

# Senate Bill 623

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

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises and clarifies requirements for petition to adopt minor child. Requires filing of Adoption Summary and Segregated Information Statement with petition to adopt minor child. Specifies persons authorized to inspect and copy sealed adoption records.

## A BILL FOR AN ACT

1  
2 Relating to adoption proceedings; creating new provisions; amending ORS 109.304, 109.309, 109.311,  
3 109.312, 109.329, 109.332, 109.400, 109.430, 419B.527 and 419B.529; and repealing ORS 7.211 and  
4 109.440.

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

6 **SECTION 1.** ORS 109.304 is amended to read:

7 109.304. As used in ORS 109.305 to 109.410, unless the context requires otherwise:

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

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

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

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

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

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

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

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

21 (3) [*Information gathered by the department or by an Oregon licensed adoption agency during the*  
22 *preparation of the placement report may include information concerning the child's social, medical and*  
23 *genetic history and the birth parent's history as may be required by ORS 109.312 or 109.342.] **"Re-**  
24 **records, papers and files"** means **all documents, writings, information, exhibits and other**  
25 **filings retained in the record of an adoption case pursuant to section 6 of this 2013 Act, and**  
26 **includes but is not limited to the Adoption Summary and Segregated Information Statement**  
27 **described in section 5 of this 2013 Act, and exhibits attached to the statement, the petition**  
28 **and exhibits attached to the petition pursuant to section 4 of this 2013 Act and any other**  
29 **motion, judgment, document, writing, information, exhibit or filing retained in the record of**  
30 **the adoption case.***

31 **SECTION 2.** ORS 109.309 is amended to read:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 109.309. (1) Any person may petition the circuit court for leave to adopt another person and, if  
2 desired, for a change of the other person's name.

3 (2) One petitioner, the child, one parent or the person, who is not an adoption agency, con-  
4 senting to the adoption as required under ORS 109.312 (1) must be a resident of this state. As used  
5 in this subsection, "resident" means a person who has resided in this state continuously for a period  
6 of six months prior to the date of the petition.

7 [(2)] (3) Except as provided in subsection [(3)] (4) of this section, when the petition is for the  
8 adoption of a minor child, the adoption is governed by the Uniform Child Custody Jurisdiction and  
9 Enforcement Act, ORS 109.701 to 109.834.

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

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

14 (B) One parent or another person, who is not an adoption agency, consenting to the adoption  
15 as required under ORS 109.312 (1) resided in this state for at least six consecutive months including  
16 periods of temporary absence;

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

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

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

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

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

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

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

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

35 [(i) *The child;*]

36 [(ii) *The petitioner;*]

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

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

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

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

1 *the child for adoption.]*

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

4 [(C) *Written evidence documenting a current home study that has been approved by either the De-*  
5 *partment of Human Services or an Oregon licensed adoption agency submitted for the purpose of*  
6 *demonstrating that the petitioner meets the minimum standards for adoptive homes as set forth in the*  
7 *department's administrative rules.]*

8 [(b) *A relative who qualifies under the department administrative rules for a waiver of the*  
9 *department's home study requirements described in paragraph (a)(C) of this subsection may file the*  
10 *request for waiver along with the petition for adoption.]*

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

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

19 [(b) *In the case of an adoption described in subsection (6)(c) of this section, the petitioner shall also*  
20 *serve the petition, by either registered or certified mail with return receipt or personal service:]*

21 [(A) *On all persons whose consent to the adoption is required under ORS 109.312 unless the*  
22 *person's written consent is filed with the court; and]*

23 [(B) *On the parents of the party whose parental rights would be terminated, if the names and ad-*  
24 *dresses are known or may be readily ascertained by the petitioner. Service required by this subpara-*  
25 *graph may be waived by the court for good cause.]*

26 [(c) *When a parent of the child is deceased or incapacitated, the petitioner shall also serve the pe-*  
27 *tition on the parents of the deceased or incapacitated parent, if the names and addresses are known*  
28 *or may be readily ascertained by the petitioner. Service required by this paragraph may be waived by*  
29 *the court for good cause. As used in this paragraph:]*

