Chapter 109

1961 REPLACEMENT PART

Parent and Child Relationship; Filiation Proceedings; Adoption; Age of Majority

PARENT AND CHILD RELATIONSHIP

109.010 Duty of support
109.020 When child's maintenance and education may be defrayed out of income of own property
109.030 Equality in rights and responsibilities of parents
109.041 Relationship between adopted child and his natural and adoptive parents
109.050 Relation of adopted child to adopting parents
109.060 Legal status and legal relationships where parents not married
109.070 Establishing paternity
109.080 Rights of mother if not married to father of child or where paternity of child not established
109.090 Interpretation of ORS 109.060 to 109.090 and 111.231

FILIATION PROCEEDINGS

109.110 Initiation of proceedings
109.120 Proceedings on return of warrant; removal of action
109.130 Payment or security in satisfaction of the wrong; bond to secure county's costs and expenses; discharge of accused
109.140 Failure to comply with settlement provisions; new complaint after discharge for want of evidence
109.150 Conduct of trial; judgment; appeal; corroborative evidence
109.160 Bond for performance of judgment; discharge thereon; commitment on failure to give bond
109.170 Discharge from imprisonment; recommitment
109.180 Execution
109.190 Failure of the mother to prosecute
109.200 Proceedings at instance of public officer
109.210 Execution of warrant in any part of state; attendance and testimony of the female
109.220 Power of judge to compromise with the father and discharge him
109.230 Legality of contract between mother and father of child born out of wedlock

UNIFORM ACT ON BLOOD TESTS TO DETERMINE PATERNITY

109.250 Short title
109.252 Authority for blood test; effect of refusal to submit to test
109.254 Selection of experts to make tests; examination of experts
109.256 Compensation of experts
109.258 Effect of test results
109.260 Applicability to criminal actions
109.262 Uniformity of interpretation

ADOPTION

109.305 Interpretation of adoption laws
109.310 Petition for leave to adopt and for change of name
109.312 Consent to adoption
109.314 Consent where custody of child has been awarded in divorce proceedings
109.316 Consent by State Public Welfare Commission or an approved child-caring agency of this state
109.318 Consent by organization located outside Oregon
109.322 Consent where parent mentally ill, mentally deficient or imprisoned
109.324 Consent where parent has deserted or neglected child
109.326 Consent where parents not married to each other
109.328 Child 14 years of age or older must also consent
109.329 Consent where person to be adopted has reached age of majority
109.330 Notice to nonconsenting parent; notice where child has no parent, guardian or next of kin
109.345 Transfer of contested adoption proceeding from county court to circuit court
109.350 Decree of adoption
109.360 Change of adopted child's name
109.370 Appeal from decree on a petition for adoption
109.381 Effect of decree of adoption
109.385 Certain adoptions in foreign nations recognized; evidence
109.390 Authority of State Public Welfare Commission or child-caring agency in adoption proceedings
109.400 Adoption report form

AGE OF MAJORITY

109.510 Age of majority
109.520 Majority of married persons

CROSS REFERENCES

Action for injury or death of child, 30.010
Action for seduction of daughter, 30.710
Adopted child, inheritance by and from, 111.210, 111.212
Adoption, criminal aspects of, 167.645
Adoption record with State Board of Health, 432.410 to 432.420
Annuity:
Purchase by minor, 736.330
Receipt of proceeds by minor, 736.335
Child welfare, Ch. 418
Cost of care of person at state institution, relatives' liability, 179.630
Deposits in name of minor, 716.740
Enforcement of duty to support dependents, Ch. 110
Gifts to minors, 126.805 to 126.880
Guardians, parents preferred for appointment as, 126.166
Juvenile court, transfer of certain proceedings involving children to, 419.478
Legitimation of issue of certain imperfect marriages, 106.190, 106.210
Marriages validated, 107.150
Obscene matter, sale to minors, penalty, 167.151
Presumption of legitimacy, 41.350(6), 41.360(31)
Referral of child to out-patient clinic of state hospital, 426.224
Validation of adoption proceedings between January 1, 1956, and August 20, 1957, otherwise defective because jurisdiction over adoption transferred from court, 1957 c.403 §9
Workman's compensation law, coverage of minors, 656.132

109.010

Accounting for support payments, 107.420
Child committed to state training school, support by parent, 419.513
Criminal nonsupport, 131.360, 167.605
Decree of divorce or annulment in respect of support of children, 107.100
Father's duty to support minor or adopted children, 108.110
Juvenile Compact Administrator, recovery of expenses, 417.060
Juvenile court:
Jurisdiction based on failure of parents to support child, 419.476
Obligation to support child within jurisdiction of, 419.519
Parent's liability for family expenses and education of children, 108.040
Welfare Recovery Division, powers of with respect to enforcement of support, 180.310 to 180.370

