt of the notice to investigate and file a written report as to the fitness of the Petitioner(s) to adopt the individual(s).

3. DOCUMENTS FILED SUBSEQUENT TO INITIAL FILING, BUT PRIOR TO HEARING:
  - a. *Statement of Mailing: Exhibits "1" and "2"* (Re: Notice to DHS).
  - b. *Adoption Hearing Flag Sheet*. (**NOTE:** This document is to be filed after all required exhibits and documents have been filed.)
4. SUBMITTAL OF *ADOPTION HEARING FLAG SHEET* TO ADOPTION CLERK (AC):

A **filed** copy of the Adoption Hearing Flag Sheet shall be submitted to the Adoption Clerk via Window #5 on the First Floor of the Ronald T.Y. Moon Kapolei Courthouse. The Adoption Clerk will review the flag sheet and the case file, then prepare a Notice of Case Status/Deficiencies Sheet reflecting whether your case has been approved to be set on the Adoption Calendar or if there are missing documents.

If the Notice of Case Status/Deficiencies reflects that your case is approved for setting, the Adoption Clerk will provide you with the tab to set your case on the calendar. Take the tab to Window #5 on the First Floor of the Ronald T.Y. Moon Kapolei Courthouse to set your case on the available calendar days.

If your case lacks the required documents, you will not be allowed to set your case until all documents have been filed. Filed copies of missing documents should be submitted to the Adoption Clerk with cover letter reflecting that all documents have been filed and that the case is ready to be set. If all requirements have been met, the Adoption Clerk will prepare a Notice of Case Status/Deficiencies Sheet reflecting approval to set your case and will provide you with a tab to set your case on the calendar. Take the tab to Window #5 on the First Floor of the Ronald T.Y. Moon Kapolei Courthouse set your case on the available calendar days.

If your case is approved for setting, a *Certificate of Adoption* form will be given to you for each adoptee. You must complete all boxes of the Certificate of Adoption, except for boxes 28, 29, 33, and 34.

## **B. PETITION FOR ADOPTION (NON-CONSENT)**

A *Petition for Adoption (Non-Consent)* must be used if any consent(s) required pursuant to HRS §578-2(a) have not been obtained or if parental rights have been terminated or divested pursuant to HRS § 578-2(c)(1)(F) or (K).

Prior to filing, the *Petition for Adoption (Non-Consent)* and service document(s)

must be submitted to Window #5 on the First Floor of the Ronald T.Y. Moon Kapolei Courthouse, 4675 Kapolei Parkway, Kapolei, Hawai'i, 96707. Service documents include *Proof of Service*, *Affidavit of \_\_\_\_\_* (supporting service by publication), *Order for Personal Service Without the State*, *Order for Service by Mail* and/or *Order for Service by Publication*. The Adoption Clerk will review the documents and forward the documents to the judge, if necessary, then forward the documents to the calendar clerk to set a hearing date. The documents will be returned to the submitting party for filing at Legal Documents.

All documents listed in the Initial Documents to be Filed section below and any subsequent filings should be presented for filing at the Documents Receiving Section of the Legal Documents Branch located on the First Floor of the **Ronald T.Y. Moon Kapolei Courthouse, 4675 Kapolei Parkway, Kapolei, Hawai'i 96707** or of the **Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai'i 96813**. The hours for filing said documents are 8:00 a.m. to 4:15 p.m., Monday through Fridays, except State Holidays. The cost to file the *Petition* is \$100.00 + \$65.00 (surcharge) + \$50.00 (computer system surcharge) for a total of \$215.00. There are no additional costs to file a motion in an adoption case.

