



# OREGON LAW COMMISSION

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## Adoption Records

## Work Group Report

### HB 2366-1

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*The Oregon Law Commission  
is housed at the Willamette  
University College of Law,  
which also provides executive,  
administrative and research  
support for the Commission.*

## **I. Introduction**

Since adoption is not recognized at common law, Oregon's adoption statutes are found primarily in ORS Chapter 109. Oregon's law and public policy favors the adoptive parents in an adoption proceeding. This is true of most states. Many groups and individuals brought their concerns regarding the need to update Oregon's adoption statutes to the Oregon Law Commission. This update included considering the balance between the adoptive parents' and birth parents' rights in an adoption proceeding. The OLC has worked on many projects in the past involving juvenile rights including the Uniform Paternity Act Work Group (2007) and the Putative Father Work Group (2005). The concerns brought to the OLC regarding adoption provisions such as putative father rights, re-adoption, and the role of the Department of Human Services in independent adoptions is a natural extension to the OLC's previous work in this area of law. The goal of this project had been to revise and update adoption statutes to provide clarification and consistency in this area of Oregon law.

## **II. History of the Project**

The Oregon Judicial Department (OJD) requested the Oregon Law Commission review of ORS 7.211 in July 2010. The specific request was to consider the issue of access to the court's adoption files. In 2012, the Adoption Work Group was formed to address adoption records as well as other substantive issues. In 2013, SB 623 passed as a result of the Work Groups recommendation regarding adoption records. SB 623 (2013) went into effect in January 1, 2014. The Work Group supported HB 1536 (2014), which was proposed by OJD to clear up some issues related to birth parents' access to adoption records arising from SB 623. In August 2014, the Work Group began meeting to continue its work on other substantive areas of adoption law. The Work Group focused their efforts on housekeeping changes needed in response to the implementation of HB 1536 and SB 632, and much needed changes, clarifications and updates to the re-adoption provisions in ORS Chapter 109. The Work Group members were dedicated to make the changes necessary to improve access to adoption records and improve other aspects of Oregon adoption law.

The Work Group was chaired by Oregon Law Commissioner John DiLorenzo, Jr. The Work Group was made up of several representatives from the State of Oregon: Judge Rita Cobb, Washington County Circuit Court; Caroline Burnell, Oregon Department of Human Services; Lois Day, Oregon Department of Human Services; Kathy Prouty, Oregon Department of Human Services; Gail Schelle, Oregon Department of Human Services; Carla Crane, Oregon Department of Human Services; Megan Hassen, Oregon Judicial Department; Leola McKenzie, Oregon Judicial Department; Cynthia Bidnick, Oregon Judicial Department; Carol Reis,

Oregon Judicial Department Appellate Records Office; Carmen Brady-Wright, Oregon Department of Justice; Joanne Southery, Oregon Department of Justice. There were also private attorneys represented: John Chally, Bouneff & Chally; Jane Edwards; Whitney Hill, Youth, Rights & Justice; Susan Moffet, Dexter & Moffet; Robin Pope; John Wittwer, John Wittwer Lawyers. Adoption agency/services were represented by Shari Levine, Open Adoption and Family Services, Robin Neal, Catholic Charities, Pregnancy Support and Adoption Services, and David Slansky, Journeys of the Heart. Public members of the Work Group were Melissa Busch, Ansley J. Dennison-Bernatz, Michele Greco, and David Tilchin. The Work Group's interested parties were Representative Margaret Doherty; Susan Gary, Oregon State Bar; Professor Leslie Harris, University of Oregon School of Law; Sunny Moore; Ron Morgan; Tamera Slack; and Mickey Serice, Oregon Department of Human Services. The Work Group staff included Professor Jeff Dobbins, Oregon Law Commission, Wendy Johnson, Oregon Law Commission, Philip Schradle, Oregon Law Commission, and BeaLisa Sydlik, Deputy Legislative Counsel.

The Work Group met five times between August 2014 and February 2015. If authorized, the Work Group will continue after the 2015 session to address other substantive issues with adoption laws for recommendation to the 2016 and/or 2017 legislative sessions. These issues include matters regarding birth parent consent, putative fathers and a putative father registry, and advertisement/solicitation prohibitions.

### **III. Statement of the Problem**

Technology is changing the way the court filing system operates. With the implementation of eCourt, it is necessary to ensure that statutes are up to date with this new filing system without creating a substantial burden on the court's administrators. The issue of adoption records was addressed primarily in SB 623 (2013) and HB 1536 (2014). However, once these two bills went into effect, key players affected by the changes and updates to the adoption statutes recognized the need to clean up and clarify certain provisions. The housekeeping provisions developed by the Work Group are needed in order to further the Work Group's goal to update and clarify Oregon's adoption statutes. In conjunction with HB 2365-1 (2015), this proposal will help accomplish the Work Group's goal.

### **IV. Objectives of the Proposal**

The Work Group recommends HB 2366-1 to the 2015 Legislative Assembly. The proposal is a focused cleanup of the adoption provisions that passed the legislature in

2013 and 2014. The main focus and objective of this proposal is to update and clarify certain fee provisions, thus providing clarity and equity as to the fees paid by the parties involved in an adoption or re-adoption. This bill accompanies HB 2365 (2015). The concepts were separated into two bills based on whether or not the change warranted a fiscal report from the Legislative Fiscal Office.

**V. Review of legal solutions existing or proposed elsewhere**

The Work Group reviewed and discussed existing practice in Oregon after the implementation of SB 623 (2013) and HB 1536 (2014), then worked to resolve concerns and questions that arose from the new provisions. The variety in membership of the Work Group brought many important perspectives and insights to the table and allowed the Work Group to work through the issues and reach consensus on legal solutions.

**VI. The Proposal**

**Section 1**

This section amends ORS 21.135, changing the filing fee for adoptions to \$255. This is a \$3.00 increase from the current filing fee. This fee increase is proposed to cover the costs for the court's issuance of a certificate of adoption. ORS 109.410 requires the issuance of a certificate of adoption in every adoption case. However, petitioners and/or their attorneys do not always pay the required \$1.00 fee. Court staff has to spend time getting the fee from petitioners and/or their attorney. This is an inefficient use of court staff time. The Work Group believes the process will be simplified and the fee collected much more easily by including the certificate fee with the filing fee, thus promoting court efficiency.

**Section 2**

This section amends ORS 109.410 removing the fee requirement for the issuance of adoption certificates pursuant to the fee increase under Section 1 of this bill.

**Section 3**

ORS 109.319 allows a person whose consent for an adoption is required to file a motion with the court to inspect the adoption records after the adoptee has turned 18. There is a fee for filing such a motion.

Some adoptions are consented to by DHS under ORS 109.325 or 419B.529. Often, in these cases, the birth parent is a low income individual. The Work Group felt that requiring a filing fee for access to adoption records could be prohibitive for such individuals. Thus, this amendment removes the fee for DHS consented adoptions.

This section also clarifies that the fee for non-DHS birth parents is the fee under ORS 21.145 for simple proceedings rather than the standard fee under ORS 21.135.

**Section 4**

This section is the emergency clause of the bill; the Work Group strongly supports having the bill go into effective immediately upon signing.

**VII. Conclusion**

HB 2366-1 should be adopted in order to clarify and improve the law setting out adoption and re-adoption fees, as well as to promote court efficiency.