

CHAPTER 200

AN ACT

HB 2414

Relating to voluntary adoption registries; creating new provisions; and amending ORS 109.425, 109.430, 109.450, 109.455, 109.460, 109.465, 109.470, 109.475, 109.480, 109.490, 109.502, 109.503, 109.504, 109.505, 109.506, 109.507 and 432.250.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 109.425 is amended to read: 109.425. As used in *[this section and]* ORS *[109.435]* **109.425** to 109.507:

(1) "Adoptee" means a person who has been adopted in the State of Oregon.

(2) "Adoption" means the judicial act of creating the relationship of parent and child where it did not exist previously.

(3) "Adoptive parent" means an adult who has become a parent of a child through adoption.

(4) "Adult" means a person 18 years of age or older.

(5) "Agency" means any public or private organization licensed or authorized under the laws of this state to place children for adoption.

(6) "Birth parent" *[is]* **means:**

(a) The man or woman who is legally presumed under the laws of this state to be the father or mother of genetic origin of a child; and

(b) A putative father of the child if the birth mother alleges he is the father and the putative father, by written affidavit or surrender and release executed within three years of the relinquishment of the child by the birth mother or the termination of parental rights of the birth mother, acknowledges being the child's biological father.

(7) "Department" means the Department of Human Services.

(8)(a) "Genetic and social history" *[is]* **means** a comprehensive report, when obtainable, of the health status and medical history of the birth parents and other persons related to the child.

(b) The genetic and social history may contain as much of the following as is available:

- (A) Medical history;
- (B) Health status;
- (C) Cause of and age at death;
- (D) Height, weight, eye and hair color;
- (E) Ethnic origins; and
- (F) Religion, if any.

(c) The genetic and social history may include the health status and medical history of:

- (A) The birth parents;
- (B) A putative father, if any;
- (C) Siblings to the birth parents, if any;
- (D) Siblings to a putative father, if any;
- (E) Other children of either birth parent, if any;
- (F) Other children of a putative father, if any;
- (G) Parents of the birth parents; and
- (H) Parents of a putative father, if any.

(9) "Guardian" means a person appointed by a court as guardian of a minor under ORS chapter 125 or the laws of any other state.

~~[(9)]~~ (10) "Health history" *[is]* **means** a comprehensive report, when obtainable, of the child's health status and medical history at the time of placement for adoption, including neonatal, psychological, physiological and medical care history.

(11) "Minor" means a person under 18 years of age.

(12) "Progeny" means the children or descendants of a person and the person's descendants in successive generations.

~~[(10)]~~ (13) "Putative father" *[is]* **means** a man who, under the laws of this state, is not legally presumed to be the father of genetic origin of a child, but who claims or is alleged to be the father of genetic origin of the child.

~~[(11)]~~ (14) "Registry" *[is]* **means** a voluntary adoption registry *[as]* established under ORS 109.450.

~~[(12)]~~ (15) "Successor agency" *[is]* **means** an agency which has the adoption records of another agency because of the merger of the agency and the successor agency or because a former agency has ceased doing business and has given its adoption records to the successor agency as provided in ORS 109.435 (2).

SECTION 2. ORS 109.430 is amended to read:

109.430. It is the policy of this state that adoption is based upon the legal termination of parental rights and responsibilities of birth parents and the creation of the legal relationship of parents and child between an adoptee and the adoptive parents. These legal and social premises underlying adoption must be maintained. The state recognizes that some *[adults]* **persons** who were adopted as children have a strong desire to obtain identifying information about their birth parents, *[or]* putative father **or genetic siblings** while other such *[adult]* adoptees have no such desire. The state further recognizes that some birth parents have a strong desire to obtain identifying information about their biological children who were adopted, while other birth parents have no such desire. The state fully recognizes the right to privacy and confidentiality of birth parents whose children were adopted, the adoptees and the adoptive parents. The purpose of ORS 109.425 to 109.507 and 432.250 is to:

(1) Set up a voluntary adoption registry where birth parents, putative fathers, *[and adult]* adoptees **and genetic siblings of adoptees** may register their willingness to the release of identifying information to each other;

