

SENATE AMENDMENTS TO SENATE BILL 973

By COMMITTEE ON HUMAN SERVICES

May 10

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and insert
2 “109.309.”.

3 Delete lines 4 through 28 and delete pages 2 through 5 and insert:

4 “**SECTION 1.** ORS 109.309 is amended to read:

5 “109.309. (1) Any person may petition the circuit court for leave to adopt another person and,
6 if desired, for a change of the other person’s name. One petitioner, the child, one parent or the
7 person, who is not an adoption agency, consenting to the adoption as required under ORS 109.312
8 (1) must be a resident of this state. As used in this subsection, ‘resident’ means a person who has
9 resided in this state continuously for a period of six months prior to the date of the petition.

10 “(2) Except as provided in subsection (3) of this section, when the petition is for the adoption
11 of a minor child, the adoption [*shall be*] **is** governed by the Uniform Child Custody Jurisdiction and
12 Enforcement Act, ORS 109.701 to 109.834.

13 “(3)(a) Notwithstanding ORS 109.741 and 109.744, a court of this state has jurisdiction over the
14 adoption of a minor child if, immediately prior to the filing of a petition for adoption:

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

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

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

23 “(D) It appears that no court of another state would have jurisdiction under circumstances
24 substantially in accordance with subparagraphs (A) to (C) of this paragraph; or

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

28 “(b) As used in paragraph (a) of this subsection, ‘periods of temporary absence’ means periods
29 of absence of not more than a total of 30 days in the prior six consecutive months.

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

32 “(5) In a petition to adopt a minor child, venue [*shall lie*] **lies** in the Oregon county with which
33 the child has the most significant connection or in the Oregon county in which the licensed adoption
34 agency is located.

35 “(6)(a) When the petition is for the adoption of a minor child, the petitioner shall also file at the

1 time of filing the petition:

2 “(A) A written statement containing the full names and permanent addresses of:

3 “(i) **The child;**

4 “[*i*] (ii) The [*petitioners*] **petitioner;**

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

7 “(iv) **The persons with whom the child has lived during the last five years and the places**
8 **where the child has lived during that period, if the names and addresses may be readily as-**
9 **certained by the petitioner;**

10 “(v) **If known to the petitioner, any person not a party to the proceeding who has phys-**
11 **ical custody of the child or claims rights of legal custody or physical custody of, or parenting**
12 **time or visitation with, the child; and**

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

15 “(B) The documents demonstrating consent under ORS 109.312 to the adoption of the minor
16 child.

17 “(C) Written evidence documenting a current home study that has been approved by either the
18 Department of Human Services or an Oregon licensed adoption agency submitted for the purpose
19 of demonstrating that the [*petitioners meet*] **petitioner meets** the minimum standards for adoptive
20 homes as set forth in the department’s administrative rules.

21 “(b) A relative who qualifies under the department administrative rules for a waiver of the de-
22 partment’s home study requirements described in paragraph (a)(C) of this subsection may file the
23 request for waiver along with the petition for adoption.

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

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

32 “(b) In the case of an adoption described in subsection (6)(c) of this section, **the petitioner shall**
33 **also serve** the petition, [*shall also be served*] by either registered or certified mail with return re-
34 ceipt or personal service:

35 “(A) On all persons whose consent to the adoption is required under ORS 109.312 unless the
36 person’s written consent is filed with the court; and

37 “(B) On the parents of the party whose parental rights would be terminated, if the names and
38 addresses are known or may be readily ascertained by the [*petitioners*] **petitioner**. Service required
39 by this subparagraph may be waived by the court for good cause.

40 “(c) **When a parent of the child is deceased or incapacitated, the petitioner shall also**
41 **serve the petition on the parents of the deceased or incapacitated parent, if the names and**
42 **addresses are known or may be readily ascertained by the petitioner. Service required by this**
43 **paragraph may be waived by the court for good cause. As used in this paragraph:**

44 “(A) **‘Incapacitated’ means a condition in which a person’s ability to receive and evaluate**
45 **information effectively or to communicate decisions is impaired to such an extent that the**

1 **person lacks the capacity to meet the essential requirements for the person’s physical health**
2 **or safety.**

3 **“(B) ‘Meet the essential requirements for the person’s physical health or safety’ means**
4 **those actions necessary to provide the health care, food, shelter, clothing, personal hygiene**
5 **and other care without which serious physical injury or illness is likely to occur.**

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

8 “(8)(a) Within 90 days [of] **after** the service on the director, the department shall investigate and
9 file for the consideration of the judge before whom the petition for adoption is pending a placement
10 report containing information regarding the status of the child and evidence concerning the suit-
11 ability of the proposed adoption. The department may designate an Oregon licensed adoption agency
12 to investigate and report to the court. If the department designates an Oregon licensed adoption
13 agency to investigate and report to the court, the department shall make the designation and pro-
14 vide all necessary information and materials to the Oregon licensed adoption agency no later than
15 30 days after the service on the director. However, the department may waive the placement report
16 requirement.

17 “(b) Upon receipt of a written request by the petitioner’s attorney, the department shall furnish
18 to that attorney copies of any information that the department has filed with the court.

19 “(c) The department may charge the petitioner a fee for investigating a proposed nonagency
20 adoption and preparing the home study report described in subsection (6)(a)(C) of this section and
21 the placement report described in paragraph (a) of this subsection. The petitioner shall report the
22 fee amount to the court. The court granting the adoption shall make a finding as to whether the fee
23 is necessary and reasonable. Any fee charged may not exceed reasonable costs for investigation,
24 home study and placement report preparation. The department shall prescribe by rule the procedure
25 for computing the investigation, home study and placement report preparation fee. The rules shall
26 provide a waiver of either part or all of the fee based upon the petitioner’s ability to pay.

27 “(9) The amounts of any fees collected under subsection (8) of this section are continuously ap-
28 propriated to the department for use in preparing the home study and placement reports required
29 under subsections (6)(a)(C) and (8)(a) of this section.

30 “(10)(a) Except as provided in paragraph (b) of this subsection, a court may not grant a judgment
31 for the adoption of a minor child unless the [*petitioners have*] **petitioner has** filed with the court the
32 documents described in subsections (6) and (8)(a) of this section.

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

35 “(11) The adoption shall comply with the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), if
36 applicable. Every adoption petition involving the Indian Child Welfare Act shall include the follow-
37 ing:

38 “(a) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption;
39 and

40 “(b) A statement of the efforts to comply with the placement preferences of the Indian Child
41 Welfare Act (25 U.S.C. 1901 et seq.) or the placement preferences of the appropriate Indian tribe.

42 **“SECTION 2. The amendments to ORS 109.309 by section 1 of this 2005 Act apply only to**
43 **petitions for adoption filed on or after the effective date of this 2005 Act.”.**