1. INITIAL DOCUMENTS TO BE FILED:

- a. *Petition for Adoption (Non-Consent)*. The following documents should be attached to the *Petition*:
  - 1) If the non-consenting parent(s) live in the State of Hawai'i:
    - a) *Summons*.
  - 2) If the non-consenting parent(s) do not live in the State of Hawai'i:
    - a) *Supporting Affidavit (For Service by Mail or Personal Service Without the State) or Affidavit of \_\_\_\_\_* (supporting service by publication).
    - b) *Order for Personal Service Without the State or Order for Service by Mail or Notice of Time and Place of Hearing (By Publication)*.
    - c) *Notice of Time and Place of Hearing (By Mail or Personal Service Without the State) or Notice of Time and Place of Hearing (By Publication)*.
    - d) If service is being made by publication, the *Publication Notice* also needs to be submitted. This is the document that will be submitted to the newspaper.
    - e) Any exhibits in support of the request for service.
- b. *Adoption Information Sheet*.
- c. *Notice to DHS of Pendency of Action*.
- d. *List of Exhibits*. The following documents should be attached to the *List of Exhibits*:
  - 1) Certified copy of *Child's Birth Certificate* (**NOTE**: Copy must be certified by the custodian of records from where the certificate

was issued. This copy will not be returned as after this adoption is completed, a new birth certificate will be issued with the name(s) of the adoptive parent(s).

- 2) *Medical Certificate for the Child.*
  - 3) Death Certificate of Parent(s), if applicable.
  - 4) *Consent by Child (Age 10 or Over) to Adoption*, if applicable.
  - 5) Consent(s) of Parent(s), if available:
    - a) *Specific Consent to Adoption of [ ]Mother [ ]Father [ ]Other.*
    - b) *General Consent to Adoption of [ ]Mother [ ]Father [ ]Other.*
    - c) *Release of Child for Adoption.* (**NOTE:** This form is specifically for an alleged natural father to sign. A legal or adjudicated father should not use this form.)
  - 6) Marriage Certificate of Petitioner(s), if applicable.
  - 7) *Declaration of Adoptive Parent(s)* (Re: HRS section 578-15). (**NOTE:** The statute does not allow for the waiver of this requirement.)
  - 8) Copy of Divorce Decree(s) for Petitioner(s) or Legal Parent.
  - 9) Selection and Approval of Adoptive Parent(s) (by person authorized to place the child(ren) for adoption), if applicable.
  - 10) ICPC 100A Form, if applicable. (**NOTE:** Interstate Compact for the Placement of Children (ICPC) requirements must be met if the child(ren) is/are transported from another state to Hawai'i for the purpose of adoption and the child(ren) and adoptive parent(s) are not blood related.)
  - 11) Copy of Adoptive Home Study, if child(ren) was/were placed by an agency or if ICPC applies.
  - 12) Affidavit of Birth Background, if applicable.
  - 13) Certified copy of the Order or Judgment for Termination of Parental Rights, if applicable.
  - 14) Certified copy of the Order Awarding Permanent Custody.
  - 15) Copy of the Order Appointing Guardian(s) of the Person of a Minor/Minors.
  - 16) Any other exhibit(s) which may support the granting of the *Petition for Adoption*.
- e. Manila envelope with *Medical Information Fly Sheet* attached to it, which includes the following documents in the envelope:
- 1) *Medical Record Release Form.* (One for each natural parent.)
  - 2) *Medical Information Form.* (One for each natural parent.)
  - 3) Mother's medical records of the child(ren)'s birth and Mother's release of the records.
- NOTE:** If any of the above is unavailable, an Ex Parte Motion to Waive this requirement must be submitted to the Court.

