

## Chapter 109

### 1969 REPLACEMENT PART

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**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**109.040** [Repealed by 1953 c.650 §4]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.

(5) By paternity being established or declared by other provision of law.

[1957 c.411 §2; 1969 c.619 §11]

**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 Child's petition for support by parent; district attorney as counsel for child.**

(1) Any minor child may, in accordance with ORS 13.041, apply to the circuit court in the county in which he resides, or in which his natural or adoptive father or mother may be found, for an order upon such child's father or mother, or both, to provide for the child's support. The minor child may apply for the order by filing in such county a petition setting forth the facts and circumstances upon which he relies for such order. If satisfied that a just cause exists, the court shall direct that a citation issue to the father or mother requiring him or her to appear at a time set by the court to show cause why an order of support should not be entered in the matter. If it appears to the satisfaction of the court that such child is without funds to employ counsel, the court may make an order directing the district attorney to prepare such petition and citation.

(2) The provisions of ORS 108.120 and 108.130 shall apply to proceedings under subsection (1) of this section.

[1963 c.497 §2]

**109.105 Consent to treatment for venereal disease by minor; effect of failure to obtain parental consent to treatment.** (1) Notwithstanding any other provision of law, a minor 12 years of age or older who may have come into contact with any venereal disease may give consent to the furnishing of hospital, medical or surgical care related to the diagnosis or treatment of such disease, if the disease or condition is one which is required by law or regulation adopted pursuant to law

to be reported to the local or state health officer or board. Such consent shall not be subject to disaffirmance because of minority.

(2) The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize such hospital, medical or surgical care and without having given consent the parent, parents, or legal guardian shall not be liable for payment for any such care rendered.

[1969 c.461 §1]

**109.110** [Amended by 1961 c.338 §1; 1967 c.534 §14; repealed by 1969 c.619 §15]

**109.115 Consent to blood donation by minor 18 years or older.** Any competent individual 18 years of age or older may donate his blood to a blood program which does not compensate its donors without the necessity of obtaining the consent of his parent.

[1969 c.271 §2]

**109.120** [Repealed by 1969 c.619 §15]

## FILIAL PROCEEDINGS

**109.125 Initiation of proceedings.** (1) Any of the following may initiate proceedings under this section:

(a) A mother of a child born out of wedlock or a female pregnant with a child who may be born out of wedlock; or

(b) The Public Welfare Division, if furnishing support to the mother for the benefit of the child or if furnishing services or assistance of any kind because of the birth, or impending birth, of the child;

(c) The duly appointed and acting guardian of the person or estate of the child, or a guardian ad litem, if such party has the physical custody of the child and is providing support.

(2) Proceedings shall be initiated by the filing of a duly verified petition of the initiating party. The petition shall contain:

(a) The name of the mother of the child born out of wedlock or the female pregnant with a child who may be born out of wedlock;

(b) Facts showing the petitioner's status to initiate proceedings;

(c) A statement that defendant is the father;

(d) The probable time or period of time during which conception took place;

(e) A statement of the specific relief sought; and

(f) A prayer for the issuance of citation to the defendant requiring him to appear at a time and place certain to answer the petition.

(3) In all cases of public interest, the proceeding may be commenced by the district attorney when requested by any person named in subsection (1) of this section.

(4) Upon filing of the petition, the court shall issue a citation directing the defendant to appear at a time and place certain to answer the petition. The citation shall further state that for failure to appear as directed the court may enter its decree for the relief requested in the petition. The return date for the citation shall be not less than 20 days nor more than 30 days from the date of service.

(5) The citation shall be served as in civil cases by personally serving the defendant with a copy of the citation and petition.  
[1969 c.619 §1]

109.130 [Amended by 1967 c.534 §15; repealed by 1969 c.619 §15]

**109.135 Circuit court jurisdiction; equity suit; trial by jury; place and time of commencement.** (1) All filiation proceedings shall be commenced in the circuit court and shall for all purposes be deemed suits in equity but either party shall have the right to trial by jury.

(2) All filiation proceedings shall be commenced and tried in the county where either the initiating party or the child resides.

(3) A proceeding under ORS 7.215, 23.775, 23.795, 109.070, 109.125 to 109.165, 109.220, 109.252 and 156.610 shall be commenced within six years after the birth of the child.  
[1969 c.619 §§2, 3, 7]

109.140 [Amended by 1959 c.638 §10; repealed by 1969 c.619 §15]

**109.145 Court may proceed despite failure to appear; evidence required.** If the defendant fails to appear as required by citation, the court shall have the power to proceed to a determination of paternity and to impose such obligations on the defendant as it deems reasonable. In all such cases corroborating evidence in addition to the testimony of the mother or pregnant female shall be required to establish paternity and the court may, in its discretion, order such investigation or the production of such evidence as it deems appropriate to establish a proper basis for relief.  
[1969 c.619 §4]

109.150 [Amended by 1961 c.338 §2; 1967 c.534 §16; repealed by 1969 c.619 §15]

**109.155 Conduct of trial; postponement; orders.** (1) The court, in a private hearing, shall first determine the issue of paternity. If the defendant admits paternity, such admis-

sion shall be reduced to writing, verified by the defendant and filed with the court. If paternity is denied, corroborating evidence, in addition to the testimony of the mother or pregnant female, shall be required.

