

## CHAPTER 511

AN ACT

HB 2365

Relating to adoptions; creating new provisions; amending ORS 21.135, 109.309, 109.315, 109.317, 109.319, 109.321, 109.329, 109.342, 109.350 and 109.385; and declaring an emergency.

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

**SECTION 1.** ORS 109.315 is amended to read:

109.315. (1) A petition for adoption of a minor child must be signed by the petitioner [*and notarized*] and, unless stated in the petition why the information or statement is omitted, must contain the following:

- (a) The full name of the petitioner;
- (b) The state and length of residency in the state of the petitioner and information sufficient to establish that the residency requirement of ORS 109.309 (2) has been met;
- (c) The current marital or domestic partnership status of the petitioner;
- (d) An explanatory statement as to why the petitioner is of sufficient ability to bring up the minor child and furnish suitable nurture and education sufficient for judgment to be entered under ORS 109.350;
- (e) Information sufficient for the court to establish that the petitioner has complied with the jurisdictional and venue requirements of ORS 109.309 (4) and (5);
- (f) The full name, [*sex*] **gender** and date and place of birth of the minor child;
- (g) The marital or domestic partnership status of the biological mother at the time of conception, at the date of birth and during the 300 days prior to the date of birth of the minor child;
- (h) A statement that the minor child is not an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) or, if the Indian Child Welfare Act applies:
  - (A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption; and
  - (B) A statement of the efforts to comply with the placement preferences of the Indian Child Welfare Act or the placement preferences of the appropriate Indian tribe;
- (i) The name and relationship to the minor child of any person who has executed a written release or surrender of parental rights or of rights of guardianship of the minor child as provided by ORS 418.270 and the date of the release or surrender;
- (j) The name and relationship to the minor child of any person who has given written consent as required under ORS 109.321, and the date the consent was given;
- (k) The name and relationship to the minor child of any person or entity for whom the written consent requirement under ORS 109.321 is waived or not required as provided in ORS 109.322, 109.323,

109.324, 109.325, 109.326 and 109.327 or whose written consent may be substituted for the written consent requirement under ORS 109.321 as provided in ORS 109.322, 109.323, 109.324, 109.325, 109.326, 109.327, 109.328 and 109.329;

(L) The name and relationship to the minor child of all persons who have signed and attested to:

(A) A written certificate of irrevocability and waiver as provided in ORS 109.321 (2); or

**(B) A written certificate stating that a release or surrender under ORS 418.270 (4) shall become irrevocable as soon as the child is placed for the purpose of adoption;**

(m) A statement of the facts and circumstances under which the petitioner obtained physical custody of the minor child, including date of placement with the petitioner for adoption and the name and relationship to the minor child of the individual or entity placing the minor child with the petitioner;

(n) The length of time that a minor child has been in the physical custody of the petitioner and, if the minor child is not in the physical custody of the petitioner, the reason why, and the date and manner in which the petitioner will obtain physical custody of the minor child;

(o) Whether a continuing contact agreement exists under ORS 109.305, including names of the parties to the agreement and date of execution;

(p) A statement establishing that the requirements of ORS 109.353 regarding advisement about the voluntary adoption registry and the registry's services have been met;

(q) A statement establishing that the requirements of ORS 109.346 regarding notice of right to counseling sessions have been met;

(r) A statement that the information required by the Uniform Child Custody Jurisdiction and Enforcement Act under ORS 109.701 to 109.834 has been provided in the Adoption Summary and Segregated Information Statement under ORS 109.317;

(s) A statement that the Interstate Compact on the Placement of Children does or does not apply and, if applicable, a statement of the efforts undertaken to comply with the compact; [*and*]

(t) Unless waived, a statement that a current home study was completed in compliance with ORS 109.309 (7)[.]; **and**

**(u) A declaration made under penalty of perjury that the petition, and the information and statements contained in the petition, are true to the best of the petitioner's knowledge and belief and that the petitioner understands the petition, and information and statements contained in the petition, may be used as evidence in court and are subject to penalty for perjury.**

(2) A petition filed under ORS 109.309 must, if applicable, request the following:

(a) Entry of a general judgment of adoption;

(b) That the petitioner be permitted to adopt the minor child as the child of the petitioner for all legal intents and purposes;

(c) A finding that the court has jurisdiction over the adoption proceeding, the parties and the minor child;

(d) With respect to the appropriate persons, the termination of parental rights or a determination of nonpaternity;

(e) Approval of a change to the minor child's name;

(f) A finding that a continuing contact agreement entered into under ORS 109.305 is in the best interests of the minor child and that, if the minor child is 14 years of age or older, the minor child has consented to the agreement, and that the court incorporate the continuing contact agreement by reference into the adoption judgment;

(g) That the court require preparation of and certify a report of adoption as provided in ORS 432.223;

(h) That all records, papers and files in the record of the adoption case be sealed as provided under ORS 109.319; and

(i) Any other relief requested by the petitioner.

