

<b>Policy Title:</b>	Legalizing the Adoption if Petition Not Required – OAR			
<b>Policy Number:</b>	I-G.1.12.1 413-120-0142 thru 0175		<b>Effective Date:</b>	04-01-2004

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

### Reference(s):

- ORS 419B.529
- ORS 109.307
- ORS 109.350

### Form(s) that apply:

- CF 438, Legalizing the Adoption  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0438.pdf>
- CF 960, Adoption Disclosure Statement  
<http://dhsforms.hr.state.or.us/Forms/Served/CE0960.pdf>

### Rules:

#### **413-120-0142**

##### **Purpose**

ORS 419B.529 sets forth conditions under which a prospective adoptive parent is not required to file a petition for adoption. These rules establish DHS's responsibilities in the process for legalizing an adoption through the juvenile court where a petition for adoption is not required.

**Stat. Auth. ORS 418.005**

**Stats. Implemented: ORS 419B.529**

#### **413-120-0145**

##### **Values**

- (1) Every child needs and deserves a safe, nurturing, and permanent home.
- (2) Creating a legal child parent relationship is the final goal of adoption.
- (3) Expediting legalization of adoption is desirable if the interests of the child and adoptive

family are protected and basic requirements met.

**Stat. Auth.: ORS 418.005**

**Stats. Implemented: ORS 419B.529**

#### **413-120-0150**

##### **Definitions**

- (1) "Adoption Decree" means a decree which a court issues, pursuant to a petition for adoption, setting forth the facts of the case and ordering that from the date of the decree the child, to all legal intents and purpose, is the child of the petitioner.
- (2) "Home Study" means a written evaluation of the prospective adoptive parent(s)' suitability 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 the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in DHS CAF administrative rules, OAR 413-0120-0300 through 413-120-0310.
- (3) "Legalization" means the process of giving an adoptive placement legal validity.
- (4) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.
- (5) "Placement Report" 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 includes information about the child's background and placement; medical and genetic history; birth parent(s)' history; status and adjustment of the child in the adoptive home; and status and adjustment of the child's prospective adoptive parent(s).

**Stat. Auth.: ORS 418.005**

**Stats. Implemented: ORS 419B.529**

#### **413-120-0155**

##### **Conditions for Not Filing a Petition for Adoption**

Pursuant to ORS 419B.529 and notwithstanding ORS 109.309, a prospective adoptive parent is not required to file a petition for adoption if all of the following conditions are in place:

- (1) A juvenile court that is a circuit court has entered an order of permanent commitment of the child to DHS pursuant to ORS 419B.527, or the parent has signed and Department of Human Services Office of Safety and Permanency for Children has accepted a release and surrender to the Department and a certificate of irrevocability and waiver as provided in ORS 418.270 regarding the child.
- (2) DHS has completed a home study that finds the prospective adoptive parent(s) suitable to adopt the child and consents to the adoption; and
- (3) The adoptive parent(s) elect to legalize the adoption through the juvenile court.

**Stat. Auth.: ORS 418.005**

**Stats. Implemented: ORS 418.270, 419B.529**

#### **413-120-0160**

##### **Right to Use Expedited Process**

The adoption worker shall inform the adoptive parent(s) in writing of their right to use this expedited process, using form CF 438, Legalizing the Adoption.

**Stat. Auth. ORS 418.005**

**Stats. Implemented: ORS 419B.529**

#### **413-120-0165**

##### **Requirements Prior to Proceeding to Legalization of the Adoption**

When the supervision period is concluded and the Adoption Services Unit receives a request from the adoptive parent(s) or their legal representative to proceed with finalization of the adoption in the juvenile court, the Adoption Services Unit shall assure that the following requirements have been met or processes have been completed before proceeding with forwarding the matter to the juvenile court for legalization:

- (1) The requirements of the Indian Child Welfare Act (ICWA) have been met (OAR 413-070-0100 through 0260).
- (2) If applicable, the requirements of the Interstate Compact on Placement of Children have been met (OAR 413-040-0200 through 0330).
- (3) The birth parent(s) and petitioners have been advised of the Voluntary Adoption Registry (OAR 413-130-0300 through 0360).
- (4) The worker has assessed the child's need for openness in adoption, and if appropriate to the case, has provided information to the adoptive parent(s) and facilitated the development of a Post Adoption Communication Agreement (OAR 413-120-0610 through 0650); and
- (5) The child has been referred to the Adoption Assistance Program; and if the child meets the criteria, a written Adoption Assistance Agreement has been completed, (OAR 413-130-0000 through 0110). If the adoptive parent(s) decline to participate in the Adoption Assistance Program, the worker must obtain a statement signed by the adoptive parent(s) which says that they have been fully informed of the availability of the Adoption Assistance Program and waive their rights to these benefits now and in the future.

**Stat. Auth.: ORS 418.005**

**Stats. Implemented: ORS 419B.529**

#### **413-120-0170**

##### **Attorney Fees**

If Adoption Assistance has been approved, and the adoptive parent(s) elect to use an attorney to assist with legalization, the adoptive parent(s) can request reimbursement for reasonable and necessary attorney fees through the Adoption Assistance Program pursuant to OAR 413-130-0080(1),(4), OAR 413-130-0090, and OAR 413-120-0115(1) and (2).

**Stat. Auth.: ORS 418.005**

**Stats. Implemented: ORS 419B.529**

## **413-120-0175**

### **Court Filing Requirements**

When the requirements of OAR 413-120-0165 have been met, the Adoption Services Unit will send the following to the attorney selected by the adoptive family, and the attorney must file with the court:

- (1) A written consent to the adoption.
- (2) A placement report requesting the juvenile court to enter a decree of adoption.
- (3) Indian Child Welfare Act statement, ORS 109.309(10)(a-b).
- (4) Statement regarding Voluntary Adoption Registry Notification, ORS 109.35.
- (5) Documentation regarding compliance with the Interstate Compact on Placement of Children, Article IV, ORS 417.200.
- (6) Adoption Disclosure Statement, form CF 960.  
**Stat. Auth.: ORS 418.005**  
**Stats. Implemented: ORS 419B.529**

### **Contact(s):**

- **Name:** CAF Reception; **Phone:** 503-945-5600

### **Policy History**

- 07/06/99
- 01/01/02
- 11/25/03 thru 05/21/04