

	Department of Human Services <b>CHILDREN, ADULTS &amp; FAMILIES</b>	<b>NUMBER:</b> I-G.4 <b>OAR:</b> 413-140-0000 thru 0120
	<b>CLIENT SERVICES INDEX</b>	<b>SECTION:</b> G. Adoptions
	<b>ISSUED BY:</b> Office of Safety and Permanency for Children  FINAL: 7-01-06	<b>SUBSECTION:</b>
<b>SUBJECT:</b> 4. Independent Adoptions – OAR		

### REFERENCES:

I-G.2.1, Minimum Standards for Adoptive Homes, OAR 413-120-0300 thru 0310  
[http://www.dhs.state.or.us/policy/childwelfare/manual\\_1/i-g21.pdf](http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-g21.pdf)  
 ORS 109.309, 109.311, 109.312, 109.328, 109.390  
 ORS 109.701 to 109.834, Uniform Child Custody Jurisdiction Enforcement Act  
 ORS 419B.005  
 Attachment A, Confidential Home Study and Court Report  
<http://egov.oregon.gov/DHS/children/publications/homestudyreport.pdf>  
[http://egov.oregon.gov/DHS/children/publications/homestudy512\\_001.pdf](http://egov.oregon.gov/DHS/children/publications/homestudy512_001.pdf)

### FORMS

CF 246, Genetic and Medical History of Child and Biological Family  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0246.pdf>  
 CF 246a, Non-State Office for Services to Children and Families Adoptions  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0246a.pdf>  
 CF 960, Adoption Disclosure Statement  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0960.pdf>  
 Form 45-24 (Center for Health and Statistics), Adoption Report  
<http://dhsforms.hr.state.or.us/Forms/Served/DE45-24.pdf>  
 CF 249D, Request for Waiver of Home Study and Placement Report  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0249d.pdf>  
 CF 249g, Request for Oregon Criminal History Information  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0249g.pdf>  
 DHS 2099, Authorization for Use and Disclosure of Information  
<http://dhsforms.hr.state.or.us/Forms/Served/DE2099.pdf>  
 CF 249B, Request for Waiver of Independent Adoption Fees  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0249b.pdf>

### 413-140-0000

#### Purpose and Role of the Department in Independent Adoptions

- (1) The purpose of these rules (OAR 413-140-0000 to 413-140-0120) is to establish the administrative process necessary to achieve an independent adoption in Oregon.

- (2) With respect to an *independent adoption* (defined in OAR 413-140-0010), the Department has a gatekeeper role, oversight responsibility, and identifies concerns for the court.
- (3) A petition for an *independent adoption* and supporting documentation filed with the court must be served on the Department within 30 days of filing with the court. The Department is responsible for reviewing adoption petitions and supporting documentation for independent adoptions, issuing a 90-day waiting period waiver when appropriate for adoption petitions involving children who are minors, and pursuant to OAR 413-140-0035, issuing a waiver of the *home study*. Materials served on the Department are reviewed for compliance with Oregon and federal law, prior to the issuance of the 90-day waiting period waiver and, if applicable, the waiver of the *home study*.
- (4) These rules also apply to adoptive placements by licensed adoption agencies that are finalized in Oregon.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.305-109.410, 109.741, 409.010

#### **413-140-0010**

##### **Definitions**

The following definitions apply to OAR 413-140-0000 to 413-140-0120:

- (1) "Birth parent" means the man or woman who is legally presumed under Oregon law to be the father or mother of genetic origin of the child.
- (2) "Certificate of Approval" means a document that---
  - (a) Is issued by a *contracted adoption agency* or by an Oregon *licensed adoption agency*, and approved by the Department; and
  - (b) Approves a home study and certifies that the prospective adoptive family has met the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.
- (3) "Contracted adoption agency" means a *licensed adoption agency* in Oregon holding a current contract with the Department to conduct home studies and placement reports for independent adoptions.
- (4) "Foreign adoption" means an adoption in which a child born in a foreign country is adopted under the laws of that country or readopted in Oregon. A *foreign*

*adoption* is sometimes called an "international adoption", and may be subject to the requirements and regulations of the Intercountry Adoption Act when implemented and brought into force between the United States and other countries that have become parties to it.

- (5) "Gestational carrier" is a woman who carries a fetus whose biological origin is from two other people.
- (6) "Home study", in accordance with ORS 109.304, means a written evaluation of the suitability of a prospective adoptive parent to adopt and parent a child who may be placed for adoption. The *home study* is completed prior to the filing of a petition to adopt, in accordance with Department reporting format and standards, and states whether or not the prospective adoptive parents meet the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.
- (7) "Household" means all persons who occupy the housing unit.
- (8) "Independent adoption" means any private or non-DHS adoption of a person under the age of 18 in which the consent is given by a person or entity other than the Department.
- (9) "Licensed adoption agency" means an adoption agency licensed by the state of Oregon to place children for adoption, or an adoption agency that holds a license from another state and is authorized under the laws of that state to place children for adoption.
- (10) "Petitioner" means the person or persons seeking to adopt a child.
- (11) "Placement report" as defined in ORS 109.304 means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and must include information, such as: the child's background and placement; the child's medical and genetic history; the history of each *birth parent*; the status and adjustment of the child in the adoptive home; and the status and adjustment of each prospective adoptive parent of the child. The *placement report* is sometimes called a "post-placement report" or "court report".
- (12) "Re-adoption" means an adoption of a child who was originally adopted in the child's country of origin and who is being re-adopted in Oregon by the adoptive parents.
- (13) "Step-parent" means a person who is the spouse of the child's parent by a subsequent marriage.

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 109.741

**413-140-0026**  
**Service of Petition**

- (1) As required under ORS 109.309(6), a *petitioner* must cause copies of the documents required to be filed with the court to be served upon the Director of DHS by certified mail with return receipt or personal service, within 30 days after the documents have been filed with the court.
- (2) Copies of the petition for an *independent adoption* and the documents required to be filed with the court must be mailed to:

Director  
Department of Human Services  
500 Summer Street NE, E-71  
Salem, OR 97301-1066  
Attention: Independent Adoptions

- (3) Date of service shall be the date the Director receives a copy of the petition, all required documents, and the fee for the *placement report* if applicable (see OAR 413-140-0040).

Stat. Auth.: ORS 409.050, 418.005  
Stats. Implemented: ORS 109.309, 409.010

**413-140-0030**  
**Contents of Petition**

- (1) Every petition for the adoption of a child must include a declaration of the child's connection with Oregon in accordance with ORS 109.309(a), the information required by ORS 109.309(6)(a)(A), and, in accordance with ORS 109.309(5), the significant connection that either the child or the supervising adoption agency has with the county in which the petition is being filed.
- (2) All of the following documents and information must be served upon the Director of DHS:
  - (a) A statement containing:

- (A) The full names and permanent addresses of the *petitioner* and child;
- (B) The full names and permanent addresses of---
  - (i) All persons whose consent to the adoption is required under ORS 109.312, when these names and addresses are known or may be readily ascertained by the *petitioner*;
  - (ii) The persons with whom the child has lived during the last five years and the places where the child has lived during that period, if the names and addresses may be readily ascertained by the *petitioner*;
  - (iii) If known to the *petitioner*, any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time or visitation with the child;
  - (iv) The supervising Oregon *licensed adoption agency*, if any, or the relative or person that privately placed the child for adoption; and
  - (v) A person who has resided in Oregon continuously for a period of six months prior to the filing of petition who must be a *petitioner*, a *birth parent*, or the child.
- (b) The documents demonstrating consent under ORS 109.312 to the adoption of the child.
- (c) Documentation relating to alternative notice by publication and show cause hearing, if applicable, under ORS 109.322 to 109.330.
- (d) A copy of the child's consent required under ORS 109.328 if the child being adopted is 14 years of age or older but has not reached the age of 18.
- (e) Except for those persons who qualify for a waiver of the *home study* or *placement report* in accordance with OAR 413-140-0035(5) or 413-140-0040(7), written evidence documenting a *valid* (see OAR 413-140-0035(4)) *home study* that has been approved by either the Department or by an Oregon licensed adoption agency recommending the adoption by the prospective adoptive family who has met the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310. If the *petitioner* is not an

Oregon resident, the *petitioner* must also submit a *Certificate of Approval* (defined in OAR 413-140-0010) from a *contracted adoption agency* (defined in OAR 413-140-0010, a list of contracted adoption agencies is available on the website of the Department). The fee for a *Certificate of Approval* is paid directly to the *contracted adoption agency* that issues the certificate.

- (f) A written disclosure statement, prepared on form CF 960, Adoption Disclosure Statement, which contains an itemized accounting of all money paid, or estimated to be paid, by the *petitioner* for fees, costs, and expenses related to the adoption, including all legal, medical, living, and travel expenses.
- (g) If applicable, a check or money order for the Placement Report (OAR 413-140-0040(7)) made payable to the Department of Human Services.
- (h) In the case of a *step-parent* (defined in OAR 413-140-0010) adoption, evidence that the petition was served on all persons whose consent is required under ORS 109.312, and each of the child's eligible grandparents who have established rights under ORS 109.119, if the names and addresses are known or may be readily determined.
- (i) When a parent of the child is deceased or *incapacitated* (as defined in section (5) of this rule), either:
  - (A) Evidence that the petition was served on the parents of the deceased or *incapacitated* parent, if the names and addresses are known or may be readily ascertained by the *petitioner*, or
  - (B) Evidence that the *petitioner* has requested of the court a waiver of the service described in paragraph (A) of this subsection for good cause.
- (j) A completed report of the medical and genetic history of the child and of each biological parent, required under ORS 109.342, on prescribed Department forms CF 246 and CF 246A. The medical report must be in English, written in ink, and be as thorough as possible. A medical and genetic history is not required when a child is adopted by a *step-parent* (defined in OAR 413-140-0010).
- (k) A statement of verification that each *birth parent* and *petitioner* have been advised of the voluntary adoption registry established under ORS 109.450, have been given information on how to access those services, and (if applicable) a statement requesting the court to waive the notification upon a finding of good cause.

- (l) A statement that one *petitioner*, the child, or one *birth parent*, has resided in Oregon continuously for a period of six months prior to the date of the petition.
- (m) A copy of the Adoption Report Form (Form 45-24, Center for Health and Statistics), with parts one and two filled out.
- (n) If applicable, a statement of compliance with the Interstate Compact on the Placement of Children (ICPC) under ORS 417.200 to ORS 417.260 and DHS Child Welfare Policy I-B.3.4.2 "Intestate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330.
- (o) Documentation verifying that notice under ORS 109.346 was given to each consenting *birth parent*, except for any of the following situations:
  - (A) An adoption in which a child born in a foreign country is adopted under the laws of that country or readopted in Oregon.
  - (B) An adoption in which a child born in a foreign country is subsequently adopted in Oregon and in which the identity or whereabouts of each *birth parent* of the child is unknown.
  - (C) An adoption in which a *birth parent* is retaining parental rights.
- (p) In accordance with ORS 109.309(11), if the Indian Child Welfare Act of 1978, U.S.C., Title 25, Sections 1901-1963, applies, the petition must include:
  - (A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption; and
  - (B) A statement of the efforts to comply with placement preferences of the Indian Child Welfare Act, or the placement preferences of the appropriate Indian tribe.
- (3) A *petitioner* who is a *step-parent*, relative, or person petitioning for *re-adoption* (defined in OAR 413-140-0010) who qualifies for a waiver under OAR 413-140-0035(5) or OAR 413-140-0040(7) may request that the Department waive the *home study* and/or *placement report* at the time of filing a petition to adopt.
- (4) Additional Requirements for Specific Categories of Independent Adoptions. As applicable, the following documents and information must be served upon the Director of DHS:

- (a) Step-parent Adoption.
- (A) The names and addresses of each of the child's eligible grandparents who have established rights under ORS 109.119, if the names and addresses are known or may be readily determined; or if applicable a statement requesting the court to waive the requirement upon a finding of good cause in accordance with ORS 109.309.
- (B) Request for Waiver of the Home Study and Placement Report (CF 249D), if applicable.
- (C) If there is a request for waiver of the *home study*:
- (i) A copy of the criminal background check report from the Oregon State Police if the adult *household* members of the prospective adoptive family are Oregon residents.
- (ii) If the adult *household* members of the prospective adoptive family have lived in Oregon for less than 5 years, an FBI clearance report must be sent directly to the Department.
- (iii) For non-Oregon residents, the criminal history, the child abuse clearance, and the FBI clearance, if applicable, from the state where the adult *household* members reside.
- (b) Re-adoption (defined in OAR 413-140-0110).
- (A) Copies of all pertinent foreign documents submitted in and received from the country of origin, with English translations.
- (B) A copy of the foreign adoption decree, translated into English.
- (C) Current medical and genetic history information submitted using the CF 246 and CF 246A forms.
- (c) Relative Adoption.
- (A) Request for Waiver of the Home Study and Placement Report (CF 249D), if necessary (see OAR 413-140-0035 and OAR 413-140-0040).
- (B) If there is a request for waiver of the *home study*.



- (i) A copy of the criminal background check report from the Oregon State Police if the adult *household* members of the prospective adoptive family are Oregon residents.
  - (ii) If the adult *household* members of the prospective adoptive family have lived in Oregon for less than 5 years, an FBI clearance report must be sent directly to the Department.
  - (iii) For non-Oregon residents, the criminal history, the child abuse clearance, and the FBI clearance, if applicable, from the state where the adult *household* members reside.
- (d) Special Categories of Independent Adoption.
- (A) Artificial Insemination.
    - (i) For adoptions relating to artificial insemination of a surrogate, under ORS 109.239, if the donor of the semen used in artificial insemination is not the mother's husband, such donor has no right, obligation or interest with respect to a child born as a result of the artificial insemination. "Surrogate" in this context means a woman who bears a child for another person, often for pay, through artificial insemination.
    - (ii) To consider an adoption resulting from artificial insemination as a *step-parent* adoption, documentation must be provided that:
      - (I) The *petitioner* who provided the semen (donor-petitioner) and the surrogate mother have agreed that the donor-petitioner has the rights and responsibilities of fatherhood; and
      - (II) The donor-petitioner relied on the agreement when he donated his semen.
  - (B) Gestational Surrogacy.
    - (i) An adoption involving a *gestational carrier* (defined in OAR 413-140-0010) is a gestational surrogacy if a *petitioner* is donor of either sperm or egg, the embryo is implanted into the womb of the *gestational carrier*, and the *gestational carrier* carries the child to full term. The child legally belongs to the biological parents, who, as petitioners, must provide

evidence that supports the assertion that they are the biological parents in accordance with ORS 109.239 and 109.243.

- (ii) To consider a gestational surrogacy as a relative adoption (under subsection (4)(c) of this rule), the following additional documentation must be provided:
  - (I) Consent from the gestational carrier; and
  - (II) Consent from the gestational carrier's husband, if married and not impotent or sterile.
- (5) As used in this rule, "incapacitated" means (as defined at ORS 109.309(7)(c)) a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity to meet the essential requirements for the person's physical health or safety. As used in this section, "Meet the essential requirements for the person's physical health or safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene, and other care without which serious physical injury or illness is likely to occur.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.119, 109.234, 109.239, 109.309, 109.312, 109.330, 109.342, 109.353, 109.385, 109.400, 109.450, 109.701 to 109.784, 417.200, 409.010

#### **413-140-0035**

##### **Home Study, Fees, Waivers, and Certificates of Approval**

- (1) Unless waived by the Department under ORS 109.309(6) and this rule, a *home study* (defined in OAR 413-140-0010) is required for the filing of a petition for an *independent adoption* (defined in OAR 413-140-0010).
  - (a) Oregon Residents:
    - (A) Except as provided in paragraph (C) of this subsection, the *home study* must be conducted by a *contracted adoption agency* (defined in OAR 413-140-0010).
    - (B) The allowable fee for a *home study* for an *independent adoption* is established by the Department. This fee is paid directly to the *contracted adoption agency* performing the service. This fee may not exceed \$1,500.

- (C) If the *home study* is completed by a *licensed adoption agency* (defined in OAR 413-140-0010) that is not a *contracted adoption agency*, a *Certificate of Approval* (defined in OAR 413-140-0010) from a *contracted adoption agency* is required, along with a copy of the original *home study*.
    - (i) The fee for the *Certificate of Approval* is paid directly to the *contracted adoption agency*.
    - (ii) The fee for the *Certificate of Approval* may not exceed \$150.
  - (D) Travel Reimbursement.
    - (i) A *petitioner* or an attorney for the *petitioner* reimburses travel expenses directly to the agency performing the service.
    - (ii) Travel reimbursement is limited to reasonable travel expenses, for example commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle, or bus fares; private car mileage allowances not to exceed the standard federally approved mileage rate; and actual and necessary expenses for lodging and meals.
  - (E) An eligible person who qualifies for a waiver under OAR 413-040-0035(5) may request in writing that the Department waive the *home study* at the time of filing a petition to adopt.
- (b) Non-Oregon Residents. Potential adoptive parents who are not Oregon residents but who are finalizing the adoption in Oregon must submit a *valid* (see OAR 413-140-0035(4)) *home study* completed by a *licensed adoption agency*, or by a person authorized to conduct home studies in the state in which the potential adoptive parent resides.
- (2) Certificates of Approval for Non-Oregon Residents.
- (a) A *Certificate of Approval* must be issued by a *contracted adoption agency* if a potential adoptive parent who is the subject of the *home study* is not a first degree blood relative of the child who is being adopted. The fee for this *Certificate of Approval* —
    - (A) May not exceed \$150; and
    - (B) Is paid directly to the *contracted adoption agency*.

- (b) An out-of-state *home study* for an *agency adoption* requires a *Certificate of Approval* issued by an Oregon *licensed adoption agency*.
- (A) For purposes of this rule, "agency adoption" means an adoption in which a *birth parent* or other persons required to consent under ORS 109.312 sign releases or surrenders to an authorized adoption agency in accordance with ORS 418.270, giving guardianship and control over a child for the purpose of adoption, and the agency gives its written consent to the adoption of the child.
- (B) There is no fee for this *Certificate of Approval* if the adoptive placement is made by the *licensed adoption agency*.
- (c) All of the following requirements apply to the approval process for a *home study* under subsections (a) and (b) of this section.
- (A) A request for approval of the *home study* is made to the adoption agency and must contain the full names, addresses, phone number, birth dates, and social security numbers of the potential adoptive parents.
- (B) The request must include a complete copy of the *home study*, and have written verification that the agency, or person who conducted the study, is authorized to carry out adoption work under the laws of the state where the prospective adoptive parents reside.
- (C) The adoption agency agreeing to review a *home study* from out of state may request additional information before granting a *Certificate of Approval*.
- (D) The adoption agency issuing a *Certificate of Approval* must ensure that child abuse reports and criminal history checks, including FBI clearances, if necessary, are completed and noted in the *home study*.
- (E) The adoption agency that completes or approves a *home study* must ensure that the *home study* includes the information outlined in Attachment A, Part I, Confidential Adoption Home Study Report, from the contract used for a *contracted adoption agency*. This document is available on the Department website, and the required information must include a biographical narrative of each prospective adoptive parent; detailed description of any children in the household and any other adults in the home; marital relationships and family lifestyle; finances; description of housing

and housekeeping standards; understanding of and motivation for adoption; results of criminal history check and child abuse history; summary of current medical condition, and drug and alcohol use; references; summary of the degree to which prospective adoptive parents meet minimum standards for adoptive homes, DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310; and the signature of the home study writer and either the director of the adoption agency or its authorized representative, including the approval date of the *home study*.

- (F) The decision about whether to grant a *Certificate of Approval* must be based on DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.
- (3) An adoption agency that completes or approves a *home study* must comply with all of the following requirements:
- (a) Maintain an original written copy of the study for one year after finalization in the event that a Judgment of Adoption is contested.
  - (b) Upon a written request of the *petitioner*, send a copy of the *home study* to the petitioner's attorney, if applicable, to be filed with the court.
  - (c) Comply with the confidentiality requirements in ORS 7.211 if the *home study* leads to a finalized adoption.
- (4) Validity of the Home Study.
- (a) A *home study* is valid for a maximum period of two years from the date of completion.
  - (b) After two years from the date of completion of a *home study*, in order for the study to remain valid:
    - (A) The *home study* must not have been used for a previously finalized adoption; and
    - (B) The agency completing the original study must provide a current update to the study indicating the changes that have occurred.
- (5) Waiver of the Home Study. Following filing of the adoption petition with the court, and upon written request of a *petitioner*, the Department may waive the *home study* under the circumstances described in any of the following subsections:

- (a) The petition is to adopt the stepchild of a *petitioner*, and there is evidence that--
  - (A) The petition has been served on all persons whose consent is required under ORS 109.312; and
  - (B) The petition was served on each of the child's grandparents who have established rights under ORS 109.119, if the names and addresses are known or can be readily determined by the petitioners.
- (b) A *petitioner* is a grandparent, sibling, aunt, or uncle of the child, and the child has resided with the petitioners----
  - (A) Since birth and for at least six months; or
  - (B) On a continuous basis for one or more years immediately prior to the filing of the adoption petition.
- (c) The petition is to adopt the child of a biological or adoptive parent, the petitioners will be the legal parents of the adoptee, and the biological or adoptive parent will retain parental rights.
- (d) The petition is to adopt a child, belonging to the biological parents, being brought to term and delivered by a gestational carrier. Petitioners must provide evidence that supports the assertion that the petitioners are the biological parents of the child being adopted.
- (e) The petitioners or the child are currently receiving services from the Office of Safety and Permanency for Children of the Department of Human Services, or have received such services within the last 12 months. There must be sufficient information that will allow the Department to determine that the adoption is in the best interest of the child and that the *home study* may be waived.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.309, 109.312, 409.010

#### **413-140-0040**

#### **Placement Report: Conditions, Waivers, And Fees**

- (1) A *placement report* (defined in OAR 413-140-0010) must be filed in every adoption proceeding unless the Department files a waiver of the report with the court.
- (2) A *placement report* for an *independent adoption* may only be considered for waiver by the Department when the child's connection with Oregon is described in the petition in accordance with ORS 109.311 and 109.309.
- (3) The Department must waive the *placement report* to the court in an adoption where one of the child's biological or adoptive parents retains parental rights.
- (4) The Department may not assign the completion of a *placement report* to a *contracted adoption agency* unless a copy of the Disclosure Statement is received.
- (5) Waiver of Placement Report. The Department may file a waiver of the *placement report* under the circumstances described in any of the following subsections:
  - (a) The petition is to adopt the step-child of a *petitioner*, and there is evidence that the petition has been served on---
    - (A) Each person whose consent is required under ORS 109.312; and
    - (B) Each of the child's grandparents who have established rights under ORS 109.119 if the names and addresses are known or may be readily determined by the petitioners.
  - (b) The petitioners and the child are currently receiving services from the Office of Safety and Permanency for Children of the Department of Human Services or a *licensed adoption agency* (defined in OAR 413-140-0010) or have received such services in the past 12 months, and there is sufficient information available to allow the Department or a *licensed adoption agency* to recommend in writing that the adoption is in the best interest of the child.
  - (c) The child is 14 years of age or older, has consented to his or her adoption, and the Department or a *licensed adoption agency* has sufficient information available to recommend that the adoption is in the best interest of the child.
  - (d) A *petitioner* is a grandparent, sibling, aunt, or uncle of the child, and the child---
    - (A) Has resided with the petitioners since birth and for at least six months; or

- (B) If placed immediately after birth, has resided with the petitioners on a continuous basis for one or more years immediately prior to the filing of the petition for adoption.
- (e) The child's adoption in a foreign nation meets all requirements of ORS 109.385, and all of the following requirements are met:
  - (A) There is documented proof that the *foreign adoption* (defined in OAR 413-140-0010) and the child's entry into the United States fully complies with federal immigration and naturalization laws.
  - (B) The adoption is verified with original or certified true copies of all documents necessary for completion of the *foreign adoption*, including a copy of the foreign adoption decree.
  - (C) All documents written in a foreign language are translated into English.
  - (D) If there has not been a *re-adoption* (defined in OAR 413-140-0010) of the child in Oregon, and an adoption petition is filed by the persons whose names are listed as the adoptive parents on the foreign adoption decree:
    - (i) A copy of the foreign adoption decree must be submitted as proof of the *foreign adoption*.
    - (ii) Copies must be submitted of all foreign documents, with English translations, that have been filed with the foreign court.
- (6) A *placement report*, unless waived, must be completed, after the filing of a petition, by a *contracted adoption agency* under the following conditions:
  - (a) Before the Department will authorize the preparation of a *placement report* to the court, a petition and all related documents must be served on the Department within 30 days of petition filing, along with the full fee, or justification for a fee waiver. Service is not considered complete until the Department has received copies of all required documentation provided to the court as well as the required fees.
  - (b) Upon satisfactory service of the petition and documents, the Department assigns completion of the *placement report* to a *contracted adoption agency*. Assignment is made to the *contracted adoption agency* that completed the *home study*, or to the agency requested by the petitioners,



if that agency has a current contract with the Department to conduct independent home studies and placement reports.

- (c) The Department assigns and provides all necessary information and materials to the designated *contracted adoption agency* within 30 days of completed service of petitions and documents upon the Adoption Services Unit of the Department.
- (7) Fees, Travel Reimbursement, and Other Procedures.
- (a) The fee for a *placement report* for an *independent adoption* (defined in OAR 413-140-0010) is \$675. The *petitioner* must pay this fee to the Department, prior to the issuance of the 90-day waiting period waiver or the Notice to the Court. This fee may be adjusted to a lower amount in any of the following situations:
    - (A) The petitioners qualify for a fee waiver of part or all of the fee in accordance with OAR 413-140-0070.
    - (B) A voluntary adjustment of the fee to a lower amount is made by the *contracted adoption agency*.
    - (C) The interview of the petitioners was done in another jurisdiction;
    - (D) The interview with a *birth parent* (defined in OAR 413-140-0010) could not be completed.
  - (b) Travel reimbursement must be limited to reasonable travel expenses, such as commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle or bus fares; private car mileage allowances not to exceed the standard federally approved mileage rate; and actual and necessary expenses for lodging and meals.
  - (c) A *contracted adoption agency* preparing a *placement report* must bill for services rendered in preparation of a *placement report* using the CF 961 form, Independent Adoption Invoice.
  - (d) The *contracted adoption agency* may not investigate and prepare a *placement report* for an *independent adoption* until the required fee has been received by the Department.
- (8) Each *placement report* for an *independent adoption* must be completed following Department procedures and the reporting format agreed upon in the contract.

- (9) A copy of each finished *placement report* must be sent by the assigned *contracted adoption agency* to the court and to the Adoption Services Unit of the Department.
- (10) In the event the *placement report* cannot be completed within 60 days from the date the Department assigned it to a *contracted adoption agency*, the *contracted adoption agency* must:
  - (a) Notify the court in writing of the delay, stating the specific reasons for the delay, and the anticipated additional time necessary to prepare and submit a full and complete report; and
  - (b) Provide a copy of the notification of the delay to the Adoption Services Unit of the Department.
- (11) The Department furnishes to the petitioner's attorney copies of any information filed with the court.

Stat. Auth.: ORS 409.010, 418.005

Stats. Implemented: ORS 109.119, 109.309, 109.311, 109.385, 109.390

#### **413-140-0045**

##### **Waiver of Fees**

- (1) Contracted adoption agencies may, on a case-by-case basis, absorb some costs and accept a reduced fee, or full waiver of the *home study* and/or *placement report* fee, in consideration of the *household income* (see section (4) of this rule) of the prospective adoptive parents.
- (2) The determination by the Department of a reduction or waiver of a fee is based on the fee waiver schedule that the Department establishes each calendar year (available on the Department website), using the annual Poverty Guidelines of the United States Department of Health and Human Services.
- (3) A potential adoptive parent or *petitioner* is not entitled to any consideration for a waiver of a fee unless a request for waiver or reduction of the fee is submitted to the Adoption Services Unit of the Department, in writing, along with documentation of *household income*. A copy of the most recent Federal Tax Report 1040 form (if filed in the past two years) and verification of *household income*, is required.
- (4) For purposes of this rule, *household* (defined in OAR 413-140-0010) income includes before tax cash receipts from all sources such as wages or salaries; public assistance, entitlements, and benefits; private support and assistance

payments; and payments from investments, rents, pensions, allotments, compensations, child support, alimony, public assistance, annuities, grants, interest, winnings, and entitlements.

- (5) Confirmation of *household income* is made on forms supplied by the Department (available on its website), along with supporting documents and records of income before any waiver of fee is authorized.
- (6) In the event a fee waiver is authorized based upon erroneous information, the *petitioner* is liable for the full cost of the *home study* and/or *placement report*, and any amounts associated with recovery of those costs.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010

#### **413-140-0055**

##### **Limits to Adoption**

- (1) If a *contracted adoption agency* is conducting a *home study* or considering a *Certificate of Approval*, the *contracted adoption agency* may not approve a home for adoption if there are eight or more children under the age of 18 residing in the adoptive home until the director of the *contracted adoption agency* convenes a review committee of at least three human services professionals --- with experience in adoption and services to families and children --- to review and approve the adoption application.
- (2) The findings and recommendations of the review committee under section (1) of this rule must be included in a *home study* report or *Certificate of Approval*, including any dissenting or minority findings and recommendations.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.309

#### **413-140-0065**

##### **Criminal Background Check**

If a waiver of a *home study* (defined in OAR 413-140-0010) is requested:

- (1) For purposes of this rule, a "subject individual" means each *petitioner* (defined in OAR 413-140-0010) and all members of the petitioner's household over 18 years of age.

- (2) Each *subject individual* must file a copy of a consent to a check of the Department's child protection records and a criminal records check.
  - (a) The criminal records information on each *subject individual* must be provided to the Department before a request for the waiver of the *home study* will be considered.
  - (b) If a *subject individual* is an Oregon resident, the *subject individual* must use the prescribed Department form for requesting the criminal background check (available on the Department website); and
  - (c) If a *subject individual* has resided in Oregon for less than five years or is not an Oregon resident, the *subject individual* must arrange for an FBI criminal history clearance to be sent directly by the FBI to the Department.
  - (d) If a *petitioner* resides in another state, each *subject individual* must arrange for the criminal background check and the child abuse report to be sent directly by the state agency authorized to issue these clearances to the Department.
  - (e) Applicants for a criminal history check are responsible for paying all fees associated with acquiring and providing criminal history information.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.309, 109.312

#### **413-140-0080**

##### **Interview With Birth Parents**

- (1) The agency that is conducting the *home study* (defined in OAR 413-140-0010) must make every reasonable attempt to contact and interview each *birth parent* (defined in OAR 413-140-0010) of the child.
- (2) An agency placing a child or conducting a *home study* must interview each *birth parent* who can be located and is willing to be interviewed regarding the social and genetic background and legal status of the child to determine the ethnic (including Indian tribal membership) and health history of the child, and the attitude of each *birth parent* toward the adoption. In the event a *birth parent* is not interviewed, the reasons for not interviewing must be included in the *placement report*, as well as a description of efforts made to interview.
- (3) Pursuant to ORS 109.346, the attorney for the *birth parent*, the attorney for the adoptive parent, or the agency representative taking the birth parent's consent

must notify each consenting *birth parent* of the right of the *birth parent* to payment for---

- (a) Three adoption-related counseling sessions prior to surrender or relinquishment of the child for adoption; and
  - (b) Three sessions of adoption-related counseling after surrender or relinquishment of the child for adoption.
- (4) If applicable, a petitioner's attorney must submit to the Department an affidavit verifying that each consenting *birth parent* received notice of the right to payment for adoption-related counseling. A form is available on the Department website.
- (5) Adoption-related counseling under this rule, unless otherwise agreed to by the prospective adoptive parent and the *birth parent*, must be provided by a licensed professional counselor or another professional listed in ORS 109.346.
- (6) The prospective adoptive parent must pay all costs --- not covered by insurance or by the Oregon Health Plan --- of the adoption-related counseling required by this rule, if the counseling is received within one year of the date of surrender or relinquishment of the child for adoption.
- (7) The requirements of this rule do not apply to an adoption in which---
- (a) A parent retains parental rights;
  - (b) A child born in a foreign country is adopted under the laws of that country or has a *re-adoption* (defined in OAR 413-140-0010) in Oregon; or
  - (c) A child born in a foreign country is adopted in Oregon and the identity or whereabouts of the child's birth parents are unknown.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.346, 418.005

#### **413-140-0110**

##### **Release of Information**

- (1) No person or agency (public or private) may disclose to a *birth parent* (defined in OAR 413-140-0010) or to a parent of an adopted child the name, identity, or whereabouts of the other without consent of the other party.
- (2) A signed Authorization for Use & Disclosure of Information form (DHS 2099) --- or a similar document which satisfies DHS Privacy Policy AS-100-03, "Uses and

Disclosures of Client or Participant Information", Section 1g of Guidance for Procedure Development --- must be submitted for the Department to consider release of information from the adoption file to the adoption agency or to the attorney for a *petitioner* (defined in OAR 413-140-0010).

- (3) Any information considered a sealed record under ORS 7.211 may not be released without a court order.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.440, 409.010

#### **413-140-0120**

##### **Storage and Destruction of Information Concerning Adoptions**

- (1) All records and written material regarding a petition for an *independent adoption* (defined in OAR 413-140-0010) and a *placement report* (defined in OAR 413-140-0010) in the possession of the Department or a *licensed adoption agency* are confidential and must be stored in locked file cabinets. The Department must comply with the Oregon State Archives, Records Retention Schedule for Adoption Program Services.
- (2) A *licensed adoption agency* that has completed a *home study* or *placement report* for an *independent adoption* must comply with all of the following requirements:
  - (a) Forward copies of the *home study* and/or *placement report* to the Department's Adoption Services Unit.
  - (b) Comply with state rules and regulations pertaining to retention and destruction of public records in accordance with ORS 7.211, 109.425, 109.435 to 109.507, ORS chapter 192, and other applicable laws.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.381, 109.425, 109.435 to 109.507, 409.010