109.020

Income of property in trust for infant, 128.060

109.030

Liability of parents for tort to property by child, 30.770

109.060

Descent and distribution where parents not married, 111.231

109.070

Birth certificate of child legitimized by subsequent intermarriage of parents, 432.425
Child born in lawful wedlock is legitimate, 41.360(31)
Presumption that issue of wife cohabiting with her husband, who is not impotent, is legitimate, 41.350(6)

109.080

Consent in adoption matters where parents not married, 109.326
Juvenile court proceedings, 419.472 to 419.616

109.120

Deposits in lieu of bond or bail, Ch. 22

109.140

Deposits in lieu of bond or bail, Ch. 22

109.150

Enforcement of support order or decree, 23.775 to 23.790

109.160

Deposits in lieu of bond or bail, Ch. 22

109.260

Witness fees in criminal proceedings, time and manner of claiming, 44.450

109.310

Adoption report form, 109.400
Effect on adoption proceeding of order by juvenile court terminating parental rights, 419.529
Fee, original appearance, 21.280
Probate jurisdiction, 3.130, 5.040, 46.092
Records in adoption cases, 7.211
Validation of adoption proceedings in certain county courts for period January 1, 1956-August 20, 1957, 1957 c.403 §9

109.312

Consent to adoption of child committed to child-caring agency which is guardian of child, 419.130 and 419.270

109.324

Termination of parental rights by juvenile court on grounds of abandonment, 419.523

109.326

Adoption jurisdiction, 109.310
Adoption proceedings instituted before August 5, 1959, 1959 c.609 §6
Juvenile courts, 3.150, 3.160, 3.330, 5.020, 46.092
Rights of father if not married to child's mother, 109.060, 109.080
Rights of mother if not married to father of child, 109.080

109.330

Termination of parental rights by juvenile court on grounds of unfitness of parents, 419.523

109.350

Fee, original appearance, 21.280
Sealing and inspection of adoption records, 7.211

109.360

Certificate supplemental to adopted person's birth certificate, 432.415

109.390

Commitments of children to State Public Welfare Commission, 418.320
Consent to adoption and guardianship of children by commission, 418.285

109.400

Proceedings when petition for adoption filed before August 5, 1959, 1959 c.430 §6
Recording adoptions, 432.415

109.510

Acknowledgment by married women, 93.415
Adoption proceedings, majority of unmarried mother, 109.326
Indorsement of negotiable instrument by infant, 71.022
Sale of necessaries to infant, 75.020

109.520

Indorsement by infant, 71.022
Sale of necessaries to infant, 75.020
Will, execution of, 114.020

PARENT AND CHILD RELATIONSHIP

109.010 Duty of support. Parents are bound to maintain their children who are poor and unable to work to maintain themselves; and children are bound to maintain their parents in like circumstances.

109.020 When child's maintenance and education may be defrayed out of income of own property. If any minor, whose father is living, has property the income of which is sufficient for his maintenance and education in a manner more expensive than the father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the expenses of the maintenance and education of such minor may be wholly or partially defrayed out of the income of his own property, as is judged reasonable by the county court. The charges therefor may be allowed accordingly in the settlement of the accounts of his guardian.

109.030 Equality in rights and responsibilities of parents. The rights and responsibilities of the parents, in the absence of misconduct, are equal, and the mother is as fully entitled to the custody and control of the children and their earnings as the father. In case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death.

109.040 [Repealed by 1953 c.650 §4]

109.041 Relationship between adopted child and his natural and adoptive parents. (1) The effect of a decree of adoption heretofore or hereafter granted by a court of this state shall be that the relationship, rights and obligations between an adopted person and his descendants and

(a) His adoptive parents, their descendants and kindred, and

(b) His natural parents, their descendants and kindred

shall be the same to all legal intents and purposes after the entry of such decree as if the adopted person had been born in lawful wedlock to his adoptive parents and had not been born to his natural parents.

(2) Where a person has been or shall be adopted in this state by his stepparent, this section shall leave unchanged the relationship, rights and obligations between such adopted person and his descendants and his natural parent, who is the spouse of the person who adopted him, and the descendants and kindred of such natural parent.
[1953 c.650 §1]

109.050 Relation of adopted child to adopting parents. An adopted child bears the same relation to his adoptive parents and their kindred in every respect pertaining to the relation of parent and child as he would if he were the natural child of such parents.