(2) Provide for the disclosure of identifying information to birth parents and their *[genetic offspring]* **progeny** through a *[social worker]* **person** employed **or approved** by a licensed adoption agency **or the Department of Human Services**, if *[a birth parent or parents or putative father and the adult adoptee]* **the relevant persons for such disclosure** are registered;

(3) Provide for the transmission of nonidentifying health and **genetic and social** [*and genetic history of the adult*] **histories of adoptees, birth parents, putative fathers, genetic siblings of adoptees** and other specified persons; and

(4) Provide for disclosure of specific identifying information to Indian tribes or governmental agencies when needed to establish the adoptee's eligibility for tribal membership or for benefits or to a person responsible for settling an estate that refers to the adoptee.

SECTION 3. ORS 109.455 is amended to read:

109.455. (1) [*As provided in ORS 109.475 and except as provided in subsection (2) of this section,*] Only a birth parent, adult adoptee, adult genetic sibling of an adoptee, **parent or guardian of a minor adoptee or of a minor genetic sibling of an adoptee**, adoptive parent of a deceased adoptee [*or*] **and** parents or adult siblings of a deceased birth parent [*or parents*] may use the registry for obtaining identifying information about birth parents, putative fathers, [*adult*] adoptees and [*adult adoptee*] **genetic siblings of adoptees.**

[(2) *An adult adoptee who has a genetic sibling in the adult adoptee's adoptive family who is under the age of 18 may not have access to the registry.*]

[(3)] (2) A putative father may not [*have access to*] **use the registry to obtain identifying information but may register to authorize release of identifying information under ORS 109.460.**

[(4) *Birth parents, adult adoptees, adult genetic siblings of an adoptee, adoptive parent or parents of a deceased adoptee and parents or adult siblings of a deceased birth parent or parents shall work through the agency involved in the adoption, or its successor agency, or the Department of Human Services to receive information concerning the adoption.*]

SECTION 4. ORS 109.460 is amended to read:

109.460. (1) An adult adoptee, [*each*] **a birth parent, a putative father, an adult genetic sibling of an adoptee, a parent or guardian of a minor adoptee or of a minor genetic sibling of an adoptee**, an adoptive parent of a deceased adoptee and a parent or adult sibling of a deceased birth parent [*or parents*] may register **with a registry** by submitting a signed affidavit to the appropriate registry. The affidavit shall contain the information listed in ORS 109.465 and a statement of the registrant's willingness to be identified to the other relevant persons who register. The affidavit gives authority to the registry to release **to the other relevant persons who register** identifying information related to the registrant **or, if the registrant is registering on behalf of a minor adoptee or a minor genetic sibling, identifying information related to the minor adoptee or sibling** [*to the other relevant persons who register*]. Each registration shall be accompanied by the registrant's, **or if the registrant is registering on behalf of a minor adoptee or a minor genetic sibling, the minor's**, certified copy of the record of live birth.

(2) **At the discretion of the agency operating the registry, the adult progeny, or the parent or guardian of minor progeny, of a deceased adoptee, a deceased genetic sibling of an adoptee or a deceased birth parent of an adoptee may register to have specific identifying and contact information disclosed by submitting a signed affidavit containing the information listed in ORS 109.465 and a statement of the registrant's willingness to be identified to other relevant persons who register.**

[(2)] (3) An adoptee, or the parent or guardian of [*an adoptee under 18 years of age*] **a minor adoptee**, may register to have specific identifying information disclosed to Indian tribes or to governmental agencies in order to establish the adoptee's eligibility for tribal membership or for benefits or to a person settling an estate. The information shall be limited to a true copy of documents that prove the adoptee's lineage. Information disclosed in accordance with this subsection shall not be disclosed to the adoptee or the parent or guardian of the **minor** adoptee by the registry or employee or agency operating a registry nor by the Indian tribe, governmental agency or person receiving the information.