30 [(A) *"Incapacitated" means a condition in which a person's ability to receive and evaluate infor-*  
31 *mation effectively or to communicate decisions is impaired to such an extent that the person lacks the*  
32 *capacity to meet the essential requirements for the person's physical health or safety.]*

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

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

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

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

44 **(b) The department, upon request by the petitioner, may waive the home study require-**  
45 **ment only in an adoption proceeding in which the child's biological parent or prospective**

1 **adoptive parent retains parental rights, or when a relative is the prospective adoptive parent.**

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

3 (8)(a) [*Within 90 days after the service on the director, the department*] **Within 90 days after**  
 4 **service upon the Director of Human Services as required under section 4 of this 2013 Act,**  
 5 **the Department of Human Services** shall investigate and file for the consideration of the judge  
 6 before whom the petition for adoption is pending a placement report containing information re-  
 7 garding the status of the child and evidence concerning the suitability of the proposed adoption. The  
 8 department may designate an Oregon licensed adoption agency to investigate and report to the  
 9 court. If the department designates an Oregon licensed adoption agency to investigate and report  
 10 to the court, the department shall make the designation and provide all necessary information and  
 11 materials to the Oregon licensed adoption agency no later than 30 days after the service on the  
 12 director[. *However, the department may waive the placement report requirement.*] **and upon receipt**  
 13 **of all required documentation and fees. The department may waive the placement report**  
 14 **requirement under this subsection but shall waive the placement report requirement in an**  
 15 **adoption proceeding in which the child's biological parent or prospective adoptive parent re-**  
 16 **tains parental rights.**

17 (b) Upon receipt of a written request by the **petitioner or the** petitioner's attorney, the de-  
 18 partment shall furnish to [*that*] **the petitioner or the petitioner's** attorney copies of any informa-  
 19 tion that the department has filed with the court.

20 **(c) Information gathered by the department or by an Oregon licensed adoption agency**  
 21 **during the preparation of the placement report may include information concerning the**  
 22 **child's social, medical and genetic history and the birth parent's history as may be required**  
 23 **by ORS 109.312 or 109.342.**

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

25 [*(c)*] **(9)** The department may charge the petitioner a fee for investigating a proposed nonagency  
 26 adoption and preparing the home study [*report described in subsection (6)(a)(C)*] **required under**  
 27 **subsection (7)** of this section and the placement report [*described in paragraph (a) of this*  
 28 *subsection*] **required under subsection (8) of this section.** The petitioner shall report the fee  
 29 amount to the court. The court granting the adoption shall make a finding as to whether the fee is  
 30 necessary and reasonable. Any fee charged may not exceed reasonable costs for investigation, home  
 31 study and placement report preparation. The department shall prescribe by rule the procedure for  
 32 computing the investigation, home study and placement report preparation fee. The rules shall pro-  
 33 vide a waiver of either part or all of the fee based upon the petitioner's ability to pay.

34 **(10) The court may not rule upon a petition for the adoption of a minor child until at**  
 35 **least 90 days after the date that the petition and documents required to be served on the**  
 36 **Director of Human Services under sections 4 and 5 of this 2013 Act have been served upon**  
 37 **the director. The department may waive the 90-day waiting period.**

38 [*(9)*] **(11)** The amounts of any fees collected under subsection [*(8)*] **(9)** of this section are con-  
 39 tinuously appropriated to the department for use in preparing [*the home study*] **home studies** and  
 40 placement reports required under [*subsections (6)(a)(C) and (8)(a) of*] this section.

41 [*(10)(a)*] **(12)(a)** Except as provided in paragraph (b) of this subsection, a court may not grant a  
 42 judgment for the adoption of a minor child unless the petitioner has filed with the court [*the docu-*  
 43 *ments described in subsections (6) and (8)(a) of this section*]:

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

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

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

4       **(D) The Adoption Summary and Segregated Information Statement under section 5 of**  
 5 **this 2013 Act, including exhibits attached to the statement.**

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

8       [(11)] **(13)** The adoption shall comply with the Indian Child Welfare Act (25 U.S.C. 1901 et seq.),  
 9 if applicable. *[Every adoption petition involving the Indian Child Welfare Act shall include the fol-*  
 10 *lowing:]*

