

Client Name(s): _____

CHECKLIST FOR PROCESSING STEPPARENT ADOPTIONS

Primary Statutes for Review

Adoption: **ORS 109.309**.

Petition: **ORS 109.315**

Adoption Summary and Segregated Information Statement: **ORS 109.317**

General Judgment of Adoption: **ORS 109.350**

- Obtain Retainer Agreement and Client Information

Note: Identify, discuss and resolve any issues, including the status of the birth father and effect of Indian Child Welfare Act

Document Preparation

Note: If more than one child is subject to this proceeding, each child must be treated individually with separate proceeding documents. However, only one filing fee is charged to Petitioner. Individual counties handle waiving the additional fees differently; contact the county of filing for their process.

1. **Petition for Adoption: (ORS 109.315)**

- Petitioners' full names. (109.315(1)(a))
- The state and length of residency in the state of the Petitioner, and information sufficient to establish residency requirement of **ORS 109.309(2)** has been met. (109.315(1)(b))
- Current marital or domestic partnership status of Petitioners. (109.315(1)(c))
- An explanatory statement why the Petitioners are of sufficient ability to bring up the Minor Child and furnish suitable nurture and education sufficient for judgment to be entered under **ORS 109.350**. (There is considerable variability regarding the level of detail required by different counties. Inquire as to local practice and consider including: information regarding employment of petitioners, such as employer and length, sufficiency of income, type of residence and space for child, ability to provide medical care, plans for schooling, success with other children, if any, etc.) (109.315(1)(d))
- Information sufficient for court to establish compliance with jurisdiction and venue requirements of **ORS 109.309(4)** and **(5)** (109.315(1)(e))
- Full name, gender, and date of birth and place of birth of child. (109.315(1)(f))
- The marital or domestic partnership status of the biological mother when the child was conceived and born and during the 300 days prior to the date of birth of the child. (109.315(1)(g))

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- A statement that the Minor Child is not an Indian Child as defined in the Indian Child Welfare Act (**25 U.S.C. 1901 et seq.**) (109.315(1)(h)) or, if the Indian Child Welfare Act applies

If ICWA Applies:

- A statement of the efforts made to notify the appropriate Indian tribe(s) of the adoption. (109.315(1)(h)(A))
- A statement of the efforts made to comply with the placement preferences of the Indian Child Welfare Act or the placement preferences of the appropriate Indian tribe. (109.315(1)(h)(B))
- Name and relationship to child of any person who has executed a Written Release or Surrender of Parental Rights or of Rights of Guardianship of the Minor Child as provided by **ORS 418.270** and the date of the Release or Surrender document. A Consent is required from the child if the child is 14 years of age or older. (109.315(1)(i))

Note: The Waiver of Appearance and Notice in a Stepparent Adoption is usually contained in the Consent document and no Certificate of Irrevocability and Waiver is prepared or signed.

Note: Each county sets its own policy on the requirement of a Consent being notarized. It is good practice to notarize a Consent whether or not it is required by statute to avoid rejection by the Court.

- Name and relationship to child of any person who has given consent pursuant to **ORS 109.321** and date consent given. (109.315(1)(j))
- Name and relationship to child of any person or entity for who the consent requirement is waived or not required. (109.315(1)(k))
- Statement of the Facts and Circumstances under which Petitioners obtained physical custody of the child, including date of placement with Petitioners and name and relationship to child of person or entity placing child with Petitioners. (109.315(1)(m))
- Length of time child has been in physical custody of Petitioners; if child not with Petitioners, provide reason, and date and manner in which Petitioners will obtain physical custody of child. (109.315(1)(n))
- Whether or not a Continuing Contact Agreement exists under **ORS 109.305**, including names of the parties to the agreement and date of execution. (109.315(1)(o))
- A statement establishing that the requirements of ORS 109.353 regarding advisement about the voluntary adoption registry and the registry's services have been

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met (109.315(1)(p)).

- A statement that the requirements of ORS 109.346 regarding notice of right to counseling sessions do not apply to this proceeding. (109.315(1)(q))
- Statement that UCCJEA information is in ASSIS. (109.315(1)(r))
- Statement that ICPC does not apply.
- Unless waived, statement that Home Study was completed in compliance with **ORS 109.309(7)**. (109.315(1)(t)) *This is usually waived in a stepparent adoption, although DHS may request one if circumstances dictate.*
- A statement that Petitioners have been informed of the estimated costs and expenses associated with this adoption proceeding. (109.315(3)(e) and 109.311(1), (2))
- A declaration made under penalty of perjury that the petition, and the information and statements contained in the petition, are true to the best of the petitioners' knowledge and belief and that the petitioner understands the petition, and information and statements contained in the petition, may be used as evidence in court and are subject to penalty for perjury. (109.315(1)(u))

Prayer/Request (ORS 109.315(2))

- Entry of General Judgment of Adoption (109.315(2)(a))
- Petitioner be permitted to adopt the Minor Child as the Child of Petitioner for all legal intents and purposes (109.315(2)(b))
- Finding that the court has jurisdiction over the adoption proceeding, the parties, and the Minor Child (109.315(2)(c))
- Termination of parental rights and/or determination of nonparentage (109.315(2)(d))
- Approval of the change of the child's name to the proposed adoptive name or that the child's name remain unchanged. (109.315(2)(e))
- If applicable:* A finding that the Continuing Contact Agreement entered under **ORS 109.305** is in the best interests of the minor child, and that, if the Minor Child is 14 years of age or older, the Minor Child has consented to the agreement, and that the court incorporate the Continuing Contact Agreement by reference into the adoption judgment. (109.315(2)(f))
- That the court require preparation of and certify an Adoption Report as provided in **ORS 432.223**. (109.315(2)(g))
- That all records, papers, and files in the record of the adoption be sealed as

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provided under **ORS 109.319**. (109.315(2)(h))

Any other relief requested by Petitioner. (109.315(2)(i))

Exhibits

Must include if applicable, but need not be limited to:

Any written Release or Surrender of the Minor Child for Adoption, or a written Disclaimer of Parental Rights. (109.315(3)(a))

Any written Consent to the Adoption. (109.315(3)(b))

Any Continuing Contact Agreement (109.315(3)(d))

Adoption Disclosure Statement (109.315(3)(e))

Any other supporting documentation to comply with the petition requirements in **ORS 109.309** and **ORS 109.315**.

--Petition must be signed by Petitioners--

2. **Adoption Summary and Segregated Information Statement: (ORS 109.317)**

Full name, permanent address and telephone number of each Petitioner (109.317(1)(a))

Current Full Name, the Proposed Adoptive Name and Date and Place of Birth of the Minor Child. (109.317(1)(b))

Names, permanent addresses and telephone numbers of any person whose consent to the adoption is required under **ORS 109.321**. (109.317(1)(c))

Name and relationship to Minor Child and address of any person or entity for whom written consent requirement of **ORS 109.321** is waived or not required as provided in **109.322, ORS 109.323, 109.324, 109.325, 109.326, 109.327**, or whose written consent may be substituted for the written consent requirement under **ORS 109.321** as provided in **109.322, ORS 109.323, 109.324, 109.325, 109.326, 109.327, 109.328** and **109.329**. (109.317(1)(d))

The information required by the Uniform Child Custody Jurisdiction and Enforcement Act under **ORS 109701** to **109.834**. (109.317(1)(e))

Statement that adoption agency information is not applicable. (109.317(1)(f))

Name, bar number and contact information for any attorney representing a Petitioner or a person whose consent to the adoption is required under **ORS 109.321**. (109.317(1)(g))

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- Type of adoption proceeding: (109.317(1)(h))
- Private Agency Adoption, either domestic or international.
 - Non-Related Independent Adoption.
 - Determination of validity of an adoption in a foreign nation under **ORS 109.385**.
 - Relative Independent Adoption.
 - Stepparent Independent Adoption.
 - An independent adoption involving one Petitioner who retains parental rights.
 - Out-of-State Public Agency Adoption.
 - An adoption in which the Department Human Services gives consent under **ORS 109.325**.
 - Any other specified adoption.

