Chapter 109

1979 REPLACEMENT PART

Rights and Relationships of Parent and Child

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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 the minor may be wholly or partially defrayed out of the income of his own property, as is judged reasonable by the court having probate jurisdiction. The charges therefor may be allowed accordingly in the settlement of the accounts of his guardian or the conservator of his estate. [Amended by 1973 c 823 §104]

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109.040 [Repealed by 1953 c 650 §4]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

109.053 Responsibility of stepparent for expenses of stepchild. (1) The expenses of the family and the education of minor children, including stepchildren, are chargeable upon the property of both husband and wife, or either of them. However, with regard to stepchildren, the obligation shall cease upon entry of a decree of separation or dissolution.

(2) As used in this section "stepchild" means a child under the age of 18, or between the ages of 18 and 21 if attending school as defined in ORS 107.108 who is in the custody of one biological or adoptive parent who is married to a person other than the second biological or adoptive parent of such child.

(3) Notwithstanding subsection (1) of this section, the legal duty of a parent to provide support for a child, as otherwise required by law, shall not be affected. [1979 c.266 §1]

Note: 109 053 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 109 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

109.055 [1971 c 703 §1; 1973 c.827 §12e; repealed by 1979 c 266 §3]

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 was not impotent or sterile at the time of the conception of the child, 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 joint declaration of paternity filed with the Bureau of Vital Statistics in the form approved by the bureau and with the fee prescribed by the bureau. The declaration shall include information sufficient to identify the child and sworn statements of the natural father and the mother that the natural father is the father of the child and that there is no legal father. The bureau shall prepare a new birth certificate under the procedure established by ORS 432.425.

(6) By paternity being established or declared by other provision of law. [1957 c.411 §2; 1969 c 619 §11, 1971 c.127 §2; 1975 c 640 §3]

109.080 [1957 c.411 §4; 1959 c.432 §64; repealed by 1975 c.640 §18]

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]

109.092 Establishing paternity by acknowledgment; mother surrendering child for adoption. When it is determined that a woman is pregnant with a child, the woman and any man to whom she is not married and with whom she engaged in sexual intercourse at approximately the time of conception have an obligation to recognize that the man may be the other person responsible for the conception. During the months of pregnancy, the man may join the woman in acknowledging paternity and assuming the rights and duties of expectant parenthood. If the man acknowledges paternity of the expected child and the woman denies that he is the father or refuses to join him in acknowledging paternity, the man may seek relief under ORS 109.125. If the woman wants the man to join her in acknowledging his paternity of the expected child and the man denies that he is the father or refuses to join her in acknowledging paternity, the woman may seek relief under ORS 109.125. If after the birth of the child the mother decides to surrender the child for adoption and paternity has not been acknowledged as provided in subsection (5) of ORS 109.070 or the putative father has not asserted his rights in filiation proceedings, the mother has the right without the consent of the father to surrender the child as provided in ORS 418.270 or to consent to the child's adoption. [1975 c.640 §2]

109.094 Rights of father where paternity established; procedure when paternity established. Upon the paternity of a child being established in the proceedings, the father shall have the same rights as a father who is or was married to the mother of the child. The clerk of the court shall certify the fact of paternity to the Bureau of Vital Statistics on a form approved by the bureau, and the bureau shall prepare a new birth certificate for the child adding the name of the father of the child with additional information pertaining to the father as is customary on birth certificates. [1975 c.640 §6]

109.096 Notice to putative father where paternity not established. (1) When the paternity of a child has not been established under ORS 109.070, the putative father shall be entitled to reasonable notice in adoption, juvenile court, or other court proceedings concerning the custody of the child if the petitioner knows, or by the exercise of ordinary diligence should have known:

(a) That the child resided with the putative father at any time during the 60 days immediately preceding the initiation of the proceeding, or at any time since the child's birth if the child is less than 60 days old when the proceeding is initiated; or

(b) That the putative father repeatedly has contributed or tried to contribute to the support of the child during the year immedi-

ately preceding the initiation of the proceeding, or during the period since the child's birth if the child is less than one year old when the proceeding is initiated.

(2) Except as provided in subsection (3) or (4) of this section, a verified statement of the mother of the child or of the petitioner, or an affidavit of another person with knowledge of the facts, filed in the proceeding and asserting that the child has not resided with the putative father, as provided in paragraph (a) of subsection (1) of this section, and that the putative father has not contributed or tried to contribute to the support of the child, as provided in paragraph (b) of subsection (1) of this section, shall be sufficient proof to enable the court to grant the relief sought without notice to the putative father.

(3) The putative father shall be entitled to reasonable notice in a proceeding for the adoption of the child if notice of the initiation of filiation proceedings as required by ORS 109.225 was on file with the Bureau of Vital Statistics prior to the child's being placed by an authorized agency in the physical custody of a person or persons for the purpose of adoption by them. If the notice of the initiation of filiation proceedings was not on file at the time of the placement, the father shall be barred from contesting the adoption proceeding.

(4) The putative father shall be entitled to reasonable notice in juvenile court or other court proceedings if notice of the initiation of filiation proceedings as required by ORS 109.225 was on file with the Bureau of Vital Statistics prior to the initiation of the juvenile court or other court proceedings.

