

CHECKLIST FOR PROCESSING OTHER COUNTRY RE-ADOPTIONS

1. Primary Statutes for Review

- a. Adoption: ORS 109.385
- b. Petition: ORS 109.385
- c. Adoption Summary and Segregated Information Statement: ORS 109.317
- d. General Judgment of Adoption: **ORS 109.350**

Retainer Agreement and Client Information obtained.

NOTE: Identify, discuss and resolve any issues.

Notify adoption agency of representation.

2. Document Preparation

a. **Petition for Adoption** (ORS 109.385(6))

Petitioners' full names. (109.385(6)(a))

Current marital or domestic partnership status of Petitioners. (109.385(6)(b))

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. Although ORS 109.385(6) does not explicitly require this to be in the Petition, jurisdiction requirements *do* apply, and it is common practice to include.

If the readoption is of a minor child, information sufficient for court to establish compliance with jurisdiction requirements of ORS 109.309(4). (ORS 109.385(6)(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. This is not specifically required by ORS 109.385, but it is common practice to include.

The gender and full birth name, adopted name, and any other alias of the person sought to be readopted. (109.385(6)(d))

A statement of the place and date of the person's birth in the foreign nation. (109.385(6)(e))

Statement of facts concerning the child's birth parents and living situation before arriving in the United States. Not required by ORS 109.385, but may be useful as support for the statement that foreign adoption was legal and valid.

A statement that the foreign adoption is legal and valid under the laws of the nation in which the adoption occurred and the date of the adoption. (109.385(6)(f))

NOTE: Pursuant to ORS 109.385(3), "[a] copy of a decree, order, judgment, certificate or

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other document of adoption by adoptive parents, at least one of whom is a citizen of the United States, issued by a court or pursuant to an administrative proceeding of competent jurisdiction in the foreign nation is prima facie evidence in any court or administrative proceeding in this state that the adoption was legal and valid.”

- A statement that the person's entry into the United States has complied with applicable federal immigration laws. (109.385(6)(g))
- If the readoption is of a minor child, a statement that a home study was completed and approved prior to the foreign nation adoption of the minor child. (109.385(6)(h))
- If the readoption is of a minor child, whether a continuing contact agreement exists under ORS 109.305 or a similar law applicable to the nation where the foreign nation adoption occurred, including the names of the parties to the agreement and the date of execution. (109.385(6)(i))
- A statement of the desired new adoptive name for the person to be readopted. (109.385(6)(j))
- If applicable, a statement that the birthdate listed on the person's foreign nation birth documents is believed to be inaccurate and a description of the evidence that supports the petitioner's belief (109.385(6)(k)). Evidence that the court may consider includes, but is not limited to: Medical evaluations, birth certificates, school records, dental evaluations, psychological evaluations, bone density tests, and social evaluations. (109.385(13)(b))
- A statement requesting the clerk of the court, upon payment of any required fees, to issue to the petitioner a certificate of adoption under ORS 109.410 and a certified copy of the general judgment of adoption. (109.385(6)(L))
- A statement describing the steps taken to determine whether or not there is reason to know that the child is or is not an Indian Child as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), which statement may be provided in a supplemental declaration and incorporated by reference into the Petition. If the child is an Indian Child, a statement that the adoption complies with the requirements of Oregon law and the federal Indian Child Welfare Act.

NOTE: Although it is very unlikely an international readoption proceeding will involve an Indian Child as defined by federal ICWA, the 2021 Oregon Legislature enacted broad revisions expanding the ICWA research and notice requirements in independent adoptions, and documentation of such efforts is required in 109.385 adoptions.

- Statement that the requirement of notice to the birth parents of Oregon's Voluntary Adoption Registry does not apply. Readoptions specifically exempted by ORS 109.385(11)(b). This statement is not required by ORS 109.385(6), but it is common practice to include)
- Statement that Notice of Right to Receive Payment for Adoption-Related Counseling notice does not apply. Readoptions specifically exempted by ORS 109.385(11)(c). This statement is not required by ORS 109.385(6), but common practice to include.

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If readoption is of a minor child, statement that UCCJEA information is in ASSIS. Statement not specifically required by ORS 109.385(6), but 109.385(10)(a)(C) requires UCCJEA information to be included in the ASSIS.

Statement that ICPC does or does not apply.