109.060 Legal status and legal relationships where parents not married. The legal status and legal relationships and the rights and obligations between a person and his descendants, and between a person and his parents, their descendants and kindred, are the same for all persons, whether or not the parents have been married.
[1957 c.411 §1]

109.070 Establishing paternity. The paternity of a person may be established as follows:

(1) The child of a wife cohabiting with her husband who is not impotent, shall be conclusively presumed to be the child of her husband, whether or not the marriage of the husband and wife may be void.

(2) A child born in wedlock, there being no decree of separation from bed or board, shall be presumed to be the child of the mother's husband, whether or not the marriage of the husband and wife may be void. This shall be a disputable presumption.

(3) By the marriage of the parents of a child after his birth.

(4) By filiation proceedings as provided in ORS 109.110 to 109.230.

(5) By paternity being established or declared by other provision of law.
[1957 c.411 §2]

109.080 Rights of mother if not married to father of child or where paternity of child not established. If a mother has not married the father of her child or the paternity of the child has not been established under ORS 109.070, the mother may give all authorizations for the care, custody, control and welfare of her child and for the adoption of her child; and she may be given notice of juvenile court proceedings relative to her child. The foregoing may be done without any act of the father of the child and without any notice or citation to the father, the same as if the father were dead, all irrespective of the age of the mother, who, if she

is a minor, shall nonetheless be deemed to have attained her majority for the purposes of this section.
[1957 c.411 §4; 1959 c.432 §64]

109.090 Interpretation of ORS 109.060 to 109.090 and 111.231. (1) The provisions of ORS 109.060 to 109.090 and 111.231 shall apply to all persons, irrespective of whether they are born before or after August 20, 1957. ORS 109.060 to 109.090 and 111.231 shall not be construed to affect a decree of distribution entered, or any probate proceeding closed, prior to August 20, 1957.

(2) ORS 109.060 to 109.090 and 111.231 shall be liberally construed, with the view of effectuating their objects, notwithstanding the rule of common law that statutes in derogation thereof are to be strictly construed.
[1957 c.411 §§5, 6]

109.100 [Reserved for expansion]

FILIATION PROCEEDINGS

109.110 Initiation of proceedings. On complaint being made to any justice of the peace by any unmarried female who is delivered of a child born out of wedlock or who is pregnant with a child which, if born alive, may be born out of wedlock, accusing any person of being the father of the child, the justice shall take the complaint in writing under the oath of the female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable in his county, commanding him forthwith to bring the accused before the justice to answer to the complaint.
[Amended by 1961 c.338 §1]

109.120 Proceedings on return of warrant; removal of action. (1) On the return of the warrant mentioned in ORS 109.110, if the accused is in custody or appears, the justice shall examine the complainant under oath respecting the cause of complaint, and the accused may cross-examine her and put any question necessary for his defense, subject to the rules of evidence provided by the procedural statutes. Witnesses may be examined on behalf of either party. All testimony and proceedings shall be reduced to writing.

(2) The proceedings for cause shown may be adjourned from time to time, not exceeding five days at any one time. On such adjournment the accused may be recognized for his appearance for such examination in a sum not less than $100 nor more than $1,000, with sureties to the satisfaction of the justice. In default thereof he shall be committed, pending such examination, to the county jail.

(3) The accused is entitled to a removal of such action as in criminal examination before justices of the peace.

109.130 Payment or security in satisfaction of the wrong; bond to secure county's costs and expenses; discharge of accused. If the accused pays or secures to be paid to the female complaining, such sum of money or other property as she agrees to receive in full satisfaction and as is approved by the judge of the juvenile court of the county wherein such action is pending, of which agreement and approval the justice shall make a memorandum on his docket; gives bond with sufficient sureties to be approved by the justice to the county to secure and indemnify the county from all charges for the maintenance of the child; and pays all expenses incurred by the county for the lying-in and support of the mother, attendance upon her during her confinement and the costs of prosecution, the justice shall discharge the accused.

109.140 Failure to comply with settlement provisions; new complaint after discharge for want of evidence. In case the accused does not comply with the provisions of ORS 109.130 and there is probable cause to believe the accused guilty, the justice shall bind such person in a recognizance, with one or more sureties, to be approved by the justice, in a sum of not less than $200 nor more than $2,000, to appear before the circuit court for the proper county to answer to the complaint and to abide by the order of said court thereon. On the accused's neglect or refusal to find such security, the justice shall cause him to be committed to the county jail, there to be held to answer to the complaint. The justice shall thereupon certify and return the examination and all testimony taken before him, with all process and papers in the case, to the clerk of the circuit court. In case any examination has been had, as provided by law, and the person complained of has been discharged for want of sufficient evidence to raise a probability of his guilt, and the district attorney afterwards finds admissible evidence sufficient, in his judgment, to convict the person discharged, he may, notwithstanding the

discharge, cause another complaint to be made before any officer authorized by law to make such examination, and thereupon another arrest and examination shall be had.
[Amended by 1959 c.638 §10]

109.150 Conduct of trial; judgment; appeal; corroborative evidence. (1) The judge may exclude the general public from the trial in filiation proceedings, and shall do so at the request of either party. The issue at such a trial is whether the accused is guilty or not. If the mother of the child is dead, her examination taken before the justice may be read in evidence, and in all cases it shall be read when demanded by the accused.