(3) A petition filed under ORS 109.309 must, if applicable, have the following attached as exhibits:

(a) Any written release or surrender of the minor child for adoption, or a written disclaimer of parental rights;

(b) Any written consent to the adoption;

(c) Any certificate of irrevocability and waiver;

(d) Any continuing contact agreement under ORS 109.305;

(e) The written disclosure statement required under ORS 109.311; and

(f) Any other supporting documentation necessary to comply with the petition requirements in this section and ORS 109.309.

(4) The petition and documents filed as exhibits under subsection (3) of this section are confidential and may not be inspected or copied except as provided under ORS 109.305 to 109.410 and 109.425 to 109.507.

(5)(a) Within 30 days after being filed with the court, the petitioner shall serve copies of the petition, the documents filed as exhibits under subsection (3) of this section and the Adoption Summary and Segregated Information Statement described in ORS 109.317, including any amendments and exhibits attached to the statement, on the Director of Human Services by either registered or certified mail with return receipt or personal service.

(b) In the case of an adoption in which one of the child's biological or adoptive parents retains parental rights, the petitioner shall also serve the petition by either registered or certified mail with return receipt or personal service:

(A) On all persons whose consent to the adoption is required under ORS 109.321 unless the person's written consent is filed with the court; and

(B) On the parents of the party whose parental rights would be terminated, if the names and addresses are known or may be readily ascertained by the petitioner.

(c) When a parent of the child is deceased or incapacitated, the petitioner shall also serve the petition on the parents of the deceased or incapacitated parent, if the names and addresses are known or may be readily ascertained by the petitioner. As used in this paragraph:

(A) "Incapacitated" means a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity to meet the essential requirements for the person's physical health or safety.

(B) "Meet the essential requirements for the person's physical health or safety" means those actions necessary to provide health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.

(d) Service required by this subsection may be waived by the court for good cause.

## **SECTION 2.** ORS 109.317 is amended to read:

109.317. (1) An Adoption Summary and Segregated Information Statement must be filed concurrently with every petition for adoption of a minor child filed under ORS 109.309. The statement must summarize information in the adoption proceeding and include additional information and attached exhibits as required under this section. The statement must contain, at a minimum, the following information if [*the information is*] known or readily ascertainable by the petitioner:

(a) The full name, permanent address and telephone number of each petitioner;

(b) The current full name, the proposed adoptive name and the date and place of birth of the minor child;

(c) The names, permanent addresses and telephone numbers of any person whose consent to the adoption is required under ORS 109.321;

(d) The name and relationship to the minor child and address of any person or entity for whom the written consent requirement under ORS 109.321 is waived or not required as provided in ORS 109.322, 109.323, 109.324, 109.325, 109.326 and 109.327 or whose written consent may be substituted for the written consent requirement under ORS 109.321 as provided in ORS 109.322, 109.323, 109.324, 109.325, 109.326, 109.327, 109.328 and 109.329;

(e) The information required by the Uniform Child Custody Jurisdiction and Enforcement Act under ORS 109.701 to 109.834 **except that, when the Department of Human Services or an approved child-caring agency of this or any other state has placed a minor child with a foster parent, the information required under this paragraph regarding the minor child's address, whereabouts or places the minor child has lived during the past five years, as required under ORS 107.767, is limited to the fact that the minor child was placed with a foster parent and the county and state of the location of the foster care placement, and disclosure of the foster**

**parent's name and address is specifically exempted from the requirements of this paragraph;**

(f) The name, address and telephone number of any adoption agency that will be consenting, or has consented, to the adoption;

(g) The name, bar number and contact information for any attorney representing a petitioner or a person whose consent to the adoption is required under ORS 109.321; and

(h) An indication of the type of adoption proceeding as follows:

(A) Private agency adoption, whether domestic or international;

(B) Nonrelated independent adoption;

(C) [*Determination of validity of an adoption in a foreign nation*] **Readoption of a minor child adopted in a foreign nation** under ORS 109.385;

(D) Relative independent adoption;

(E) Stepparent independent adoption;

(F) An independent adoption involving one petitioner who retains parental rights;

(G) Out-of-state public agency adoption;

(H) An adoption in which the Department of Human Services gives consent under ORS 109.325; or

(I) Any other specified adoption.

(2) An Adoption Summary and Segregated Information Statement must, if applicable, have the following attached as exhibits:

(a) A home study or written evidence that a home study has been approved as required by ORS 109.309, unless waived;

(b) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics as required under ORS 432.223; and

(c) A medical history of the minor child and of the biological parents as required under ORS 109.342.

(3) A waiver of the home study requirement may be substituted for the requirement under subsection (2)(a) of this section.

(4) [*Before judgment is entered in the case, a petitioner shall file an amended Adoption Summary and Segregated Information Statement when any of the required information changes*] **The petitioner has a continuing duty to inform the court of any change to the information required under this section** or when information that was not previously known or ascertainable becomes known or ascertainable.

(5) The Adoption Summary and Segregated Information Statement and the exhibits submitted under subsection (2) of this section are confidential and may not be inspected or copied except as otherwise provided under ORS 109.305 to 109.410 or 109.425 to 109.507. The Adoption Summary and Segregated Information Statement and the exhibits submitted under this section must be segregated in the record of the adoption case from other records, papers and files in the record of the adoption case.