A statement that Petitioners have been informed of the estimated costs and expenses associated with this adoption proceeding. The adoption statutes are not entirely clear with regard to when this disclosure would or would not be applicable to a readoption proceeding, so best practice is to include.

b. **Prayer/Request** (ORS 109.385(8))

Entry of General Judgment of Adoption. (109.385(8)(a))

Petitioners be permitted to readopt the person as the child of petitioners for all legal intents and purposes. (109.385(8)(b))

Finding that the court has jurisdiction over the adoption proceeding, the parties, and the person sought to be readopted. (109.385(8)(c))

Approval of a change to the name of the person to be readopted. (109.385(8)(d))

If applicable, a finding that a continuing contact agreement entered into under ORS 109.305, or a similar law applicable to the nation where the foreign nation adoption occurred, is in the best interests of the minor child and that the court incorporate the continuing contact agreement by reference into the adoption judgment. (109.385(8)(e))

If applicable, a finding that the evidence of the person's birthdate listed on the foreign nation adoption documents is inaccurate and that the evidence presented by the petitioner supports a change to the birthdate of the person to be readopted. (109.385(8)(f))

Finding that the adoption order document granted in the country of origin is valid. 109.385(8) does not *require* that the petition request this finding, but it is common practice to make this request.

That the court require preparation of and certify an Adoption Report as provided in ORS 432.223. (109.385(8)(g))

If the readoption is of a minor child, that all records, papers, and files in the record of the readoption be sealed as provided under ORS 109.319. (109.385(8)(h))

Any other relief requested by Petitioner. (109.385(8)(i))

c. **Exhibits** (ORS 109.385(9))

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

True copies of the foreign nation birth certificate of the person to be adopted, accompanied by an English translation, if necessary. (109.385(9)(a))

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- True copies of the foreign nation adoption decree, order, judgment, certificate or similar document accompanied by an English translation, if necessary. (109.385(9)(b))
- True copies of the foreign nation passport and proof of legal residency in the United States for the person sought to be readopted. (109.385(9)(c))
- If applicable, a true copy of any continuing contact agreement entered into under ORS 109.305 or a similar law applicable to the nation where the foreign nation adoption occurred. (109.385(9)(d))
- If applicable, the written disclosure statement required under ORS 109.311. (109.385(9)(e))
- Any other supporting documentation to comply with the petition requirement in ORS 109.385. (109.385(8)(f))

****Petition must be signed by Petitioners****

d. **Adoption Summary and Segregated Information Statement (ORS 109.385(10)(a) – only required if the readoption is of a minor child)**

- Full name, permanent address and telephone number of each Petitioner. (109.385(10)(a)(A))
- Current Full Name, the Proposed Adoptive Name and Date and Place of Birth of the Minor Child. (109.385(10)(a)(B))
- The information required by the Uniform Child Custody Jurisdiction and Enforcement Act under ORS 109701 to 109.834. (109.385(10)(a)(C))
- Name, address and telephone number for the Adoption Agency that will consent, or has consented, to this adoption.
- Name, bar number and contact information for any attorney representing a Petitioner. (109.385(10)(a)(D))
- Type of adoption proceeding (not strictly required by ORS 109.385(10)(a), but it is common practice to include this information).

e. **Exhibits** ORS 109.385(10)(b)

- Home Study or written evidence that a home study has been approved as required by ORS 109.309, unless waived, or Copy of Petitioners' Request for Waiver of Home Study. Although the statute does not specifically allow for a copy of the request for waiver to be substituted for the waiver itself, this is common practice and courts have generally been willing to accept this substitution.
- Adoption Report on a form prescribed and furnished by the State Registrar of the Center for Health Statistics as required under ORS 432.223.

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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.

f. **Judgment**

- Findings of Fact to support order (ORS 109.350) and refer to the Petition for Adoption.
- Finding that the Order of Adoption entered in the country of origin is valid.
- A statement terminating the parental rights remain of the birth parents.
- Name change of the person to be readopted
- Language making Petitioners the legal parents of the person to be readopted
- Directing that the court require preparation of and certify an Adoption Report as provided in ORS 432.223.
- Directing Oregon Health Authority, Vital Records Department, to issue a new or amended Birth Certificate for the person to be readopted.
- Language sealing records

3. **Fees**

- a. \$124.00 check payable to State of Oregon for filing fee.
- b. \$60 check payable to OHA/Vital Records for amended Birth Certificate.

4. **After Filing of the Petition and related documents**

- a. ORS 109.385(7) requires that a true copy of the Petition and ASSIS (if applicable) 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.
- b. If all requirements have been met, DHS will issue you a letter waiving the 90-day waiting period and Placement Report, or DHS will issue a letter outlining further requirements.
- c. Once the DHS Waiver is issued, a General Judgment of Adoption can be filed with the court.

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

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5. Client File Notes

Date File Opened: _____
Date of Client Meeting: _____
County for Filing: _____
Date Filed: _____
Case Number: _____
DHS Served: _____
DHS waiver Received: _____
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.

NOTE: BarBooks is a fantastic resource for finding information and sample forms regarding adoption. Go to the bar website at www.osbar.org, log-in, and click on the link for BarBooks. You can find adoption information and sample forms in the “Family Law in Oregon” book, specifically Chapter 19 (Adoption; Assisted Reproduction).

IMPORTANT NOTICES

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