[(3) *Except as provided in ORS 109.475 (2), if a birth parent or an adoptee fails to file an affidavit with the registry for any reason, including death or disability, identifying information shall not be disclosed to those relevant persons who do register.*]

(4) **Registration under this section by the parent or guardian of a minor adoptee or of a minor genetic sibling of an adoptee expires when the minor reaches 18 years of age. The adoptee or sibling must reregister with a registry as an adult in accordance with this section for identifying information to be released to relevant persons who are registered. If the adoptee or sibling reregisters, the registration fee will be waived.**

[(4)] (5) Except as otherwise provided in ORS 109.503, a registry or employee or the agency operating a registry shall not contact or in any other way solicit any adoptee or birth parent to register with the registry.

SECTION 5. ORS 109.465 is amended to read:

109.465. (1) The affidavit required under ORS 109.460 shall contain:

(a) The current name and address of the registrant **and, where the registrant is the parent or guardian of a minor adoptee or of a minor genetic sibling of an adoptee, the current name and address of the minor adoptee or sibling;**

(b) Any previous name by which the registrant **and, where applicable, the minor**, was known;

(c) The original or adopted names of the adopted child;

(d) The place and date of birth of the adopted child, if known; and

(e) The name and address of the agency, if known.

(2) The registrant shall notify the registry of any change in name or address *[which]* **that** occurs after the registrant registers. Upon registering, the registry shall inform the registrant that the registrant has the responsibility to notify the registry of a change in address. The registry is not required to search for a registrant who fails to notify the registry of a change in address.

(3) A registrant may cancel the registrant's registration at any time by giving the registry written notice of the registrant's *[desires to so]* **desire to cancel**.

SECTION 6. ORS 109.470 is amended to read:

109.470. (1) When an adoptee reaches age 18, a birth parent of the adoptee, if the birth parent registered with the registry before the adoptee was age 18, shall notify the registry in writing only if the birth parent does not desire to continue the registration.

(2) When an adoptee reaches age 18, a putative father of the adoptee, if the putative father registered with the registry before the adoptee was age 18, shall notify the registry in writing only if the putative father does not desire to continue the registration.

(3) When an adoptee or genetic sibling of an adoptee reaches age 18, the adoptee or sibling, if the parent or guardian of the adoptee or sibling registered with the registry before the adoptee or sibling was age 18, must reregister with the registry as an adult in accordance with ORS 109.460. If the adoptee or sibling reregisters, the registration fee will be waived.

(3) (4) A registry shall notify a birth parent, [or] putative father or parent or guardian of a minor adoptee or of a minor genetic sibling of an adoptee of this requirement when the birth parent, [or] putative father or parent or guardian initially registers.

SECTION 7. ORS 109.475 is amended to read:

109.475. (1) Upon receipt of the affidavit under ORS 109.460, the registry shall process each affidavit in an attempt to match the *[adult]* adoptee, *[and]* the birth *[parents]* **parent**, the putative father, the *[adult]* genetic *[sibling]* **siblings, the progeny of a deceased adoptee, a deceased genetic sibling of an adoptee or a deceased birth parent of an adoptee**, the adoptive parent of a deceased adoptee or the parents or adult sibling of a deceased birth parent *[or parents]*. The processing shall include research from agency records, and if necessary from court records, to determine whether the registrants match.

(2) If the registry determines there is a match and if the relevant persons have registered with the registry and received the counseling required by ORS 109.480, notification of the match may be given by a registry to only:

(a) A birth parent *[or parents]* of an adult adoptee *[and an adult adoptee]*;

(b) An adult adoptee;

(c) The parent or guardian of a minor adoptee or of a minor genetic sibling of an adoptee;

[(b)] (d) The adult genetic siblings of an adult adoptee [if the birth parent or parents are deceased];

[(c) Adult adoptee genetic siblings who have been adopted by different adoptive families and have no knowledge of their birth parents];

[(d)] (e) At the discretion of the agency operating the registry, parents or adult siblings of the birth parent [or parents] if the birth parent [or parents are] is deceased; [or]

[(e)] (f) At the discretion of the agency operating the registry, the adoptive parent [or parents] of a deceased adoptee[.]; or

(g) At the discretion of the agency operating the registry, the adult progeny, or the parent or guardian of minor progeny, of a deceased adoptee, a deceased genetic sibling of an adoptee or a deceased birth parent of an adoptee for the purposes set forth in ORS 109.460 (2).

