

A-Engrossed
House Bill 2366

Ordered by the House April 23
Including House Amendments dated April 23

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)

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.

[Creates Task Force on Adoption Proceedings. Requires report to Legislative Assembly by September 15, 2016.]

[Sunsets on date of convening of 2017 regular session of Legislative Assembly.]

[Declares emergency, effective on passage.]

Modifies filing, motion and certificate fees in adoption proceedings.

A BILL FOR AN ACT

1
2 Relating to adoptions; amending ORS 21.135, 109.319 and 109.410.

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

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

6 21.135. (1) Unless a specific fee is provided by **subsection (3) of this section** or other law for
7 a proceeding, a circuit court shall collect a filing fee of \$252 when a complaint or other document
8 is filed for the purpose of commencing an action or other civil proceeding and when an answer or
9 other first appearance is filed in the proceeding.

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

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

12 (b) Appeals from a conviction of a violation in justice or municipal courts as provided in ORS
13 21.285.

14 (c) Interpleader actions.

15 *[(d) Adoptions under ORS chapter 109.]*

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

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

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

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

21 **(3) The circuit court shall collect a filing fee of \$255 in adoption cases under ORS chapter**
22 **109 when a petition is filed for the purpose of commencing an adoption proceeding or when**
23 **any other document or other first appearance is filed in the proceeding. The fee shall include**
24 **the cost of issuing one or more certificates of adoption under ORS 109.410.**

25 **SECTION 2.** ORS 109.410 is amended to read:

26 109.410. (1) The clerk of the court having custody of the adoption file shall issue upon request

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 a certificate of adoption to the adopted person, the adoptive parents or parent, their attorney of
2 record, in the proceeding, or to any child-placing agency which gave consent to the adoption. The
3 certificate shall be substantially in the following form:

4 _____
5
6 CERTIFICATE OF ADOPTION
7 IN THE _____ COURT
8 OF THE STATE OF OREGON
9 FOR THE COUNTY OF
10 _____

11
12 In the Matter of the Adoption of:
13 _____
14 _____

15 File No. _____

16 Name after Adoption

17
18 This is to certify that on the ____ day of _____, 2____, a Judgment of Adoption was
19 granted by the Honorable Judge _____ granting the adoption of the above-named
20 person by _____.

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

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

24 (Title of the Clerk of the Court)

25 (SEAL) By _____

26 Deputy
27 _____
28

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

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

35 [(4)(a) For the issuance of one certificate of adoption for any person who was adopted after October
36 3, 1979, a fee of not more than \$1 may be charged and collected by the clerk of the court.]

37 [(b) For additional certificates or for certificates of adoption for persons adopted prior to October
38 3, 1979, a fee of not more than \$1 for each certificate may be charged and collected by the clerk of the
39 court.]

40 [(5)] (4) No certificate of adoption shall be issued to any person other than the persons described
41 in subsection (1) of this section without order of the court.

42 [(6)] (5) For all purposes, the certificate of adoption shall constitute legal proof of the facts set
43 forth therein, shall have the same force and effect and the same presumptions of validity as the
44 judgment of adoption, and shall be entitled to full faith and credit.

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

1 to read:

2 109.319. (1) The clerk or court administrator of any court having jurisdiction over adoption
3 proceedings shall keep a separate record of the case for each adoption proceeding filed with the
4 court. Adoption proceedings shall not be entered upon the general records of the court.

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

14 (3) Prior to entry of judgment in an adoption proceeding, and after entry of judgment in an
15 adoption proceeding but prior to the minor child who is the subject of the adoption proceeding at-
16 taining 18 years of age, the following may inspect and copy sealed records, papers and files in the
17 court's record of an adoption case without a court order:

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

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

21 (c) The Department of Human Services.

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

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

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

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

32 (d) The Department of Human Services.

33 (5)(a) After entry of judgment in an adoption proceeding and after the minor child who is the
34 subject of the adoption proceeding has attained 18 years of age, an individual whose consent for the
35 adoption is required under ORS 109.321 may file a motion with the court to inspect and copy sealed
36 records, papers and files in the court's record of the adoption case.

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

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

40 (i) The Adoption Summary and Segregated Information Statement filed in accordance with ORS
41 109.317; and

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

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

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

1 Jurisdiction and Enforcement Act pursuant to ORS 109.767;

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

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

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

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

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

12 (A) A parent who has signed a release and surrender to the department under ORS 418.270, that
13 was accepted by the department, or whose parental rights were terminated under ORS 419B.500 and
14 419B.502 to 419B.524, may file a motion with the court to inspect or copy sealed records, papers and
15 files maintained in the court's record of the adoption case but may not be granted the right to in-
16 spect or copy:

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

18 (I) The Adoption Summary and Segregated Information Statement filed in accordance with ORS
19 109.317; and

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

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

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

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

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

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

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

35 **(d) The fee imposed and collected by the court for the filing of a motion under this sub-**
36 **section by the birth parent of an adult adoptee shall be in accordance with ORS 21.145, except**
37 **that a fee may not be imposed or collected for a motion filed under this subsection for**
38 **adoptions where the Department of Human Services consented to the adoption under ORS**
39 **109.325 or 419B.529.**

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

45 (7) The Department of Human Services or an Oregon licensed child-caring agency as defined in

1 ORS 418.205 may, without a court order, access, use or disclose records, papers and files in the
2 court's record of an adoption case that are in the possession of the department or the agency for
3 the purpose of providing adoption services or the administration of child welfare services that the
4 department or agency is authorized to provide under applicable federal or state law.

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

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

11 (10) The provisions of this section do not apply to the disclosure of information under ORS
12 109.425 to 109.507.

13 (11) **Except as provided in subsection (5)(d) of this section,** the court may impose and collect
14 fees for copies and services provided under this section, including but not limited to filing, in-
15 spection and research fees.

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

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

23