(5) Notice under this section shall not be required to be given to a putative father who was a party to filiation proceedings under ORS 109.125 which either were dismissed or resulted in a finding that he was not the father of the child.

(6) The notice required under this section shall be given in the manner provided in ORS 109.330.

(7) No notice given under this section need disclose the name of the mother of the child.

(8) A putative father has the primary responsibility to protect his rights, and nothing in this section shall be used to set aside an act of a permanent nature including, but not limited to, adoption or termination of parental rights, unless the father establishes within one year after the entry of the final decree or order fraud on the part of a petitioner in the proceeding with respect to matters specified in subsections (1) to (5) of this section. [1975 c.640 §7; 1979 c.491 §1]

109.098 Objection of putative father in proceeding referred to in ORS 109.096; effect of failure to appear and object. (1) If a putative father of a child by due appearance objects to the relief sought in a proceeding of which he is entitled to notice under ORS 109.096, the court:

(a) May abate the proceeding if filiation proceedings are pending to await the outcome of the filiation proceedings.

(b) Shall, if filiation proceedings are not pending, inquire as to the paternity of the child, the putative father's past endeavors to fulfill his obligation to support the child and to contribute to the pregnancy-related medical expenses, the period that the child has lived with the putative father, the putative father's fitness to care for and rear the child and whether the putative father is willing to be declared the father of the child and to assume the responsibilities of a father.

(2) If after inquiry under paragraph (b) of subsection (1) of this section the court finds:

(a) That the putative father is the father of the child and is fit and willing to assume the responsibilities of a father, it shall have the power:

(A) Upon the request of the putative father, to declare his paternity and to certify the fact of paternity in the manner provided in ORS 109.094; and

(B) To award custody of the child to the mother or the father as may be in the best interests of the child, or to take any other action which the court may take if the parents are or were married to each other.

(b) That the putative father is not the father of the child, it may grant the relief sought in the proceeding without the putative father's consent.

(c) That the putative father is the natural father of the child but is not fit or willing to assume the responsibilities of a father, it may grant the relief sought in the proceeding or any other relief that the court deems to be in the best interests of the child, notwithstanding the father's objection.

(3) If a putative father of a child is given the notice of a proceeding required by ORS

109.096 and he fails to enter due appearance and to object to the relief sought therein within the time specified in the notice, the court may grant the relief sought without the putative father's consent. [1975 c.640 §8]

109.100 Petition for support. (1) Any minor child or state agency on behalf of that minor child may, in accordance with ORCP 27 A., apply to the circuit court in the county in which the child resides, or in which the natural or adoptive father or mother of the child 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 or state agency may apply for the order by filing in such county a petition setting forth the facts and circumstances relied upon for such order. If satisfied that a just cause exists, the court shall direct that the father or mother 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 order to show cause.

(2) The provisions of subsection (3) of ORS 108.110, ORS 108.120 and 108.130 shall apply to proceedings under subsection (1) of this section. [1963 c 497 §2; 1975 c.458 §14; 1979 c.90 §2; 1979 c.284 §100]

109.103 Proceeding to determine custody or support of child. If a child is born out of wedlock and paternity has been established, either parent may initiate a civil proceeding to determine the custody or support of the child. The proceeding shall be brought in the circuit court of the county in which the child resides or is found or in the circuit court of the county in which either parent resides. The parents shall have the same rights and responsibilities regarding the custody and support of their child that married or divorced parents would have, and the provisions of ORS 107.095 to 107.425 that relate to the custody or support of children shall be applicable to the proceeding. [1975 c.640 §9]

109.105 [1969 c 461 §1; renumbered 109.610]

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

109.112 Mother, father or putative father deemed to have attained majority. The mother, father or putative father of a child shall be deemed to have attained majority and, regardless of age, may give authorizations, releases or waivers, or enter into agreements, in adoption, juvenile court, filiation or other proceedings concerning the care or custody of the child. [1975 c.640 §10]

109.115 [1969 c 271 §2; renumbered 109.620]

109.116 Validity of putative father's authorization, release or waiver. Any authorization, release or waiver given by the putative father with reference to the custody or adoption of the child or the termination of parental rights shall be valid even if given prior to the child's birth. [1975 c.640 §11]

109.118 Validity of decrees or orders entered prior to July 3, 1975, concerning custody, adoption or permanent commitment of child. All decrees or orders heretofore entered in any court of this state concerning the custody, adoption or permanent commitment of a child are hereby declared valid upon the expiration of 30 days after July 3, 1975, notwithstanding that notice was not given to the putative father of the child. [1975 c 640 §13]

109.120 [Repealed by 1969 c.619 §15]

VISITATION RIGHTS OF GRANDPARENTS

109.121 Procedure whereby grandparents may establish visitation rights with grandchildren. (1) (a) When a parent dies leaving a minor child in the custody of the surviving parent, the grandparents of the minor child, if they are the parents of the deceased individual, may petition the circuit court for the county in which the minor child resides for an order providing for visitation rights of the grandparents.