11       *[(a) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption;*  
 12 *and]*

13       *[(b) A statement of the efforts to comply with the placement preferences of the Indian Child Welfare*  
 14 *Act (25 U.S.C. 1901 et seq.) or the placement preferences of the appropriate Indian tribe.]*

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

17       **SECTION 4. (1) A petition for adoption of a minor child must be signed by the petitioner**  
 18 **and notarized and, unless stated in the petition why the information or statement is omitted,**  
 19 **must contain the following:**

20       **(a) The full name of the petitioner;**

21       **(b) The state and length of residency in the state of the petitioner and information suf-**  
 22 **ficient to establish that the residency requirement of ORS 109.309 (2) has been met;**

23       **(c) The current marital or domestic partnership status of the petitioner;**

24       **(d) An explanatory statement as to why the petitioner is of sufficient ability to bring up**  
 25 **the minor child and furnish suitable nurture and education sufficient for judgment to be**  
 26 **entered under ORS 109.350;**

27       **(e) Information sufficient for the court to establish that the petitioner has complied with**  
 28 **the jurisdictional and venue requirements of ORS 109.309 (4) and (5);**

29       **(f) The full name, sex and date and place of birth of the minor child;**

30       **(g) The marital or domestic partnership status of the biological mother at the time of**  
 31 **conception, at the date of birth and during the 300 days prior to the date of birth of the mi-**  
 32 **nor child;**

33       **(h) A statement that the minor child is not an Indian child as defined in the Indian Child**  
 34 **Welfare Act (25 U.S.C. 1901 et seq.) or, if the Indian Child Welfare Act applies:**

35       **(A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the**  
 36 **adoption; and**

37       **(B) A statement of the efforts to comply with the placement preferences of the Indian**  
 38 **Child Welfare Act or the placement preferences of the appropriate Indian tribe;**

39       **(i) The name and relationship to the minor child of any person who has executed a**  
 40 **written surrender or relinquishment of parental rights or of rights of guardianship of the**  
 41 **minor child and the date of the surrender or relinquishment;**

42       **(j) The name and relationship to the minor child of any person who has given written**  
 43 **consent as required under ORS 109.312, and the date the consent was given;**

44       **(k) The name, relationship to the minor child and address of any person or entity for**  
 45 **whom the written consent requirement under ORS 109.312 is waived or not required as pro-**

1 vided in ORS 109.314, 109.316, 109.318, 109.322, 109.324 and 109.326 or whose written consent  
2 may be substituted for the written consent requirement under ORS 109.312 as provided in  
3 ORS 109.314, 109.316, 109.318, 109.322, 109.324, 109.326, 109.328 and 109.329;

4 (L) The name and relationship to the minor child of all persons who have signed and at-  
5 tested to a written certificate of irrevocability and waiver as provided in ORS 109.312 (2);

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

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

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

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

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

20 (r) A statement that the information required by the Uniform Child Custody Jurisdiction  
21 and Enforcement Act under ORS 109.701 to 109.834 has been provided in the Adoption Sum-  
22 mary and Segregated Information Statement under section 5 of this 2013 Act;

23 (s) A statement that the Interstate Compact for the Placement of Children does or does  
24 not apply and, if applicable, a statement of the efforts undertaken to comply with the com-  
25 pact; and

26 (t) Unless waived, a statement that a current home study was completed in compliance  
27 with ORS 109.309 (7).

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

29 (a) Entry of a general judgment of adoption;

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

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

34 (d) With respect to the appropriate persons, the termination of parental rights or a de-  
35 termination of nonpaternity;

36 (e) When requested, approval of a change to the minor child's name;

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

41 (g) That the court require preparation of and certify a report of adoption as provided in  
42 ORS 432.415;

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

45 (i) Any other relief requested by the petitioner.

