

Enrolled Senate Bill 623

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

CHAPTER

AN ACT

Relating to adoption proceedings; creating new provisions; amending ORS 109.304, 109.309, 109.311, 109.312, 109.329, 109.332, 109.400, 109.430, 419B.527 and 419B.529; and repealing ORS 7.211 and 109.440.

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

SECTION 1. ORS 109.304 is amended to read:

109.304. As used in ORS 109.305 to 109.410, unless the context requires otherwise:

[(1) "*Home study*" means an investigation conducted by the Department of Human Services or by an Oregon licensed adoption agency that:]

[(a) Provides information to a prospective adoptive parent about adoption;]

[(b) Includes investigation and study by the department or by an Oregon licensed adoption agency concerning a prospective parent's suitability to adopt;]

[(c) Includes a written report concerning the prospective parent's suitability to adopt; and]

[(d) Is completed before the petition for adoption is filed.]

(1) "Home study" means a written report documenting the result of an assessment conducted by the Department of Human Services, a licensed adoption agency or other public agency to evaluate the suitability of a prospective adoptive parent or parents to adopt.

(2) "Placement report" means a written report prepared by the department or by an Oregon licensed adoption agency after the petition for adoption has been filed that includes the department's or the agency's recommendation to the court concerning whether the court should grant the petition for adoption based upon the department's or the agency's evaluation of:

(a) The status and adjustment of the child; and

(b) The status and adjustment of the child's prospective adoptive parent.

[(3) 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 109.312 or 109.342.]

(3) "Records, papers and files" means all documents, writings, information, exhibits and other filings retained in the court's record of an adoption case pursuant to section 6 of this 2013 Act, and includes but is not limited to the Adoption Summary and Segregated Information Statement described in section 5 of this 2013 Act, and exhibits attached to the statement, the petition and exhibits attached to the petition pursuant to section 4 of this 2013 Act, and any other motion, judgment, document, writing, information, exhibit or filing retained in the court's record of the adoption case.

SECTION 2. 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.

(2) One petitioner, the child, one parent or the person, who is not an adoption agency, consenting to the adoption as required under ORS 109.312 (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.

[2)] (3) Except as provided in subsection [(3)] (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.

[(3)(a)] (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 109.312 (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.

[(4) *The petition to adopt a person 18 years of age or older may be filed in the county where the petitioner, the person to be adopted or the person who consents to the adoption resides.*]

(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) *When the petition is for the adoption of a minor child, the petitioner shall also file at the time of filing the petition:]*

[(A) *A written statement containing the full names and permanent addresses of:]*

[(i) *The child;]*

[(ii) *The petitioner;]*

[(iii) *All persons whose consent to the adoption is required under ORS 109.312 when such names are either known or may be readily ascertained by the petitioner;]*

[(iv) *The persons with whom the child has lived during the last five years and the places where the child has lived during that period, if the names and addresses may be readily ascertained by the petitioner;]*

[(v) *If known to the petitioner, any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time or visitation with, the child; and]*

[(vi) *The Oregon licensed adoption agency, if any, or the relative or person that privately placed the child for adoption.*]

[(B) *The documents demonstrating consent under ORS 109.312 to the adoption of the minor child.*]

[(C) *Written evidence documenting a current home study that has been approved by either the Department of Human Services or an Oregon licensed adoption agency submitted 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) A relative who qualifies under the department administrative rules for a waiver of the department's home study requirements described in paragraph (a)(C) of this subsection may file the request for waiver along with the petition for adoption.]

[(c) The department, upon request by the petitioner, may waive the home study requirements described in paragraph (a)(C) of this subsection in an adoption in which one of the child's biological or adoptive parents retains parental rights. The department shall waive post-placement reports in an adoption in which one of the child's biological or adoptive parents retains parental rights.]

[(7)(a) The petitioner shall cause copies of the documents required to be filed with the court under subsection (6) of this section to be served upon the Director of Human Services, by either registered or certified mail with return receipt or personal service, within 30 days after the documents have been filed with the court.]

[(b) In the case of an adoption described in subsection (6)(c) of this section, 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 109.312 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. Service required by this subparagraph may be waived by the court for good cause.]