(b) After the commencement of a domestic relations suit, as defined in ORS 107.510, or a proceeding under ORS 108.110, 109.100, 109.103, 109.125 or 419.513, and before a decree or final order therein, any grandparent of a minor child of the party or parties may petition the court in which the suit is filed for an order providing for visitation rights of the grandparent.

(c) After a decree or final order is entered in any proceeding referred to in paragraph (b) of this subsection, a grandparent, who is not a parent of the custodial parent of a minor child, may under ORS 107.135 or 109.165 petition the court which granted the decree or final order for an order altering or modifying

so much of the decree or final order as may provide for the grandparent's visitation rights with respect to that minor child or for an order providing for such visitation rights. However, a grandparent may petition a court under this paragraph only when the grandparent did not file a petition under paragraph (b) of this subsection or when there has been a change in circumstances relating to the custodial parent or the minor child such as is required to allow the court to reconsider the provisions of the decree that provide for the future custody, support and welfare of the minor child.

(2) A petition filed with a court under subsection (1) of this section shall state the following:

(a) The names of the petitioners.

(b) The names, addresses and dates of birth of all the minor children to whom the petitioners seek visitation rights.

(c) The names and addresses of the parents of the minor children.

(d) When the petition is filed under paragraph (a) of subsection (1) of this section, the name and date of death of the deceased parent of the minor children.

(e) When the petition is filed under paragraph (b) or (c) of subsection (1) of this section, the relationship of the petitioners to the parties in the proceeding.

(f) When the petition is filed under paragraph (c) of subsection (1) of this section, if the petitioner is asserting a change in circumstances as justification for the petition, the facts constituting the asserted change in circumstances.

(3) When a petition is filed with a court under this section, notice of the filing and a copy of the petition shall be served on the parents of the minor children named in the petition in the manner provided by law for service of a summons.

(4) When a petition is filed under this section, if it appears from the petition that the petitioners may seek visitation rights under this section, the court shall conduct a hearing to determine whether an order creating visitation rights will be issued. The court shall cause notice of the time and place of the hearing to be given to the parents of the minor children named in the petition. The court may require the attendance of the parents and of witnesses as in other civil cases. When the petition has been filed under paragraph (b) of subsection (1) of this section, the court may conduct the hearing on the petition as part of the proceeding or as a separate proceeding, and the order creating visitation rights, if one is issued, may be incorporated in and made a part of the decree or final order.

(5) Any order creating visitation rights under this section shall be according to the court's best judgment of the facts of the case and shall include such conditions and limitations as it deems reasonable. In making or modifying such an order, the court shall be guided by the best interests and welfare of the child.

(6) Filing fees for proceedings under this section shall be those set forth in ORS 21.110.

(7) As used in this section:

(a) "Grandparent" does not include a stepgrandparent.

(b) "Minor child" means a natural minor child, provided the paternity of such child has been established under ORS 109.070 or acknowledged under ORS 109.092.

(8) The provisions of this section shall not apply if paternity of the minor child is or has been denied throughout a contested proceeding. [1979 c 776 §2]

109.123 Power to grant visitation rights discretionary; effect on care and custody orders. (1) The power of a court under ORS 109.121 and this section to grant visitation rights to grandparents is discretionary and shall be exercised only when the court determines that it would be in the best interests and welfare of the minor children involved.

(2) Nothing in ORS 109.121 and this section shall be construed to affect the power of a court under ORS chapter 107 to provide for the future care and custody of the minor children of a marriage, or to allow grandparents of minor children to contest such custody decisions of the court. [1979 c 776 §3]

Note: 109.123 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 109 or any series therein by legislative action See the Preface to Oregon Revised Statutes for further explanation

FILIATION PROCEEDINGS

109.124 Definition for ORS 109.125. As used in ORS 109.125, a child born out of wedlock means a child born to an unmarried woman, or to a married woman by a man other than her husband, if the conclusive presumption in subsection (6) of ORS 41.350 and subsection (1) of ORS 109.070 does not apply. [1979 c 246 §4]

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;

(b) Any state agency, 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 child, conservator of his estate or a guardian ad litem, if the guardian or conservator has the physical custody of the child or is providing support for the child;

(d) The Support Enforcement Division of the Department of Justice;

(e) A person claiming to be the father of a child born out of wedlock or of an unborn child who may be born out of wedlock; or

(f) The minor child by a guardian ad litem.

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

(a) If the initiating party is one of those specified in paragraphs (a) to (d) of subsection (1) of this section:

(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 the 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 an order directing the defendant to appear at a time and place certain to answer the petition.

(b) If the initiating party is a person specified in paragraph (e) of subsection (1) of this section:

(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) A statement that the initiating party is the father of the child and accepts the same responsibility for the support and education of the child and for all pregnancy-related expenses that he would have if the child were born to him in lawful wedlock;

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

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

(E) A prayer for an order directing the mother or expectant mother of the child and, if any, to the duly appointed and acting guardian of the child and conservator of his estate, if the guardian or conservator has the physical custody of the child or is providing support for the child, to appear at a time and place certain to answer the petition.