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

3       **(a) Any written surrender or relinquishment of the minor child for adoption, or a written**  
4 **disclaimer of parental rights;**

5       **(b) Any written consent to the adoption;**

6       **(c) Any certificate of irrevocability and waiver;**

7       **(d) Any continuing contact agreement under ORS 109.305;**

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

9       **(f) Any other supporting documentation necessary to comply with the petition require-**  
10 **ments in this section and ORS 109.309.**

11       **(4) The petition and documents filed as exhibits under subsection (3) of this section are**  
12 **confidential and may not be inspected or copied except as provided under ORS 109.305 to**  
13 **109.410 and 109.425 to 109.507.**

14       **(5)(a) Within 30 days after being filed with the court, the petitioner shall serve copies of**  
15 **the petition, the documents filed as exhibits under subsection (3) of this section and the**  
16 **Adoption Summary and Segregated Information Statement described in section 5 of this 2013**  
17 **Act, including any amendments and exhibits attached to the statement, on the Director of**  
18 **Human Services by either registered or certified mail with return receipt or personal service.**

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

22       **(A) On all persons whose consent to the adoption is required under ORS 109.312 unless**  
23 **the person's written consent is filed with the court; and**

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

26       **(c) When a parent of the child is deceased or incapacitated, the petitioner shall also serve**  
27 **the petition on the parents of the deceased or incapacitated parent, if the names and ad-**  
28 **resses are known or may be readily ascertained by the petitioner. As used in this para-**  
29 **graph:**

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

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

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

38       **SECTION 5. (1) An Adoption Summary and Segregated Information Statement must be**  
39 **filed concurrently with every petition for adoption of a minor child filed under ORS 109.309.**  
40 **The statement must summarize information in the adoption proceeding and include addi-**  
41 **tional information and attached exhibits as required under this section. The statement must**  
42 **contain, at a minimum, the following information if known or readily ascertainable:**

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

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

1 (c) The names, permanent addresses and telephone numbers of any person whose consent  
 2 to the adoption is required under ORS 109.312;

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

5 (e) The name, address and telephone number of any adoption agency that will be con-  
 6 senting, or has consented, to the adoption;

7 (f) The name, bar number and contact information for any attorney representing a  
 8 petitioner or a person whose consent to the adoption is required under ORS 109.312; and

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

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

11 (B) Nonrelated independent adoption;

12 (C) Determination of validity of an adoption in a foreign nation under ORS 109.385;

13 (D) Relative independent adoption by a relative of the first degree;

14 (E) Stepparent independent adoption;

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

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

17 (H) An adoption in which the Department of Human Services gives consent under ORS  
 18 109.316; or

19 (I) Any other specified adoption.

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

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

24 (b) A report of adoption on a form prescribed and furnished by the State Registrar of the  
 25 Center for Health Statistics as required under ORS 432.415; and

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

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

30 (4) Before judgment is entered in the case, a petitioner shall file an amended Adoption  
 31 Summary and Segregated Information Statement when any of the required information  
 32 changes or when information that was not previously known or ascertainable becomes known  
 33 or ascertainable.

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

40 **SECTION 6.** (1) The clerk or court administrator of any court having jurisdiction over  
 41 adoption proceedings shall keep a separate record of the case for each adoption proceeding  
 42 filed with the court. Adoption proceedings shall not be entered upon the general records of  
 43 the court.

44 (2) The clerk, court administrator or other person having custody of the records, papers  
 45 or files in the record of an adoption case shall cause all records, papers and files relating to



1 the adoption proceeding that are filed with the court, both prior to entry of judgment and  
2 after entry of judgment, to be sealed in the record of the adoption case. The clerk, court  
3 administrator or any other person having custody of records, papers or files in the record  
4 of an adoption case shall not unseal the record of the adoption case or allow inspection or  
5 copying of or disclose any information in the records, papers or files in the record of the  
6 adoption case to any person or entity without a court order, as provided in this section or  
7 ORS 109.305 to 109.410 or 109.425 to 109.507.

8 (3) Prior to entry of judgment in an adoption proceeding, and after entry of judgment in  
9 an adoption proceeding but prior to the minor child who is the subject of the adoption pro-  
10 ceeding attaining 18 years of age, the following may inspect and copy sealed records, papers  
11 and files in the record of an adoption case without a court order:

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

14 (b) Petitioners and their attorneys of record; and

15 (c) The Department of Human Services.