(2) If the court finds, from a preponderance of the evidence, that defendant is the father of the child who has been, or who may be born out of wedlock, it shall then proceed to a determination of the appropriate relief to be granted. The court may approve any settlement agreement reached between the parties and incorporate the same into any decree rendered, and it may order such investigation or the production of such evidence as it deems appropriate to establish a proper basis for relief.

(3) The court, in its discretion, may postpone the hearing from time to time to facilitate any investigation or the production of such evidence as it deems appropriate.

(4) The court shall have the power to order the defendant to pay such sum as it deems appropriate for the past and future support and maintenance of the child during its minority and the reasonable and necessary expenses incurred or to be incurred in connection with prenatal care, expenses attendant with the birth and postnatal care. It may also order the defendant to pay the reasonable costs of suit incurred by the initiating party.  
[1969 c.619 §5]

109.160 [Repealed by 1969 c.619 §15]

**109.165 Power of court to set aside or modify decree.** Upon motion of either party the court may set aside, alter or modify so much of the decree as may provide for the support of the minor child. As to any installment or payment of money which has accrued up to the time either party files a motion to set aside, alter or modify the decree, the decree is final and the court does not have power to change it.  
[1969 c.619 §6]

109.170 [Repealed by 1969 c.619 §15]

109.180 [Repealed by 1969 c.619 §15]

109.190 [Amended by 1961 c.338 §3; repealed by 1969 c.619 §15]

109.200 [Amended by 1961 c.338 §4; repealed by 1969 c.619 §15]

109.210 [Repealed by 1969 c.619 §15]

**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 109.125

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; 1969 c.619 §12]

**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]

### 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 7.215 and 109.125 to 109.165, 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; 1969 c.619 §13]

**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]

## 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]

**109.307 Court required to act within six months of filing of petition for adoption; duty of clerk.** (1) Not earlier than provided in ORS 109.310 and not later than six months from the date on which the petition for leave to adopt another is filed under ORS 109.310, the court before which the petition is pending shall hold a hearing and shall:

(a) Enter a final decree under ORS 109.350;

(b) Continue the guardianship or legal custodial status of the child;

(c) Remand the child to a court having jurisdiction under ORS chapter 419; or

(d) Take such other action as the court considers necessary.

(2) The clerk of the court before which petitions for leave to adopt another are pending shall periodically notify the court of all such petitions which have been pending before the court for more than six months without final disposition pursuant to subsection (1) of this section.

[1965 c.188 §2]

**109.310 Petition for leave to adopt and for change of name.** (1) Any person may petition any court having probate jurisdiction or, if the circuit court is not the court having probate jurisdiction, the circuit court if its jurisdiction has been extended to include adoption matters pursuant to ORS 3.275 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 or surrendered pursuant to ORS 418.270 to any approved child-caring agency or to the Public Welfare Division, in any county where such agency or division has an office. Filing of the petition in a county other than specified in this subsection does not constitute a jurisdictional defect.

(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 and the full names and permanent addresses of all persons whose consent to the adoption is required under ORS 109.312, if such names and addresses are known or may be readily ascertained by the petitioners, shall be served on the administrator of the Public Welfare Division by registered mail or personally. The court shall not rule on the petition until the expiration of 60 days from the filing of the petition, unless the running of such time is waived by the division.

(4) Within the time and in the manner provided in this section, the division 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 division desires to submit. Upon written request of the attorney for the petitioner, the Public Welfare Division 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; 1963 c.188 §1; 1967 c.534 §17; 1969 c.441 §1]

**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 Public Welfare Division or an approved child-caring agency of this state.** (1) The Public Welfare Division 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 418.270 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 418.270 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 division 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 division 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 division 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 418.270; 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 15.110 to 15.140 for the service of citation by publication or for personal service outside the state; except that the citation so served by publication need not contain the names of the adoptive parents.

(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; 1967 c.385 §1; 1969 c.591 §287]

Note: The amendment to ORS 109.326 by 1969 c.591 takes effect July 1, 1970.

**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 15.110 to 15.140 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; except that the citation so served by publication need not contain the names of the adoptive parents.

(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; 1967 c.385 §2; 1969 c.591 §288]

Note: The amendment to ORS 109.330 by 1969 c.591 takes effect July 1, 1970.

**109.335 Appointment of guardian pending further adoption proceedings.** Notwithstanding the provisions of ORS 126.006 to 126.565 that relate to the appointment of a guardian, when a petition is filed pursuant to ORS 109.310 for leave to adopt a minor child and the required consent thereto has been filed, the court before which the petition is pending may on its own motion enter an order appointing the petitioners or some other suitable persons guardians of the person of the minor child pending further order of the court or entry of a decree under ORS 109.350.

[1965 c.187 §1; 1967 c.231 §1]

**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 Court of Appeals from the decree or other appealable determinative order of the circuit court in such proceeding.

[1961 c.99 §1; 1969 c.198 §56]

**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.** Any party to an adoption proceeding in the county court may appeal to the circuit court from the decree of the county 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; 1969 c.591 §289]

Note: The amendment to ORS 109.370 by 1969 c.591 takes effect July 1, 1970.

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 Public Welfare Division or child-caring agency in adoption proceedings.** Where the Public Welfare Division or an approved child-caring agency has the right to consent to the adoption of a child, the division 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]

#### AGE OF MAJORITY

**109.510 Age of majority.** Except as provided in ORS 109.520, in this state any per-

son 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, Robert W. Lundy, 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, 1969

Robert W. Lundy  
Legislative Counsel