(3) In all cases of public interest, the proceedings 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 make an order directing the defendant to appear at a time and place certain to answer the petition. The order shall further state that for failure to appear as directed the court may enter its decree for the relief prayed for in the petition.

(5) The order to show cause shall be served as in civil cases by personally serving the defendant with a copy of the order to show cause and petition. [1969 c 619 §1; 1971 c.191 §1; 1971 c.401 §3; 1971 c.779 §79; 1973 c.823 §105; 1975 c.458 §15a; 1975 c 640 §4a; 1979 c 90 §3; 1979 c 246 §5]

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

109.135 Circuit court jurisdiction; equity suit; trial by jury on paternity; 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 on the issue of paternity.

(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, 46.800, 109.070, 109.125 to 109.165 and 109.252 shall be commenced within 10 years after the birth of the child. [1969 c.619 §§2, 3, 7; 1971 c.191 §2; 1979 c 246 §6]

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 parent or expectant parent 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, 1975 c 640 §14]

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

109.153 Definitions for ORS 109.155 and 109.165. As used in ORS 109.155 and 109.165, "child attending school" means a person who is unmarried, is 18 years of age or older and under 21 years of age and is a student regularly attending a school, community college, college or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment. [1973 c.827 §12g]

109.155 Conduct of trial; postponement; orders. (1) The court or the jury, in a private hearing, shall first determine the issue of paternity. If the defendant admits the paternity, such admission shall be reduced to writing, verified by the defendant and filed with the court. If the paternity is denied, corroborating evidence, in addition to the testimony of the parent or expectant parent, shall be required.

(2) If the court or jury finds, from a preponderance of the evidence, that the petitioner or the defendant is the father of the child who has been, or who may be born out of wedlock, the court 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 father to pay such sum as it deems appropriate for the past and future support and maintenance of the child during its minority and while the child is attending school and the reasonable and necessary expenses incurred or to be incurred in connection with prenatal care, expenses attendant with the birth and postnatal care. The court may grant the prevailing party reasonable costs of suit, including reasonable attorney fees. [1969 c.619 §5; 1971 c.137 §1; 1971 c.191 §3; 1973 c.827 §12h; 1975 c.640 §15]

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 or child attending school. As to any instalment 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. A child attending school is a party for purposes of this section. [1969 c.619 §6; 1973 c.827 §12i]

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 [Amended by 1961 c.338 §5; 1969 c.619 §12; repealed by 1979 c.87 §1]

109.225 Notice to Bureau of Vital Statistics after petition filed; filing notice. (1) After filing the petition, the petitioner shall cause the Bureau of Vital Statistics to be served personally or by registered mail with a notice setting forth the court in which the petition was filed, the date of the filing therein, the case number, the full name and address of the child, the date and place of the child's birth, or if the child is not yet born, the date and place of the child's conception and the probable date of the child's birth, the full names and addresses of the child's alleged parents, and the names and addresses of the petitioner and of the defendants in the proceedings.

(2) The Bureau of Vital Statistics shall file immediately the notice, or a copy thereof, with the record of the birth of the child or in the same manner as its filing of records of birth if the bureau does not have a record of the birth. The bureau shall only provide the information contained in the notice to persons whose names appear in the notice or to persons or agencies showing a legitimate interest in the parent-child relationship including, but not limited to, parties to adoption, juvenile court, or heirship proceedings. [1975 c.640 §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]

109.235 Court may preserve confidentiality of petitioners. In any adoption proceeding that is contested or in which citation is required to be served, the court may preserve the confidentiality of the names and addresses of the petitioners for the adoption if it finds that to do so is in the best interests of the child. [1975 c 640 §12]

ARTIFICIAL INSEMINATION

109.239 Rights and obligations of children resulting from artificial insemination; rights and obligations of donor of semen. If the donor of semen used in artificial insemination is not the mother's husband:

(1) Such donor shall have no right, obligation or interest with respect to a child born as a result of the artificial insemination; and

(2) A child born as a result of the artificial insemination shall have no right, obligation or interest with respect to such donor. [1977 c 686 §5]

Note: 109.239 to 109 247 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 109 or any series therein by legislative action See the Preface to Oregon Revised Statutes for further explanation.

109.243 Relationship of child resulting from artificial insemination to mother's husband. The relationship, rights and obligation between a child born as a result of artificial insemination and the mother's husband shall be the same to all legal intents and purposes as if the child had been naturally and legitimately conceived by the mother and the mother's husband if the husband consented to the performance of artificial insemination. [1977 c 686 §6]

Note: See note for 109.239.

109.247 Application of law to children resulting from artificial insemination. Except as may be otherwise provided by a judicial decree entered in any action filed before October 4, 1977, the provisions of ORS 109.239 to 109.247, 677.350 to 677.365 and subsection (3) of 677.990 apply to all persons conceived as a result of artificial insemination. [1977 c.686 §7]

Note: See note for 109 239.

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 Children's Services 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 Assistant Director for Children's Services by registered mail or personally. The court shall not rule on the petition until the expiration of 60 days from the date of service of the copy and statement on the assistant director, unless the running of such time is waived by the division.