**SECTION 3.** ORS 109.319, as amended by section 7, chapter 71, Oregon Laws 2014, is amended to read:

109.319. (1) The clerk or court administrator of any court having jurisdiction over adoption proceedings shall keep a separate record of the case for each adoption proceeding filed with the court. Adoption proceedings shall not be entered upon the general records of the court.

(2) The clerk, court administrator [*or*] **and any other person** having custody of the records, papers and files in the court's record of an adoption case shall cause [*all*] **the records, papers and files** [*relating to the adoption proceeding that are filed with the court*], both prior to entry of judgment and after entry of judgment **of adoption**, to be sealed [*in the court's record of the adoption case*]. The clerk, court administrator [*or*] **and any other person** having custody of **the records, papers and files** [*in the court's record of an adoption case*] shall not unseal [*the court's record of the adoption case*] or allow inspection or copying of or disclose any information in the records, papers and files [*in the court's record of the adoption case*] to any person or entity, except as provided in this section or pursuant to ORS 109.305 to 109.410 or 109.425 to 109.507.

(3) Prior to entry of judgment in an adoption proceeding, and after entry of judgment in an adoption proceeding but prior to the minor child who is the subject of the adoption proceeding attaining 18 years of age, the following may inspect and copy sealed records, papers and files **that are maintained** in the court's record of an adoption case without a court order:

(a) **Presiding judges and judges** of the court operating under the Judicial Department, and court staff or other persons operating under the direction of the **presiding judges or judges**;

(b) Petitioners and their attorneys of record; and

(c) The Department of Human Services.

(4) After entry of judgment in an adoption proceeding and after the minor child who is the subject of the adoption proceeding has attained 18 years of age, the following may inspect and copy sealed records, papers and files **that are maintained** in the court's record of the adoption case without a court order:

(a) Judges of the court operating under the Judicial Department and court staff or other persons operating under the direction of the judges;

(b) The person who was the minor child in the adoption proceeding, except that the person who was the minor child in the adoption proceeding may not inspect or copy the home study [*or evidence of a home study*] approved under ORS 109.309 (7) except pursuant to a court order and with good cause;

(c) Petitioners and their attorneys of record; and

(d) The Department of Human Services.

(5)(a) After entry of judgment in an adoption proceeding and after the minor child who is the subject of the adoption proceeding has attained 18 years of age, an individual whose consent for the adoption is required under ORS 109.321 may file a

motion with the court to inspect and copy sealed records, papers and files **that are maintained** in the court's record of the adoption case.

(b) Except as provided in paragraph (c) of this subsection, the court shall grant the motion except for good cause but must exclude from inspection and copying:

(A) For adoption cases filed on or after January 1, 2014:

(i) The Adoption Summary and Segregated Information Statement filed in accordance with ORS 109.317; and

(ii) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption case.

(B) For adoption cases filed before January 1, 2014:

(i) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ORS 109.767;

(ii) A home study [*or written evidence that a home study was approved*];

(iii) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics under ORS 432.223 or a similar document in which the court has certified to the state registrar the facts of the live birth of the person adopted;

(iv) A medical history described in ORS 109.342 or a similar document provided to the court for the purpose of describing the medical history of the minor child or of the biological parents; and

(v) Addresses, phone numbers and Social Security numbers of persons or entities described in ORS 109.317 (1)(a) to (d) that are contained in the court's record of the adoption case.

(c) If the Department of Human Services consented or has the authority to consent to the adoption of a minor child under ORS 109.325 or 419B.529:

(A) A parent who has signed a release and surrender to the department under ORS 418.270, that was accepted by the department, or whose parental rights were terminated under ORS 419B.500 and 419B.502 to 419B.524, may file a motion with the court to inspect or copy sealed records, papers and files **that are maintained** in the court's record of the adoption case but may not be granted the right to inspect or copy:

(i) For adoption cases filed on or after January 1, 2014:

(I) The Adoption Summary and Segregated Information Statement filed in accordance with ORS 109.317; and

(II) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption case.

(ii) For adoption cases filed before January 1, 2014:

(I) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody

Jurisdiction and Enforcement Act pursuant to ORS 109.767;

(II) A home study [*or written evidence that a home study was approved*];

(III) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics under ORS 432.223 or a similar document in which the court has certified to the state registrar the facts of the live birth of the person adopted; and

(IV) A medical history described in ORS 109.342 or a similar document provided to the court for the purpose of describing the medical history of the minor child or of the biological parents.

(B)(i) The court may grant the motion for good cause. The name, address, phone number, Social Security number or other identifying information of any individual or entity [*other than the parent filing the motion*] contained in the records, papers and files must be redacted and may not be disclosed as part of the inspection or copying allowed under this paragraph.

**(ii) Notwithstanding sub-subparagraph (i) of this subparagraph, the name of the parent filing the motion and the name, bar number and contact information for any attorney of record in the case may be disclosed as part of the inspection or copying allowed under this paragraph.**

(6) Except as provided in subsection (5)(c) of this section, an individual or entity that signed a record, paper or document in a file contained in the court's record of the adoption case is entitled to inspect and obtain a copy of that record, paper or document without a court order. The signature **and name** of any other individual or entity on the same record, paper or document must be redacted or otherwise not disclosed as part of the inspection and copying permitted under this subsection.

