

DEPARTMENT OF HUMAN SERVICES  
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413  
DIVISION 140

INDEPENDENT ADOPTION SERVICES

*Amended 07/01/2022*

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# Independent Adoption Services

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## 413-140-0000

### Purpose

(Effective 01/01/14)

The purpose of these rules (OAR 413-140-0000 to OAR 413-140-0110) is to --

- (1) Define the role of the Department in an Oregon *Non-Departmental adoption* of a *child*;
- (2) Provide appropriate Department procedures regarding Non-Departmental adoptions in Oregon;
- (3) Specify documents and information required for *Non-Departmental adoption* waivers issued by the Department; and
- (4) Specify fees applicable to the completion of an *independent adoption placement report*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.309, 109.311, 409.010

## 413-140-0010

### Definitions

(Amended 07/01/2022)

The following definitions apply to OAR 413-140-0000 to 413-140-0110:

- (1) "Adoption home study" means a written report documenting the result of an assessment to evaluate the suitability of an individual or individuals to adopt and make a lifelong commitment to a child or children, conducted by a licensed adoption agency, the Department, or -- when authorized by under the law of another state, country, or territory -- another public agency, private individual, or entity.
- (2) "Bureau of Indian Affairs (BIA)" means the U.S. *Department* of the Interior, Bureau of *Indian Affairs*.
- (3) "Certificate of approval" for the purpose of an *adoption home study* is a document that:
  - (a) Is issued by an Oregon *licensed adoption agency*, and
  - (b) Approves an *adoption home study* and certifies that the prospective adoptive family has met the requirements of OAR 413-140-0033.
- (4) "Child" means an unmarried person under 18 years of age.

- (5) "Contracted adoption agency" means an Oregon *licensed adoption agency* holding a current contract with the Department to conduct placement reports for independent adoptions and to file those reports with the court.
- (6) "Department" means the Oregon Department of Human Services, Child Welfare.
- (7) "Domicile" means the place a person regards as home, where the person intends to remain or to which, if absent, the person intends to return. An Indian child's domicile is, in order of priority, the domicile of:
  - (a) The Indian child's parents or, if the Indian child's parents do not have the same domicile, the Indian child's parent who has physical custody of the *Indian child*;
  - (b) The Indian child's Indian custodian; or
  - (c) The Indian child's guardian.
- (8) "Extended family member" has the meaning given that term by the law or custom of an *Indian child's* tribe. If the meaning of "*extended family member*" cannot be determined, by law or custom of the *Indian child's* tribe "*extended family member*" means a person who has attained 18 years of age and who is the *Indian child's* grandparent, aunt, uncle, brother, sister, sister-in-law, brother-in-law, niece, nephew, first cousin, second cousin, stepparent or, as determined by the *Indian child's* tribe, clan or band *member*.
- (9) "Household" means all individuals living in the home.
- (10) "ICWA Compliance Report" is a report completed by the *Department* that reflects the Department's review of the adoption petition or amended petition and advises the court on whether the documentation submitted by the petitioner is sufficient and complete for the court to find if the inquiry and, if applicable, the notice and placement preference requirements under the *ORICWA* have been met.
- (11) "Independent adoption" means an adoption that is being finalized in Oregon of a *child*:
  - (a) That is not a *re-adoption*, *private agency adoption*, or *out-of-state public agency adoption*; and
  - (b) The *child* is not in the custody of the Department.
- (12) "Indian child" means any unmarried person who has not attained 18 years of age and:
  - (a) Is a *member* or citizen of an *Indian tribe*; or

- (b) Is eligible for *membership* or citizenship in an *Indian tribe* and is the biological child of a *member* or citizen of an *Indian tribe*.
- (13) “Indian custodian” means an Indian, other than the Indian child’s parent, who has physical custody or legal custody of the *Indian child* under any applicable tribal law, tribal custom or state law, or to whom temporary physical care, custody and control has been transferred by the Indian child’s parent.
- (14) "Indian tribe" or "tribe" means any *Indian tribe*, band, nation, or other organized group or community of *Indians* federally recognized as eligible for services provided to *Indians* by the Secretary of the Interior because of their status as *Indians*, including any Alaska Native village as defined in 43 U.S.C. § 1602(c).
- (15) "Licensed adoption agency" means:
- (a) An approved child-caring agency of this state acting by authority of ORS 418.270 and OAR 413-215-0401 to 413-215-0481; and
- (b) An agency or other organization that is licensed, or otherwise authorized, to provide adoption services pursuant to the laws of that state, country or territory.
- (16) “Member” or “membership” means a determination by an *Indian tribe* that a person is a *member*, enrolled or citizen in that *Indian tribe*.
- (17) "Non-Departmental adoption" means an adoption that is finalized in Oregon for a *child* who is not in the custody of the Department, and includes:
- (a) *Re-adoption*;
- (b) *Independent adoption*;
- (c) *Private agency adoption*; or
- (d) *Out-of-state public agency adoption*.
- (18) “ORICWA” means the Oregon Indian Child Welfare Act, Oregon Laws 2020, ch. 14, Sections 1-66 and Oregon Laws 2021, Ch. 398, Sections 1-84.
- (19) "Out-of-state public agency adoption" means an adoption of a *child* who is a ward of another state and consent for the adoption to finalize in Oregon is given by the out-of-state child welfare agency *in loco parentis*.
- (20) "Petitioner" as used in this rule, means an individual person who has filed an adoption petition in an Oregon court.

- (21) "Placement report" commonly known as "court report" or "post-placement report" is a comprehensive written report and recommendation to the court prepared after:
- (a) The filing of an adoption petition;
  - (b) The *child* has been placed for the purpose of adoption; and
  - (c) A *licensed adoption agency* has evaluated the status and adjustment of the *child* and the adoptive parents.
- (22) "Private agency adoption" means an adoption of a *child* that is being finalized in Oregon in which consent *in loco parentis* from a *licensed adoption agency* is required.
- (23) "Re-adoption" means an adoption of a *child* who was originally adopted in another country and who is being re-adopted in Oregon.
- (24) "Reason to Know." A court or person has reason to know that a child is an *Indian child* if:
- (a) The person knows that the *child* is an *Indian child*;
  - (b) The court has found that the child is an *Indian child* or that there is *reason to know* that the *child* is an *Indian child*.
  - (c) Any individual present in the proceeding, officer of the court involved in the proceeding, *Indian tribe*, Indian organization or agency informs the court that the *child* is an *Indian child*;
  - (d) Any individual present in the proceeding, officer of the court involved in the proceeding, *Indian tribe*, Indian organization or agency informs the court that information has been discovered indicating that the *child* is an *Indian child*;
  - (e) The *child* indicates to the court that the *child* is an *Indian child*;
  - (f) The court is informed that the *domicile* or residence of the *child*, the child's parent or the child's *Indian custodian* is on a reservation or in an Alaska Native village;
  - (g) The court is informed that the *child* is or has been a ward of a tribal court;
  - (h) The court is informed that the *child* or the child's parent possesses an identification card or other record indicating *membership* in an *Indian tribe*;
  - (i) Testimony or documents presented to the court indicate in any way that the *child* may be an *Indian child*; or

- (j) Any other indicia provided to the court, or within the court's knowledge, indicates that the *child* is an *Indian child*.
- (25) "Surrogate mother" means an adult woman who:
- (a) Agrees to become pregnant with the intention of gestating, bearing, and giving birth to a *child* of another individual or couple who are the intended parents; and
  - (b) Intends and agrees to assert or retain no parental rights or obligations with regard to the resulting *child*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109, ORS 409.010, ORS 418.240, ORS 418.270

### **413-140-0026**

#### **Service of Petition for Adoption and Required Documentation**

*(Amended 07/01/2022)*

- (1) Within 30 days of filing an adoption petition with the court, the *petitioner* must serve a copy of the adoption petition and related documents, including any amendments and attached exhibits, as described in OAR 413-140-0028 to 0030, upon the *Department* as set forth in ORS 109.285(5)(a) and ORS 109.276.
- (2) Documents initially filed with the court must be delivered by registered or certified mail with return receipt or by personal service to the following address: Oregon Department of Human Services, Attention: Independent Adoptions, 500 Summer Street NE, E-71, Salem, OR 97301-1066.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005

Stats. Implemented: ORS 418.005, ORS 109.285, ORS 409.010

### **413-140-0028**

#### **ORICWA Requirements for Inquiry, Verification, Notice and Placement**

*(Adopted 07/01/2022)*

- (1) Inquiry and Verification.
  - (a) The petitioner must inquire and document using Form 1270A, Verification of American Indian/Alaska Native Membership or Enrollment for Non-Departmental Adoptions, whether the child is or may be an Indian child.
  - (b) The inquiry must include consultation with the child, the child's parents, any Indian Custodian, extended family members of the child, any person having custody of the child or with whom the child resides, and any other person who

may reasonably be expected to have information regarding the child's membership or eligibility for membership in an Indian tribe to gather detailed information regarding:

- (A) The child's tribal affiliation and membership or eligibility for membership;
  - (B) Whether the child is or has been a ward of a tribal court; and
  - (C) The child's or the child's parents' or Indian custodian's domicile.
- (c) If, during the inquiry under section (1)(a) of this rule, or at any time, the petitioner receives information that the child is or may be an Indian child under the ORICWA, the petitioner must gather detailed information from the individuals identified in section (1)(a) of this rule regarding the child's eligibility for tribal membership.
- (d) A consenting parent's request for anonymity does not relieve the court or any party in an adoption proceeding from the duty to verify whether the child is an Indian child.
- (2) Notice.
- (a) If there is reason to know the child in an adoption proceeding is an Indian child, the petitioner must:
    - (A) Promptly send notice of the proceeding as described in section (2)(b) of this rule; and
    - (B) File an original or a copy of each notice sent under section (2)(b) of this rule with the court, together with any return receipts or other proof of service.
  - (b) Notice under section (2)(a) of this rule must:
    - (A) Be sent to:
      - (i) Each tribe of which the child may be a member or of which the Indian child may be eligible for membership;
      - (ii) The child's parents;
      - (iii) The child's Indian custodian, if applicable; and
      - (iv) The appropriate United States Bureau of Indian Affairs Regional Director listed in 25 C.F.R. 23.11(b), if the identity or location of the child's parents, Indian custodian or tribe cannot be ascertained.

- (B) Be sent by registered or certified mail, return receipt requested.
- (C) Be in clear and understandable language and include the following:
  - (i) The child's name, date of birth and place of birth;
  - (ii) To the extent known, all names, including maiden, married and former names or aliases, of the child's parents, the parents' birthplaces and tribal enrollment numbers;
  - (iii) To the extent known, the names, dates of birth, places of birth and tribal enrollment information of other direct lineal ancestors of the child;
  - (iv) The name of each Indian tribe of which the child is a member or in which the Indian child may be eligible for membership;
  - (v) If notice is required to be sent to the United States Bureau of Indian Affairs under section (2)(b)(A) (iv) of this rule, to the extent known, information regarding the child's direct lineal ancestors, an ancestral chart for each biological parent, and the child's tribal affiliations and blood quantum;
  - (vi) A copy of the petition initiating the proceeding and, if a hearing has been scheduled, information on the date, time and location of the hearing;
  - (vii) The name of the petitioner and the name and address of the petitioner's attorney;
  - (viii) A statement that the child's tribe may intervene in the proceeding;
  - (ix) A statement that the child's parent, Indian custodian or tribe has the right to petition the court to transfer the proceeding to the tribal court;
  - (x) A statement describing the potential legal consequences of the proceeding on the future parental and custodial rights of the parent or Indian custodian;
  - (xi) The mailing addresses and telephone numbers of the court and contact information for all parties to the proceeding and individuals notified under this section; and



- (xii) A statement that the information contained in the notice is confidential and that the notice should not be shared with any person not needing the information to exercise rights under the ORICWA.
  - (c) If there is reason to know the child is an Indian child, the petitioner must file a declaration of compliance of notice with the court in compliance with ORS 109.285 and 109.385(1) and Oregon Laws 2021. ch. 398, sections 8 and 9, and provide copies of each notice sent and any return receipts or proof of service.
- (3) Placement Preferences.
- (a) If there is reason to know the child is an Indian child, the child must be placed in accordance with placement preferences under ORS 109.285 and 109.278, or the petitioner must file a good cause motion with the court seeking a departure from the placement preferences.
  - (b) When there is reason to know a child is an Indian child, the child must be placed in the least restrictive setting which:
    - (A) Most closely approximates a family, taking into consideration sibling attachment;
    - (B) Allows the Indian child's special needs, if any, to be met;
    - (C) Is in reasonable proximity to the Indian child's home, extended family or siblings; and
    - (D) Is in accordance with the order of preference established by the Indian child's tribe. If the Indian child's tribe does not have established placement preferences, placement preferences are as follows:
      - (i) With an extended family member of the Indian child;
      - (ii) With other members of the Indian child's tribe; or
      - (iii) With other Indian families.
- (4) Documentation of Inquiry, Notice and Placement Preferences. Documentation that a petitioner may submit to the court to document compliance with the inquiry, notice and placement requirements of the ORICWA may include but is not limited to:
- (a) Descriptions of consultations the petitioner made with individuals identified in section (1) of this rule;

- (b) Descriptions of any oral responses and copies of any written responses the petitioner obtained from the notice provided in section (2) of this rule;
- (c) Copies of any of the following items:
  - (A) Identification cards;
  - (B) Enrollment/Membership/Citizenship cards;
  - (C) Certificate Degree of Indian Blood (CDIB) card;
  - (D) Tribal court records regarding the Indian child;
  - (E) Reports, declarations, or testimony on the records documenting the due diligence of the petitioner to identify and work with all the tribes which petitioner has reason to know that the child may be eligible for membership; or
  - (F) Any other records indicating the membership of the child or child's parent in an Indian tribe
- (d) Copies of any tribal court records regarding the child;
- (e) Any reports, declarations or testimony on the record documenting the petitioner's due diligence to identify and work with all tribes the petitioner has reason to know that the child may be a member or eligible for membership; and
- (f) Any declarations of compliance or notices sent by petitioner.

Statutory/Other Authority: ORS 418.005, ORS 409.050

Statutes/Other Implemented: ORS 418.005

## **413-140-0030**

### **Required Documentation**

*(Amended 07/01/2022)*

The following documents are required to be submitted by the *petitioner* to the court pursuant to ORS 109.276 (12)(a). The *Department* may consider any or all of the following documents in determining whether a waiver may be granted for the 90-day waiting period, *adoption home study* requirement or *placement report*:

- (1) Petition for adoption containing information as outlined in ORS 109.285 and Oregon Laws 2021. Ch. 398, Section 8(1), which must include, in part:
- (2) Exhibits attached to petition in accordance with ORS 109.285(3).

- (3) Unless waived by the Department, written evidence documenting a current *adoption home study* and *certificate of approval* in accordance with Child Welfare Policy I-G.4, "Non-Departmental Adoptions", OAR 413-140-0035.
- (4) Unless waived by the Department, a *placement report* in accordance with Child Welfare Policy I-G.4, "Non-Departmental Adoptions", OAR 413-140-0040.
- (5) The Adoption Summary and Segregated Information Statement as outlined in ORS 109.287(1).
- (6) Exhibits attached to the Adoption Summary and Segregated Information Statement in accordance with ORS 109.287(2).

Statutory/Other Authority: ORS 109.276, ORS 409.050, ORS 418.005

Statutes/Other Implemented: ORS 109.092, ORS 109.094, ORS 109.096, ORS 109.239, ORS 109.243, ORS 109.276, ORS 109.281, ORS 109.301, ORS 109.285, ORS 109.287, ORS 109.326, ORS 109.330, ORS 109.342, ORS 109.353, ORS 109.385, ORS 109.400, ORS 109.450, ORS 109.701 to 109.784, ORS 409.010, ORS 417.200

### **413-140-0031**

#### **Actions Performed by the Department upon Receipt of an Adoption Petition**

*(Amended 07/01/2022)*

Following receipt of an adoption petition:

- (1) The Department will review the adoption petition, along with accompanying documentation to determine whether a *placement report* is required under ORS 109.276(8)(a)(A) and OAR 413-140-0032(3) and, when applicable, will assign the *placement report* as outlined in OAR 413-140-0040.
- (2) Within 90 days of the Department's receipt of the filed petition or amended petition, the *Department* must file an *ICWA Compliance Report* to document the Department's determination of whether information submitted by the *petitioner* is sufficient and complete for the court to make the *ORICWA* findings required per ORS 109.278(2).
- (3) After receipt of the court's determination regarding the applicability of *ORICWA*, the *Department* will provide written notification to the court and the *petitioner* indicating:
  - (a) The Department's determination regarding any waivers that have been requested in accordance with OAR 413-140-0032;
  - (b) When applicable, information regarding the assignment of a *placement report*; and

- (c) Other considerations regarding documentation required to be served upon the Department pursuant to ORS 109.285(5)(a).
- (4) The Department must notify the court, in writing, when the Department reasonably suspects that the conduct of a person involved in an adoption or the conduct of an adoption agency violates Oregon law. Examples of such violations include but are not limited to:
  - (a) Any actions that constitute a violation or possible violation of ORS 109.281.
  - (b) Prohibitions regarding placement of a *child* for adoption pursuant to ORS 418.300.
  - (c) Prohibitions regarding buying and selling a person under 18 years of age pursuant to ORS 163.537.
  - (d) Fees charged by an Oregon *licensed adoption agency* that are not in accordance with ORS 109.281(3) and OAR 413-140-0035(3).
- (5) The Department must provide a copy of the notification described in section (3) of this rule to the *petitioner* and when applicable, to the *licensed adoption agency*.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005

Stats. Implemented: ORS 109.285, ORS 163.537, ORS 109.276, ORS 109.281, ORS 409.010, ORS 418.300

## **413-140-0032**

### **Waivers the Department May Issue**

*(Amended 07/01/2022)*

- (1) Waiver of the 90-day waiting period.
  - (a) In accordance with ORS 109.276 (10), the Department may waive the required 90-day waiting period for an adoption.
  - (b) Upon receipt of the adoption petition and accompanying documents, the Department will review and consider all items listed in OAR 413-140-0028 and OAR 413-140-0030 when determining whether to waive the required 90-day waiting period.
  - (c) The Department will provide written notification regarding the determination of the 90-day waiver request to the court, *petitioner* and, when applicable, the Oregon *licensed adoption agency* involved.