(4) Within the time and in the manner provided in this section, the Children's Services 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 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, 1971 c.401 §4; 1977 c 252 §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 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.

(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 (109.312 to 109.329 enacted in lieu of 109 320); 1973 c 823 §106]

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 (109.312 to 109.329 enacted in lieu of 109.320)]

109.316 Consent by Children's Services Division or an approved child-caring agency of this state. (1) The Children's Services 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 (109 312 to 109.329 enacted in lieu of 109.320), 1971 c.401 §5]

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, 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 (109 312 to 109 329 enacted in lieu of 109.320), 1973 c 823 §107]

109.320 [Repealed by 1957 c 710 §1 (109 312 to 109.329 enacted in lieu of 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 and has actually served 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 (109.312 to 109.329 enacted in lieu of 109.320); 1975 c.711 §1]

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 (109.312 to 109.329 enacted in lieu of 109.320)]

109.326 Consent where husband not father. If the mother of a 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, the husband's authorization or waiver shall not be required in adoption, juvenile court or other proceedings concerning the custody of the child. The

determination of nonpaternity may be made by any court having adoption, divorce or juvenile court jurisdiction. The testimony or affidavit of the mother or the husband shall constitute competent evidence before the court making the determination. Before making the determination of nonpaternity, citation to show cause why such husband's parental rights should not be terminated shall be served on him in the manner provided by ORS 109.330. [1957 c.710 §8 (109.312 to 109.329 enacted in lieu of 109.320); 1959 c.609 §1; 1967 c.385 §1; 1969 c.591 §287, 1975 c 640 §16]

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 (109 312 to 109.329 enacted in lieu of 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 18 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 (109.312 to 109.329 enacted in lieu of 109.320); 1973 c 827 §13]

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 the child, the court shall order citation to be served on the parent 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 for the service of summons in a civil action in a circuit court by publication or personal service outside the state, and a copy of the citation to be deposited forthwith in the post office, directed to such parent at the place of residence of the parent, unless it appears that such residence is neither known to nor can with reasonable diligence be ascertained by the petitioner. The citation so served 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 behalf of the child, 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; 1975 c.640 §17; 1979 c.284 §101]

109.335 Appointment of guardian pending further adoption proceedings. Notwithstanding the provisions of ORS 126.003 to 126.143 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 petitioner or some other suitable person guardian 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; 1973 c.823 §108]

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

109.342 Medical history of child and biological parents required; content; delivery to adoptive parent and to adoptee on majority. (1) After January 1, 1980, before any final decree of adoption of a minor is entered, the court shall be provided a medical history of the child and of the biological parents as complete as possible under the circumstances.

(2) When possible, the medical history shall include, but need not be limited to:

(a) A medical history of the adoptee from birth up to the time of adoption, including disease, disability, congenital or birth defects, and records of medical examinations of the child, if any;

(b) Physical characteristics of the biological parents, including age at the time of the adoptee's birth, height, weight, and color of eyes, hair and skin;

(c) A gynecologic and obstetric history of the biological mother;

(d) A record of potentially inheritable genetic or physical traits or tendencies of the biological parents or their families; and

(e) Any other useful or unusual biological information that the biological parents are willing to provide.

(3) The names of the biological parents shall not be included in the medical history.

(4) The court shall give the history to the adoptive parents at the time the decree is entered and shall give the history to the adoptee, upon request, after the adoptee attains the age of majority.

(5) Subsection (1) of this section does not apply when a person is adopted by a stepparent.

(6) The Children's Services Division shall prescribe a form for the compilation of the medical history. [1979 c 493 §2]

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]

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 Children's Services Division or child-caring agency in adoption proceedings. Where the Children's Services 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; 1971 c 401 §6]

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 Certificate of adoption; form; persons eligible to receive copy. (1) The clerk of the court having custody of the adoption file shall issue upon request a certificate of adoption to the adopted person, the adoptive parents or parent, their attorney of record, in the proceeding, or to any child-placing agency which gave consent to the adoption. The certificate shall be substantially in the following form:

CERTIFICATE OF ADOPTION

IN THE _____ COURT
OF THE STATE OF OREGON

FOR THE COUNTY OF _____

In the Matter of the Adoption of:
_____ File No._____

Name after Adoption

This is to certify that on the ____ day of ____, 19____, a Decree of Adoption was granted by the Honorable Judge _____ decreeing the adoption of the above-named person by _____.

The adopted person, above named, was born in the City of _____, County of _____, State of _____, on the ____ day of _____, 19____.

Dated at _____, Oregon, this _____ day of _____, 19____.

(Title of the Clerk of the Court)
(SEAL) By _____
Deputy

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

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

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

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

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

(6) For all purposes, the certificate of adoption shall constitute legal proof of the facts set forth therein, shall have the same force and effect and the same presumptions of validity as the decree of adoption, and shall be entitled to full faith and credit. [1979 c 397 §2]

AGE OF MAJORITY; EMANCIPATION

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 18 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. [Amended by 1973 c.827 §14]

109.520 Majority of married persons. Except as provided in ORS 653.010, 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; 1973 c.827 §15]

Note: Chapter 827, Oregon Laws 1973, established the age of majority at 18 years. Section 84 thereof provides:

Sec. 84. (1) Nothing in this Act affects a contract made before the effective date of this Act [October 5, 1973]. However, except as to a reference to majority, minority, age of majority or words of similar intent made before the effective date of this Act in a contract in existence on the effective date of this Act, this Act applies to a renewal or extension of an existing contract on or after the effective date of this Act as well as to a new contract made on or after the effective date of this Act.

(2) Except as provided in subsection (3) of this section:

(a) Nothing in this Act affects an act done, a proceeding begun, an order, decree or judgment entered, a right accruing, accrued or acquired, or a liability, duty or obligation incurred, before the effective date of this Act, under the law then in effect.

(b) A reference to majority, minority, age of majority or words of similar intent in an order, judgment or decree entered before the effective date of this Act shall be considered to be to the age of majority in effect when the order, judgment or decree was entered.

(c) Unless a contrary intent is shown, any reference to majority, minority, age of majority or words of similar intent in an instrument made before the effective date of this Act shall be considered to be to the age of majority in effect when the instrument was made.

(3) Nothing in this Act prevents the amendment of an order, decree, judgment or instrument to refer to the age of majority as amended by this Act if the order, decree, judgment or instrument:

(a) Is in existence on the effective date of this Act;

(b) Is subject to amendment by law; and

(c) By its terms allows or does not prohibit its amendment

(4) Except as provided in subsection (5) of this section, a proceeding begun before the effective date of this Act in accordance with the law then in effect may be completed after the effective date of this Act as if this Act had not been enacted

(5) In addition to any other application thereof, the amendments to ORS 109 510 made by section 14 of this Act apply to:

(a) A proceeding for creation of a guardianship pursuant to ORS 126 006 to 126.565 begun but not completed before the effective date of this Act; and

(b) Termination pursuant to ORS 126.520 of a guardianship created pursuant to ORS 126.006 to 126.565 before the effective date of this Act and existing on the effective date of this Act. However, for purposes of termination of a guardianship created before the effective date of this Act in which the ward is 18 years of age or older and under 21 years of age on the effective date of this Act, the ward shall be considered to have attained the age of majority on the effective date of this Act.

(6) The amendments to ORS 126 805 made by section 18 of this Act do not apply to a custodianship created pursuant to ORS 126 805 to 126 880 before the effective date of this Act.

(7) If on the effective date of this Act a person is 18 years of age or older and under 21 years of age and a cause of action in respect to which the period of time limited for commencement of the action would have begun running upon his attaining 21 years of age had this Act not been enacted, such period of time shall begin running on the effective date of this Act

109.550 Definitions for ORS 109.550 to 109.565. As used in ORS 109.550 to 109.565:

(1) "Domicile" of a minor means the legal residence or domicile of the custodial parent or guardian.

(2) "Emancipation" means conferral of certain rights of majority upon a minor, as enumerated in ORS 109.555.

(3) "Minor" means a person under the age of 18 years.

(4) "Parent" means legal guardian or custodian, natural parent or adoptive parent if the minor has been legally adopted.

(5) Notwithstanding subsection (1) of this section, if a minor is subject to the jurisdiction of the juvenile court pursuant to ORS 419.476, the domicile of that minor shall be that of the court which has jurisdiction. [1977 c 525 §2]

109.555 Application for emancipation decree; effect of decree. (1) A juvenile court, upon the written application of a minor who is domiciled within the jurisdiction of such court, is authorized to enter a decree of emancipation in the manner provided in ORS 109.565. A decree of emancipation shall serve only to:

(a) Recognize the minor as an adult for the purposes of contracting and conveying, establishing a residence, suing and being sued, and recognize the minor as an adult for purposes of the criminal laws of this state.

(b) Terminate as to the parent and child relationship the provisions of ORS 109.010 until the child reaches the age of majority.

(c) Terminate as to the parent and child relationship the provisions of ORS 109.053, 109.100, 419.513, 419.515 and 419.519.

(2) A decree of emancipation shall not affect any age qualification for purchasing alcoholic liquor, the requirements for obtaining a marriage license, nor the minor's status under ORS 109.510. [1977 c 525 §3; 1979 c.266 §2]

109.560 Hearings; notice to parents; duty to advise minor of civil and criminal liabilities of emancipated person; filing fee. (1) The juvenile court shall conduct a preliminary hearing on the minor's application for emancipation within 10 days of the date on which it is filed. At the time of the preliminary hearing, the court may issue a temporary custody decree, stay any pending proceedings or enter any other temporary order appropriate to the circumstances. No action of the court pursuant to this subsection may be extended beyond the date set for a final hearing.

(2) The final hearing shall be held no later than 60 days after the date on which the application is filed.

(3) Notice to the parent or parents of the applicant shall be made pursuant to ORS 419.486.

(4) At the preliminary hearing, the court shall advise the minor of the civil and criminal rights and civil and criminal liabilities of an emancipated minor. This advice shall be recited in the decree of emancipation.

(5) The hearing mentioned in subsection (2) of this section may be waived by the minor and parent or parents.

(6) A reasonable filing fee not to exceed $50 shall be set by the court for each application for emancipation. [1977 c.525 §4]

109.565 Conditions for issuance of decree; copy to applicant; issuance of license or identification card by Motor Vehicles Division; emancipated person subject to adult criminal jurisdiction. (1) The juvenile court in its discretion may enter a decree of emancipation where the minor is at least 16 years of age and the court finds that the best interests of the minor will be served by emancipation. In making its determination, the court shall take into consideration the following factors:

(a) Whether the parent of the minor consents to the proposed emancipation;

(b) Whether the minor has been living away from the family home and is substantially able to be self-maintained and self-supported without parental guidance and supervision; and

(c) Whether the minor can demonstrate to the satisfaction of the court that the minor is sufficiently mature and knowledgeable to

manage the minor's affairs without parental assistance.

(2) Upon entry of a decree of emancipation by the court, the applicant shall be given a copy of the decree. The decree shall instruct that the applicant obtain an Oregon driver's license or an Oregon identification card through the Motor Vehicles Division of the Department of Transportation and that the Motor Vehicles Division make a notation of the minor's emancipated status on the license or identification card.

(3) An emancipated minor shall be subject to the jurisdiction of the adult courts for all criminal offenses. [1977 c.525 §5]

RIGHTS OF MINORS

109.610 Right to treatment for venereal disease by minor without parental consent. (1) Notwithstanding any other provision of law, a minor 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. [Formerly 109.105; 1977 c 303 §1]

109.620 [Formerly 109 115; repealed by 1973 c.827 §83]

109.630 [1971 c 726 §1; 1973 c.454 §1; repealed by 1973 c.827 §83]

109.640 Physicians may provide birth control information to any person; right to medical or dental treatment by minors without parental consent. Any physician may provide birth control information and services to any person without regard to the age of such person and a minor 15 years of age or older, may give consent to hospital care, medical or surgical diagnosis or treatment by a physician licensed by the Board of Medical Examiners for the State of Oregon, and dental or surgical diagnosis or treatment by a dentist licensed by the State Board of Dental Examiners, without the consent of a parent or guardian, except as may be provided by ORS 109.660. [1971 c.381 §1]

109.650 Disclosure without minor's consent and without liability. A hospital or any physician or dentist as described in ORS 109.640 may advise the parent or parents or legal guardian of any such minor of such care, diagnosis or treatment or the need for any treatment, without the consent of the patient, and any such hospital, physician or dentist shall not be liable for advising such parent, parents or legal guardian without the consent of the patient. [1971 c.381 §2]

109.660 Construction. The provisions of ORS 109.640, 109.650 and this section do not amend or supersede the provisions of ORS 109.610 or 435.435. [1971 c.381 §3; 1973 c.827 §16]

109.670 Right to donate blood. (1) Any person 16 years of age or over may donate blood to any blood program without obtaining permission of a parent or guardian.

(2) As used in subsection (1) of this section, "blood program" means any voluntary and noncompensatory program for the drawing of blood which is approved by the American Association of Blood Banks or the American Red Cross. [1977 c.533 §1]

Note: 109.670 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 109 or any series therein by legislative action See the Preface to Oregon Revised Statutes for further explanation

UNIFORM CHILD CUSTODY JURISDICTION ACT

109.700 Citation of ORS 109.700 to 109.930. ORS 109.700 to 109.930 may be cited as the Uniform Child Custody Jurisdiction Act. [1973 c.375 §25]

109.710 Definitions for ORS 109.700 to 109.930. As used in ORS 109.700 to 109.930:

(1) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.

(2) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights. "Custody determination" does not include a decision relating to child support or any other monetary obligation of any person.

(3) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings.

(4) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.

(5) "Home state" means the state in which the child, immediately preceding the time involved, lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and, in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.

(6) "Initial decree" means the first custody decree concerning a particular child.

(7) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.

(8) "Physical custody" means actual possession and control of a child.

(9) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

(10) "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. [1973 c.375 §2]

109.720 General purposes; application. (1) The general purposes of ORS 109.700 to 109.930 are to:

(a) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;

(b) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;

(c) Assure that litigation concerning the custody of a child takes place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state;

(d) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(e) Deter abductions and other unilateral removals of children undertaken to obtain custody awards;

(f) Avoid relitigation of custody decisions of other states in this state in so far as feasible;

(g) Facilitate the enforcement of custody decrees of other states;

(h) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and

(i) Make uniform the law of those states which enact it.

(2) ORS 109.700 to 109.930 shall be construed to promote the general purposes stated in this section.

(3) The general policies of ORS 109.700 to 109.930 extend to the international area. The provisions of ORS 109.700 to 109.930 relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody, rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons. [1973 c 375 §§1, 23]

109.730 Jurisdiction over child custody determination. (1) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(a) This state is the home state of the child at the time of commencement of the proceeding, or had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state;

(b) It is in the best interest of the child that a court of this state assume jurisdiction because the child and his parents, or the child and at least one contestant, have a significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(c) The child is physically present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

(d) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (a), (b) or (c) of this subsection, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

(2) Except under paragraphs (c) and (d) of subsection (1) of this section, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody. [1973 c 375 §3]

109.740 Notice and opportunity of hearing required. Before making a decree under ORS 109.700 to 109.930, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to ORS 109.750. [1973 c 375 §4]

109.750 Method of notice. (1) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be:

(a) By personal delivery outside this state in the manner prescribed for service of process within this state;

(b) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(c) By any form of mail addressed to the person to be served and requesting a receipt; or

(d) As directed by the court, including publication, if other means of notification are ineffective.