2. MAILING OF NOTICE TO DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES (DHS):
  - a. A filed copy of the *Notice to DHS of Pendency of Action* and a copy of the *Adoption Information Sheet* must be mailed to the Director of Human Services at the address reflected on the notice, by certified mail, return receipt requested.
  - b. The Director has twenty-one (21) days after the receipt of the notice to investigate and file a written report as to the fitness of the Petitioner(s) to adopt the individual(s).
3. DOCUMENTS FILED SUBSEQUENT TO INITIAL FILING, BUT PRIOR TO HEARING:
  - a. *Statement of Mailing: Exhibits "1" and "2"* (Re: Notice to DHS).
  - b. Service Documents: (**NOTE:** See Section IB4 below to determine document filing deadline.)
    - 1) *Proof of Service:* If service of the *Petition* and *Summons* was made within the state.
    - 2) *Statement of Mailing; Exhibits A and B:* If service of the *Petition* and *Notice of Time and Place of Hearing* was done by certified or registered mail.
    - 3) *Affidavit of Service:* If service was made by a person authorized to effect service in the state in which the non-consenting parent lives.
    - 4) *Affidavit of Publication.* (**NOTE:** The *Affidavit of Publication* is usually submitted to the Court by the publishing newspaper.)
  - c. *Adoption Hearing Flag Sheet.*
4. SUBMITTAL OF ADOPTION HEARING FLAG SHEET TO ADOPTION CLERK (AC):
  - a. For Personal Service within the State:
    - 1) The return date on the summons is the first Tuesday at 1:30 p.m., ten (10) days after receipt of the *Petition* and *Summons* by the non-consenting parent.
    - 2) The *Proof of Service* and *Adoption Hearing Flag Sheet* shall be filed at least seven (7) days prior to the scheduled hearing.
    - 3) A filed copy of *Proof of Service* shall be delivered to the Adoption Calendar Clerk and a **filed** copy of the *Adoption Hearing Flag Sheet* shall be delivered to the Adoption Clerk via Window #5 on the First Floor of the Ronald T.Y. Moon Kapolei Courthouse. Failure to provide the Court with the *Proof of Service* and/or the *Adoption Hearing Flag Sheet* may result in the case being continued.
    - 4) The Adoption Clerk will prepare a Notice of Case Status/Deficiencies Sheet reflecting any documents or exhibits which

are missing from the case file. Any missing documents or exhibits shall be filed at least 24 hours prior to the hearing and a filed copy forwarded to the Adoption Clerk. Failure to submit documents in a timely manner may result in the case being continued.

- b. Personal Service without the State (Either by Mail or Personal Service):
  - 1) The *Petition, Supporting Affidavit, Order, and Notice of Time and Place of Hearing* shall be served on the non-consenting parent at least twenty-one (21) days prior to the scheduled hearing.
  - 2) The *Statement of Mailing; Exhibits A and B or Affidavit of Service and Adoption Hearing Flag Sheet* shall be filed at least seven (7) days prior to the scheduled hearing.
  - 3) A filed copy of the *Adoption Hearing Flag Sheet* shall be dropped off for the Adoption Clerk via Window #5 on the First Floor of the Ronald T.Y. Moon Kapolei Courthouse.
  - 4) The Adoption Clerk will prepare a Notice of Case Status/Deficiencies Sheet reflecting any documents or exhibits which are missing from the case file. If the *Adoption Hearing Flag Sheet* is not filed in a timely manner or if documents/exhibits are missing from the case file, the hearing may be continued.

### C. SUBMITTAL OF FINAL DOCUMENTS

The following documents shall be submitted to the court clerk immediately after the court hearing or within ten (10) days after the hearing:

1. *Findings and Decision of the Court Granting Petition for Adoption* (Original + 1 copy or Original + 4 copies for cases involving immigration.)
2. *Adoption Decree* (Original + 3 copies for non-military and non-immigration cases; Original + 4 copies for cases involving military benefits; Original + 6 copies for cases involving immigration; Original + 7 cases for cases involving military benefits and immigration.)
3. *Certificate of Adoption*. (Submit original only. This form can not be photocopied. You must use the form provided by the Court.)
4. *Interim Letter* (**NOTE:** The Interim Letter, prepared on Family Court Letterhead, may be obtained from the Adoption Clerk.)
5. For pro se Petitioner(s) or for attorneys who do not have a court jacket at the Legal Documents Branch, a self-addressed, stamped envelope must be provided so that certified copies of the *Findings* and *Decree* can be mailed out after filing.