Exhibits - ORS 109.317:

No medical history of the child and biological parents is required in a stepparent adoption (109.342(4)) and DHS will typically waive the home study requirement. If, given the circumstances, the home study is not waived, it should be attached as an exhibit to the ASSIS per ORS 109.317(2)(a)

- Report of Adoption as required under **ORS 432.223**.

Note: Before Judgment is entered in this adoption, Petitioners have an obligation to file an Amended Adoption Summary and Segregated Information Statement when any of the required information changes or when information not previously known or ascertainable becomes known or ascertainable.

3. **Judgment.**

- Findings of Fact to support order (**ORS 109.350**) and refer to the Petition for Adoption.
- Termination of Parental Rights of Birth Parent(S) and/or
- Determination of Non-Paternity of Birth Father
- Acknowledgment of the Court's authority to make a custody determination (UCCJEA)
- Child's name change
- Language making Petitioners the legal parents of the child
- Approval and incorporation of Continuing Contact Agreement if applicable
- Directing that the court require preparation of and certify an Adoption Report as

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provided in **ORS 432.223**.

- Directing Oregon Health Authority, Vital Records Department, to issue a new or amended Birth Certificate for the child.
- Language sealing records

4. **Fees**

\$255.00 check payable to State of Oregon for Filing Fee
\$60 for Amended Birth Certificate

After Filing of the Petition and Related Documents

1. **ORS 109.315(5)** requires that a true copy of the Petition and ASSIS to be served on the Department of Human Services by either registered or certified mail with return receipt, or personal service within 30 days after the documents have been filed with the court.
2. If all requirements have been met, DHS will issue you a letter waiving the 90-day waiting period, Home Study and Placement Report; or DHS will issue a letter outlining further requirements.
3. Once the DHS Waiver is issued, a General Judgment of Adoption can be filed with the court.

Specific to Stepparent Adoptions

Abandonment and Neglect: If filing a petition is based on abandonment and neglect, please review **ORS 109.324** for service, notice requirements. A Motion for Order to Show Cause, Order to Show Cause and Summons are to be prepared and personally served on the birth parent if whereabouts are known or can be ascertained.

Note: Statutes require no Show Cause Hearing; however, some courts still maintain the practice. Contact your court of filing for their process.

Notice to Parents of Party Whose Parental Rights Would Be Terminated:

ORS 109.315 requires that notice be served on the parents of the party whose parental rights would be terminated by either registered or certified mail if their names and addresses are known by Petitioner or can be ascertained. Petitioners can request the court to waive this requirement.

Criminal History and Child Abuse Clearances:

If Petitioners have resided in Oregon for over five years:

- Criminal history clearance on adopting parent through Oregon State Police
- Child Abuse and Neglect clearances on both petitioners to be performed by DHS

If Petitioners have not resided in Oregon for over five years:

- Criminal history clearance on adopting parent through Oregon State Police

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- FBI clearance on adopting parent
- Child Abuse and Neglect Clearances on both Petitioners from every state of residence for the previous five years

Notes:

1. Every document is subject to errors, review all incoming and outgoing documents, including but not limited to Certificates of Adoption and Birth Certificates.
2. Every court sets its own policies on processing adoptions. Be prepared for requests for additional documents or information.

Client File Notes

Date File Opened: _____

Date of Client Meeting: _____

County for Filing: _____

Date Filed: _____

Case Number: _____

DHS Served: _____

DHS Waiver Received: _____

Birth Parent Served (if applicable): _____

Order Dispensing with Consent of
Non-Consenting Birth Parent Obtained: _____

Notice to Parents of Birth Parent
Whose Parental Rights are Terminated: _____

Date Judgment Submitted: _____

Date Judgment Signed: _____

Date Judgment Sent to Client: _____

Date Birth Certificate Received: _____

Date Birth Certificate Sent to Client: _____

Date File Closed: _____

File Retention: See the PLF file retention and
destruction guidelines, available on the PLF
website, www.osbplf.org.

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IMPORTANT NOTICES

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