(2) Notice under this section shall be served, mailed, delivered or last published at least 20 days before any hearing in this state.

(3) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, or the order pursuant to which the service is made or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(4) Notice is not required if a person submits to the jurisdiction of the court. [1973 c.375 §5]

109.760 Effect of proceedings pending elsewhere. (1) A court of this state shall not exercise its jurisdiction under ORS 109.700 to 109.930 if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with ORS 109.700 to 109.930, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(2) Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under ORS 109.790 and shall consult the child custody registry established under ORS 109.860 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be ex-

changed in accordance with ORS 109.890 to 109.920. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum. [1973 c.375 §6]

109.770 Finding of court on inconvenient forum. (1) A court which has jurisdiction under ORS 109.700 to 109.930 to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(a) If another state is or recently was the child's home state;

(b) If another state has a closer connection with the child and his family or with the child and one or more of the contestants;

(c) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;

(d) If the parties have agreed on another forum which is no less appropriate; and

(e) If the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in subsections (1) and (2) of ORS 109.720.

(4) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under ORS 109.700 to 109.930 if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(7) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(8) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact. [1973 c.375 §7]

109.780 Effect of wrongful conduct of petitioner. (1) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of

the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(3) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney fees, incurred by other parties or their witnesses. [1973 c 375 §8]

109.790 Information required. (1) Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during the period. In this pleading or affidavit every party shall further declare under oath whether:

(a) He has participated, as a party, witness or in any other capacity, in any other litigation concerning the custody of the same child in this or any other state;

(b) He has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(c) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(2) If the declaration as to any of the above items is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(3) Each party has a continuing duty to inform the court of any custody proceedings concerning the child in this or any other state of which he obtained information during this proceeding. [1973 c.375 §9]

109.800 Joinder of other persons as parties. If the court learns from information furnished by the parties pursuant to ORS 109.790 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with ORS 109.750. [1973 c 375 §10]

109.810 Authority to order appearance of others; payment of expenses. (1) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child, the court may order that he appear personally with the child.

(2) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child, the court may order that the notice given under ORS 109.750 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(3) If a party to the proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances. [1973 c.375 §11]

109.820 Effect of decree. A custody decree rendered by a court of this state which had jurisdiction under ORS 109.730 binds all parties who have been served in this state, or notified in accordance with ORS 109.750 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of ORS 109.700 to 109.930. [1973 c.375 §12]

109.830 Enforcement of decree of another state. The court of this state shall recognize and enforce an initial or modification decree by a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with ORS 109.700 to 109.930 or which was made under factual circumstances meeting the

jurisdictional standards of ORS 109.700 to 109.930, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of ORS 109.700 to 109.930. [1973 c.375 §13]

109.840 Modification of decree of another state. (1) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with ORS 109.700 to 109.930 or has declined to assume jurisdiction to modify the decree and the court of this state has jurisdiction.

(2) If a court of this state is authorized under subsection (1) of this section and ORS 109.780 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with ORS 109.920. [1973 c 375 §14]

109.850 Filing of decree of another state; effect of violation. (1) A certified copy of a custody decree of another state may be filed in the office of the clerk of any circuit court of this state. The clerk shall treat the decree in the same manner as a custody decree of the circuit court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

(2) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorney fees, incurred by the party entitled to the custody or his witnesses. [1973 c.375 §15]

109.860 Clerk's registry. The clerk of each circuit court shall maintain a registry in which he shall enter the following:

(1) Certified copies of custody decrees of other states received for filing;

(2) Communications as to the pendency of custody proceedings in other states;

(3) Communications concerning a finding of inconvenient forum by a court of another state; and

(4) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding. [1973 c.375 §16]

109.870 Certification of decree; copies. The clerk of a circuit court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person. [1973 c.375 §17]

109.880 Depositions. In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony may be taken. [1973 c.375 §18]

109.890 Hearing in another state. (1) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or, if necessary, ordered paid by the county or state.

(2) A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid. [1973 c.375 §19]

109.900 Ordering appearance in another state; payment of expenses. (1) Upon request of the court of another state, the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce

evidence or to produce or give evidence under other procedures available in this state or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.

(2) A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

(3) Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed. [1973 c.375 §20]

109.910 Preservation of record; copies to other courts. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches 21 years of age. Upon appropriate request of the court of another state, the court shall forward to the other court certified copies of any or all such documents. [1973 c.375 §21]

109.920 Obtaining transcript from another state. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in ORS 109.910. [1973 c 375 §22]

109.930 Calendar priority. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under ORS 109.700 to 109.930, the case shall be given calendar priority and handled expeditiously. [1973 c.375 §24]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G Clifford, 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,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel