

DHS Report for HB 4106 – OAR 413 Temporary Rules in 2016

Eff. Date	OAR	Action	Statement of Need – Reason for Action	Findings of Need to Act Promptly and Why A Temporary Rule was Appropriate
1-1-2016	413-040-0000	Amend(T)	Effective January 1, 2016, ORS 419B.440 as amended by section 7 of SB 741 (Oregon Laws 2015, chapter 795) will require the Department to notify the court when the Department has removed or plans to remove a child or young adult from a foster home as defined in ORS 418.625 and certified under ORS 418.635 in some circumstances. These amendments establish the requirement in Department rules to ensure compliance with state law. Also effective January 1, 2016, HB 3014 (Oregon Laws 2015, chapter 216) changes the definition of "grandparent" for purpose of notice of juvenile court proceedings and rights to request visitation or contact to include legal parents of a child or young adult's legal parent, even when parental rights of the child or young adult's parent have been terminated. The amendments require the Department to provide notice to these grandparents of any court hearing concerning the child or young adult to ensure compliance with state law.	The Department finds that failure to act promptly by amending these rules will result in serious prejudice to the public interest, the Department, and children and families served by the Department. The Department needs to proceed by temporary rule because the public, the Department, and children and families served by the Department will immediately benefit because the Department's rules will reflect the additional rights and responsibilities under state law that take effect on January 1, 2016.
	413-040-0145	Amend(T)		
	413-040-0150	Amend(T)		
1-1-2016	413-120-0925	Amend(T)	OAR 413-120-0925 needs to be amended because the current definition of "relative" is not correct for purposes of rules regarding the adoption of a child emigrating from the United States. The amendment clarifies who qualifies as a relative for purposes of those adoptions.	The Department finds that failure to act promptly by amending OAR 413-120-0925 will result in serious prejudice to the public interest, the Department, and children and families involved in the adoption of a child emigrating from the United States. Without the amendment, the incorrect definition of "relative" will apply to these adoptions. The Department needs to proceed by temporary rule because the public, the Department, and children and families involved in those intercountry adoptions will immediately benefit because it will be clear which types of relatives the rule applies to.
1-1-2016	413-130-0000	Amend(T)	These rules need to be amended because changes to the voluntary adoption registry in HB 2414 (Oregon Laws 2015, chapter 200) go into effect on January 1, 2016, and the Department must update its rules to reflect the changes. These amendments implement HB 2414 and ensure the Department's rules are in compliance with state law.	The Department finds that failure to act promptly by amending these rules will result in serious prejudice to the public interest, the Department, and individuals participating in adoption search and registry. The Department needs to proceed by temporary rule because the public, the Department, and individuals participating in adoption search and registry will immediately benefit because the new provisions of HB 2414 will be reflected in the Department's rules governing these programs.
	413-130-0300	Amend(T)		
	413-130-0310	Amend(T)		
	413-130-0320	Amend(T)		
	413-130-0330	Amend(T)		
	413-130-0340	Amend(T)		
	413-130-0350	Amend(T)		
	413-130-0355	Amend(T)		
	413-130-0360	Amend(T)		
	413-130-0365	Adopt(T)		
	413-130-0400	Suspend		
	413-130-0420	Suspend		
	413-130-0430	Suspend		
	413-130-0440	Suspend		