[(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. Service required by this paragraph may be waived by the court for good cause. 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 the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.]

[(d) The court may not rule upon the petition until at least 90 days after the date that the documents were served upon the director. However, the department may waive the 90-day period.]

(6) A petition for adoption of a minor child must comply with the requirements, and be served in the manner, described in section 4 of this 2013 Act.

(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 biological 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 the service on the director, the department] Within 90 days after service upon the Director of Human Services as required under section 4 of this 2013 Act, 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. However, the department may waive the placement report requirement.] 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 *[that]* 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 109.312 or 109.342.

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

[(c)] (9) The department may charge the petitioner a fee for investigating a proposed nonagency adoption and preparing the home study *[report described in subsection (6)(a)(C)]* required under subsection (7) of this section and the placement report *[described in paragraph (a) of this subsection]* 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 sections 4 and 5 of this 2013 Act have been served upon the director. The department may waive the 90-day waiting period.

[(9)] (11) The amounts of any fees collected under subsection *[(8)]* (9) of this section are continuously appropriated to the department for use in preparing *[the home study]* home studies and placement reports required under *[subsections (6)(a)(C) and (8)(a) of]* this section.

[(10)(a)] (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 *[the documents described in subsections (6) and (8)(a) of this section.]*:

(A) A petition, including exhibits attached to the petition, meeting the requirements of section 4 of this 2013 Act;

(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 section 5 of this 2013 Act, 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.

[(11)] (13) The adoption shall comply with the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), if applicable. *[Every adoption petition involving the Indian Child Welfare Act shall include the following:]*

[(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 (25 U.S.C. 1901 et seq.) or the placement preferences of the appropriate Indian tribe.]

SECTION 3. Sections 4 to 6 of this 2013 Act are added to and made a part of ORS 109.305 to 109.410.

SECTION 4. (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 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 109.312, 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 109.312 is waived or not required as provided in ORS 109.314, 109.316, 109.318, 109.322, 109.324 and 109.326 or whose written consent may be substituted for the written consent requirement under ORS 109.312 as provided in ORS 109.314, 109.316, 109.318, 109.322, 109.324, 109.326, 109.328 and 109.329;
- (L) The name and relationship to the minor child of all persons who have signed and attested to a written certificate of irrevocability and waiver as provided in ORS 109.312 (2);
- (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 section 5 of this 2013 Act;
- (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).

(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 432.415;

(h) That all records, papers and files in the record of the adoption case be sealed as provided under section 6 of this 2013 Act; 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 section 5 of this 2013 Act, 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 109.312 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 5. (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 109.312;

(d) The name and relationship to the minor child and address of any person or entity for whom the written consent requirement under ORS 109.312 is waived or not required as provided in ORS 109.314, 109.316, 109.318, 109.322, 109.324 and 109.326 or whose written consent may be substituted for the written consent requirement under ORS 109.312 as provided in ORS 109.314, 109.316, 109.318, 109.322, 109.324, 109.326, 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;

(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 109.312; 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 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 109.316; 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 432.415; 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 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 6. (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 other person having custody of the records, papers and files in the court's record of an adoption case shall cause all 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, to be sealed in the court's record of the adoption case. The clerk, court administrator or any other person having custody of 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 in the court's record of an 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) 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 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 109.312 may file a motion with the court to inspect and copy sealed records, papers and files 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) The Adoption Summary and Segregated Information Statement and any exhibits attached to the statement that are contained in the court's record of the adoption case; or

(B) For adoption cases filed before the effective date of this 2013 Act, any information, record, document or exhibit described in section 5 of this 2013 Act.

(c) If the Department of Human Services consented or has the authority to consent to the adoption of a minor child under ORS 109.316 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 maintained in the court's record of the adoption case but may not be granted the right to inspect or copy:

(i) The Adoption Summary and Segregated Information Statement and exhibits attached to the statement; or

(ii) For adoption cases filed before the effective date of this 2013 Act, any information, record, document or exhibit described in section 5 of this 2013 Act.

(B) The court may grant the motion for good cause. The name, address 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.