(2) If the accused is found guilty or admits the truth of the accusation, he shall be adjudged to be the father of the child and shall be chargeable with its future maintenance in such sum and in such manner as the court directs, with all expenses incurred by the county or by the mother of the child for the lying-in and attendance of the mother during her confinement, with the care and support of the child since its birth and with the costs of the prosecution. All such matters shall be ascertained and fixed by the court, and shall be inserted in the judgment; provided, however, that the judgment of the court providing for the maintenance of the child by the father shall be in a yearly sum of not more than $900 for each year succeeding until the child reaches the age of 18 years. The court, in determining the amount to be paid, shall give due regard to the financial resources of the parties.

(3) The defendant has the right of trial by jury and of appeal, as provided in civil actions.

(4) No conviction shall be had upon the uncorroborated testimony of the complaining female.
[Amended by 1961 c.338 §2]

109.160 Bond for performance of judgment; discharge thereon; commitment on failure to give bond. If the person adjudged under ORS 109.150 to be the father of the child gives a bond to the proper person in such sum and with such sureties as the court approves, conditioned upon the performance of the judgment and the payment of all sums ordered paid as therein directed, and pays the costs of prosecution and any sums adjudged then to be paid, he shall be discharged; otherwise he shall be committed to the county jail until he complies with and performs the judgment or is otherwise discharged according to law. In counties maintaining a house of correction or workhouse, the commitment may be to either of these rather than to the county jail.

109.170 Discharge from imprisonment; recommitment. Any person imprisoned for 90 days pursuant to ORS 109.160 may apply for his discharge from imprisonment to the court having jurisdiction of the action. Notice of the application for discharge shall be given to the complainant, if living, within the state and to the district attorney for the county at least 15 days before such application is made. Any such person may be recommitted as provided in ORS 109.160 within 30 days after such discharge.

109.180 Execution. The court, upon motion by the mother of the child or by any person interested, may, from time to time, order execution to issue against the defendant and his sureties in any bond given as provided in ORS 109.160 to secure the performance of any such judgment, or against a defendant who has been discharged under ORS 109.170 for such sum as at any time becomes due on the judgment and remains unpaid.

109.190 Failure of the mother to prosecute. When the mother of a child born out of wedlock commences any proceedings authorized by ORS 109.110 and fails to prosecute the same, the proper officers of the county or any person interested in the support of the child may prosecute the proceedings commenced by the mother to final judgment.
[Amended by 1961 c.338 §3]

109.200 Proceedings at instance of public officer. If any female is delivered of a child born out of wedlock which is, or is likely to become a public charge, or if the female is pregnant with a child likely to be born out of wedlock and become a public charge, any public officer duly authorized to make or cause arrests may, if he deems it proper, apply to some justice of the peace of the county in which the female resides who shall thereupon examine her in respect of the identity of the father of the child, when and where it was begotten, and as to such other circumstances as he may deem necessary. The justice shall reduce the examination to writing and shall thereupon issue his warrant, without further or formal complaint, to apprehend the putative father, and

the same proceeding shall be had thereon and with like effect as is in ORS 109.120 to 109.180 provided in cases of complaint made by the female.
[Amended by 1961 c.338 §4]

109.210 Execution of warrant in any part of state; attendance and testimony of the female. Any warrant issued under ORS 109.110, 109.140 or 109.200 may be executed in any part of this state; and in all cases the county officers and the accused may compel the female to attend and testify the same as witnesses in other cases.

109.220 Power of judge to compromise with the father and discharge him. The judge of the juvenile court of the county in which the female referred to in ORS 109.110 resides may make such compromise or arrangement with the putative father of any child born out of wedlock relative to the support of the child as the judge deems equitable and just, and thereupon may discharge the putative father from all liability for the support of the child.
[Amended by 1961 c.338 §5]

109.230 Legality of contract between mother and father of child born out of wedlock. Any contract between the mother and father of a child born out of wedlock is a legal contract, and the admission by the father of his fatherhood of the child is sufficient consideration to support the contract.
[Amended by 1961 c.338 §6]

109.240 [Reserved for expansion]

UNIFORM ACT ON BLOOD TESTS TO DETERMINE PATERNITY

109.250 Short title. ORS 109.250 to 109.262 may be cited as the Uniform Act on Blood Tests to Determine Paternity.
[1953 c.628 §7]