## D. POST HEARING PROCESS

1. After being signed by the presiding Judge, the *Findings and Decision of the Court Granting Petition for Adoption* and the *Adoption Decree* are forwarded to the Legal Documents Branch for filing. Certified copies of the Findings and Decree will be placed in the attorney's Legal Documents court jacket or mailed in the envelope you provided. The attorney or pro se Petitioner is responsible for distribution of all copies of the *Findings and Decree*.

2. NEW BIRTH CERTIFICATE

It is the responsibility of the attorney or pro se Petitioner to contact the appropriate vital records office where the child(ren) was/were born, to obtain a copy of the child(ren)'s new birth certificate after adoption. If the child(ren) was/were born in a foreign country, the Hawai'i State Department of Health will prepare a Certificate of Foreign Birth for the child(ren).

## II. ADOPTION FORMS

The following adoption forms have been amended to be more user friendly. Information can be either typed or legibly printed **in black ink**. The forms have been made to suit the more common adoption cases, but should be amended and/or added to, in order to conform to the specific facts of each case.

- A. ADOPTION DECREE (of minor): The original and appropriate number of copies should be submitted to the court immediately after the adoption hearing or within ten (10) days after the hearing.
- B. ADOPTION HEARING FLAG SHEET: In consent cases, this form shall be filed and submitted to the Adoption Clerk after all necessary documents and exhibits have been filed. In non-consent cases, to be filed and submitted to the Adoption Clerk at least seven (7) days prior to the scheduled hearing.
- C. ADOPTION INFORMATION SHEET: This form reflects information regarding the child(ren), adoptive parents, and the child(ren)'s natural and/or legal parents.
- D. DECLARATION OF ADOPTIVE PARENT(S) (RE: HRS SECTION 578-15): This declaration satisfies the requirements of HRS § 578-15 regarding confidentiality of adoption records, is mandatory for adoption cases, and cannot be waived.
- E. CONSENT BY CHILD (Age 10 or Over) TO ADOPTION: Any child(ren) 10



years and older must consent to the adoption. The child(ren)'s signature must be witnessed by a person not a party to the adoption.

- F. EX PARTE MOTION AND AFFIDAVIT FOR CUSTODY OF CHILD(REN) PENDENTE LITE; ORDER: This form should be submitted to the court when adoptive parent(s) need a temporary custody order to obtain benefits for the child(ren) pending the finalization of the adoption. The Ex Parte Motion and Affidavit section of this form needs to be signed by the adoptive parent(s) in front of a notary public.
- G. FINDINGS AND DECISION OF THE COURT GRANTING PETITION FOR ADOPTION: The original and the appropriate number of copies of this document should be submitted to the court immediately after the adoption hearing or within ten (10) days after the hearing.
- H. GENERAL CONSENT TO ADOPTION OF [ ]MOTHER [ ]FATHER [ ]OTHER: This consent is used where the natural parent does not know the identity of the adoptive parent(s). By signing this form, the natural parent authorizes an agency or another person to select and approve adoptive parent(s) on their behalf. This general consent also includes HRS § 578-15 language regarding confidentiality of adoption records. This form must be signed in front of a notary public.
- I. LIST OF EXHIBITS [ ]SUPPLEMENTAL: Exhibits submitted in support of the *Petition for Adoption* must be attached to a *List of Exhibits*. Each exhibit must be numbered, labeled, and tabbed.
- J. MEDICAL CERTIFICATE FOR THE CHILD(REN): This form must be completed by the child(ren)'s doctor. The doctor should reflect the physical and mental condition of the child.
- K. NOTICE OF TIME AND PLACE OF HEARING (By Mail or Personal Service Without the State): This form is to be attached to the *Petition for Adoption (Non-Consent)* when requesting that service of the *Petition* be effected by mail or personal service without the state. This form includes HRS § 578-15 language regarding confidentiality of adoption records.
- L. NOTICE OF TIME AND PLACE OF HEARING (By Publication): This form is attached to the *Petition for Adoption (Non-Consent)*. The child(ren)'s name(s) is/are not reflected on this form as this notice will be published in the newspaper. For the child(ren)'s identification purposes, the natural mother's name is reflected on this notice. This form includes HRS § 578-15 language regarding confidentiality of adoption records.