(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 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) The Department of Human Services or an Oregon licensed child-caring agency as defined in ORS 418.205 may, without a court order, access, use or disclose 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 department 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 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 7. ORS 7.211 and 109.440 are repealed.

SECTION 8. ORS 419B.529 is amended to read:

419B.529. (1) Notwithstanding ORS 109.309, a prospective adoptive parent is not required to file a petition for adoption when:

(a) One of the following has occurred:

[(a)] (A) A juvenile court that is a circuit court has entered an order of permanent commitment of a ward to the Department of Human Services under ORS 419B.527; or

(B) The parent has signed and the department has accepted a release and surrender to the department, and **the parent has signed:**

(i) A certificate of irrevocability and waiver as provided in ORS 418.270 regarding a child; **or**

(ii) **A certificate of waiver under the Indian Child Welfare Act regarding a child;**

(b) The department has completed a home study as defined in ORS 109.304 that finds the prospective parent is suitable to adopt the child or ward and the department consents to the adoption of the child or ward by the prospective parent;

(c) [A *home study*] **Written evidence of a home study** and a placement report requesting the juvenile court to enter a judgment of adoption have been filed in the juvenile court proceeding; and

(d) At the time the placement report is filed under paragraph (c) of this subsection, the prospective adoptive parent files the adoption report form required under ORS 109.400.

(2) Notwithstanding subsection (1) of this section, a prospective adoptive parent is required to file an Adoption Summary and Segregated Information Statement with accompanying exhibits as provided under section 5 of this 2013 Act.

[2] (3) Notwithstanding ORS 21.135, the clerk of the juvenile court may not charge or collect first appearance fees for a proceeding under this section.

[3] (4) After the filing of [*the*] **written evidence of a home study** and the placement report requesting the court to enter a judgment of adoption, the juvenile court that entered the order of permanent commitment, **or the juvenile court having jurisdiction over a ward for whom the department has accepted a release and surrender and a certificate signed by the parent as provided in subsection (1)(a)(B) of this section**, may proceed as provided in ORS 109.307 and 109.350 and may enter a judgment of adoption.

[4] (5) Records of adoptions filed and established under this section shall be kept in accordance with, and are subject to, [*ORS 7.211*] **section 6 of this 2013 Act.**

SECTION 9. ORS 109.311 is amended to read:

109.311. (1) Each adoption petition filed pursuant to ORS 109.309 seeking adoption of a minor child shall be accompanied by a written disclosure statement containing an itemized accounting of all moneys paid or estimated to be paid by the petitioner for fees, costs and expenses related to the adoption, including all legal, medical, living and travel expenses. The form of the disclosure statement shall be prescribed by the Department of Human Services after consultation with approved Oregon licensed adoption agencies.

(2) A court may not grant a judgment for an adoption of a minor child in the absence of a placement report by the department or an Oregon licensed adoption agency unless the filing of such report has been waived by the department. A court may not grant a judgment for an adoption of a minor child in the absence of a written disclosure statement as described in subsection (1) of this section or in the absence of a verified statement by the petitioner that, to the best of the petitioner's knowledge, no charges, except those reported in the disclosure statement, have been or will be paid in connection with the adoption.

(3) A person may not charge, accept or pay or offer to charge, accept or pay a fee for locating a minor child for adoption or for locating another person to adopt a minor child, except that Oregon licensed adoption agencies licensed under [*ORS 412.001 to 412.161 and 412.991 and*] ORS chapter 418 may charge reasonable fees for services provided by them.

(4)(a) It is unlawful for any person to advertise:

(A) A child offered or wanted for adoption; or

(B) That the person is able to place, locate, dispose of or receive a child for adoption.

(b) The provisions of paragraph (a) of this subsection do not apply to:

(A) The department or a licensed Oregon adoption agency or an agent, employee or person with whom the department or adoption agency has a contract authorizing such actions; or

(B) A person who has completed a home study as required by ORS 109.309 [(6)(a)(C)] (7) and has received a favorable recommendation regarding the fitness of the person to be an adoptive parent or the person's attorney or uncompensated agent. A written declaration by the person who prepared

the home study is sufficient verification of compliance with this subparagraph. The person's attorney must be licensed to practice in Oregon.

(c) Nothing in this subsection prohibits an attorney licensed to practice in Oregon from advertising the attorney's availability to provide services related to the adoption of children.

(d) As used in this subsection, unless the context requires otherwise, "advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast or electronic medium that originates within this state.

SECTION 10. ORS 109.312 is amended to read:

109.312. (1) Except as provided in ORS 109.314 to 109.329, consent in writing to the adoption **of a minor child pursuant to a petition filed** under ORS 109.309 *[of a child shall be given by]* **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 the Indian Child Welfare Act 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.

SECTION 11. 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, 109.342 and 109.353 **and sections 4, 5 and 6 of this 2013 Act** do not apply to an adoption under this section.

SECTION 12. ORS 109.332 is amended to read:

109.332. (1) When a petition has been filed under ORS 109.309 concerning the adoption by a stepparent of a child, a grandparent served with a copy of the petition under [ORS 109.309 (7)] **section 4 of this 2013 Act** may file a motion with the court asking the court to award a grandparent the right to regular visitation with the child after the adoption. A motion under this subsection must be filed no later than 30 days after service of the petition.

(2) The court shall award a grandparent visitation rights only if the court finds by clear and convincing evidence that:

(a) Establishing visitation rights is in the best interests of the child;

(b) A substantial relationship existed prior to the adoption between the child and the grandparent seeking visitation rights; and

(c) Establishing visitation rights does not substantially interfere with the relationship between the child and the adoptive family.

(3) As used in this section, "grandparent" includes a grandparent who has established custody, visitation or other rights under ORS 109.119.

SECTION 13. ORS 419B.527 is amended to read:

419B.527. (1) After the entry of an order terminating the rights of the parent or parents of the ward, the court may:

(a) Place the ward in the legal custody and guardianship of a public or private institution or agency authorized to consent in loco parentis to the adoption of children. An order pursuant to this

paragraph is a “permanent commitment” for the purposes of ORS 109.305, [109.309,] **109.118**, 109.312 to 109.330 and 109.350 to 109.390; or

(b) Make any order directing disposition of the ward that it is empowered to make under this chapter.

(2) If the rights of only one parent have been terminated, the authority to consent to the adoption of the ward as provided in subsection (1)(a) of this section is effective only with respect to the parent whose rights have been terminated.

SECTION 14. ORS 109.400 is amended to read:

109.400. (1) When a petition for adoption is filed with a court, the petitioner or the **petitioner’s** attorney [thereof] shall file with the petition an adoption report form as provided in ORS 432.415.

(2) Notwithstanding [ORS 7.211] **section 6 of this 2013 Act**, if the court enters a judgment of adoption, the clerk of the court shall review the personal particulars filled in on the form, shall fill in the remaining blanks on the form, shall certify the form and mail it to the State Registrar of the Center for Health Statistics as the adoption report as required under ORS 432.415.

SECTION 15. 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 who were adopted as children have a strong desire to obtain identifying information about their birth parents or putative father 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 [7.211,] 109.425 to 109.507 and 432.420 is to:

(1) Set up a voluntary adoption registry where birth parents, putative fathers and adult 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 through a social worker employed by a licensed adoption agency, if a birth parent or parents or putative father and the adult adoptee are registered;

(3) Provide for the transmission of nonidentifying health and social and genetic history of the adult adoptees, birth parents, putative fathers 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 16. (1) **Sections 3 to 5 of this 2013 Act and the amendments to ORS 109.304, 109.309, 109.311, 109.312, 109.329, 109.332, 109.400, 109.430, 419B.527 and 419B.529 by sections 1 and 2 and 8 to 15 of this 2013 Act apply to adoption cases commenced on or after the effective date of this 2013 Act.**

(2) **Section 6 of this 2013 Act and the repeal of ORS 7.211 and 109.440 by section 7 of this 2013 Act apply to adoption cases commenced before, on or after the effective date of this 2013 Act.**

Passed by Senate April 23, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 30, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State