109.252 Authority for blood test; effect of refusal to submit to test. In a civil action under ORS 109.110 to 109.230, in which paternity is a relevant fact, the court, upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved may, or upon motion of any party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood tests. If any party refuses to submit to such tests, the court may resolve the question of paternity against such party or enforce its order if the rights of others and the interests of justice so require.
[1953 c.628 §1]

109.254 Selection of experts to make tests; examination of experts. The tests shall be made by experts qualified as examiners of blood types who shall be appointed by the court. The experts shall be called by the court as witnesses to testify to their findings and shall be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood types, perform independent tests under order of court, the results of which may be offered in evidence. The number and qualifications of such experts shall be determined by the court.
[1953 c.628 §2]

109.256 Compensation of experts. (1) The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. The court may order that it be paid by the parties in such proportions and at such times as it shall prescribe, or that the proportion of any party be paid by the county in which the proceedings are had, and that, after payment by the parties or such county or both, all or part or none of it be taxed as costs in the action.

(2) The fee of an expert witness called by a party but not appointed by the court shall be paid by the party calling him but shall not be taxed as costs in the action.
[1953 c.628 §3]

109.258 Effect of test results. If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question shall be submitted upon all the evidence. If the experts conclude that the blood tests show the possibility of the alleged father's paternity, admission of this evidence is within the discretion of the court, depending upon the infrequency of the blood type.
[1953 c.628 §4]

109.260 Applicability to criminal actions. ORS 109.250 to 109.262 shall apply to criminal cases subject to the following limitations and provisions:

(1) An order for the tests shall be made only upon application of a party or on the court's initiative.

(2) The compensation of the experts shall be paid by the county in which the proceedings are had under order of court.

(3) The court may direct a verdict of acquittal upon the conclusions of all the experts under the provisions of ORS 109.258, otherwise the case shall be submitted for determination upon all evidence.
[1953 c.628 §5]

109.262 Uniformity of interpretation. The Uniform Act on Blood Tests to Determine Paternity shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.
[1953 c.628 §6]

109.264 to 109.300 [Reserved for expansion]

ADOPTION

109.305 Interpretation of adoption laws. The rule that statutes in derogation of common law are to be strictly construed does not apply to the adoption laws of this state.
[1957 c.710 §15]

109.310 Petition for leave to adopt and for change of name. (1) Any person may petition any court having probate jurisdiction for leave to adopt another and, if desired, for a change of the other's name; but the prayer of the petition by a married person shall not be granted unless the petitioner's spouse joins therein.

(2) The petition may be filed in the county where the petitioner resides, if he is a resident of this state; in the county where the parent or guardian of the other resides, if the other is a child; or, if the petition is for the adoption of a child committed to any institution incorporated under the laws of this state to care for dependent or delinquent children, in the county where the institution is situated.

(3) If such petition is for the adoption of a minor child, a copy thereof together with a statement containing the full names and permanent address of the petitioners, shall be served on the administrator of the State Public Welfare Commission by registered mail or personally; and no petition for adoption of such child shall be granted by any court until the expiration of 30 days from the filing of the petition, unless the running of such time is waived by the commission.

(4) Within the time and in the manner provided in this section, the commission may file for the consideration of the judge before whom the petition for adoption is pending such information regarding the status of the child and evidence as to the suitability of the proposed foster home as the commission desires to submit. Upon written request of the attorney for the petitioner, the State Public Welfare Commission shall furnish to him a copy of such information as is filed with the court.
[Amended by 1953 c.368 §2; 1957 c.403 §5; 1959 c.430 §3]

109.312 Consent to adoption. Except as provided in ORS 109.314 to 109.329, consent in writing to the adoption under ORS 109.310 of a child shall be given by:

(1) The parents of the child, or the survivor of them.

(2) The guardian of the person of the child, if the child has no living parent.

(3) The next of kin in this state, if the child has no living parent and no guardian of the person.

(4) Some suitable person appointed by the court to act in the proceeding as next friend of the child to give or withhold consent, if the child has no living parent and no guardian or next of kin qualified to consent.
[1957 c.710 §2 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.314 Consent where custody of child has been awarded in divorce proceedings. If the legal custody of the child has been awarded in divorce proceedings, the written consent of the person to whom custody of the child has been awarded may be held sufficient by the court; but, unless the parent not having custody consents to the adoption, a citation to show cause why the proposed adoption shall not be made shall be served in accordance with ORS 109.330 upon the parent not having the custody, and the objections of such parent shall be heard if appearance is made. This section does not apply where consent is given in loco parentis under ORS 109.316 or 109.318.
[1957 c.710 §3 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.316 Consent by State Public Welfare Commission or an approved child-caring agency of this state. (1) The State Public Welfare Commission or an approved child-caring agency of this state, acting in loco parentis, may consent to the adoption of a child who has been:

(a) Surrendered to it for the purpose of adoption under ORS 419.270 if compliance is had with the provisions of that section; or

(b) Permanently committed to it by order of a court of competent jurisdiction; or

(c) Surrendered to it for the purpose of adoption under ORS 419.128 by one parent if compliance is had with the provisions of that section and permanently committed to it by a court of competent jurisdiction having jurisdiction of the other parent.