(3) Notification of a match to the relevant parties shall be made through a direct and confidential contact.

SECTION 8. ORS 109.480 is amended to read:

109.480. (1) Upon the determination of a match but before identifying information is disclosed, the registrant shall, at the discretion of the agency operating the registry, participate in counseling[.]:

[(a)] with a [social worker] person employed or approved by the registry[.]; or]

[(b) If the registrant is domiciled outside the state, with a social worker in that state who is selected by the registry.]

(2) The counseling required under subsection (1) of this section shall place an emphasis on an evaluation of the need for and the effect of the information or contact on the genetic family members and the relationships within the adoptive family.

SECTION 9. ORS 109.490 is amended to read:

109.490. A registry shall release only information necessary for identifying a birth parent, a putative father, an adult adoptee, *[or]* an adult genetic sibling, **the adult progeny, or the parent or guardian of minor progeny, of a deceased adoptee, a deceased genetic sibling of an adoptee or a deceased birth parent of an adoptee, or the county in which an adoption was finalized. A registry may [and shall] not release information of any kind pertaining to:**

(1) The adoptive parents, **except for an adoptive parent of a minor adoptee when the adoptive parent has registered in accordance with ORS 109.460;**

(2) The siblings *[to]* of the adult adoptee who are children of the adoptive parents; and

(3) The income of any person.

SECTION 10. ORS 109.502 is amended to read:

109.502. (1)(a) An adult adoptee or the adoptive parent of a minor or deceased adoptee may request

[that] the Department of Human Services or the Oregon licensed adoption agency that facilitated the adoption to conduct a search for the adoptee's birth parents, putative father or, except as otherwise provided in ORS 109.504 [(1)] (2), for the adoptee's genetic siblings, or for the county in which an adoption was finalized.

(b)(A) **Except as provided in subparagraph (B) of this paragraph**, a birth parent, an adult genetic sibling of an adoptee or the parent or adult sibling of a deceased birth parent may request the department or the Oregon licensed adoption agency that facilitated the adoption to conduct a search for an adult adoptee whom the birth parent relinquished for adoption.

(B) **A birth parent may request a search for an adult adoptee only if the adult adoptee does not have any genetic siblings in the same adoptive family as the adult adoptee's adoptive family who are under 18 years of age.**

(c) **A birth parent may request and, in the discretion of the department or the Oregon licensed adoption agency that facilitated the adoption, the department or agency may conduct a search for the county in which the adoption was finalized.**

[(c)] (d) A person requesting a search under paragraph (a) or (b) of this subsection:

(A) **Must be registered with a registry unless the request is only to search for the county in which an adoption was finalized; and**

(B) Shall direct the request for the search to the Oregon licensed adoption agency that facilitated the adoption **or, if unknown, to the department.** If the Oregon licensed adoption agency that facilitated the adoption is not conducting searches or [has not been] is not authorized by the department to conduct searches, the person shall direct the request to the department.

(2) **The department or an agency may delegate to or contract with a third party individual or entity to conduct searches under this section.**

[(2)] (3) At the time of a request to conduct a search under this section, the requester shall provide the department or the Oregon licensed adoption agency that facilitated the adoption with:

(a) Such information as the department or the Oregon licensed adoption agency requires; **and** [The person requesting the search must be registered with a registry established under ORS 109.450.]

[(3)(a)] *If the person has requested the department to conduct a search, upon payment by the requester]*

(b) **Payment** of a fee established by rule under ORS 109.506. [the department shall instruct an Oregon licensed adoption agency to conduct the search.]

[(b)] *If the Oregon licensed adoption agency that facilitated the adoption meets the standards established by rule under ORS 109.506, upon payment by the requester of a fee established by rule under ORS 109.506, the Oregon licensed adoption agency shall conduct the search.]*

SECTION 11. ORS 109.503 is amended to read:

109.503. (1) When the Department of Human Services, [or] an Oregon licensed adoption agency [has been instructed] **or a third party individual or entity to whom the department or agency has delegated, or with whom the department or agency has contracted, to conduct searches under ORS 109.502 is requested** to conduct a search under ORS 109.502, the department, [or an Oregon licensed adoption] agency **or third party individual or entity** may examine adoption records maintained by the department and by private adoption agencies under ORS 109.435. However, the department, [or an Oregon licensed adoption] agency **or third party individual or entity** may examine the adoption records of a private adoption agency only if the private adoption agency allows the examination. The department, [or an Oregon licensed adoption] agency **or third party individual or entity** shall keep the records and information located in the records confidential.

(2) If the department, [or an Oregon licensed adoption] agency **or third party individual or entity** is able to identify and locate the person being sought, the department, [or an Oregon licensed adoption] agency **or third party individual or entity** shall make a confidential inquiry of that person to determine whether the person wishes to make contact with the person requesting the search. [The department or an Oregon licensed adoption agency shall make the inquiry in person if possible.] If the reason the person is requesting the search is because there is a serious medical condition in the person's immediate family that is, or may be, an inheritable condition and the person being sought is biologically related to the ill person, the department, [or the Oregon licensed adoption] agency **or third party individual or entity** shall inform the person being sought of that fact.

(3) **If the department, agency or third party individual or entity is able to identify the county in which an adoption was finalized, in the discretion of the department, agency or third party individual or entity, the identity of the county may be disclosed to an adult adoptee, the parent or guardian of a minor adoptee, or to a birth parent.**

[(3)(a)] (4)(a) If the person being sought wishes to make contact with the person requesting the search, the department, [or an Oregon licensed adoption] agency **or third party individual or entity** shall:

(A) Tell the person about the voluntary adoption registry under ORS [109.435] **109.425** to 109.507 and that any contact will be made through the registry and its provisions and shall give the person any information and forms necessary to register;

(B) Notify the voluntary adoption registry that the person being sought has been identified and located and has indicated that the person wishes to make contact; and

(C) Return all materials and information obtained during the search to the department or agency responsible for maintaining the information.

(b) If the person being sought has indicated a wish to make contact and has not registered with the voluntary adoption registry within 90 days after the confidential inquiry was made, the department, *[or an Oregon licensed adoption] agency or third party individual or entity*, where practicable, shall contact the person to offer forms and materials to register and to determine if the person still intends to register.

[(4)] (5) If the person being sought does not wish to make contact with the person requesting the search, the department, *[or an Oregon licensed adoption] agency or third party individual or entity* shall:

(a) Tell the person about the voluntary adoption registry under ORS *[109.435] 109.425* to 109.507;

(b) Notify the voluntary adoption registry that the person being sought has been identified, located and has indicated that the person does not wish to make contact; and

(c) Return all materials and information obtained during the search to the department or agency responsible for maintaining the information.

[(5)] (6) If the department, *[or an Oregon licensed adoption] agency or third party individual or entity* is unable to identify and locate the person being sought, the department, *[or an Oregon licensed adoption] agency or third party individual or entity* shall notify the voluntary adoption registry of that fact.

[(6)] (7) Upon receiving notice under subsection *[(3)(a)(B), (4)(b) or (5)] (4)(a)(B), (5)(b) or (6)* of this section, the voluntary adoption registry shall:

(a) Enter the information into its records; and

(b) Notify the person requesting the search only that the person being sought has or has not been located, and either:

(A) Has indicated a wish to make contact and has been given information and forms necessary to register; or

(B) Has indicated a wish not to make contact.

SECTION 12. ORS 109.504 is amended to read:

109.504. (1) If an adult adoptee or the adoptive parent of a minor or deceased adoptee has initiated a search under ORS 109.502, the fact that the person being sought in the original search does not wish to make contact does not prevent the adult adoptee or the adoptive parent from requesting another search for a birth parent or putative father not previously contacted.

(2) An adult adoptee or the adoptive parent of a minor or deceased adoptee may not request a search for a **minor genetic sibling** of the adoptee if *[there was a previous search for a birth parent of the adoptee and the birth parent did not want to make contact with the adult adoptee or adoptive parent] the parental rights of the birth parent to the minor genetic sibling have not been terminated by death or otherwise and the adoptee and the minor genetic sibling share that same birth parent.*

[(2)] (3) The adult adoptee or adoptive parent of a minor or deceased adoptee shall request the search by repeating the process set out in ORS 109.502 and by paying the fees established by the Department of Human Services pursuant to ORS 109.506.

SECTION 13. ORS 109.505 is amended to read:

109.505. Information about agency and community resources regarding psychological issues in adoption and reunion shall be provided:

(1) By the Department of Human Services, *[or] an Oregon licensed adoption agency or a third party individual or entity* to all persons requesting a search under ORS 109.502; and

(2) By the department, *[or] an Oregon licensed adoption agency or a third party individual or entity* only to those persons the department, *[or] an Oregon licensed adoption agency or a third party individual or entity* identifies and locates as the result of a search under ORS *[109.503] 109.502* and who express a wish to receive information.

SECTION 14. ORS 109.506 is amended to read:

109.506. The Department of Human Services by rule shall establish:

(1) Eligibility standards for Oregon licensed adoption agencies **and third party individuals and entities that contract with the department or with an Oregon licensed adoption agency to** *[that] conduct searches under ORS [109.503] 109.502;*

(2) Standards of conduct for Oregon licensed adoption agencies **and third party individuals and entities that contract with the department or with an Oregon licensed adoption agency to** *[that] conduct searches under ORS [109.503] 109.502;*

(3) Contracting procedures for Oregon licensed adoption agencies **and third party individuals and entities that contract to** conduct searches under ORS *[109.503] 109.502;*

(4) Search procedures to be followed by Oregon licensed adoption agencies **and third party individuals and entities** that conduct searches under ORS *[109.503] 109.502;* and

(5) Fees to be paid by persons requesting a search under ORS 109.502. Fees authorized under this section include:

(a) A fee to be paid to the department, *[or] an Oregon licensed adoption agency or a third party individual or entity* to cover all costs incurred in the search; and

(b) A fee to be paid to the department, *[or] an Oregon licensed adoption agency or a third party individual or entity* to cover the administrative costs incurred in administering the search program.

SECTION 15. ORS 109.507 is amended to read:

109.507. (1) The Department of Human Services shall allow an Oregon licensed adoption agency **or a third party individual or entity with whom the department or agency has contracted** to examine confidential adoption records maintained by the department as part of a search conducted under ORS *[109.503] 109.502.*

(2) A private adoption agency may allow the department, *[or]* an Oregon licensed adoption agency **or a third party individual or entity** to examine confidential adoption records maintained by the agency as part of a search conducted under ORS *[109.503]* **109.502**.

SECTION 16. ORS 109.450 is amended to read:

109.450. (1) A voluntary adoption registry shall be established and maintained by each agency or its successor agency. An agency may delegate or contract with another agency to establish, maintain and operate the registry for the delegating agency.

(2) The Department of Human Services shall establish, maintain and operate the registry for all adoptions not arranged through a licensed agency. The department may contract out the function of establishing, maintaining and operating the registry to another agency. The department may join a voluntary national or international registry and make its records available in the manner authorized by ORS 109.425 to 109.507. However, if the rules of dis-

closure of such a voluntary organization differ from those prescribed in ORS 109.425 *[and 109.435]* to 109.507, ORS 109.425 *[and 109.435]* to 109.507 shall prevail.

SECTION 17. ORS 432.250 is amended to read:

432.250. The documents forwarded to the State Registrar of the Center for Health Statistics or sealed under ORS 432.245 may be opened by the state registrar only upon receiving an order from a court of competent jurisdiction or when requested by an agency operating a voluntary adoption registry *[as defined in ORS 109.425]* **established under ORS 109.450** for the purpose of facilitating the identification of persons registering under the provisions of ORS 109.425 *[and 109.435]* to 109.507.

SECTION 18. ORS 109.430 is added to and made a part of ORS 109.425 to 109.507.

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