- M. NOTICE OF DHS OF PENDENCY OF ACTION: In all adoption cases, the Director of Human Services must be given notice of the pending adoption. This notice must be mailed to the Director, along with a copy of the Adoption Information Sheet, by certified mail, return receipt requested.
- N. ORDER FOR PERSONAL SERVICE WITHOUT THE STATE: This form must be attached to the *Petition for Adoption (Non-Consent)* when requesting that the non-consenting parent(s), who does/do not live in the State of Hawai'i, be served by a person authorized to effect in the state that the non-consenting parent(s) lives/live.
- O. ORDER FOR SERVICE BY MAIL: This form must be attached to the *Petition for Adoption (Non-Consent)* when requesting that the non-consenting parent(s), who does/do not live in the State of Hawai'i, be served by certified or registered mail.
- P. ORDER FOR SERVICE BY PUBLICATION [ ] AND MAILING OF NOTICE: This form must be attached to the *Petition for Adoption (Non-Consent)* when requesting the non-consenting parent(s) be served by publishing a notice in the newspaper.
- Q. PETITION FOR ADOPTION (Consent). This *Petition* should be used if all consents required by HRS § 578-2(a), as amended, have been obtained. If parental rights have been terminated or divested, the *Petition for Adoption (Non-Consent)* should be used.
- R. PETITION FOR ADOPTION (Non-Consent): This *Petition* should be used if any consents required by HRS § 578-2(a), as amended, have not been obtained or if parents rights have been terminated or divested.
- S. PUBLICATION NOTICE: This notice should be submitted, separately, with the *Petition for Adoption (Non-Consent)* and its attachments when requesting service by publication. This notice is sent to the newspaper, by the attorney or petitioner pro se, to be published.
- T. RELEASE OF CHILD(REN) FOR ADOPTION: This form is for use in cases where the alleged natural father of the child(ren) is/are uncertain as to his paternity of the subject child(ren). It should not be used if the father of the child is a legal or adjudicated father. This form must be signed by the alleged natural father in front of a notary public. If this release form is used, an affidavit by natural mother should be submitted regarding information on who she had sex with during the conception period of the child.
- U. SPECIFIC CONSENT TO ADOPTION OF [ ]MOTHER [ ]FATHER [ ]OTHER: This consent is used in cases where the natural parent(s) know(s) the identity of the adoptive parent(s). This specific consent includes HRS § 578-15

language regarding confidentiality of adoption records. This form must be signed in front of a notary public.

- V. STATEMENT OF MAILING; EXHIBITS "1" AND "2" (Mailing of Petition and Notice by certified or registered mail): This document must be filed at least seven (7) days prior to the scheduled hearing. The Certified Mail Receipt (white receipt) must be attached as Exhibit 1 and the Domestic Return Receipt (green receipt) must be attached as Exhibit 2.
- W. STATEMENT OF MAILING; EXHIBITS "1" AND "2" (Notice of DHS): Notice to the Director of Human Services must be done by certified mail, return receipt requested. The Certified Mail Receipt (white receipt) must be attached as Exhibit 1 and the Domestic Return Receipt (green receipt) must be attached as Exhibit 2. This document should be filed immediately upon receipt of the Domestic Return receipt.
- X. SUMMONS: This form is to be attached to the *Petition for Adoption (Non-Consent)* if the non-consenting parent(s) lives/live in the State of Hawai'i. The Summons includes HRS § 578-15 language regarding confidentiality of adoption records.
- Y. SUPPORTING AFFIDAVIT (for service by mail or personal service without the state): This form is to be attached to the *Petition for Adoption (Non-Consent)* if the non-consenting parent(s) lives/live in the State of Hawai'i and service will be done by mail or personal service. This document must be signed by the Petitioner in front of a notary public.