

A Bill for an Act Relating to Adoptions.

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

SECTION 1. Currently, when a child from a foreign country is adopted, the adoptive parents must go through a three-step process in order for the child to receive a decree of adoption from Hawaii. The child must receive the necessary papers from the country in which it was born. The adoptive parents must then submit these papers to the United States Immigration and Naturalization Service for review and authorization to enter the country. Then there must be a hearing by the Hawaii courts in order to receive the adoption decree. The legislature finds that in circumstances where the fitness of the adoptive parents and other issues that the Hawaii courts review in the state hearing are reviewed by the proper authorities in the foreign country as well as the United States Immigration and Naturalization Service, the hearing in Hawaii is redundant and a waste of the State's resources as well as the resources and time of the adoptive parents.

The purpose of this Act is to allow the family court, in circumstances where the issues it would have reviewed have received full consideration by the foreign country and the United States Immigration and Naturalization Service, to waive the requirement of a hearing before issuing an adoption decree for children adopted from foreign countries.

SECTION 2. Section 578-8, Hawaii Revised Statutes, is amended to read as follows:

**“§578-8 Hearing; investigation; decree.** (a) No decree of adoption shall be entered unless a hearing has been held at which the petitioner or petitioners, and any legal parent married to a petitioner, and any subject of the adoption whose consent is required, have personally appeared before the court, unless expressly excused by the court. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the court may enter a decree of adoption if it is satisfied (1) that the individual is adoptable under sections 578-1 and 578-2, (2) that the individual is physically, mentally, and otherwise suitable for adoption by the petitioners, (3) that the petitioners are fit and proper persons and financially able to give the individual a proper home and education, if the individual is a child, and (4) that the adoption will be for the best interests of the individual, which decree shall take effect upon such date as may be fixed therein by the court, such date to be not earlier than the date of the filing of the petition and not later than six months after the date of the entry of the decree.

(b) Before entering the decree, the court shall notify the director of human services of the pendency of such petition for adoption and allow a reasonable time for the director to make such investigation as the director may deem proper as to the fitness of the petitioners to adopt the individual, however, the physical disability of the petitioners shall not of itself be determinant of unfitness for purposes of this section, and as to whether the best interest of the individual will be subserved by the adoption; provided that the court may, if it finds that the best interests of the individual to be adopted so require, by written order waive the requirement for notification and investigation above set forth, and enter its decree solely on the basis of the evidence adduced at the hearing. The director shall have the right to intervene in any adoption proceeding for the purpose of protecting the interests of the individual to be adopted or of any legal parent of the individual, and shall have the same rights of appeal as any party to the proceeding. The attorney general, upon the

request of the director, shall represent the director in any such proceeding. The director, when notified as above set forth, or when the director has intervened without notification, shall make a report to the court within the time required, reporting the facts disclosed and the director's recommendation; provided that the director, if the director determines that the best interests of the individual to be adopted will be served thereby, may refer any such notification to a child placing organization approved by the department under section 346-17, and the report and recommendation of such organization, when forwarded by the director, shall be considered by the court in lieu of a report and recommendation by the director. If the court determines that any such report discloses facts adverse to the petitioners or indicates that the best interests of the individual to be adopted will not be subserved by the proposed adoption, it shall thereupon give notice of the determination to the petitioners and afford them a reasonable opportunity to rebut the report.

(c) In cases where a child is adopted from a foreign country and is brought into the State, the court, in its discretion, may dispense with a hearing upon receipt of a sworn affidavit, ex-parte, from the adoptive parents requesting that the hearing be dispensed with, and upon a finding that the issues it would have reviewed have received full consideration by the country from which the child was adopted and the United States Immigration and Naturalization Service.''

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 24, 1995.)