

**A-Engrossed**  
**Senate Bill 973**

Ordered by the Senate May 10  
Including Senate Amendments dated May 10

Sponsored by COMMITTEE ON RULES (at the request of JoeAnn and Ron Johnson)

**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.

*[Permits child's birth relatives or other persons who have legal relationship with child to enter into written agreement with child or adoptive parents permitting continuing contact with child. Requires petitioner for adoption of minor child to serve copy of petition on child's grandparents and siblings, other members of child's birth family who have legal relationship with child and other persons who have legal relationship with child. Permits court to set aside adoption judgment for failure to serve petition. Permits minor child's grandparent or sibling, another member of child's birth family who has legal relationship with child or person who has legal relationship with child to file objection to adoption.]*

**Requires petitioner for adoption of minor child to file, at time of filing petition, written statement containing names and addresses of persons with whom child has lived during last five years and, if known to petitioner, any person not party to proceeding who has physical custody of child or claims certain rights pertaining to child. Requires petitioner, when parent of child is deceased or incapacitated, to serve petition on parents of deceased or incapacitated parent. Allows court to waive service for good cause.**

**A BILL FOR AN ACT**

1  
2 Relating to adoptions; creating new provisions; and amending ORS 109.309.

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

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, if  
6 desired, for a change of the other person's name. One petitioner, the child, one parent or the person,  
7 who is not an adoption agency, consenting to the adoption as required under ORS 109.312 (1) must  
8 be a resident of this state. As used in this subsection, "resident" means a person who has resided  
9 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 of  
11 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

**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 the present or future care of the minor child;

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

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

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

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

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

14 (6)(a) When the petition is for the adoption of a minor child, the petitioner shall also file at the  
15 time of filing the petition:

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

17 **(i) The child;**

18 [*i*] **(ii) The [*petitioners*] petitioner;**

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

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

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

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

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

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

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

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

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

45 (b) In the case of an adoption described in subsection (6)(c) of this section, **the petitioner shall**

1 **also serve** the petition, [*shall also be served*] by either registered or certified mail with return re-  
 2 ceipt or personal service:

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

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

8 **(c) When a parent of the child is deceased or incapacitated, the petitioner shall also serve**  
 9 **the petition on the parents of the deceased or incapacitated parent, if the names and ad-**  
 10 **resses are known or may be readily ascertained by the petitioner. Service required by this**  
 11 **paragraph may be waived by the court for good cause. As used in this paragraph:**

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

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

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

21 (8)(a) Within 90 days [*of*] **after** the service on the director, the department shall investigate and  
 22 file for the consideration of the judge before whom the petition for adoption is pending a placement  
 23 report containing information regarding the status of the child and evidence concerning the suit-  
 24 ability of the proposed adoption. The department may designate an Oregon licensed adoption agency  
 25 to investigate and report to the court. If the department designates an Oregon licensed adoption  
 26 agency to investigate and report to the court, the department shall make the designation and pro-  
 27 vide all necessary information and materials to the Oregon licensed adoption agency no later than  
 28 30 days after the service on the director. However, the department may waive the placement report  
 29 requirement.

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

32 (c) The department may charge the petitioner a fee for investigating a proposed nonagency  
 33 adoption and preparing the home study report described in subsection (6)(a)(C) of this section and  
 34 the placement report described in paragraph (a) of this subsection. The petitioner shall report the  
 35 fee amount to the court. The court granting the adoption shall make a finding as to whether the fee  
 36 is necessary and reasonable. Any fee charged may not exceed reasonable costs for investigation,  
 37 home study and placement report preparation. The department shall prescribe by rule the procedure  
 38 for computing the investigation, home study and placement report preparation fee. The rules shall  
 39 provide a waiver of either part or all of the fee based upon the petitioner's ability to pay.

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

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

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

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

6 (a) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption;  
7 and

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

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

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