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	413-130-0450	Suspend		
	413-130-0455	Suspend		
	413-130-0460	Suspend		
	413-130-0480	Suspend		
	413-130-0490	Suspend		
	413-130-0500	Suspend		
	413-130-0510	Suspend		
	413-130-0520	Suspend		
2-24-2016	413-120-0730	Amend(T)	OAR 413-120-0730 needs to be amended to comply with legislative intent of SB 741 (2015), and current statutory language. The Department is doing this by amending OAR 413-120-0730 to authorize the DHS Director to make exceptions to the order of preference for identification of potential adoptive resources when it is determined in the best interest of the child.	Failure to act promptly and immediately to amend 413-120-0730 will result in serious prejudice to the public interest, the Department, and potential adoptive resources. These rules need to be adopted promptly so that the Department can comply with the enacted legislation. Failure to do so would put the Department at risk of possible legal challenges and litigation.
4-11-2016	413-015-0215	Amend(T)	OAR 413-015-0215 needs to be amended to ensure child safety. OAAPI and ODDS must be made aware of child abuse reports related to all the homes they certify but the current rule only requires notifications for abuse reports relating to group homes certified by ODDS. The amendment ensures that the entities responsible for certifying homes for children with intellectual or developmental disabilities will be notified of all abuse reports.	The Department finds that failure to act promptly by amending OAR 413-015-0215 will result in serious prejudice to the public interest, the Department, and children in homes certified by ODDS. The Department needs to proceed by temporary rule because the public, the Department, and those children will immediately benefit when the entities responsible for certifying foster homes are notified of child abuse reports.
4-26-2016	413-140-0032	Amend(T)	OAR 413-140-0032 requires emergency amendment because the current rule prevents a home study waiver for a mother who has herself given birth to a child, regardless of genetic relationship. When this rule was originally drafted, the situation of in vitro fertilization was not very common and it was not necessary to spell out both biological and birth mother as two separate types of parents for purposes of granting a home study waiver. Without this amendment, mothers who have chosen to become mothers via in vitro fertilization, and have given birth to their children, cannot then have their partner adopt the child without a home study. The amendment implements and clarifies the Department's authority pursuant to ORS 109.309(7)(b).	The Department finds that failure to act promptly by amending OAR 413-140-0032 will result in serious prejudice to the public interest, the Department, and pending adoption cases involving a parent who is not the biological parent of the child but who is the birth mother with parental rights. The Department needs to proceed by temporary rule because the public, the Department, and families involved in pending adoptions will immediately benefit when the Department is able to waive the home study requirement in those cases to remove unnecessary barriers to family permanency.
5-17-2016	413-010-0180	Amend(T)	OAR 413-010-0180 and 413-040-0013 need to be amended because the current rules are not in compliance with state law. ORS 418.708 as amended by HB 2889 (2015) directs the Department of Human Services to adopt rules to state that a child who is 12 years of age or older and who has been in the custody of the Department for a minimum of six consecutive months is entitled to assistance from the Department to establish a savings account. ORS 418.708 (7) allows the Department to monitor the account when required to ensure continued eligibility for state or federal benefits the child may receive. The amendments bring the Department into compliance with state law by reflecting the right of children in Department custody to receive assistance from the Department to open a savings account and allowing the Department to monitor an account to ensure continued eligibility for state or federal benefits.	The Department finds that failure to act promptly by amending OAR 413-010-0180 and 413-040-0013 will result in serious prejudice to the public interest, the Department, and children in Department custody who are entitled to assistance opening a savings account under ORS 418.708. The Department needs to proceed by temporary rule because the public, the Department, and children in Department custody will immediately benefit when the Department's rules are in compliance with state law and accurately reflect the legal rights children have under ORS 418.708.
	413-040-0013	Amend(T)		

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6-14-2016	413-090-0085	Amend(T)	OAR 413-090-0085 needs to be amended because the BRS Rates Table currently incorporated by reference as Exhibit 1 does not reflect the current rates paid to providers. The Oregon Health Authority adopted new rates in the BRS Rates Table dated May 1, 2016 in OAR 410-170-0110 to reflect rates negotiated by OHA. This amendment incorporates the table by reference to ensure the Child Welfare BRS payment and billing rule accurately reflects rates paid to BRS providers.	The Department finds that failure to act promptly by amending OAR 413-090-0085 will result in serious prejudice to the public interest, the Department, and BRS contractors who are compensated at rates established by OHA in the BRS Rates Table. The Department needs to proceed by temporary rule because the public, the Department, and BRS contractors will immediately benefit when the rule accurately reflects the rates paid to BRS providers as of May 1, 2016 that have been negotiated and guaranteed by the Oregon Health Authority.
7-1-2016	413-015-0100	Amend(T)	These rules need to be adopted and amended because SB 1515 (2016) makes significant changes to Oregon laws relating to the Department's oversight of child-caring agencies and proctor foster homes and responsibility for ensuring the safety and well-being of children and young adults who reside in or receive services from child-caring agencies or proctor foster homes and Department rules must be amended to reflect the new requirements and responsibilities. These changes implement SB 1515.	The Department finds that failure to act promptly by adopting and amending these rules will result in serious prejudice to the public interest, the Department, child-caring agencies, proctor foster homes, and the children and young adults in their care. The Department needs to proceed by temporary rule because the public, the Department, and child-caring agencies, proctor foster homes, and the children and young adults in their care will immediately benefit when the Department's rules are in compliance with state laws intended to improve the oversight of child-caring agencies and proctor foster homes and ensure the safety and well-being of children and young adults in their care.
	413-015-0125	Amend(T)		
	413-015-0205	Amend(T)		
	413-015-0210	Amend(T)		
	413-015-0211	Amend(T)		
	413-015-0212	Amend(T)		
	413-015-0215	Amend(T)		
	413-015-0215(T)	Suspend		
	413-015-0300	Amend(T)		
	413-015-0409	Amend(T)		
	413-015-0415	Amend(T)		
	413-015-0420	Amend(T)		
	413-015-0440	Amend(T)		
	413-015-0445	Amend(T)		
	413-015-0450	Amend(T)		
	413-015-0470	Amend(T)		
	413-015-0620	Adopt(T)		
	413-015-0625	Adopt(T)		
	413-015-0630	Adopt(T)		
	413-015-0640	Adopt(T)		
	413-015-1000	Amend(T)		
	413-015-9030	Amend(T)		
	413-015-9040	Amend(T)		
	413-080-0050	Amend(T)		
	413-080-0051	Adopt(T)		
	413-080-0052	Amend(T)		
	413-080-0054	Amend(T)		
	413-080-0059	Amend(T)		
	413-080-0070	Adopt(T)		
	413-090-0000	Amend(T)		

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	413-090-0055	Amend(T)		
	413-090-0065	Amend(T)		
	413-090-0070	Amend(T)		
	413-090-0075	Amend(T)		
	413-090-0080	Amend(T)		
	413-090-0087	Amend(T)		
	413-090-0090	Amend(T)		
7-1-2016	413-215-0000	Adopt(T)		
	413-215-0001	Amend(T)		
	413-215-0006	Suspend		
	413-215-0011	Amend(T)		
	413-215-0016	Amend(T)		
	413-215-0021	Amend(T)		
	413-215-0026	Amend(T)		
	413-215-0031	Amend(T)		
	413-215-0036	Amend(T)		
	413-215-0041	Amend(T)		
	413-215-0046	Amend(T)		
	413-215-0051	Amend(T)		
	413-215-0056	Amend(T)		
	413-215-0061	Amend(T)		
	413-215-0066	Amend(T)		
	413-215-0071	Amend(T)		
	413-215-0076	Amend(T)		
	413-215-0081	Amend(T)		
	413-215-0086	Amend(T)		
	413-215-0091	Amend(T)		
	413-215-0096	Amend(T)		
	413-215-0101	Amend(T)		
	413-215-0106	Amend(T)		
	413-215-0111	Amend(T)		

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413-215-0116	Amend(T)		
413-215-0121	Amend(T)		
413-215-0126	Amend(T)		
413-215-0131	Amend(T)		
413-215-0201	Amend(T)		
413-215-0206	Suspend		
413-215-0211	Amend(T)		
413-215-0216	Amend(T)		
413-215-0221	Amend(T)		
413-215-0226	Amend(T)		
413-215-0231	Amend(T)		
413-215-0236	Amend(T)		
413-215-0241	Amend(T)		
413-215-0246	Amend(T)		
413-215-0251	Amend(T)		
413-215-0256	Suspend		
413-215-0261	Amend(T)		
413-215-0266	Amend(T)		
413-215-0271	Amend(T)		
413-215-0276	Amend(T)		
413-215-0301	Amend(T)		
413-215-0306	Suspend		
413-215-0311	Amend(T)		
413-215-0313	Amend(T)		
413-215-0316	Amend(T)		
413-215-0321	Amend(T)		
413-215-0326	Amend(T)		
413-215-0331	Amend(T)		
413-215-0336	Amend(T)		
413-215-0341	Amend(T)		
413-215-0346	Suspend		

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	413-215-0349	Amend(T)		
	413-215-0351	Amend(T)		
	413-215-0356	Amend(T)		
	413-215-0361	Amend(T)		
	413-215-0366	Amend(T)		
	413-215-0371	Amend(T)		
	413-215-0376	Amend(T)		
	413-215-0381	Amend(T)		
	413-215-0386	Amend(T)		
	413-215-0391	Amend(T)		
	413-215-0396	Amend(T)		
	413-215-0401	Amend(T)		
	413-215-0406	Suspend		
	413-215-0411	Amend(T)		
	413-215-0416	Amend(T)		
	413-215-0421	Amend(T)		
	413-215-0426	Amend(T)		
	413-215-0431	Amend(T)		
	413-215-0436	Amend(T)		
	413-215-0441	Amend(T)		
	413-215-0446	Amend(T)		
	413-215-0451	Amend(T)		
	413-215-0456	Amend(T)		
	413-215-0461	Amend(T)		
	413-215-0466	Amend(T)		
	413-215-0471	Amend(T)		
	413-215-0476	Amend(T)		
	413-215-0481	Amend(T)		
	413-215-0501	Amend(T)		
	413-215-0506	Suspend		
	413-215-0511	Amend(T)		

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	413-215-0516	Amend(T)		
	413-215-0521	Amend(T)		
	413-215-0526	Amend(T)		
	413-215-0531	Amend(T)		
	413-215-0536	Amend(T)		
	413-215-0541	Amend(T)		
	413-215-0546	Amend(T)		
	413-215-0551	Amend(T)		
	413-215-0554	Amend(T)		
	413-215-0556	Amend(T)		
	413-215-0561	Amend(T)		
	413-215-0566	Amend(T)		
	413-215-0571	Amend(T)		
	413-215-0576	Amend(T)		
	413-215-0581	Amend(T)		
	413-215-0586	Amend(T)		
	413-215-0601	Amend(T)		
	413-215-0606	Suspend		
	413-215-0611	Amend(T)		
	413-215-0616	Amend(T)		
	413-215-0621	Amend(T)		
	413-215-0626	Amend(T)		
	413-215-0631	Amend(T)		
	413-215-0636	Amend(T)		
	413-215-0641	Amend(T)		
	413-215-0646	Amend(T)		
	413-215-0651	Amend(T)		
	413-215-0656	Amend(T)		
	413-215-0661	Amend(T)		
	413-215-0666	Amend(T)		
	413-215-0671	Amend(T)		

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	413-215-0676	Amend(T)		
	413-215-0681	Amend(T)		
	413-215-0701	Amend(T)		
	413-215-0706	Suspend		
	413-215-0711	Amend(T)		
	413-215-0716	Amend(T)		
	413-215-0721	Amend(T)		
	413-215-0726	Amend(T)		
	413-215-0731	Amend(T)		
	413-215-0736	Amend(T)		
	413-215-0741	Amend(T)		
	413-215-0746	Amend(T)		
	413-215-0751	Amend(T)		
	413-215-0756	Amend(T)		
	413-215-0761	Amend(T)		
	413-215-0766	Amend(T)		
	413-215-0801	Amend(T)		
	413-215-0806	Suspend		
	413-215-0811	Amend(T)		
	413-215-0816	Amend(T)		
	413-215-0821	Amend(T)		
	413-215-0826	Amend(T)		
	413-215-0831	Amend(T)		
	413-215-0836	Amend(T)		
	413-215-0841	Amend(T)		
	413-215-0846	Amend(T)		
	413-215-0851	Amend(T)		
	413-215-0856	Amend(T)		
	413-215-0901	Amend(T)		
	413-215-0906	Suspend		
	413-215-0911	Suspend		

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	413-215-0916	Amend(T)		
	413-215-0918	Amend(T)		
	413-215-0921	Amend(T)		
	413-215-0926	Amend(T)		
	413-215-0931	Amend(T)		
	413-215-0936	Amend(T)		
	413-215-0941	Amend(T)		
	413-215-0946	Amend(T)		
	413-215-0951	Amend(T)		
	413-215-0956	Amend(T)		
	413-215-0961	Amend(T)		
	413-215-0966	Amend(T)		
	413-215-0971	Amend(T)		
	413-215-0976	Amend(T)		
	413-215-0981	Amend(T)		
	413-215-0986	Amend(T)		
	413-215-0991	Amend(T)		
	413-215-0992	Amend(T)		
	413-215-0996	Amend(T)		
	413-215-1001	Amend(T)		
	413-215-1006	Amend(T)		
	413-215-1011	Amend(T)		
	413-215-1016	Amend(T)		
	413-215-1021	Amend(T)		
	413-215-1026	Amend(T)		
	413-215-1031	Amend(T)		

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8-25-2016	413-010-0035	Amend(T)	OAR 413-010-0035 needs to be amended because the current rule imposes a barrier to public records beyond what is required in ORS 192.501 by requiring explicit approval from law enforcement. This results in a back and forth between the Department and law enforcement that delays the response from Department paralegals and records clerks who are responding to public records requests from clients who are referenced in law enforcement reports. Further, the Department's ability to release these reports could be blocked entirely if law enforcement refuses to authorize release based on legal advice that they should not authorize the release of information in another entity's possession. Making this rule change will improve the Department's ability to respond timely to public records requests and is consistent with the statutory protections this type of information is afforded under Oregon law.	The Department finds that failure to act promptly by amending OAR 413-010-0035 will result in serious prejudice to the public interest, the Department, and members of the public who are entitled to public records in the Department's possession. Currently, the Department's rules imposes a barrier to the public's ability to access public records beyond what is required under Oregon law. Therefore, the Department needs to proceed by temporary rule because the public, the Department, and members of the public will immediately benefit when the Department's rules reflect the proper balance between protecting law enforcement information from disclosure when it would hinder the investigation or prosecution of a case and the public's right to access public records.
9-2-2016	413-070-0900	Amend(T)	These rules need to be amended because the Department's eligibility requirements for guardianship assistance must comply with state regulations. The amendments ensure the state requirements are reflected in the Department's rules. Additionally, these rules need to be amended because the Department needs the ability to make exceptions to the eligibility requirements for state-funded guardianship assistance when it would be in the best interest of the child to do so. The current rule does not allow any exceptions. The amendments establish the circumstances under which the Director of the Department may authorize a waiver of the eligibility requirements for state-funded guardianship assistance.	The Department finds that failure to act promptly by amending these will result in serious prejudice to the public interest, the Department, and children who would benefit from guardianship assistance. The Department needs to proceed by temporary rule because the public, the Department, and those children will immediately benefit when the Department is able to provide guardianship assistance consistent with the law and to make exceptions to the requirements to state-funded assistance in cases where it would be in the best interest of the child to do so.
	413-070-0917	Amend(T)		
	413-070-0959	Amend(T)		
10-5-2016	413-015-0210	Amend(T)	OAR 413-015-0210 needs to be amended because children under the age of four who reside in homes who have been the subject of multiple child abuse reports that were closed at screening may be at risk and an increased level of scrutiny is required to ensure child safety. Reports are closed at screening when the information in the report does not meet the statutory definition of child abuse because the Department is not authorized to investigate. However, internal and external audits have found that multiple closed at screening reports is a predictor of risk of harm to a child in the home. Therefore, the rule needs to be amended to require a CPS assessment in those cases, unless an exception is authorized.	The Department finds that failure to act promptly by amending OAR 413-015-0210 will result in serious prejudice to the public interest, the Department, and children whose safety may be at risk. The Department needs to proceed by temporary rule because the public, the Department, and children whose safety may be at risk will immediately benefit when the rule requires child abuse report screeners to assign a CPS worker to assess the safety of children in the home who have been the subject of four or more consecutive closed at screening reports.
11-1-2016	413-080-0053	Amend(T)	On September 29, 2016, the Department implemented provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to children and young adults in substitute care who are missing or who are, or are at risk of being, a victim of sex trafficking. (See Certificate and Order for Filing Permanent Administrative Rules at http://www.dhs.state.or.us/policy/childwelfare/implement/413-20160929Perm.pdf .) However, the amendments did not fully comply with the federal law. Specifically, those rule changes did not clearly state the Department's responsibility to notify law enforcement and NCMEC as required in section 104 of the Act (42 USC 671(a)(35)). These changes clearly state that requirement and bring the Department into compliance with federal law.	The Department finds that failure to act promptly by amending OAR 413-080-0053 and 413-080-0062 will result in serious prejudice to the public interest, the Department, and children and young adults in substitute care who are missing or who are, or are at risk of being, a sex trafficking victim because the Department will not be in compliance with federal law regarding the Department's responsibility to immediately report to law enforcement and NCMEC. The Department needs to proceed by temporary rule because the public, the Department, and children and young adults in substitute care will immediately benefit when the Department's rules reflect the Department's responsibilities under federal law.
	413-080-0062	Amend(T)		