**(7)(a) Any documents, writings, information and other records retained by the Department of Human Services or an Oregon licensed child-caring agency as defined in ORS 418.205 in the department's or agency's record of an adoption case that are not records, papers and files in the court's record of the adoption case are confidential and must be sealed. Any records, documents or information, including records, papers and files in the court's record of the adoption case, retained by the department or agency in its record of an adoption case may be accessed, used or disclosed only as provided in this section or ORS 109.305 to 109.410 or 109.425 to 109.507, or pursuant to a court order for good cause.**

**(b) The department or agency may, without a court order, access, use or disclose any records, documents or information retained by the department or agency in its record of an adoption case, including records, papers and files in the court's record of an adoption case that are in the possession of the department or the agency for the purpose of providing adoption services or the administration of child welfare services that the de-**

partment or agency is authorized to provide under applicable federal or state law.

(8) Except as otherwise provided in this section, a court may grant a motion and enter an order allowing inspection, copying or other disclosure of records, papers and files **that are maintained** in the court's record of an adoption case for good cause.

(9) Nothing contained in this section shall prevent the clerk or court administrator from certifying or providing copies of a judgment of adoption to the petitioner in an adoption proceeding, to the petitioner's attorney of record or to the Department of Human Services.

(10) The provisions of this section do not apply to the disclosure of information under ORS 109.425 to 109.507.

(11) The court may impose and collect fees for copies and services provided under this section, including but not limited to filing, inspection and research fees.

(12) Unless good cause is shown, when the court grants a motion to inspect, copy or otherwise disclose records, papers and files in the court's record of an adoption case, the court shall order a prohibition or limitation on redisclosure of the records, papers and files, or of information contained in the records, papers and files.

(13) When inspection, copying or disclosure is allowed under this section, the court may require appropriate and reasonable verification of the identity of the requesting person to the satisfaction of the court.

**SECTION 4.** ORS 109.329 is amended to read:

109.329. (1) Subject to subsection (2) of this section, any person may petition the circuit court for leave to adopt a person who is 18 years of age or older or who is legally married. The petition shall be accompanied by the written consent of each petitioner and the written consent of the person to be adopted. The written consents shall be filed with the petition.

(2) In addition to the written consents required under subsection (1) of this section, an adoption of a person who is 18 years of age or older or who is legally married is governed by the following:

(a) One petitioner or the person to be adopted must have resided in this state continuously for a period of six months prior to the filing of the petition; and

(b) The petition must be filed in the county in which one petitioner or the person to be adopted resides.

(3) The court may grant the petition if the court finds, from the allegations set forth in the petition [*and an attached affidavit*], that each petitioner:

(a) Understands the significance and ramifications of the adoption; and

(b) Is not acting under duress, coercion or undue influence.

(4) In a proceeding under this section, the court may:

(a) Appoint counsel for each petitioner or for the person to be adopted or both or appoint a visitor, as provided in ORS 125.150. If the court appoints counsel or a visitor or both under this paragraph, the court shall apportion the costs among each petitioner and the person being adopted.

(b) Hold a hearing.

(c) On the court's own motion, take testimony from or hold a conference with each petitioner and the person to be adopted. The court may hold a conference with one party and exclude the other party from the conference. In such a case, the court shall allow the attorney for the excluded party to attend the conference.

(d) Require that notice of the proceeding be provided by each petitioner to any or all of the following:

(A) The spouse of each petitioner.

(B) A person cohabiting with a petitioner who is interested in the affairs and welfare of the petitioner.

(C) The adult children of each petitioner.

(5) If, upon a petition for adoption presented and consented to in writing by each petitioner and the person to be adopted, the court is satisfied as to the identity and relations of each petitioner and the person to be adopted, that each petitioner understands the significance and ramifications of the adoption, that each petitioner is not acting under duress, coercion or undue influence and that it is fit and proper that the adoption be effected, a judgment shall be made setting forth the facts and ordering that from the date of the judgment, the person to be adopted, for all legal intents and purposes, is the child of the petitioner or petitioners.

(6) The provisions of ORS 109.308, 109.309, 109.315, 109.317, 109.319, 109.342 and 109.353 do not apply to an adoption under this section.

**SECTION 5.** Section 6 of this 2015 Act is added to and made a part of ORS 109.305 to 109.410.

**SECTION 6.** The Department of Human Services or an approved child-caring agency of this state that has consented to the adoption of a child under ORS 109.325 shall, upon request and if available, disclose the county in which the adoption was finalized and the case number of the adoption proceeding to:

(1) An adult adoptee;

(2) A birth parent who has consented to the adoption and signed a release and surrender or whose parental rights have been terminated; or

(3) A parent or guardian of a minor child who was the subject of an adoption proceeding.