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

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

22 (b) The person who was the minor child in the adoption proceeding, except that the per-  
23 son who was the minor child in the adoption proceeding may not inspect or copy the home  
24 study or evidence of a home study approved under ORS 109.309 (7) except pursuant to a court  
25 order and with good cause shown;

26 (c) Petitioners and their attorneys of record; and

27 (d) The Department of Human Services.

28 (5)(a) After entry of judgment in an adoption proceeding and after the minor child who  
29 is the subject of the adoption proceeding has attained 18 years of age, an individual whose  
30 consent for the adoption is required under ORS 109.312 may file a motion with the court to  
31 inspect and copy sealed records, papers and files in the record of the adoption case.

32 (b) Except as provided in paragraph (c) of this subsection, the court shall grant the mo-  
33 tion for good cause shown but must exclude from inspection and copying the Adoption  
34 Summary and Segregation Information Statement and any exhibits attached to the state-  
35 ment that are contained in the record of the adoption case.

36 (c) If the Department of Human Services consented or had the authority to consent to  
37 the adoption of a minor child under ORS 109.316 or 419B.529, a birth parent may not inspect  
38 or copy the Adoption Summary and Segregated Information Statement and exhibits attached  
39 to the statement, or any other record, paper or file in the record of the adoption case that  
40 contains names, addresses or other identifying information of the parties in the adoption  
41 case, except pursuant to court order.

42 (6) Except as provided in subsection (5)(c) of this section, an individual or entity that  
43 signed a record, paper or other document that is contained in the record of the adoption case  
44 is entitled to inspect and obtain a copy of the record, paper or other document without a  
45 court order. The signature of any other individual or entity on the same record, paper or

1 other document must be redacted or otherwise not disclosed as part of the inspection and  
2 copying permitted under this subsection.

3 (7) The Department of Human Services or an Oregon licensed child-caring agency as de-  
4 fined in ORS 418.205 may, without a court order, access, use or disclose confidential infor-  
5 mation or records, papers or files in the record of an adoption case that are in the possession  
6 of the department or the agency for the purpose of providing adoption services or the ad-  
7 ministration of child welfare services that the department or agency is authorized to provide  
8 under applicable federal or state law.

9 (8)(a) A court may not grant a motion and enter an order allowing inspection, copying  
10 or other disclosure of records, papers or files in the record of an adoption case except upon  
11 proof of prior notice of the motion to, and opportunity to be heard for, each individual or  
12 entity affected by the adoption proceeding. The court may waive the requirements of this  
13 subsection upon a finding of good cause.

14 (b) Absent waiver of the requirements of this subsection, an individual or entity that has  
15 filed a motion for inspection, copying or disclosure of records, papers or files in the record  
16 of an adoption case must give notice of the motion to each individual or entity affected by  
17 the adoption proceeding in the manner provided for service of summons under ORCP 7.

18 (c) As used in this subsection, "individual or entity affected by the adoption proceeding"  
19 includes the following:

20 (A) A petitioner;

21 (B) The minor child's parent or parents who consented to the adoption pursuant to ORS  
22 109.312;

23 (C) The Department of Human Services or an Oregon licensed adoption agency, acting in  
24 loco parentis, that has given consent to the adoption of the minor child pursuant to ORS  
25 109.316;

26 (D) An adult who was the minor child and the subject of the adoption proceeding; and

27 (E) A court-appointed fiduciary for an adult who was the minor child adopted in the  
28 proceeding and who is now under a legal impediment requiring the appointment of a fiduciary  
29 to represent the adult who was the minor child in the adoption proceeding.

30 (d) If, at the time of the motion, the child whose adoption is the subject of the motion  
31 is a minor child or under other legal impediment, the exercise of the court's discretion to  
32 grant the motion to allow inspection, copying or other disclosure of records, papers or files  
33 in the record of the adoption case is governed by consideration of the best interests of the  
34 minor child or of the person who is under other legal impediment.

35 (e) The court may impose an obligation of nondisclosure on the individual or entity filing  
36 a motion for inspection, copying or other disclosure of records, papers or files in the record  
37 of an adoption case.

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

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

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

45 (12) Unless good cause is shown, when the court grants a motion to inspect, copy or

1 otherwise disclose records, papers or files in the record of an adoption case, the court shall  
 2 order a prohibition or limitation on redisclosure of the records, papers or files, or of infor-  
 3 mation contained in the records, papers or files.

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

7 **SECTION 7. ORS 7.211 and 109.440 are repealed.**

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

9 419B.529. (1) Notwithstanding ORS 109.309, a prospective adoptive parent is not required to file  
 10 a petition for adoption when:

11 (a) **One of the following has occurred:**

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

14 (B) The parent has signed and the department has accepted a release and surrender to the de-  
 15 partment, and **the parent has signed:**

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

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

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

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

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

25 **(2) Notwithstanding subsection (1) of this section, a prospective adoptive parent is re-**  
 26 **quired to file an Adoption Summary and Segregated Information Statement with accompa-**  
 27 **nying exhibits as provided under section 5 of this 2013 Act.**

28 [(2)] (3) Notwithstanding ORS 21.135, the clerk of the juvenile court may not charge or collect  
 29 first appearance fees for a proceeding under this section.

30 [(3)] (4) After the filing of the home study and the placement report requesting the court to  
 31 enter a judgment of adoption, the juvenile court that entered the order of permanent commitment  
 32 may proceed as provided in ORS 109.307 and 109.350 and may enter a judgment of adoption.

33 [(4)] (5) Records of adoptions filed and established under this section shall be kept in accordance  
 34 with, and are subject to, [ORS 7.211] **section 6 of this 2013 Act.**

35 **SECTION 9.** ORS 109.311 is amended to read:

36 109.311. (1) Each adoption petition filed pursuant to ORS 109.309 seeking adoption of a minor  
 37 child shall be accompanied by a written disclosure statement containing an itemized accounting of  
 38 all moneys paid or estimated to be paid by the petitioner for fees, costs and expenses related to the  
 39 adoption, including all legal, medical, living and travel expenses. The form of the disclosure state-  
 40 ment shall be prescribed by the Department of Human Services after consultation with approved  
 41 Oregon licensed adoption agencies.

42 (2) A court may not grant a judgment for an adoption of a minor child in the absence of a  
 43 placement report by the department or an Oregon licensed adoption agency unless the filing of such  
 44 report has been waived by the department. A court may not grant a judgment for an adoption of a  
 45 minor child in the absence of a written disclosure statement as described in subsection (1) of this

1 section or in the absence of a verified statement by the petitioner that, to the best of the petitioner's  
 2 knowledge, no charges, except those reported in the disclosure statement, have been or will be paid  
 3 in connection with the adoption.

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

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

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

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

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

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

14 (B) A person who has completed a home study as required by ORS 109.309 [(6)(a)(C)] (7) and has  
 15 received a favorable recommendation regarding the fitness of the person to be an adoptive parent  
 16 or the person's attorney or uncompensated agent. A written declaration by the person who prepared  
 17 the home study is sufficient verification of compliance with this subparagraph. The person's attorney  
 18 must be licensed to practice in Oregon.

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

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

24 **SECTION 10.** ORS 109.312 is amended to read:

25 109.312. (1) Except as provided in ORS 109.314 to 109.329, consent in writing to the adoption  
 26 **of a minor child pursuant to a petition filed** under ORS 109.309 [*of a child shall be given by*] **is**  
 27 **required to be given by the following:**

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

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

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

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

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

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

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

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

45 (D) The Department of Human Services, an Oregon licensed adoption agency or an attorney who

1 is representing the adoptive parents has filed either a department or an Oregon licensed adoption  
2 agency home study with the court approving the petitioner or petitioners as potential adoptive  
3 parents or the department has notified the court that the filing of such study has been waived;

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

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

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

13 (3) Consent to the adoption of a child subject to the Indian Child Welfare Act shall not be valid  
14 unless the requirements of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) are met. In ac-  
15 cordance with the Indian Child Welfare Act, a certificate of irrevocability is not valid for a child  
16 who is subject to the Indian Child Welfare Act.

