

The Adoption Process: A General Overview

All states process adoption differently. This brochure is for proposed adoptive parent(s) who already have a relationship with the child and now want to make the adoption official by filing a petition in court.

There are two types of Petitions for Adoption: A Petition for Adoption (Consent), and a Petition for Adoption (Non-consent). Petition for Adoption (Consent) is when all required consents under Hawai'i adoption laws have been obtained. Petition for Adoption (Non-consent) is when any consent(s) required under Hawai'i adoption laws have **not** been obtained or if parental rights have been terminated or not needed.

This brochure primarily covers consent adoptions or adoptions where a birth parent cannot be found.

A checklist and procedure of how to file the required documents for the two petitions can be found on the Hawaii State Judiciary website at [Adoption Procedures and Forms \(state.hi.us\)](https://www.courts.state.hi.us) or by going to <https://www.courts.state.hi.us/> and searching adoption procedures and forms.

The petitions and all required forms can be found at your local family court, or you can find forms for most circuits on the Hawaii State Judiciary website at <https://www.courts.state.hi.us/> by searching for "family court forms" and selecting the proper county you will be filing in.

Information Needed to Complete an Adoption

To complete an adoption, adoptive parents will need to have the following information:

- Certified copy of child's birth certificate
- Child's medical certificate
- Contact info and relationships of child's natural mother and father
- Consent from mother and father or legal guardian
- Consent from the child if over the age of 10
- Funds for a filing fee
- Marriage certificate and/or divorce decrees from petitioner (if applicable)
- Death certificate for child's parents, or petitioner's spouse (if applicable)

What is Consent and When is it Needed?

Written consent or agreement **may** be needed before an adoption can happen. Below is a general list of when consent is needed, and when it is not.

Written consent is needed from the following people to file a petition for adoption:

- the mother of the child,
- a legal father of the child,
- a father whose relationship has been determined by the court,
- a presumed father under Hawai'i adoption laws;
- a concerned natural father who is not the legal father but has shown great interest, concern, or responsibility for the child's welfare, either:
 - during the first thirty days after the child's birth; or
 - before the mother has given consent, or
 - before the child has been placed with adoptive parents; whichever period of time is greater,
- any person or agency having legal custody of the child (foster homes),
- the court that has jurisdiction of the custody of the child, if the legal guardian or legal custodian of the child does not have the power to consent to adoption,
- the child if they are 10 years or older.

Consent is not required for these persons, but the court may require they be given notice of adoption:

- A parent that abandons the child for ninety (90) days or more,
- A parent who voluntarily gives up care and custody for two (2) years,
- A parent who doesn't communicate with the child for at least one (1) year,
- A parent who doesn't provide for the care and support of the child for at least one (1) year,
- A natural father who wasn't married to the mother at the time of conception or birth and is not (a) a father whose relationship has been determined by the court, (b) a presumed father under Hawai'i adoption laws, or (c) a concerned natural father who is not the legal father but has shown great interest, concern, or responsibility for the child's welfare, either:
 - during the first thirty days after the child's birth; or
 - before the mother has given consent, or
 - before the child has been placed with adoptive parents; whichever period of time is greater,
- A parent whose parental rights have been terminated by a court,
- A parent who has been found by the court to be mentally ill or mentally disabled and unable to give consent,
- Any legal guardian of the child who didn't respond to a request for consent within sixty (60) days, or who the court found to be withholding consent unreasonably

Courts are **very** careful about approving an adoption without consent or without notice to parents. Potential adoptive parents will need to be able to show the court that a parent hasn't been involved in the child's life or that significant attempts to notify the parent were made. Courts require notification to parents because ending their parental rights is constitutionally protected.

Process of Filing for Adoption

Here is a brief overview of the steps to get an adoption:

- File a Petition for adoption with the court which gives the court information about the child, the proposed new parents, the current parents and the reason for the adoption.
- Notify the current parent or legal authority of the child by serving the court documents with the time and place of a hearing to discuss the adoption. The hearing must be **more than 10 days** after service.
- The Director of the Department of Human Services must also be notified to investigate and make sure the adopting parents have not been subject to any findings of abuse or neglect of a child in the past.
- The petitioners and all people whose consent are needed and who have not provided it prior in writing will meet with the judge at the hearing.
- During the hearing, if the Petition is granted, a judge will finalize all of the parts of the adoption, including termination of the birth parents' rights, if applicable. All members attending the hearing will discuss the importance of the child's best interest and ensure that the adopting family understands and will be responsible for the child.
- After the hearing, the adopting family must submit the following within ten (10) days to the court for signature:
 - Findings and Decision of the Court Granting Petition for Adoption
 - Adoption Decree
 - Certificate of Adoption
 - Interim Letter
- Once the court signs the document, a new birth certificate can be requested from the Department of Health for the child.