(2) Where consent is given under this section, no other consent is required.

(3) Where consent is given under this section, there shall be filed in the adoption proceeding:

(a) A certified copy of an order of a court of competent jurisdiction formally and permanently assigning the guardianship of the child to the commission or the child-caring agency, or a copy of the surrender of the child from its parent or parents or guardian, or both, as the case may be; and

(b) Written formal consent by the commission or the child-caring agency, as the case may be, to the proposed adoption, showing that sufficient and satisfactory investigation of the adopting parties has been made and recommending that the adoption be granted. The consent of the commission or the child-caring agency to the proposed adoption may be given by one of its officers, executives or employes who has been authorized or designated by it for that purpose.

[1957 c.710 §4 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.318 Consent by organization located outside Oregon. (1) An agency or other organization, public or private, located entirely outside of this state, or an authorized officer or executive thereof, acting in loco parentis, may consent to the adoption of a child under its or his custody, control or guardianship of the person, if such agency or organization or officer or executive thereof is licensed or otherwise has authority in the jurisdiction in which such agency or other organization is located to consent to adoptions in loco parentis. When consent is given under this section, no other consent is required. The license or other authority to consent to adoption in loco parentis shall be conclusively presumed upon the filing with the court of a duly certified statement from an appropriate governmental agency of such other state that such agency or organization or officer or executive is licensed or otherwise has authority in such state to consent to adoptions in loco parentis.

(2) Where consent is given under this section, there shall be filed in the adoption proceeding:

(a) A certified copy of the court order, or the written authorization from the parent, parents or other person, or both a court order and such written authorization, as the case may be, that enables consent to be given in loco parentis under the law of such other jurisdiction; and

(b) Written formal consent by the agency or other organization, or the officer or executive thereof, to the proposed adoption, showing that sufficient and satisfactory investigation of the adopting parties has been made and recommending that the adoption be granted.

[1957 c.710 §5 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.320 [Repealed by 1957 c.710 §1 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.322 Consent where parent mentally ill, mentally deficient or imprisoned. If either parent has been adjudged mentally ill or mentally deficient and remains so at the time of the adoption proceedings, or is imprisoned in a state or federal prison under a sentence for a term of not less than three years, there shall be served upon such parent, if he has not consented in writing to the adoption, a citation in accordance with ORS 109.330 to show cause why the adoption of the child should not be decreed. In the case of a person adjudged mentally ill or mentally deficient, the citation shall also be served upon the guardian of his person or, if he has no guardian of the person, the court shall appoint a guardian ad litem to appear for the person in the adoption proceedings. Upon hearing being had, if the court finds that the welfare of the child will be best promoted through the adoption of the child, the consent of the mentally ill, mentally deficient or imprisoned parent is not required, and the court shall have authority to proceed regardless of the objection of such parent. This section does not apply where consent is given in loco parentis under ORS 109.316 or 109.318.

[1957 c.710 §6 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.324 Consent where parent has deserted or neglected child. If either parent is believed to have wilfully deserted or neglected without just and sufficient cause to provide proper care and maintenance for the child for one year next preceding the filing of the petition for adoption and such parent does not consent in writing to the adoption, there shall be served upon such parent a citation in accordance with ORS 109.330 to show cause why the adoption of the child should not be decreed. Upon hearing being had, if the court finds that such parent has wilfully deserted or neglected without just and sufficient cause to provide proper care and maintenance for the child for one year next preceding the filing of the petition for adoption, the consent of such parent at the discretion of the court is not required and, if the court determines that such consent is not required, the court shall have authority to proceed regardless of the objection of such parent. In determining whether the parent has wilfully deserted or neglected without just and sufficient cause to provide proper care and maintenance for the child, the court may disregard incidental visitations, communications and contributions. This section does not apply where consent is given in loco parentis under ORS 109.316 or 109.318.