17 **SECTION 11.** ORS 109.329 is amended to read:

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

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

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

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

28 (3) The court may grant the petition if the court finds, from the allegations set forth in the pe-  
29 tition and an attached affidavit, that each petitioner:

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

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

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

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

36 (b) Hold a hearing.

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

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

43 (A) The spouse of each petitioner.

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

1 (C) The adult children of each petitioner.

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

9 (6) The provisions of ORS 109.308, 109.309, 109.342 and 109.353 **and sections 4, 5 and 6 of this**  
 10 **2013 Act** do not apply to an adoption under this section.

11 **SECTION 12.** ORS 109.332 is amended to read:

12 109.332. (1) When a petition has been filed under ORS 109.309 concerning the adoption by a  
 13 stepparent of a child, a grandparent served with a copy of the petition under [ORS 109.309 (7)]  
 14 **section 4 of this 2013 Act** may file a motion with the court asking the court to award a  
 15 grandparent the right to regular visitation with the child after the adoption. A motion under this  
 16 subsection must be filed no later than 30 days after service of the petition.

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

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

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

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

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

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

27 419B.527. (1) After the entry of an order terminating the rights of the parent or parents of the  
 28 ward, the court may:

29 (a) Place the ward in the legal custody and guardianship of a public or private institution or  
 30 agency authorized to consent in loco parentis to the adoption of children. An order pursuant to this  
 31 paragraph is a "permanent commitment" for the purposes of ORS 109.305, [109.309,] **109.118**, 109.312  
 32 to 109.330 and 109.350 to 109.390; or

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

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

38 **SECTION 14.** ORS 109.400 is amended to read:

39 109.400. (1) When a petition for adoption is filed with a court, the petitioner or the **petitioner's**  
 40 attorney [*thereof*] shall file with the petition an adoption report form as provided in ORS 432.415.

41 (2) Notwithstanding [ORS 7.211] **section 6 of this 2011 Act**, if the court enters a judgment of  
 42 adoption, the clerk of the court shall review the personal particulars filled in on the form, shall fill  
 43 in the remaining blanks on the form, shall certify the form and mail it to the State Registrar of the  
 44 Center for Health Statistics as the adoption report as required under ORS 432.415.

45 **SECTION 15.** ORS 109.430 is amended to read:

1       109.430. It is the policy of this state that adoption is based upon the legal termination of par-  
2       ental rights and responsibilities of birth parents and the creation of the legal relationship of parents  
3       and child between an adoptee and the adoptive parents. These legal and social premises underlying  
4       adoption must be maintained. The state recognizes that some adults who were adopted as children  
5       have a strong desire to obtain identifying information about their birth parents or putative father  
6       while other such adult adoptees have no such desire. The state further recognizes that some birth  
7       parents have a strong desire to obtain identifying information about their biological children who  
8       were adopted, while other birth parents have no such desire. The state fully recognizes the right to  
9       privacy and confidentiality of birth parents whose children were adopted, the adoptees and the  
10      adoptive parents. The purpose of ORS [7.211,] 109.425 to 109.507 and 432.420 is to:

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

13      (2) Provide for the disclosure of identifying information to birth parents and their genetic off-  
14      spring through a social worker employed by a licensed adoption agency, if a birth parent or parents  
15      or putative father and the adult adoptee are registered;

16      (3) Provide for the transmission of nonidentifying health and social and genetic history of the  
17      adult adoptees, birth parents, putative fathers and other specified persons; and

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

21      **SECTION 16.** (1) **Sections 3 to 5 of this 2013 Act and the amendments to ORS 109.304,**  
22      **109.309, 109.311, 109.312, 109.329, 109.332, 109.400, 109.430, 419B.527 and 419B.529 by sections 1**  
23      **and 2 and 8 to 15 of this 2013 Act, apply to adoption cases commenced on or after the effec-**  
24      **tive date of this 2013 Act.**

25      **(2) Section 6 of this 2013 Act and the repeal of ORS 7.211 and 109.440 by section 7 of this**  
26      **2013 Act apply to adoption cases commenced before, on or after the effective date of this 2013**  
27      **Act.**

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