**SECTION 7.** ORS 109.309 is amended to read:

109.309. (1) Any person may petition the circuit court for leave to adopt another person and, if desired, for a change of the other person's name. **Except as provided in ORS 419B.529, a separate**

**petition must be filed for each person for whom leave to adopt is sought.**

(2) One petitioner, the child, one parent or the person, who is not an adoption agency, consenting to the adoption as required under ORS 109.321 (1) must be a resident of this state. As used in this subsection, "resident" means a person who has resided in this state continuously for a period of six months prior to the date of the petition.

(3) Except as provided in subsection (4) of this section, when the petition is for the adoption of a minor child, the adoption is governed by the Uniform Child Custody Jurisdiction and Enforcement Act, ORS 109.701 to 109.834.

(4)(a) Notwithstanding ORS 109.741 and 109.744, a court of this state has jurisdiction over the adoption of a minor child if, immediately prior to the filing of a petition for adoption:

(A) The minor child resided in this state for at least six consecutive months including periods of temporary absence;

(B) One parent or another person, who is not an adoption agency, consenting to the adoption as required under ORS 109.321 (1) resided in this state for at least six consecutive months including periods of temporary absence;

(C) The prospective adoptive parent resided in this state for at least six consecutive months including periods of temporary absence and substantial evidence is available in this state concerning the present or future care of the minor child;

(D) It appears that no court of another state would have jurisdiction under circumstances substantially in accordance with subparagraphs (A) to (C) of this paragraph; or

(E) A court of another state has declined to exercise jurisdiction on the grounds that this state is a more appropriate forum to hear a petition for adoption of the minor child and it is in the best interests of the minor child that a court of this state assume jurisdiction.

(b) As used in paragraph (a) of this subsection, "periods of temporary absence" means periods of absence of not more than a total of 30 days in the prior six consecutive months.

(5) In a petition to adopt a minor child, venue lies in the Oregon county with which the child has the most significant connection or in the Oregon county in which the licensed adoption agency is located.

(6) A petition for adoption of a minor child must comply with the requirements, and be served in the manner, described in ORS 109.315.

(7)(a) In a proceeding for the adoption of a minor child, a current home study must be approved by either the Department of Human Services or an Oregon licensed adoption agency for the purpose of demonstrating that the petitioner meets the minimum standards for adoptive homes as set forth in the department's administrative rules.

(b) The department, upon request by the petitioner, may waive the home study requirement in an adoption proceeding in which one of the child's bi-

ological parents or adoptive parents retains parental rights, or when a relative who qualifies under the department's administrative rules for a waiver of the home study requirement is the prospective adoptive parent.

(c) The department shall adopt rules to implement the provisions of this subsection.

(8)(a) Within 90 days after service upon the Director of Human Services as required under ORS 109.315, the Department of Human Services shall investigate and file for the consideration of the judge before whom the petition for adoption is pending a placement report containing information regarding the status of the child and evidence concerning the suitability of the proposed adoption. The department may designate an Oregon licensed adoption agency to investigate and report to the court. If the department designates an Oregon licensed adoption agency to investigate and report to the court, the department shall make the designation and provide all necessary information and materials to the Oregon licensed adoption agency no later than 30 days after the service on the director and upon receipt of all required documentation and fees. The department may waive the placement report requirement under this subsection but shall waive the placement report requirement in an adoption proceeding in which one of the child's biological parents or adoptive parents retains parental rights.

(b) Upon receipt of a written request by the petitioner or the petitioner's attorney, the department shall furnish to the petitioner or the petitioner's attorney copies of any information that the department has filed with the court.

(c) Information gathered by the department or by an Oregon licensed adoption agency during the preparation of the placement report may include information concerning the child's social, medical and genetic history and the birth parent's history as may be required by ORS 109.321 or 109.342.

**(d) The court shall file and retain the placement report filed under this subsection in the same location in the records, papers and files in the court's record of the adoption case as the petition and exhibits filed under ORS 109.315 are located. The placement report must be segregated from the Adoption Summary and Segregated Information Statement and the exhibits submitted under ORS 109.317.**

*[(d)]* (e) The department shall adopt rules to implement the provisions of this subsection.

(9) The department may charge the petitioner a fee for investigating a proposed nonagency adoption and preparing the home study required under subsection (7) of this section and the placement report required under subsection (8) of this section. The petitioner shall report the fee amount to the court. The court granting the adoption shall make a finding as to whether the fee is necessary and reasonable. Any fee charged may not exceed reasonable costs for investigation, home study and placement report preparation. The department shall prescribe by rule the procedure for computing the investigation, home

study and placement report preparation fee. The rules shall provide a waiver of either part or all of the fee based upon the petitioner's ability to pay.

(10) The court may not rule upon a petition for the adoption of a minor child until at least 90 days after the date that the petition and documents required to be served on the Director of Human Services under ORS 109.315 and 109.317 have been served upon the director. The department may waive the 90-day waiting period.

(11) The amounts of any fees collected under subsection (9) of this section are continuously appropriated to the department for use in preparing home studies and placement reports required under this section.

(12)(a) Except as provided in paragraph (b) of this subsection, a court may not grant a judgment for the adoption of a minor child unless the petitioner has filed with the court:

(A) A petition, including exhibits attached to the petition, meeting the requirements of ORS 109.315;

(B) Written evidence that a home study has been completed and approved, unless waived, under subsection (7) of this section;

(C) A placement report under subsection (8) of this section unless waived; and

(D) The Adoption Summary and Segregated Information Statement under ORS 109.317, including exhibits attached to the statement.

(b) A person is not required to file a home study or a placement report with the court when the department has granted the person a waiver under department rules.

(13) The adoption shall comply with the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), if applicable.

**SECTION 8.** ORS 21.135, as amended by section 4, chapter 76, Oregon Laws 2014, is amended to read:

21.135. (1) Unless a specific fee is provided by other law for a proceeding, a circuit court shall collect a filing fee of \$252 when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding and when an answer or other first appearance is filed in the proceeding.

(2) The filing fee established by this section applies to:

(a) Proceedings in which only equitable remedies are sought.

(b) Appeals from a conviction of a violation in justice or municipal courts as provided in ORS 21.285.

(c) Interpleader actions.

(d) Adoptions under ORS chapter 109, **excluding readoptions under ORS 109.385, provided that when separate petitions for adoption of multiple minor children are concurrently filed under ORS 109.309 by the same petitioner, one filing fee shall be charged for the first petition filed and the filing fees for concurrently filed petitions shall not be charged.**

(e) Actions relating to a trust.

(f) Proceedings for judicial review of an agency order.

(g) Declaratory judgment actions.

(h) Any other action or proceeding that is statutorily made subject to the fee established by this section and any other civil proceeding for which a specific filing fee is not provided.

**SECTION 9.** ORS 109.385 is amended to read:

109.385. (1) **As used in this section, "readoption" means to adopt a person, including but not limited to a minor child, who was previously adopted in a foreign nation, pursuant to the laws of the state.**

[(1)] (2) An adoption in [any] a foreign nation under the laws of [such] that nation of a person who is at the time of the adoption a national of [such] the nation by adoptive parents, at least one of whom is a citizen of the United States, shall be recognized as a valid and legal adoption for all purposes in the State of Oregon if the adoption is valid and legal in the foreign nation [wherein] **where the adoption occurred, unless the adoption violates fundamental principles of human rights or the public policy of the state or of the federal government.**

[(2)] *The certificate of a judge of a court of general jurisdiction under the seal of the judge or the seal of the court in any foreign nation with respect to the adoption of a national of such foreign nation by adoptive parents at least one of whom is a citizen of the United States that all pertinent laws of such foreign nation have been complied with and the adoption is in all respects legal and valid shall be prima facie evidence in any court in the State of Oregon in any proceeding that such adoption was in fact legal and valid. Such certificate shall be prima facie evidence even if under the laws of the foreign nation the adoption is an administrative procedure and is not within the jurisdiction of the court or the judge making the certificate.*

(3) **A copy of a decree, order, judgment, certificate or other document of adoption by adoptive parents, at least one of whom is a citizen of the United States, issued by a court or pursuant to an administrative proceeding of competent jurisdiction in the foreign nation is prima facie evidence in any court or administrative proceeding in this state that the adoption was legal and valid.**

(4) **Notwithstanding subsection (2) of this section, an adoptive parent who has adopted a person in a foreign nation may petition the court for readoption for the purpose of obtaining a judgment of adoption from the circuit court of the county in which the petitioner resides.**

(5) **Except as otherwise provided in this section, ORS 109.315 does not apply to a petition for readoption under this section.**

(6) **A petition for readoption must be signed by the petitioner and, unless stated in the petition why the information or statement is omitted, must contain the following:**

- (a) The full name of the petitioner;
- (b) The current marital or domestic partnership status of the petitioner;
- (c) If the readoption is of a minor child, information sufficient for the court to establish that the petitioner has complied with the jurisdictional requirements of ORS 109.309 (4);
- (d) The gender and full birth name, adopted name and any other alias of the person sought to be readopted;
- (e) A statement of the place and date of the person's birth in the foreign nation;
- (f) A statement that the foreign adoption is legal and valid under the laws of the nation in which the adoption occurred and the date of the adoption;
- (g) A statement that the person's entry into the United States has complied with applicable federal immigration laws;
- (h) If the readoption is of a minor child, a statement that a home study was completed and approved prior to the foreign nation adoption of the minor child;
- (i) If the readoption is of a minor child, whether a continuing contact agreement exists under ORS 109.305 or a similar law applicable to the nation where the foreign nation adoption occurred, including the names of the parties to the agreement and the date of execution;
- (j) A statement of the desired new adoptive name for the person to be readopted;
- (k) If applicable, a statement that the birthdate listed on the person's foreign nation birth documents is believed to be inaccurate and a description of the evidence that supports the petitioner's belief;
- (L) A statement requesting the clerk of the court, upon payment of any required fees, to issue to the petitioner a certificate of adoption under ORS 109.410 and a certified copy of the general judgment of adoption; and
- (m) A statement that indicates whether the minor child is an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) and, if required by the Indian Child Welfare Act:
  - (A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption; and
  - (B) A statement of the efforts to comply with the placement preferences of the Indian Child Welfare Act or the placement preferences of the appropriate Indian tribe.
- (7) Within 30 days after being filed with the court, the petitioner shall serve copies of the petition and the documents filed as exhibits under subsection (9) of this section on the Director of Human Services by either registered or certified mail with return receipt or personal service.
- (8) A petition filed under this section must, if applicable, request the following:
  - (a) Entry of a general judgment of adoption;

- (b) That the petitioner be permitted to readopt the person as the child of the petitioner for all legal intents and purposes;
- (c) A finding that the court has jurisdiction over the adoption proceeding, the parties and the person sought to be readopted;
- (d) Approval of a change to the name of the person to be readopted;
- (e) If applicable, a finding that a continuing contact agreement entered into under ORS 109.305, or a similar law applicable to the nation where the foreign nation adoption occurred, is in the best interests of the minor child and that the court incorporate the continuing contact agreement by reference into the adoption judgment;
- (f) If applicable, a finding that the evidence of the person's birthdate listed on the foreign nation adoption documents is inaccurate and that the evidence presented by the petitioner supports a change to the birthdate of the person to be readopted;
- (g) That the court require preparation of and certify a report of adoption as provided in ORS 432.223;
- (h) If the readoption is of a minor child, that all records, papers and files in the record of the readoption case be sealed as provided under ORS 109.319; and
- (i) Any other relief requested by the petitioner.
- (9) A petition filed under this section must, if applicable, have the following attached as exhibits:
  - (a) True copies of the foreign nation birth certificate of the person to be readopted, accompanied by an English translation, if necessary;
  - (b) True copies of the foreign nation adoption decree, order, judgment, certificate or similar document accompanied by an English translation, if necessary;
  - (c) True copies of the foreign nation passport and proof of legal residency in the United States for the person sought to be readopted;
  - (d) If applicable, a true copy of any continuing contact agreement entered into under ORS 109.305 or a similar law applicable to the nation where the foreign nation adoption occurred;
  - (e) If applicable, the written disclosure statement required under ORS 109.311; and
  - (f) Any other supporting documentation necessary to comply with the petition requirements in this section.
- (10)(a) An Adoption Summary and Segregated Information Statement must be filed concurrently with every petition for readoption of a minor child. The statement must summarize information in the readoption proceeding and include additional information and attached exhibits as required under this subsection. The statement must contain, at a minimum, the fol-

lowing information if known or readily ascertainable by the petitioner:

(A) The full name, permanent address and telephone number of each petitioner;

(B) The current full name, the proposed adoptive name and the date and place of birth of the minor child;

(C) The information required by the Uniform Child Custody Jurisdiction and Enforcement Act under ORS 109.701 to 109.834; and

(D) The name, bar number and contact information for any attorney representing a petitioner.

(b) An Adoption Summary and Segregated Information Statement must attach as an exhibit:

(A) A home study that has been approved under ORS 109.309; and

(B) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics as required under ORS 432.223.

(c) The petitioner has a continuing duty to inform the court of any change to the information required by this subsection or when information that was not previously known or ascertainable becomes known or ascertainable.

(d) The Adoption Summary and Segregated Information Statement and the exhibits submitted under this subsection are confidential and may not be inspected or copied except as otherwise provided under ORS 109.305 to 109.410 or 109.425 to 109.507. The Adoption Summary and Segregated Information Statement and the exhibits submitted under this section must be segregated in the record of the adoption case from other records, papers and files in the record of the adoption case.

(11) A petition filed under this section is exempt from any requirement for one or more of the following:

(a) Compliance with the consent requirements of ORS 109.321 to 109.330;

(b) A statement that the requirements of ORS 109.353 regarding advisement about the voluntary adoption registry and the registry's services have been met;

(c) A statement that the requirements of ORS 109.346 regarding notice of the right to counseling sessions have been met; and

(d) Provision of a placement report under ORS 109.309 (8).

(12) The requirements for keeping a separate record of the case, for sealing the records, papers and files in an adoption proceeding and for the conditions under which inspection and copying of sealed records, papers and files in the court's record of an adoption case set forth in ORS 109.319 apply to proceedings for readoption under this section.

(13)(a) The court may find that a person's birthdate listed on the person's foreign nation birth documents is inaccurate based upon a

finding that the preponderance of the evidence demonstrates that the birthdate is inaccurate and that the age or birthdate proposed by the petitioner is accurate.

(b) Evidence that the court may consider in making the finding and order under this subsection includes, but is not limited to, one or more of the following:

(A) Medical evaluations;

(B) Birth certificates;

(C) School records;

(D) Dental evaluations;

(E) Psychological evaluations;

(F) Bone density tests; and

(G) Social evaluations.

(14) The fee imposed and collected by the court for the filing of a petition under this subsection shall be in accordance with ORS 21.145, except that when separate petitions for readoption of multiple minor children are concurrently filed under this section by the same petitioner, one filing fee shall be charged for the first petition filed and the filing fees for concurrently filed petitions shall not be charged.

**SECTION 10.** ORS 109.321 is amended to read:

109.321. (1) Except as provided in ORS 109.323 to 109.329, consent in writing to the adoption of a minor child pursuant to a petition filed under ORS 109.309 is required to be given by the following:

(a) The parents of the child, or the survivor of them.

(b) The guardian of the child, if the child has no living parent.

(c) The next of kin in this state, if the child has no living parent and no guardian.

(d) Some suitable person appointed by the court to act in the proceeding as next friend of the child to give or withhold consent, if the child has no living parent and no guardian or next of kin qualified to consent.

(2)(a) A person who gives consent to adoption under subsection (1) of this section may agree concurrently or subsequently to the giving of such consent that the consent shall be or become irrevocable, and may waive such person's right to a personal appearance in court, by a duly signed and attested certificate. The certificate of irrevocability and waiver shall be in effect when the following are completed:

(A) The child is placed for the purpose of adoption in the physical custody of the person or persons to whom the consent is given;

(B) The person or persons to whom consent for adoption is given have filed a petition to adopt the child in a court of competent jurisdiction;

(C) The court has entered an order appointing the petitioner or some other suitable person as guardian of the child pursuant to ORS 109.335;

(D) The Department of Human Services, an Oregon licensed adoption agency or an attorney who is representing the adoptive parents has filed either a department or an Oregon licensed adoption agency

home study with the court approving the petitioner or petitioners as potential adoptive parents or the department has notified the court that the filing of such study has been waived;

(E) Information about the child's social, medical and genetic history required in ORS 109.342 has been provided to an attorney or the department or an Oregon licensed adoption agency by the person giving consent to the adoption; and

(F) The person signing the certificate of irrevocability and waiver has been given an explanation by an attorney who represents the person and who does not also represent the adoptive family, by the department or by an Oregon licensed adoption agency of the consequences of signing the certificate.

(b) Upon the fulfillment of the conditions in paragraph (a) of this subsection, the consent for adoption may not be revoked unless fraud or duress is proved with respect to any material fact.

(3) Consent to the adoption of *[a child subject to] an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.)* shall not be valid unless the requirements of the Indian Child Welfare Act *[(25 U.S.C. 1901 et seq.)]* are met. In accordance with the Indian Child Welfare Act, a certificate of irrevocability is not valid for *[a child who is subject to the Indian Child Welfare Act] the adoption of an Indian child.*

**SECTION 11.** ORS 109.342 is amended to read:

109.342. (1) Before any judgment of adoption of a minor is entered, the court shall be provided a medical history of the child and of the biological parents as complete as possible under the circumstances.

(2) When possible, the medical history shall include, but need not be limited to:

(a) A medical history of the adoptee from birth up to the time of adoption, including disease, disability, congenital or birth defects, and records of medical examinations of the child, if any;

(b) Physical characteristics of the biological parents, including age at the time of the adoptee's birth, height, weight, and color of eyes, hair and skin;

(c) A gynecologic and obstetric history of the biological mother;

(d) A record of potentially inheritable genetic or physical traits or tendencies of the biological parents or their families; and

(e) Any other useful or unusual biological information that the biological parents are willing to provide.

(3) The names of the biological parents shall not be included in the medical history.

*[(4) The court shall give the history to the adoptive parents at the time the judgment is entered and shall give the history to the adoptee, upon request, after the adoptee attains the age of majority.]*

*[(5)] (4)* Subsection (1) of this section does not apply when a person is adopted by a stepparent.

*[(6)] (5)* The Department of Human Services shall prescribe a form for the compilation of the medical history.

**SECTION 12.** ORS 109.350 is amended to read:

109.350. If, upon a petition for adoption **or readoption** duly presented and consented to, the court is satisfied as to the identity and relations of the persons, that the petitioner is of sufficient ability to bring up the child and furnish suitable nurture and education, having reference to the degree and condition of the parents, that, if applicable, the requirements of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) have been met, and that it is fit and proper that such adoption **or readoption** be effected, a judgment shall be made setting forth the facts, and ordering that from the date of the judgment the child, to all legal intents and purposes, is the child of the petitioner. In an adoption **or readoption** subject to the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), the state court shall provide to the United States Secretary of the Interior a copy of the judgment together with the other information required by the Indian Child Welfare Act (25 U.S.C. 1901 et seq.).

**SECTION 13.** The amendments to ORS 21.135, 109.309, 109.317, 109.350 and 109.385 by sections 2, 7 to 9 and 12 of this 2015 Act become operative on January 1, 2016.

**SECTION 14.** (1) Section 6 of this 2015 Act and the amendments to ORS 109.315, 109.319, 109.321, 109.329 and 109.342 by sections 1, 3, 4, 10 and 11 of this 2015 Act apply to adoptions commenced before, on or after the effective date of this 2015 Act.

(2) The amendments to ORS 21.135, 109.309, 109.317, 109.350 and 109.385 by sections 2, 7 to 9 and 12 of this 2015 Act apply to adoptions and readoptions commenced on or after the operative date specified in section 13 of this 2015 Act.

**SECTION 15.** This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Approved by the Governor June 22, 2015  
Filed in the office of Secretary of State June 25, 2015  
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