[1957 c.710 §7 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.326 Consent where parents not married to each other. (1) The consent of the mother of the child is sufficient, and for the purpose of giving such consent the mother of the child shall be deemed to have arrived at the age of majority and for all purposes relating to the adoption of the child the father of the child shall be disregarded just as if he were dead, when it is shown in the court in which the adoption proceedings are pending that:

(a) The mother of the child was unmarried at the time of the conception of the child to be adopted and remained unmarried at the time of the birth of the child and was not married to the father of the child at the time of her consent to the adoption or surrender of the child for the purpose of adoption under ORS 419.270; or

(b) When the mother of the child was married at the time of the conception or birth of the child, and it has been judicially determined that her husband at such time or times was not the father of the child. Such determination of nonpaternity may be made by any court having adoption or juvenile court jurisdiction. The testimony or affidavit of the mother or such husband shall constitute competent evidence before the court making such determination. Before making such determination of nonpaternity, citation to show cause why such husband's parental rights should not be terminated shall be served on him personally, if found in the state, and if not found in the state, then a copy of the citation shall be published or served in the manner provided by ORS 116.750 for the service of citation by publication or for personal service outside the state.

(2) If the mother described in subsection (1) of this section is dead or unknown, consent shall be obtained in the same manner as if such child had no living parent.

[1957 c.710 §8 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320); 1959 c.609 §1]

109.328 Child 14 years of age or older must also consent. If the child is 14 years of age or older, the adoption shall not be made without his consent. The consent required by this section is in addition to, and not in lieu of, the consent otherwise required by law.

[1957 c.710 §9 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.329 Consent where person to be adopted has reached age of majority. If the person to be adopted is legally married or is 21 years of age or older, his written consent may be held by the court to be sufficient without the necessity for the consent of any other person to the adoption.

[1957 c.710 §10 (ORS 109.312 to 109.329 enacted in lieu of ORS 109.320)]

109.330 Notice to nonconsenting parent; notice where child has no parent, guardian or next of kin. (1) In the cases provided for in ORS 109.314, 109.322 and 109.324, where a parent does not consent to the adoption of his child, the court shall order a copy of the petition therefor and citation thereon to be served on him personally, if found in the state, and if not found in the state, then a copy of the citation to be published or served in the manner provided by ORS 116.750 for the service of citation by publication or for personal service outside the state, and a copy of the citation to be deposited forthwith in the postoffice, directed to such parent at his place of residence, unless it appears that such residence is neither known to the petitioner nor can

with reasonable diligence be ascertained by him.

(2) If the child has no living parent and no guardian or next of kin in this state qualified to appear in its behalf, the court may order such notice, if any, to be given as it deems necessary or proper.
[Amended by 1957 c.710 §11]

109.340 [Repealed by 1957 c.412 §2 (ORS 7.211 enacted in lieu of ORS 109.340)]

109.345 Transfer of contested adoption proceeding from county court to circuit court. Any contested adoption proceeding in the county court, at any time prior to the commencement of a trial or hearing, may be transferred by the county court to the circuit court for the county in which the proceeding is pending. Such transfer may be made on the county court's own motion, or upon motion made and filed by any party to the proceeding. Such transfer shall be made upon motion made and filed by any party. To effect such transfer the county court shall enter an order transferring the proceeding to the circuit court, and the county court's finding, recited in said order, that the proceeding is contested shall be a conclusive determination that the proceeding is an appropriate one to be so transferred under the provisions of this section. The circuit court shall thereupon acquire exclusive jurisdiction of the proceeding to the same extent and with like effect as though the proceeding were in the court on original jurisdiction. The circuit court shall proceed to hear and determine the matter and make a final decree in the proceeding, and to that end shall have all the jurisdiction, powers and intendments of the law possessed by a court of original adoption jurisdiction. Upon any such transfer, all the records, files and proceedings of the county court in the proceeding shall become likewise the records, files and proceedings of the circuit court without payment of any further filing fee. An appeal shall lie to the Supreme Court from the decree or other appealable determinative order of the circuit court in such proceeding.
[1961 c.99 §1]

109.350 Decree of adoption. If, upon a petition for adoption duly presented and consented to, the court is satisfied as to the identity and relations of the persons, that the petitioner is of sufficient ability to bring up the child and furnish suitable nurture and education, having reference to the degree and condition of the parents, and that it is fit and proper that such adoption be effected, a decree shall be made setting forth the facts, and ordering that from the date of the decree the child, to all legal intents and purposes, is the child of the petitioner.
[Amended by 1959 c.430 §4]

109.360 Change of adopted child's name. If in a petition for the adoption of a child a change of the child's name is requested, the court, upon decreeing the adoption, may also decree the change of name and grant a certificate thereof without the notices required by ORS 33.420.