- (d) The Department may reconsider the initial determination of the 90-day waiver request provided:
  - (A) All remaining items outlined in the Department's prior written notification have been sufficiently addressed; and
  - (B) The required 90-day waiting period has not expired.
- (2) Waiver of the Adoption Home Study.
  - (a) In accordance with ORS 109.276(7)(b), except when the court finds there is *reason to know* that the *child* is an *Indian child*, the *Department* has discretion to waive the home study requirement for some adoptions.
  - (b) The Department may consider a waiver of the *adoption home study* in an *independent adoption* when:
    - (A) One biological parent, including birth mother, or adoptive parent retains parental rights; or
    - (B) The *petitioner* qualifies as a relative. For the purpose of this rule, a relative is an individual who meets the following conditions:
      - (i) At least one of the adopting petitioners is the biological or adoptive sibling or half-sibling, aunt, uncle, grandparent, great-aunt, great-uncle, or great-grandparent of the *child*; and either
      - (ii) The *child* has lived with the *petitioner* on a continuous basis since birth and for at least six months immediately prior to the petitioner's request to waive the *adoption home study* requirement; or
      - (iii) The *child* has lived with the *petitioner* on a continuous basis for at least one year immediately prior to the petitioner's request to waive the *adoption home study* requirement.
  - (c) The Department may consider waiving the *adoption home study* requirement in an *independent adoption* involving a *child* born to a *surrogate mother* when there is evidence documenting that the following conditions, as applicable, are met:
    - (A) At least one of the petitioners is a biological parent of the *child*; and
    - (B) When the *surrogate mother* is married:
      - (i) Her husband has consented to the adoption; or

- (ii) There is a joint affidavit of non-paternity completed by the surrogate and her husband.
  - (iii) There is a Stipulated General Declaratory Judgment of Parentage finding the surrogate's husband is not the genetic or legal parent of the child.
- (d) The following documents must be submitted to the Department before consideration may be given to a waiver of the *adoption home study* requirement:
  - (A) A Request for Waiver of the *Adoption Home Study* Form, CF 249d.
  - (B) Background checks as described in OAR 413-140-0065.
  - (C) A copy of the petition for adoption.
  - (D) Verification that the *child* being adopted shares a residence with the adopting *petitioner*.
  - (E) Verification of American Indian/Alaska Native Membership or Enrollment for Non-Departmental Adoptions (Form 1270A) address each biological parent's ancestry.
  - (F) A signed court order, which includes the court's finding as to whether there is reason to know the child being adopted is an Indian child.
  - (G) Additional information, when requested by the Department, to clarify any concerns that could compromise the safety, permanency or well-being of the *child* being adopted.
- (e) The Department does not waive the *adoption home study* requirement when there are safety, permanency, or well-being concerns that warrant completion of an *adoption home study*.
- (f) Any concerns that come to the attention of the Department regarding the ability of a *petitioner* to meet the standards set forth in OAR 413-140-0033 may also be considered when determining whether the Department will waive the *adoption home study*.
- (g) Upon receipt of all requested documents listed in subsection (d) of this section, the Department will:
  - (A) Make a determination as to whether an *adoption home study* waiver is appropriate;

- (B) Provide written notification of the Department's determination regarding the *adoption home study* waiver request to the court and *petitioner* or petitioner's attorney;
  - (C) If applicable, outline in a written notification any remaining information the Department determines is needed to reconsider the petitioner's *adoption home study* waiver request; and
  - (D) Provide *petitioner* or petitioner's attorney with a list of Oregon licensed adoption agencies authorized to complete an *adoption home study* if the Department determines petitioner's request for waiver cannot be granted.
- (3) Waiver of the Placement Report.
- (a) In accordance with ORS 109.276(8)(a)(B)(i), except when the court finds that there is *reason to know* that the *child* is an *Indian child*, the *Department* has the authority to waive the *placement report* requirement.
  - (b) The *Department* must waive the *placement report* for an adoption in which one biological or adoptive parent retains parental rights, unless there is reason to know the *child* is an *Indian child*.
  - (c) When a written request is received from the *petitioner*, after receipt of a court order, which includes the court's finding as to whether there is *reason to know* the *child* being adopted is an *Indian child*, the *Department* may waive the *placement report* for any of the following:
    - (A) An adoption for which the Department has waived the *adoption home study*;
    - (B) An independent or *out-of-state public agency adoption* in which the *petitioner* and the *child* are currently receiving services from the *Department* or a *licensed adoption agency* or have received services in the past 12 months and the *Department* or an *Oregon licensed adoption agency* provides a written recommendation that adoption is in the best interests of the *child*.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005

Stats. Implemented: ORS 109.243, ORS 109.276, ORS 109.285, ORS 109.328, ORS 409.010

### **413-140-0033**

#### **Minimum Standards for Adoptive Homes**

(Amended 07/01/22)

- (1) The Department is authorized under ORS 109.276(7)(a) to set forth the minimum standards for adoptive homes.
- (2) Minimum standards for an adoptive home that must be addressed in a written *adoption home study* include:
  - (a) Approved background checks in accordance with OAR 413-140-0065 for all adult *household* members;
  - (b) Documented completion of minimum pre-adoption training required under Child Welfare Policy II-C.1.3, "Licensing Adoption Agencies", OAR 413-215-0456, or by the Department of State under the Inter-Country Adoption Act of 2000 (42 USC 14923), 22 CFR 96.48, when applicable; and
  - (c) Evidence that the adoptive applicant demonstrates the following:
    - (A) Capability to meet the child's specific emotional and physical needs;
    - (B) Ability to ensure the safety of the *child* being sought for adoption;
    - (C) Financial ability within the *household* to ensure the stability and financial security of the family;
    - (D) Understanding that adoption is a lifelong commitment to provide a safe and permanent family for a *child* not born to them; and
    - (E) Consideration of the benefits and challenges of open adoption and the various levels of openness in the adoption plan, as applicable.

Stat. Auth.: ORS 109.276, ORS 181.537, ORS 409.050, ORS 418.005, ORS 418.240

Stats. Implemented: ORS 418.005, ORS 109.276, ORS 409.010

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

#### **Adoption Home Study**

(Amended 07/01/22)

- (1) Unless waived by the Department in accordance with OAR 413-140-0032, an *adoption home study* is required for the filing of a petition for the adoption of a *child* in Oregon.
- (2) For the purpose of private agency and independent adoptions, an *adoption home study* must have a *certificate of approval* issued by an Oregon *licensed adoption agency*.



- (3) Prior to issuing a *certificate of approval*, the Oregon licensed adoption agency is responsible for ensuring that:
  - (a) The *adoption home study* meets criteria outlined in section (7) of this rule; and
  - (b) Verification is received that the private individual, entity or *licensed adoption agency* that completed the *adoption home study* is authorized to perform adoption services under the laws of the state, country or territory where the prospective adoptive parents reside.
- (4) Any fees charged to a *petitioner* by an Oregon licensed adoption agency must be based on reasonable costs and the actual expenses incurred by the adoption agency as a result of completing the required services.
- (5) In accordance with Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption", OAR 413-120-0220, the Department completes adoption home studies for Oregon residents applying to adopt a child in substitute care and who is within the custody of the Department or another public child welfare agency. An *adoption home study* may only be completed by the Department for this purpose. A home study completed for this purpose may only be considered for later use in an independent or *private agency adoption* if approved by the Permanency Program Manager or designee.
- (6) In the interest of promoting safety, well-being, and permanency of children residing in Oregon, upon approval of the Post Adoption Services Manager or designee, the Department may assign a *contracted adoption agency* to complete an *adoption home study* for an *independent adoption*.
- (7) Validity of an adoption home study.
  - (a) With the exception of a *re-adoption*, an *adoption home study* is valid for a maximum of two years from the date of completion, providing significant changes have not occurred in the petitioner's *household*.
  - (b) When significant changes occur in the petitioner's *household* after the completion of the home study but before the adoption is finalized, a *licensed adoption agency* must complete an update of the *adoption home study*.
  - (c) Except in the case of a *re-adoption*, the *adoption home study* must not have been used for a previously finalized adoption.
  - (d) The *adoption home study* must:
    - (A) Demonstrate that the standards set forth in OAR 413-215-0451 and OAR 413-140-0033 have been met;

- (B) Comply with standards for inter-country adoptions set forth in Child Welfare Policy II-C.1.3, “Licensing Adoption Agencies”, OAR 413-215-0476, when applicable; and
  - (C) Include the date and signature of one of the following:
    - (i) An authorized representative of the *licensed adoption agency* completing the *adoption home study*; or
    - (ii) The private individual or entity authorized to complete an *adoption home study* under the laws of another state, country or territory.
- (8) For an *independent adoption*, when there are seven or more children under the age of 18 residing in the adoptive home, before the Oregon *licensed adoption agency* may approve the *adoption home study*:
- (a) The director of the Oregon *licensed adoption agency* must convene a review committee of at least three human services professionals not employed by the adoption agency with experience in adoption and services to families and children, to determine whether the *adoption home study* should be approved.
  - (b) The decision of the review committee must be determined by a majority vote.
  - (c) The original *adoption home study* or a home study addendum by the Oregon *licensed adoption agency* issuing a *certificate of approval* must include:
    - (A) The name and professional title of each participant;
    - (B) The date when the committee convened; and
    - (C) The findings and recommendations of the review committee, including any dissenting or minority findings.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005, ORS 418.240  
Stats. Implemented: ORS 109.266, ORS 109.276, ORS 409.010

## **413-140-0040**

### **Placement Report**

(Amended 07/01/2022)

- (1) Unless waived by the Department under OAR 413-140-0032, a *placement report* must be completed after the filing of an adoption petition and after the placement of a *child* in the adoptive home.

- (2) Placement Report Assignment and Format.
- (a) Within 30 days of receipt of an adoption petition, the court's finding as to whether the child being adopted is an Indian child, and when applicable, the *placement report* fee as indicated in OAR 413-140-0047, the Department must:
- (A) Assign the completion of the *placement report* to one of the following:
- (i) A *contracted adoption agency* for an *independent adoption*;
  - (ii) The *Oregon licensed adoption agency* that has authority to give consent *in loco parentis* to the *private agency adoption*; or
  - (iii) For a *private agency adoption* involving an out-of-state *licensed adoption agency*, the *Oregon licensed adoption agency* completing the *certificate of approval*.
- (B) Supply all information and materials as provided to the Department to the designated Oregon adoption agency for completion of the *placement report*.
- (b) The adoption agency designated under paragraph (a)(A) of this section must:
- (A) Prepare a *placement report* in accordance with ORS 109.266(5) that:
- (i) Includes the adoption agency's recommendation to the court regarding whether the adoption should be granted;
  - (ii) Evaluates the status and adjustment of the *child* and the prospective adoptive parent; and
  - (iii) Documents information gathered by the Department or the adoption agency during the preparation of the *placement report*.
- (B) Complete and file an original report with the court within 60 days of the assignment from the Department.
- (C) In the event a *placement report* cannot be completed within 60 days of assignment, the adoption agency must:
- (i) Notify the court of the delay in writing, stating specific reasons for the delay, and the anticipated additional time needed to prepare and submit a complete report to the court; and
  - (ii) Provide a copy of the notification of delay to the Department.

- (D) Serve a true copy of the report filed with the court on the Department and the *petitioner* or petitioner's attorney within 10 days of filing the report with the court.
  - (E) As needed, coordinate with an out-of-state adoption agency that provided the original *adoption home study* to ensure the completion of the *placement report* according to the above timeframe requirements.
- (3) A suggested reporting format for the required *placement report* is provided on the Department's Independent Adoptions website for Non-Departmental adoptions or may be obtained by sending a written request to the following address: Oregon Department of Human Services, Attention: Independent Adoptions, 500 Summer Street NE, E-71, Salem, OR 97301-1066.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005, ORS 418.240

Stats. Implemented: ORS 109.266, ORS 109.276, ORS 409.010

### **413-140-0047**

#### **Fees for the Placement Report and Certificate of Approval**

*(Amended 07/01/22)*

Fees associated with the adoption of a minor *child* must be charged in accordance with ORS 109.281. The Department sets forth the following fee for an *independent adoption placement report*:

- (1) Unless the fee is waived under section (2) of this rule, the assignment and completion of a *placement report* for an *independent adoption* may be charged at a maximum rate of \$800 per report. The fee must be:
  - (a) Paid by the petitioner in check or money order directly to the Department; and
  - (b) Submitted within 30 days of service of the petition on the Department.
- (2) Waiver of Fee for an Independent Adoption Placement Report.
  - (a) The Department may, upon petitioner's request, consider waiving all or a portion of the fee set under this rule to complete a placement report.
  - (b) The Department's determination of a reduction or waiver of the *placement report* fee is based upon the federal poverty guidelines that the United States Department of Health and Human Services establishes each calendar year. Fee waiver eligibility is calculated using the size of the household in correlation to the following federal poverty guidelines:

- (A) A household income at or below 100% of the federal poverty guideline may qualify for a full (100%) waiver.
  - (B) A household income at or below 115% (and above 100%) of the federal poverty guideline may qualify for a 75% waiver.
  - (C) A household income at or below 130% (and above 115%) of the federal poverty guideline may qualify for a 50% waiver;
  - (D) A household income at or below 145% (and above 130%) of the federal poverty guideline may qualify for a 25% waiver.
- (c) The Department may, on a case by case basis, allow partial waiver of the fee for the *placement report* after reviewing the following documentation submitted by the *petitioner* to the Department:
- (A) Request for Waiver of *Independent Adoption Placement Report Fee* Statement of household earnings, CF 239B; and
  - (B) A copy of the petitioner's most recent Federal Tax Report 1040 and verification of *household income* (see subsection (c) of this section).
- (d) For the purpose of this rule, "household income" includes all of the following:
- (A) Before tax cash receipts from all sources such as wages or salaries.
  - (B) Public assistance.
  - (C) Entitlement and benefits.
  - (D) Private support and assistance payments.
  - (E) Payments that include, but are not limited to:
    - (i) Investments and annuities;
    - (ii) Rents;
    - (iii) Pensions;
    - (iv) Allotments;
    - (v) Child support;
    - (vi) Alimony;

- (vii) Tax refunds; and
  - (viii) Grants, interest, and winnings.
- (e) After review of the petitioner's request for a waiver of the *independent adoption placement report* fee, the Department must:
- (A) Provide written notification to the *petitioner* and the court regarding the Department's determination of the fee waiver request; and
  - (B) When applicable, assign a *contracted adoption agency* to complete the necessary report in accordance with the procedures described in OAR 413-140-0040(2)(b).
- (f) The Department may, at any time, require updated financial information to be re-submitted by *petitioner*.
- (g) In the event a fee waiver is authorized based upon erroneous information, the *petitioner* is liable for the full cost of the *placement report* and any amounts associated with the recovery of those costs.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005, ORS 418.240

Stats. Implemented: ORS 109.266, ORS 109.276, 109.281, 418.005, ORS 409.010,

## **413-140-0065**

### **Background Checks for Consideration of Home Study Waiver**

(*amended 07/01/22*)

- (1) Before the Department may approve a request for waiver of an *adoption home study*, the following background check requirements must be met:
- (a) For a *petitioner* residing in Oregon, except as described in section (3) of this rule, each adopting *petitioner* and all adult members of the petitioner's household must provide documentation of required background checks as follows:
    - (A) A criminal history check from the Oregon State Police, using Form CF249g, Request for Oregon Criminal History Information; and
    - (B) When the *petitioner* has resided outside of Oregon for a period of more than sixty consecutive days in the last five years:
      - (i) A criminal history check from the Federal Bureau of Investigation (FBI); and

- (ii) A child abuse and neglect registry check from an authorized agency of each state or country where the individual has lived in the preceding five years immediately prior to the petitioner's request to waive the *adoption home study* requirement.
- (b) For a petitioner who is a resident of Oregon as defined in ORS 109.276(2) but is temporarily residing outside the state for a period of more than sixty consecutive days for purposes such as, but not limited to, military service, academics or vacation, except as described in section (3) of this rule, each *petitioner* and all adult members of the petitioner's household must provide documentation of required background checks as follows:
  - (A) A criminal history check from the FBI and an authorized agency of the state or country where the adopting *petitioner* currently resides and has lived in the preceding five years immediately prior to the filing of the petition; and
  - (B) A child abuse and neglect registry check from an authorized agency of each state or country where the adopting *petitioner* currently resides and has lived in the preceding five years immediately prior to the petitioner's request to waive the *adoption home study* requirement.
- (c) For a *petitioner* who is not a resident of Oregon, except as described in section (3) of this rule, each adopting *petitioner* and all adult members of the petitioner's household must provide documentation of required background checks as follows:
  - (A) A criminal history check from the petitioner's current state of residence;
  - (B) A criminal history check from the FBI; and
  - (C) A child abuse and neglect registry check from an authorized agency of each state or country where the individual currently resides and has lived in the preceding five years immediately prior to the petitioner's request to waive the *adoption home study* requirement.
- (2) The Department must conduct a check of the child abuse and neglect registry maintained by the Department for an Oregon resident.
- (3) When a waiver of the *adoption home study* is requested, the biological or adoptive parent retaining rights is only exempt from submitting a criminal history clearance to the Department.
- (4) Background checks may also be required for a household member under the age of 18 if there is reason to believe that the individual may pose a safety threat to children placed in the home.

- (5) For the purpose of this rule, criminal background checks and child abuse and neglect registry checks are valid up to one year after completion. The Department may request updated background checks from the adopting *petitioner* at any time when making a determination regarding the waiver of a home study.
- (6) The Department is not responsible for paying any fees associated with the application for, acquisition of, and provision of background checks.

Stat. Auth.: ORS 109.276, ORS 409.050, ORS 418.005

Stats. Implemented: ORS 109.276, ORS 181.534, ORS 181.537, ORS 409.010,

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

#### **Confidentiality**

*(Effective 01/01/14)*

Adoption records contain confidential information. The Department may only disclose confidential information relating to an adoption as follows:

- (1) As provided in Child Welfare Policies I-A.3.2, "Confidentiality of Client Information", OAR 413-010-0000 to OAR 413-010-0075; I-G.3.3, "Adoption Registry", OAR 413-130-0300 to 413-130-0360; and I-G.3.4, "Assisted Search Program", OAR 413-130-0400 to 413-130-0520; or
- (2) As otherwise authorized by law.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005