

Enrolled
House Bill 2366

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Law Commission)

CHAPTER

AN ACT

Relating to adoptions; amending ORS 21.135, 109.319 and 109.410.

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

SECTION 1. ORS 21.135, as amended by section 4, chapter 76, Oregon Laws 2014, is amended to read:

21.135. (1) Unless a specific fee is provided by **subsection (3) of this section** or other law for a proceeding, a circuit court shall collect a filing fee of \$252 when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding and when an answer or other first appearance is filed in the proceeding.

(2) The filing fee established by **subsection (1) of this section** applies to:

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

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

(c) Interpleader actions.

[(d) Adoptions under ORS chapter 109.]

[(e)] (d) Actions relating to a trust.

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

[(g)] (f) Declaratory judgment actions.

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

(3) The circuit court shall collect a filing fee of \$255 in adoption cases under ORS chapter 109 when a petition is filed for the purpose of commencing an adoption proceeding or when any other document or other first appearance is filed in the proceeding. The fee shall include the cost of issuing one or more certificates of adoption under ORS 109.410.

SECTION 1a. If House Bill 2365 becomes law, section 1 of this 2015 Act (amending ORS 21.135) is repealed and ORS 21.135, as amended by section 4, chapter 76, Oregon Laws 2014, and section 8, chapter __, Oregon Laws 2015 (Enrolled House Bill 2365), is amended to read:

21.135. (1) Unless a specific fee is provided by **subsection (3) of this section** or other law for a proceeding, a circuit court shall collect a filing fee of \$252 when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding and when an answer or other first appearance is filed in the proceeding.

(2) The filing fee established by **subsection (1) of this section** applies to:

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

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

(c) Interpleader actions.

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

[(e)] (d) Actions relating to a trust.

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

[(g)] (f) Declaratory judgment actions.

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

(3)(a) The circuit court shall collect a filing fee of \$255 in adoption cases under ORS chapter 109, excluding readoptions under ORS 109.385, when a petition is filed for the purpose of commencing an adoption proceeding or when any other document or other first appearance is filed in the proceeding. The fee shall include the cost of issuing one or more certificates of adoption under ORS 109.410.

(b) When separate petitions for adoption of multiple minor children are concurrently filed under ORS 109.309 by the same petitioner, one filing fee shall be charged for the first petition filed and the filing fees for concurrently filed petitions shall not be charged.

SECTION 2. ORS 109.410 is amended to read:

109.410. (1) The clerk of the court having custody of the adoption file shall issue upon request a certificate of adoption to the adopted person, the adoptive parents or parent, their attorney of record, in the proceeding, or to any child-placing agency which gave consent to the adoption. The certificate shall be substantially in the following form:

CERTIFICATE OF ADOPTION
IN THE _____ COURT
OF THE STATE OF OREGON
FOR THE COUNTY OF

In the Matter of the Adoption of:

File No. _____

Name after Adoption

This is to certify that on the ____ day of _____, 2____, a Judgment of Adoption was granted by the Honorable Judge _____ granting the adoption of the above-named person by _____.

The adopted person, above named, was born in the City of _____, County of _____, State of _____, on the ___ day of _____, 2____.

Dated at _____, Oregon, this ___ day of _____, 2____.

(Title of the Clerk of the Court)

(SEAL) By _____

Deputy

(2) The certificate of adoption may be issued by the judge who granted the adoption, instead of by the clerk of the court.

(3) The certificate of adoption shall not state the former name of the person adopted, unless the name was not changed by the judgment, and shall not state the name of either biological parent of the person adopted. However, if the adoption was by the adopted person's stepparent, the name of the adopting stepparent's spouse may be set forth in the certificate if requested.

[(4)(a) For the issuance of one certificate of adoption for any person who was adopted after October 3, 1979, a fee of not more than \$1 may be charged and collected by the clerk of the court.]

[(b) For additional certificates or for certificates of adoption for persons adopted prior to October 3, 1979, a fee of not more than \$1 for each certificate may be charged and collected by the clerk of the court.]

[(5)] (4) No certificate of adoption shall be issued to any person other than the persons described in subsection (1) of this section without order of the court.

[(6)] (5) For all purposes, the certificate of adoption shall constitute legal proof of the facts set forth therein, shall have the same force and effect and the same presumptions of validity as the judgment of adoption, and shall be entitled to full faith and credit.

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

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

(2) The clerk, court administrator or 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 109.321 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) For adoption cases filed on or after January 1, 2014:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The fee imposed and collected by the court for the filing of a motion under this subsection by the birth parent of an adult adoptee shall be in accordance with ORS 21.145, except that a fee may not be imposed or collected for a motion filed under this subsection for adoptions where the Department of Human Services consented to the adoption under ORS 109.325 or 419B.529.

(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) **Except as provided in subsection (5)(d) of this section**, 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.

Passed by House April 28, 2015

Received by Governor:

Repassed by House June 11, 2015

.....M.,....., 2015

.....
Timothy G. Sekerak, Chief Clerk of House

Approved:

.....M.,....., 2015

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate June 9, 2015

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Peter Courtney, President of Senate

.....
Jeanne P. Atkins, Secretary of State