109.370 Appeal from decree on a petition for adoption. Where a court other than the circuit court has probate jurisdiction, any party to an adoption proceeding may appeal to the circuit court from the decree of the probate court on a petition for the adoption of another in like manner as appeals may be taken from the other decrees of that court. If the appeal is by a child made the subject of such petition, appearing by a next friend, no bond shall be required, or costs awarded against such child or next friend.
[Amended by 1957 c.403 §7; 1961 c.98 §1]

109.380 [Repealed by 1959 c.609 §5]

109.381 Effect of decree of adoption. (1) A decree of a court of this state granting an adoption, and the proceedings in such adoption matter, shall in all respects be entitled to the same presumptions and be as conclusive as if rendered by a court of record acting in all respects as a court of general jurisdiction and not by a court of special or inferior jurisdiction, and jurisdiction over the persons and the cause shall be presumed to exist.

(2) Except for such right of appeal as may be provided by law, decrees of adoption shall be binding and conclusive upon all parties to the proceeding. No party nor anyone claiming by, through or under a party to an adoption proceeding, may for any reason, either by collateral or direct proceedings, question the validity of a decree of adoption entered by a court of competent jurisdiction of this or any other state.

(3) After the expiration of one year from the entry of a decree of adoption in this state the validity of the adoption shall be binding on all persons, and it shall be conclusively presumed that the child's natural parents

and all other persons who might claim to have any right to, or over the child, have abandoned him and consented to the entry of such decree of adoption, and that the child became the lawful child of the adoptive parents or parent at the time when the decree of adoption was rendered, all irrespective of jurisdictional or other defects in the adoption proceeding; after the expiration of such one-year period no one may question the validity of the adoption for any reason, either through collateral or direct proceedings, and all persons shall be bound thereby; provided, however, the provisions of this subsection shall not affect such right of appeal from a decree of adoption as may be provided by law.

(4) The provisions of this section shall apply to all adoption proceedings instituted in this state after August 5, 1959. This section shall also apply, after the expiration of one year from August 5, 1959, to all adoption proceedings instituted in this state before August 5, 1959.

[Subsections (1), (2) and (3) enacted as 1959 c.609 §§ 2, 3, 4; subsection (4) derived from 1959 c.609 §6]

109.385 Certain adoptions in foreign nations recognized; evidence. (1) An adoption in any foreign nation under the laws of such nation of a person who is at the time of the adoption a national of such nation by adoptive parents at least one of whom is a citizen of the United States shall be recognized as a valid and legal adoption for all purposes in the State of Oregon if the adoption is valid and legal in the foreign nation wherein the adoption occurred.

(2) The certificate of a judge of a court of general jurisdiction under his seal or the seal of the court in any foreign nation with respect to the adoption of a national of such foreign nation by adoptive parents at least one of whom is a citizen of the United States that all pertinent laws of such foreign nation have been complied with and the adoption is in all respects legal and valid shall be prima facie evidence in any court in the State of Oregon in any proceeding that such adoption was in fact legal and valid. Such certificate shall be prima facie evidence even if under the laws of the foreign nation the adoption is an administrative procedure and is not within the jurisdiction of the court or the judge making the certificate.

[1961 c.95 §2, 3]

109.390 Authority of State Public Welfare Commission or child-caring agency in adoption proceedings. Where the State Public Welfare Commission or an approved child-caring agency has the right to consent to the adoption of a child, the commission or agency may:

(1) Where it deems the action necessary or proper, become a party to any proceeding for the adoption of the child.

(2) Appear in court where a proceeding for the adoption of the child is pending.

(3) Give or withhold consent in loco parentis to the adoption of the child only in accordance with ORS 109.316.

[1957 c.710 §14]

109.400 Adoption report form. (1) When a petition for adoption is filed with a court, the petitioner or his attorney shall file with the petition an adoption report form on which those blanks relating to the personal particulars of the person to be adopted and of the prospective adoptive parents have been filled in. The State Registrar shall prescribe the form of the adoption report form.

(2) Notwithstanding ORS 7.211, if the court enters a decree of adoption, the clerk of the court shall review the personal particulars filled in on the form, shall fill in the remaining blanks on the form, shall certify the form and mail it within five days to the State Registrar as the adoption report.

[1959 c.430 §1]

109.410 to 109.500 [Reserved for expansion]

AGE OF MAJORITY

109.510 Age of majority. Except as provided in ORS 109.520, in this state any person shall be deemed to have arrived at majority at the age of 21 years, and thereafter shall have control of his own actions and business, have all the rights and be subject to all the liabilities of a citizen of full age.

109.520 Majority of married persons. Except as provided in ORS 653.105, all persons shall be deemed to have arrived at the age of majority upon their being married according to law.

[Amended by 1953 c.343 §2; 1957 c.710 §12]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel