
POLICY TRANSMITTAL NO. 07-62	DATE: OCTOBER 30, 2007
CHILDREN AND FAMILY SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:75-1-16 through 75-1-18.1; 75-1-20; 75-6-85; 75-7-15; 75-15-84; and 75-15-87 through 75-15-88.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

The proposed revisions to Subchapter 1, 6, 7, and 15 of Chapter 75 amend the rules to bring the Oklahoma Department of Human Services (OKDHS) adoptive and foster home approval process and court hearing procedures into compliance with: (1) Senate Bill 553 (SB 553); (2) House Bill 1927 (HB 1927) in repealing the OKDHS authority to enter an objection to the release of a child from state custody; and (3) Senate Bill 469 (SB 469) to comply with legislative intent that every effort be made to place children with a member of the child's family.

340:75-1-16 is amended to: (1) state that every effort should be made to place a child with a member of the child's family in a safe and appropriate placement; (2) require OKDHS to provide to any custodian or other person caring for the child information regarding OKDHS programs available to the child; (3) require written notice of any further proceedings to any foster or preadoptive parents or relatives providing care for the child; (4) clarify that the DA and attorney for the child may make an objection to the release of a child from the state's custody and clarify the CW worker's ability to recommend an objection; (5) clarify time frame for filing of written application to review a court order; (6) repeal OKDHS authority to enter an objection to release of child from state custody; (7) clarify that a right to be heard at all proceedings is provided by the court to the current foster parent of the child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child; and (8) update sentence structure.

340:75-1-17 is amended to: (1) clarify that prior written notice of the adjudicatory hearing is to be provided to the current foster parent of the child, any preadoptive parent or relative providing care for the child; (2) clarify that a right to be heard is provided by the court to the current foster parent of the child, any

preadoptive parent or relative providing care for the child but such right does not require any foster parent, preadoptive parent, or relative be made a party to such action; and (3) add a subsection tagline.

340:75-1-18 is amended to: (1) require that identification of appropriate in-state and out-of-state placements be made; (2) clarify that every effort is made to place a child with a member of the child's family in a safe and appropriate home; (3) clarify that prior written notice of the dispositional hearing is to be provided to the current foster parent of the child, any preadoptive parent or relative providing care for the child; and (4) clarify that such caregivers are provided by the court a right to be heard in any proceeding but such right does not require the caregivers to be made a party to the action.

340:75-1-18.1 is amended to: (1) clarify that information regarding the child's independent living plan and in and out-of-state placement options considered for the child should be included in permanency hearing court reports; (2) delete inadvertent requirement for OKDHS to provide notice of hearing to the child's guardian ad litem; and (3) clarify that the court provide the current foster parents of the child, any preadoptive parent, or relative providing care for the child a right to be heard at permanency hearings.

340:75-1-20 is amended to clarify at review hearings: (1) the court report should address consideration of in-state or out-of-state placement options; (2) the court inquires, or causes inquiry to be made of the child, regarding any proposed independent living plan; and (3) the court provides a right to be heard to the current foster parents of the child, any preadoptive parent, or relative providing care for the child.

340:75-6-85 is amended to require that every effort is made to place a child with a member of the child's family in a safe and appropriate home.

340:75-7-15 was recently revised but requires further revision to mirror proposed adoption policy regarding child abuse and neglect registry checks. This amendment will: (1) clarify that out-of-state child abuse and neglect registry checks are done for any foster parent applicant or adult household member who has not lived continuously in Oklahoma for the past five years; (2) clarify that the prospective resource parent is not approved without the results of the state-maintained child abuse and neglect registry checks if a registry is maintain in the applicable state; and (3) direct that any available information be obtained from the applicable state if no child abuse and neglect registry exists.

340:75-15-84 is amended to: (1) require fingerprinting and an FBI check of each adoptive applicant and adult household

member regardless of length of residence in Oklahoma; and (2) require a search of all applicable out-of-state child abuse and neglect registries when an adoptive applicant or adult household member has not resided continuously in Oklahoma for the past five years.

340:75-15-87 is amended to: (1) clarify that Oklahoma Statutes mandate a Child Abuse and Neglect Information System check for all public agency and private adoptive parent applicants and all other household members 18 years and older; (2) require a search of out-of-state child abuse and neglect registries when an applicant or adult household member has not maintain continuous residency in Oklahoma for the past 5 years; (3) direct that any available information be obtained from the applicable state if no child abuse and neglect registry exists; and (4) authorize an exception to fingerprinting in limited, case-specific circumstances and authorize an alternate procedure for obtaining a national criminal records check for any applicant or adult residing in the home who has a severe condition that precludes such person from being fingerprinted.

340:75-15-88 is amended to delete language that allows the court to conditionally approve the home of an adoptive applicant or adult household member with certain criminal convictions.

Original signed on 10-9-07

Linda Smith, Director
Children and Family Services Division

Sharon Neuwald, Coordinator
Office of Legislative Relations and Policy

WF # 07-22 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

<u>REMOVE</u>	<u>INSERT</u>
340:75-1-16	340:75-1-16, pages 1-6, revised 11-1-07
340:75-1-17	340:75-1-17, pages 1-2, revised 11-1-07
340:75-1-18	340:75-1-18, pages 1-6, revised 11-1-07
340:75-1-18.1	340:75-1-18.1, pages 1-3, revised 11-1-07
340:75-1-20	340:75-1-20, pages 1-4, revised 11-1-07
340:75-6-85	340:75-6-85, pages 1-7, revised 11-1-07
340:75-7-15	340:75-7-15, pages 1-9, revised 11-1-07
340:75-15-84	340:75-15-84, pages 1-7, revised 11-1-07
340:75-15-87	340:75-15-87, pages 1-10, revised 11-1-07
340:75-15-88	340:75-15-88, pages 1-5, revised 11-1-07

340:75-1-16. Custody hearings, placement hearings, and court orders

Revised 11-1-07

(a) Emergency custody hearing. ■ 1

(1) Within two judicial days after a child is taken into emergency or protective custody as an alleged deprived child, the child's parent(s), legal guardian, or custodian is entitled to an emergency custody hearing, and thereafter at such intervals as determined by the court. At the hearing, the court:

(A) determines whether to place the child into or continue the child in emergency custody, if continuation of the child in the child's home is contrary to the health, safety, or welfare of the child;

(B) determines whether to release the child to the parent(s), legal guardian, custodian, or other responsible adult, with or without conditions as the court finds reasonably necessary to ensure the health, safety, or welfare of the child.

(i) When a child has been removed from the custodial parent and, in the best interests of the child, the court is unable to release the child to the custodial parent, the court gives priority for placement of the child with the noncustodial parent of the child unless such placement would not be in the child's best interests.

(ii) When the court cannot place the child with the noncustodial parent, custody is awarded consistent with the preferences set forth in Section 21.1 of Title 10 of the Oklahoma Statutes, which are:

(I) grandparent;

(II) person indicated by deceased parent;

(III) relative;

(IV) person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, a foster parent; or

(V) any other person deemed suitable by the court and able to provide adequate and proper care and guidance for the child.

- (iii) Every effort should be made to place a child with a member of the child's family in a safe and appropriate placement.
- (iv) When custody of the child cannot be made pursuant to these preferences, the reason for such determination is documented in the court record.
- (v) When the court returns the child to the custody of a parent, relative, or other responsible party, the court may order the Oklahoma Department of Human Services (OKDHS) to provide supervision of the child; and
- (C) obtains information from the parent, legal guardian, or custodian necessary to identify and locate kinship placement resources;
- (D) requires OKDHS to provide to any custodian or other person caring for the child information on OKDHS programs available to the child; and
- (E) requires OKDHS to provide written notice of any further proceedings to any foster or preadoptive parents or relatives providing care for the child. ■ 1
- (2) The purpose of the emergency custody hearing is to show cause why the child was taken into custody or why custody should not return to the parent(s).
- (A) An order for removal of a child from the home must make a determination:
- (i) that continuation of the child in his or her home is contrary to the child's health, safety, or welfare or is in the child's best interests; and
- (ii) whether reasonable efforts to prevent removal were made or, in the absence of preventive efforts, if removal of the child is due to an emergency and is for the child's safety. [10 O.S. § 7003-2.4(G)(1)(a) through (d)]
- (B) The judge may enter an order that reasonable efforts are not required, per OAC 340:75-1-18.4.
- (C) The emergency custody order may not remain in effect for more than 60 days absent a showing that future extension is necessary to ensure the health, safety, or welfare of the child and is in the best interests of the child.
- (b) Opportunity to be heard in placement and custody decisions. ■ 1 & 2** At any hearing under the Oklahoma Children's Code for the purpose of determining the placement of a child or whether a child in the state's custody, whether protective,

emergency, temporary, or permanent, is to be released from such custody, the court provides an opportunity for a representative from OKDHS, the current foster parent, guardian ad litem, and child, if of sufficient age, to present sworn testimony regarding this placement or release. [10 O.S. § 7003-6.2A]

(1) The Child Welfare (CW) worker may be cross-examined by the court and the parties to the case.

(2) The hearing is on the record and the court must issue a written finding.

(3) OKDHS does not have the same right to be heard when the district attorney is declining to file a petition and the child is released by operation of law.

(c) Objection to release from the state's custody and review of court order. ■ 1
At any hearing where a child is to be released from the state's custody, whether protective, emergency, temporary, or permanent custody, a determination must be made about whether the court order releasing the child from the state's custody creates a serious risk of danger to the health or safety of the child. The DA and attorney for the child may make an objection to the release of a child from the state's custody. The court is required to stay the order when the DA or attorney for the child objects, pending the filing of an application by the objecting party. When verbal notice of an objection is given, the procedure in (1) through (3) of this subsection is followed.

(1) The party giving notice of objection and intention to seek review of the court order files with the presiding judge of the administrative judicial district, within three judicial days from the custody order, a written application to review the order.

(2) If the written application is not filed timely or a written notification is received that the objection is withdrawn, the objection is considered abandoned and the stay is lifted.

(3) When the application is filed timely, the presiding judge of the administrative judicial district assigns a juvenile judge within the judicial district to complete a review of the order.

(A) The review is completed within five judicial days of the filing of the written application for review.

(B) When there is no finding of serious risk of danger, the reviewing judge orders the stay lifted and the child released according to the order under review.

- (C) When the reviewing judge finds a serious risk of danger, the court issuing the order under review is required to enter another order. [10 O.S. § 7003-6.2]
- (d) **Directed placement not allowed.** ■ 1 & 4 If the court determines it would be in the best interests of a child, the court may place the child in the legal custody of OKDHS. If the child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement.
- (e) **Right to be heard.** A right to be heard at all proceedings is provided by the court to the current foster parent of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child. Such notice and right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

INSTRUCTIONS TO STAFF 340:75-1-16

Revised 11-1-07

1. (a) **OKDHS Legal Division assistance.** When a question is not satisfactorily resolved by reference to Oklahoma Department of Human Services (OKDHS) policy or interpretation of policy, a request for formal legal opinion is submitted to OKDHS Legal Division, as provided in OKDHS:2-25-3. Requests for informal legal opinions and advice or assistance on individual case problems are, when time permits, made by or after consultation with administrative, program, or supervisory staff.
 - (b) **Prompt consultation.** Circumstances that require prompt consultation between a Child Welfare (CW) worker and an attorney are not delayed by contacts with supervisory or other staff, who are contacted as soon as possible thereafter. Examples of such circumstances include:
 - (1) a request, by the court, the district attorney (DA), the child's attorney, or a parent's attorney, for the position of OKDHS on a question of law or for legal action by OKDHS made in the course of a hearing or proceeding before the court;
 - (2) the issuance of an order or directive from the court requiring the provision of a service or other action by OKDHS within a short time and the service or action cannot be provided because it is not authorized by law, conflicts with OKDHS policy, or is impossible to provide or perform within the time allowed;

(3) obstruction of a mandatory Child Protective Services (CPS) investigation or necessary and authorized CPS investigative procedures. Reasonable requests by the DA or law enforcement officers aimed at advancing a criminal investigation and planned multidisciplinary team activities that alter normal investigative protocols do not constitute obstruction per OAC 340:75-3-5(d)(2) and 340:75-3-8.4; and

(4) receipt of work-related legal process, such as a summons or notice, per OAC 340:75-1-45.

(b) Notice of hearing. The Child Welfare (CW) county of jurisdiction worker or the preadoptive parent's adoption specialist:

(1) provides KIDS generated Form 04MP030E, Hearing Notification, to the current foster or preadoptive parent, or relative no later than 15 days after the hearing is set;

(2) if the child moves after the notification has been provided, prints Form 04MP030E from the Reports icon and provides to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the court hearing;

(3) if the hearing date changes, updates the Court Hearing Detail screen and provides the KIDS generated Form 04MP030E to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the hearing; and

(4) documents in KIDS Contacts screen when and how Form 04MP030E was delivered.

2. Opportunity to be heard in release from custody and placement decisions. The CW worker asks the DA for the opportunity to be heard by requesting to testify on the record. If the DA declines, the CW worker directly requests from the court the opportunity to be heard on the record prior to conclusion of the hearing.

(1) If the court refuses to provide an opportunity to be heard, the CW worker advises the CW supervisor, who contacts the OKDHS Legal Division.

- (2) Release from OKDHS custody but supervision ordered. When the court releases a child from OKDHS custody and orders OKDHS to continue to supervise the child's placement, the CW worker:**
- (A) does not recommend that OKDHS be relieved of supervision;**
 - (B) closely supervises the child's placement; and**
 - (C) documents any concerns for the court.**
- 4. Protocol for challenging a court-ordered directed placement. If the court exceeds its authority by ordering OKDHS to place a child in OKDHS custody in a specific home or placement contrary to the recommendation of OKDHS, the procedure in (1) through (4) is followed.**
- (1) The CW worker immediately after the hearing consults with the supervisor, CD, and CWFL to determine whether OKDHS will initiate legal action to challenge the court order.**
 - (2) If the decision is made to initiate legal action to challenge the court order, the CD immediately notifies the area director and OKDHS Legal Division.**
 - (3) The OKDHS Legal Division consults with the Human Services Centers chief operating officer to make a determination as to the appropriate legal action warranted by the facts and circumstances of the case, including contacting the court and counsel for the parties, preparing appropriate motions to stay, reconsider, or vacate the order, preparing an application for new hearing, or preparing petitions or applications for appellate court relief or intervention.**
 - (4) The OKDHS Legal Division notifies the CD of the decision and takes the legal action necessary to challenge the court-ordered directed placement.**

340:75-1-17. Adjudicatory hearing

Revised 11-1-07

(a) Adjudicatory hearing. The adjudicatory hearing is a proceeding in which the district attorney, representing the State, must prove that the allegations of the deprived petition are supported by evidence and whether the child should be adjudged a ward of the court. Oklahoma Statutes provide that pre-adjudicatory custody orders are in effect for only a 60 day period. An extension can be ordered by the court after the court has been shown that further extension is necessary to insure the health, safety, or welfare of the child and is in the best interests of the child. In such cases where the district attorney has requested in the petition that reasonable efforts are not required, a finding of such may be made by the court. A permanency hearing is required within 30 days after the court has made a determination that reasonable efforts are not required. The order of adjudication must include a statement that advises the parents, legal guardians or custodians that failure to comply with the requirements of the court may result in the loss of custody of the child or the termination of their parental rights.

(b) Notification of hearing. Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action. ■ 1

INSTRUCTIONS TO STAFF 340:75-1-17

Revised 11-1-07

1. Notice of hearing. The Child Welfare (CW) county of jurisdiction worker or the preadoptive parent's adoption specialist:

(1) provides KIDS generated Form 04MP030E, Hearing Notification, to the current foster or preadoptive parent, or relative no later than 15 days after the hearing is set;

(2) if the child moves after the notification has been provided, prints Form 04MP030E from the Reports icon and provides to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the court hearing;

(3) if the hearing date changes, updates the Court Hearing Detail screen

and provides the KIDS generated Form 04MP030E to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the hearing; and

(4) documents in KIDS Contacts screen when and how Form 04MP030E was delivered.

340:75-1-18. Dispositional hearing

Revised 11-1-07

(a) **Dispositional hearing.** After a child is adjudicated deprived, the court holds a dispositional hearing, per Section 7003-5.5 of Title 10 of the Oklahoma Statutes. The court must enter a dispositional order on the same day or within 40 days of adjudication, unless the court finds on the record that the child's best interests are served by granting a delay.

(1) If the court grants a delay, the court must state why the delay is necessary and the minimum amount of time needed to resolve the reasons for delay.

(2) If the child is removed from the parent(s)' custody, the court or the Oklahoma Department of Human Services (OKDHS), as applicable, immediately considers concurrent permanency planning, to ensure permanency for the child at the earliest opportunity. Identification of appropriate in-state and out-of-state placement should be made so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child. ■ 1

(b) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the service needs of the child and family and custody of the child during the deprived case. The court considers all evidence that is helpful in determining the disposition that is in the child's best interests.

(1) At the hearing, the recommended treatment and service plan is presented to the court. The judge makes the final decision regarding whether the proposed treatment and service plan is accepted and whether a court order is issued regarding compliance with any or all recommendations. The family is ultimately responsible for only those recommendations that are court-ordered, per OAC 340:75-6-40.4.

(2) The dispositional order includes a statement informing the child's parent(s) that the consequences of non-compliance with the court's requirements may include, as applicable, loss of custody of the child or termination of the parent(s)' rights to the child. If reasonable efforts are required for the return of the child to the child's home, the parent(s) of the child must be given at least three months to correct conditions that led to the adjudication of the child, prior to requesting termination of parental rights.

(3) The dispositional order is reviewed by the court at least once every six months until:

- (A) conditions that caused the child's adjudication are corrected;
- (B) the parent(s)' rights to the child are terminated and a final adoption is decreed;
- (C) permanent care and custody of the child is awarded to another person or a kinship guardian is granted; or
- (D) the court terminates jurisdiction.

(c) **Special rules regarding custody orders.** Before placing custody of a child with the parent(s), legal guardian, legal custodian, or other suitable person, the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes.

(1) **Order of custody preference.** Every effort is made to place a child with a member of the child's family in a safe and appropriate home. When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the custodial parent, or, as the next priority preference, give placement to the noncustodial parent, custody is awarded, per Section 21.1 of Title 10 of the Oklahoma Statutes, to a:

- (A) grandparent;
- (B) person indicated by wishes of a deceased parent;
- (C) relative of either parent;
- (D) person in whose home the child has been living in a wholesome and stable environment; or
- (E) any other person deemed by the court to be suitable. If the court determines custody of the child cannot be made according to the order of preference, the court must document the reasons in the court record.

(2) **Background considerations.** The court is prohibited from placing custody of a child with a person who is subject to the Oklahoma Sex Offenders Registration Act or with a person who is married to or living with a person who is subject to the Oklahoma Sex Offenders Registration Act.

- (A) "Person" does not include a parent, legal guardian, or legal custodian of a child.

(B) Before awarding custody, the court must inquire whether the person has been previously convicted of any felony, relevant misdemeanor, or has such charges pending. A person requesting custody must respond to the court's inquiry by affidavit or sworn testimony and provide the court with an Oklahoma criminal history record.

(3) **Presumptions against placement.** Custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm. There is a rebuttable presumption that it is not in the child's best interests to have custody or visitation granted to a person who:

(A) is or has been subject to, or resides with anyone who is subject to the Oklahoma Sex Offenders Registration Act;

(B) was convicted of or resides with a person who was convicted of a crime of child abuse, neglect, or of a sexual nature;

(C) was convicted of or resides with a person who was convicted of domestic abuse within the past five years; or

(D) is found alcohol or drug dependent by clear and convincing evidence and expected in the near future to inflict or attempt to inflict serious bodily harm to self or others as a result of dependency.

(d) **Dispositional options.** Subject to the conditions and restrictions per OAC 340:75-1-18(c), the court makes one or more dispositional orders, including:

(1) placing the child under supervision by OKDHS in the child's own home with the child's custodial parent, legal guardian, or legal custodian from whom the child was removed, or placement with the noncustodial parent. The court may specify conduct to be followed by the parent and any other adult in the home. Supervision by OKDHS may not exceed one year unless extended by the court;

(2) placing the child with a suitable person, including a grandparent, relative, or other person specified in OAC 340:75-1-18(c)(1);

(3) placement of the child in the custody of a private institution or agency;

(4) ordering the child to receive counseling or other community-based services;

(5) committing the child to the custody of OKDHS;

(6) ordering the parent, legal guardian, legal custodian, stepparent, or other adult living in the home, or other person or agency receiving custody of the child, to follow any treatment and service plan prescribed by OKDHS;

(7) ordering a child's permanent care and custody transferred to another person upon the written consent of the parent(s) of the child, per OAC 340:75-1-18.2;

(8) ordering a child's permanent care and custody transferred to a kinship guardian, per OAC 340:75-1-18.3; and

(9) dismissing the petition and terminating its jurisdiction at any time for good cause when in the child's best interests.

(e) **Additional court determinations.** The court makes a determination whether:

(1) reasonable efforts:

(A) have been made to reunite the child with his or her family;

(B) are no longer feasible and are being made to secure an alternate permanent placement for the child;

(C) have been taken to finalize the permanent placement of the child including, if appropriate, through an interstate placement; or

(D) to reunite the child with the family are not required, per OAC 340:75-1-18.4;

(2) an out-of-home placement continues to be appropriate and in the child's best interests; and

(3) services provided to assist any youth, 16 years of age or older, in the transition from out-of-home care to independent living are appropriate.

(f) **Notification of hearing.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action. ■ 2

INSTRUCTIONS TO STAFF 340:75-1-18

Revised 11-1-07

1. Concurrent permanency planning. Concurrent planning provides for reunification services while simultaneously developing an alternative plan if reunification efforts fail or are no longer feasible. Efforts are made early in the case process to determine the most appropriate placement for the child. When a petition to terminate parental rights is filed, the Child Welfare (CW) worker actively pursues the previously determined concurrent plan. If the plan is adoption, the CW worker ensures the identification, recruitment, and processing of a qualified adoptive family for the child is completed in a timely manner. Questions to consider when determining the appropriateness of the placement are listed in (1) through (4).

(1) Are the siblings placed together?

(2) Is the child located in his or her own community, school district, or within close proximity of close family attachments?

(3) Are appropriate services available and readily accessible?

(4) Will this placement be able to provide permanency if efforts to reunite are unsuccessful?

2. Notice of hearing. The Child Welfare (CW) county of jurisdiction worker or the preadoptive parent's adoption specialist:

(1) provides KIDS generated Form 04MP030E, Hearing Notification, to the current foster or preadoptive parent, or relative no later than 15 days after the hearing is set;

(2) if the child moves after the notification has been provided, prints Form 04MP030E from the Reports icon and provides to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the court hearing;

(3) if the hearing date changes, updates the Court Hearing Detail screen and provides the KIDS generated Form 04MP030E to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the hearing; and

(4) documents in KIDS Contacts screen when and how Form 04MP030E was delivered.

340:75-1-18.1. Permanency hearings

Revised 11-1-07

(a) **Permanency hearing.** State and federal law determine the requirements for permanency hearings. The judge conducts the hearing and makes determinations, per Section 7003-5.6d of Title 10 of the Oklahoma Statutes. Oklahoma Department of Human Services (OKDHS) Child Welfare (CW) workers are responsible for providing the court with the necessary information to conduct the hearing. A permanency hearing is held for any case regarding a child alleged or adjudicated deprived no later than:

- (1) six months from the date of the child's placement in out-of-home care and every six months thereafter; and
- (2) 30 days after a determination that reasonable efforts are not required and every six months thereafter. ■ 1

(b) **Permanency report.**

(1) Prior to a permanency hearing, the CW worker prepares a report regarding the child for the court's review by contacting:

- (A) the child's current foster parent;
- (B) the parent(s) or parent(s)' attorney;
- (C) a post adjudication review board (PARB) member;
- (D) the child's guardian ad litem, if applicable; and
- (E) the child's attorney.

(2) Information gathered from these persons is used by the CW worker to assist in the preparation of Form 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, as applicable. The applicable court report includes, at a minimum, the:

- (A) efforts and progress demonstrated by the child's parent(s) to complete an individual treatment and service plan;
- (B) extent to which the parent(s) or legal guardian cooperated and used the services provided;

(C) status of the child, including the child's mental, physical, and emotional health;

(D) permanency plan for the child and, if the child is age 16 or older, the independent living plan; and

(E) in and out-of-state placement options considered for the child. ■ 2

(c) **Notification of hearing and right to be heard.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court. Such notice and right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action. ■ 3

INSTRUCTIONS TO STAFF 340:75-1-18.1

Revised 11-1-07

1. Permanency hearing.

(1) **Oklahoma statutes.** The exact wording of the statute regarding permanency hearings is found in Section 7003-5.6d of Title 10 of the Oklahoma Statutes online at www.oscn.net.

(2) **Requests.** The Child Welfare (CW) worker requests on Form 04KI009E, Court Report, or Form 04KI014E, Individualized Service Plan (ISP) Progress Report, as applicable, in the Recommendations section, that the court set a permanency hearing no later than six months from the child's placement in out-of-home care. This recommendation is made on Form 04KI009E or Form 04KI014E for any hearing held prior to the permanency hearing due date.

(3) **Court orders.** Within 30 days after the permanency hearing, the CW worker provides the court order to the custody specialist to ensure continuation of the child's Title IV-E eligibility.

2. Placement options. In the case of a child who will not be returned to a parent, the CW worker informs the court of the in-state and out-of-state placement options that have been considered.

3. Hearing notification. The CW county of jurisdiction worker or the preadoptive parent's adoption specialist:

(1) completes Form 04MP030E, Hearing Notification, and mails or hand-delivers to the current foster parent, preadoptive parent, or relative caring for the child no later than 15 days after the hearing is set;

(2) if the child moves after the notification is provided, copies Form 04MP030E completed for the hearing and mails or hand-delivers the copy to the current foster parent, preadoptive parent, or relative no later than seven days prior to the court hearing;

(3) if the hearing date changes, updates the Court Hearing Detail screen and provides the KIDS generated Form 04MP030E to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the hearing; and

(4) documents in KIDS Contacts screen when and how Form 04MP030E was delivered.

340:75-1-20. Six-month judicial review

Revised 11-1-07

(a) **Review requirements.** Section 7003-5.6 of Title 10 of the Oklahoma Statutes requires that the court review every case regarding a child alleged or adjudicated deprived no later than six months after the date of the child's out-of-home placement and at least once every six months thereafter until the child is returned to the custody of the parent(s), legal guardian, or legal custodian and the conditions that caused the child to be adjudicated deprived have been corrected, permanent care and custody has been awarded to a suitable custodian or kinship guardian, or the parent(s)' rights have been terminated and final adoption decreed.

(1) A child is considered to have entered out-of-home placement the earlier of:

(A) the date of adjudication; or

(B) 60 days after the child's removal from the home.

(2) The six-month judicial review requirement applies to a child who was removed from and returned to the home of the parent(s), legal guardian, or legal custodian until the court orders the case dismissed.

(3) A review hearing may be held concurrently with a permanency hearing.

(b) **Judicial review report.** The legal custodian of the child prepares the report for the court. Oklahoma Department of Human Services (OKDHS) prepares the report when OKDHS has court-ordered supervision of the child.

(1) The report includes:

(A) a summary of the parent(s)' current situation;

(B) the child's physical, mental, and emotional condition;

(C) the conditions existing in the child's home or out-of-home placement and the child's adjustment;

(D) the child's progress in school;

(E) visitation exercised by the child's parent(s) or other persons authorized by the court;

(F) if applicable, independent living services provided to a youth, 16 years of age or older, since the last court hearing; and

(G) when OKDHS is the legal custodian of the child, any efforts by the parent(s) to correct the conditions that caused the child to be adjudicated deprived. ■ 1

(2) The court's determination, in part, is based upon the report that must specifically address, recommend, and provide reasons, whether:

(A) the child should be returned to the child's parent(s) or placed with willing and suitable kinship relations, taking into consideration in-state and out-of-state placement options. Before a return to the child's parent(s) is ordered, the court must find the parties have:

(i) complied with, performed, and completed the terms and conditions of the court-ordered individual treatment and service plan that are essential and fundamental to the child's health, safety, or welfare as determined by the court;

(ii) corrected conditions that caused the child to be adjudicated and that the court determines essential and fundamental to the child's health, safety, or welfare;

(iii) made marked progress towards reunification with the child; and

(iv) maintained a close and positive relationship with the child;

(B) the child should continue in out-of-home placement for a specified period. The court projects a likely date by which the child may be returned to and safely maintained in the home, placed with a suitable guardian or custodian, placed for adoption, or other permanent arrangement;

(C) the rights of the child's parent(s) should be terminated and the child placed for adoption, placed with a guardian or custodian, or provided with another permanent arrangement;

(D) the child, because of exceptional circumstances, should remain in long-term out-of-home placement as a permanent plan or with a goal of independent living;

(E) reasonable efforts have been made to provide for the child's safe return to the home;

(F) reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and complete the steps necessary to finalize permanent placement for the child, when the court determines that reasonable efforts are not required or that continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan;

(G) when applicable, the youth, 16 years of age or older, receives appropriate services that assist in making the transition from out-of-home care to independent living. The court inquires or causes inquiry to be made of the child regarding any proposed independent living plan;

(H) the nature and extent of the services provided to the child and parent(s) ensure the safety of the child and protection from further physical, mental, or emotional harm, and, if necessary, order additional services to correct the conditions that led to the child's adjudication; and

(I) to modify the existing individual treatment and service plan as the court determines it is in the child's best interests and necessary for the correction of the conditions that led to the child's adjudication.

(c) **Review hearing.** At the review hearing the Child Welfare (CW) worker provides information similar to that offered at the dispositional hearing, with special emphasis on the progress on the court-ordered treatment and service plan. The court reviews all evidence that assists in decision-making including, but not limited to, oral and written reports presented by CW and others involved in the case.

(d) **Notice of hearing.** OKDHS provides written notice of review hearings via Form 04MP030E, Hearing Notification, to the preadoptive parent(s), relative, and current foster parent. The court provides the right to be heard to the current foster parent of the child, any preadoptive parent or relative providing care for the child. Such notice and right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such deprived proceedings. ■ 2

INSTRUCTIONS TO STAFF 340:75-1-20

Revised 11-1-07

1. Judicial review report documentation. The judicial review report is documented in combination with the permanency report using Form 04KI009E, Court Report, or Form 04KI014E, Individualized Service Plan (ISP) Progress Report, as applicable.

2. Notice of hearing. The Child Welfare (CW) county of jurisdiction worker or the preadoptive parent's adoption specialist:

(1) completes Form 04MP030E, Hearing Notification, and mails or hand-delivers to the current foster parent, preadoptive parent, or relative, no later than 15 days after the hearing is set; and

(2) if the child moves after the notification has been provided, copies Form 04MP030E completed for the hearing and mails or hand-delivers the copy to the current foster parent, preadoptive parent, or relative no later than seven days prior to the court hearing

(3) if the hearing date changes, updates the Court Hearing Detail screen and provides the KIDS generated Form 04MP030E to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the hearing; and

(4) documents in KIDS Contacts screen when and how Form 04MP030E was delivered.

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES**340:75-6-85. Placement responsibilities**

Revised 11-1-07

(a) **CW responsibilities.** The Child Welfare (CW) worker is responsible for the placement of a child who is removed from the home and placed in the custody of Oklahoma Department of Human Services (OKDHS) by law enforcement and court order.

(1) OKDHS follows the provisions of the Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996, per OAC 340:75-1-9, unless the court finds that the Indian Child Welfare Act applies to the child. ■ 1

(2) When determining placement for a child who is removed from the custodial parent and placed in emergency OKDHS custody, priority is given to placement with the noncustodial parent unless such placement is not in the child's best interest. ■ 2

(3) If OKDHS determines that placement with the noncustodial parent is not in the child's best interest, placement preference per Section 21.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 21.1) is followed, such as:

(A) grandparent;

(B) person indicated by deceased parent;

(C) relative; and

(D) person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, foster parent, or any other person deemed suitable by the court.

(4) If custody of the child cannot be made pursuant to 10 O.S. § 21.1, the reason for such determination is specified in the CW case record and provided to the court.

(5) Placement responsibility includes, per 10 O.S. § 7003-7.1 and OAC 340:75-6-85.1 through 340:75-6-85.4, ensuring the provision of:

(A) food;

- (B) clothing;
- (C) shelter;
- (D) medical care;
- (E) education;
- (F) basic care;
- (G) protection; and
- (H) safety for the child.

(6) When the court determines it would be in the best interests of the child, the court may place the child in the legal custody of OKDHS. If the child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement.

(b) **Appropriate placement.** OKDHS has the responsibility to determine whether a placement is an appropriate placement for a child in OKDHS custody, and to remove a child from a placement when it is in the child's best interest, per 10 O.S. § 7202.

(1) Every effort is made to place the child within his or her own community, school district, or both, in order to minimize the disruption for the child and ensure consistency with education. When a child is placed with a noncustodial parent, the noncustodial parent's home is considered the child's home community.

(2) The federal Indian Child Welfare Act (FICWA), 25 United States Code § 1915, Oklahoma Indian Child Welfare Act (OICWA), 10 O.S. § 40.6, and OAC 340:75-19-14 define placement preferences for Indian children.

(3) Consideration is given to the parent(s)' wishes regarding religious preference in the selection of a placement provider for the child.

(4) In order to promote stability and healthy growth of the child, it is the intent of OKDHS to limit the number of times a child is moved in out-of-home placement.

(A) If reunification is not feasible or is delayed, the placement made is the best available placement to provide permanency for the child.

(B) A request by a placement provider for immediate removal of a child is

examined and assessed regarding whether the situation can be resolved in order to prevent disruption of the placement.

(c) **Prescribed standards.** All placements utilized by OKDHS are approved or licensed by specified procedures and meet prescribed standards. A child in the custody of OKDHS is not placed in a home, whether temporary or closely related, prior to the provider meeting standards per OAC 340:75. Placements must be safe, have sufficient space to allow the child privacy, and the provider must:

- (1) support and participate in the child's permanency plan;
- (2) adhere to OKDHS rules, such as not using physical discipline; and
- (3) support the child's preferred religion and cultural choices.

(d) **Child's placement preference.** The child's statements and placement preferences are considered in making case decisions and are recorded on Form 04KI011E, Preadjudication Court Report, 04KI013E, Individualized Service Plan (ISP) Dispositional Report, 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, when the child's age and developmental abilities allow. Since the child's preferences are not the sole consideration in determining placements and case plan decisions, preferences are evaluated regarding reasons or causes, degree of consistency, and implications for the permanency plan.

(e) **Court decisions regarding the child's placement.** The court does not place a child in the custody of a person who is subject to the Sex Offenders Registration Act or a person living with someone subject to the Sex Offenders Registration Act.

- (1) "Person" does not include a parent, legal guardian, or legal custodian of the child.
- (2) The court inquires, prior to placing custody of a child with the person, whether the person has been convicted of a felony or a relevant misdemeanor, including assault and battery, alcohol or drug offenses, domestic abuse, and other charges, or has any charges pending.
- (3) Prior to the custody order being issued, the person requesting custody must present an affidavit or sworn testimony to the court and provide an Oklahoma criminal history background check, per 10 O.S. § 7003-8.1.

(f) **Foster home placements.** The provisions in (1) through (8) apply to placements in a paid or non-paid kinship, foster, or therapeutic foster home.

(1) **Preplacement visit.** Whenever possible, a preplacement visit for any child five years of age or older is held with the foster parent. The CW worker involved in the preplacement visit makes every effort to discuss with the child how the care, supervision, and guidance, including, but not limited to, parental substitute authority, will be achieved.

(2) **Foster parents may submit reports or present testimony in court.** Foster parents are entitled to provide the court with written reports or verbal testimony concerning the strengths, needs, behavior, important experiences, and relationships regarding the child, and may provide information requested by the court.

(3) **Foster parents informed of hearings.** The foster parent and child are given adequate prior written notice by the CW worker of all court hearings, including the date, time, place of hearing, name of judge, docket number, and the right to participate, per OAC 340:75-1-20. The foster parent is advised of the decisions made by the court regarding the child. ■ 3

(4) **Foster parents preferred placement.** When a child re-enters out-of-home care and a relative or kinship placement is unavailable, the foster parent who previously cared for the child is the preferred placement option if the placement is in the child's best interest and the best interest of any other child in the foster home.

(5) **Foster parents informed of review meetings, permanency planning meetings, and special staffing.** Foster parents are advised of any local post adjudication review board meetings and special staffing, including scheduled permanency planning review meetings and the foster parent's right to participate.

(6) **Previous placement information.** Foster parents are provided the opportunity to contact and communicate with a previous foster parent for the child in order to share information about the child, if authorized by the previous foster parent. The foster parent is informed of the number of times a child has been moved and the reasons why.

(7) **Court-approved treatment and service plan.** Foster parents are provided a copy of the court-approved treatment and service plan.

(8) **Eligibility to adopt the child.** During any permanency hearing, if the court determines the child is to be placed for adoption and the child has resided with the foster parent for at least one year, the court must also consider the foster parent eligible to adopt the child unless there is an existing, loving, emotional bond with a relative of the child, by blood or marriage, who is willing, able, and eligible to adopt the child.

(g) **Respect for the foster parents or placement providers.** The CW worker treats the foster parent or placement provider as a professional member of the CW team and with dignity, respect, and consideration. The CW worker cooperates with the foster parent or placement provider to provide a mutual exchange of information, including, but not limited to:

- (1) the child's physical and emotional development;
- (2) significant statements and behaviors that may affect the child's permanency plan and progress;
- (3) school events; and
- (4) any other concern.

(h) **Foster parents' relationship with the child.** Foster parents provide the child's basic needs, such as food, clothing, and shelter, and nurturing, emotional support, and direction and guidance for the child's growth and development.

- (1) The foster relationship may be recorded through photographs, Life Book, exchange of gifts, and contact after the placement is completed.
- (2) Section 7206.1 of Title 10 of the Oklahoma Statutes and OAC 340:75-7-37 recognize foster parents as essential participants in the decisions related to the growth, development, care, protection, and treatment of a child placed in their home with whom they have established a familial relationship.

(i) **Least restrictive.** Placements are made in the least restrictive or most home-like setting that will meet the child's needs and provide for the child's safety, per OAC 340:75-6-85 through 340:75-6-85.4. Every effort is made to place a child with a member of the child's family in a safe and appropriate home. 10 O.S. § 7004-1.1 prohibits a child adjudicated deprived from being placed in an institution. The least to the most restrictive placements are:

- (1) kinship home, which includes:
 - (A) relative home; and
 - (B) close family relationship;
- (2) regular foster home;

(3) therapeutic foster home; and

(4) group home or residential child care facility.

(j) **Close proximity.** Placements are made consistent with the needs of the child in the nearest geographic proximity to the child's own home.

(1) Exceptions may be made when the child's needs and safety cannot be met in a placement closer to the child's own home.

(2) Arrangements for transportation are made to ensure regular family visits.

INSTRUCTIONS TO STAFF 340:75-6-85

Revised 11-1-07

- 1. Placement consideration.** If the parent(s) of a child in emergency or temporary Oklahoma Department of Human Services (OKDHS) custody requests a placement that violates the Multiethnic Placement Act of 1994 and Interethnic Adoption Provisions of 1996 (MEPA/IEP), the Child Welfare (CW) worker advises the parent(s) that MEPA/IEP states that a parent(s)' request for a same race placement is not legal and is not considered by OKDHS. Only requests regarding relative and religion preferences are considered.
- 2. Noncustodial parent.** In many cases, Child Support Enforcement Division (CSED) has established and documented paternity prior to CW involvement. In order to ensure placement with the noncustodial parent has been explored and the CW case record accurately reflects all available OKDHS records regarding paternity, refer to OAC 340:75-6-31.5 Instructions to Staff.
- 3. Notice of hearing.** The Child Welfare (CW) county of jurisdiction worker or the preadoptive parent's adoption specialist:
 - (1)** provides KIDS generated Form 04MP030E, Hearing Notification, to the current foster parent, preadoptive parent, or relative no later than 15 days after the hearing is set;
 - (2)** if the child moves after the notification has been provided, prints Form 04MP030E from the Reports icon and provides to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the court hearing;

(3) if the hearing date changes, updates the Court Hearing Detail screen and provides the KIDS generated Form 04MP030E to the current foster parent, preadoptive parent, or relative no later than ten working days prior to the hearing; and

(4) documents in KIDS Contacts screen when and how Form 04MP030E was delivered.

340:75-7-15. Background investigation and assessment of results

Revised 11-1-07

(a) **Requirements.** A background investigation is conducted on all adults in the foster applicant's home as a safeguard for children placed in Oklahoma Department of Human Services (OKDHS) custody. Background investigations are conducted at the time of application and include, but are not limited to:

(1) an Oklahoma State Bureau of Investigation (OSBI) name and records criminal history search, including the Department of Public Safety (DPS) and Sex Offenders Registry, of the applicant and any adult living in the applicant's household;

(2) a Federal Bureau of Investigation (FBI) national criminal history search, based on the fingerprints of the applicant and any adult members of the household;

(3) a search of any court involvement;

(4) a search of all OKDHS records, including Child Welfare (CW) records, for past confirmation of child maltreatment involving the applicant and any adult living in the household;

(5) a search of all applicable out-of-state child abuse and neglect registries for any applicant or adult household member who has not lived continuously in Oklahoma for the past five years. The prospective resource home is not approved without the results of the state-maintained child abuse and neglect registry checks, if a registry is maintained in the applicable state, for all adult household members living in the home. If no child abuse and neglect registry is maintained in the applicable state, the resource specialist requests any information that can be provided; and ■3

(6) a search of Juvenile Justice Information System (JOLTS) records for any child older than 13 years of age in the applicant's household. ■1

(b) **Criminal history search.** The applicant and adult household members provide consent for an OSBI and FBI criminal history search by signing Form 04AD003E, Request for Background Check.

(c) **Exception to fingerprinting.** The Director of OKDHS or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal records check for any person residing in the

home who has a severe condition that precludes such person being fingerprinted. In limited, case specific circumstances, OKDHS may not be able to obtain:

(1) an individual's fingerprints as a result of the individual's disability; or

(2) legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the national crime information databases (NCID) to provide results. ■ 2

(d) Residence time frame.

(1) If every person age 18 or older residing in the applicant's home has resided in Oklahoma for at least five consecutive years immediately preceding approval, the initial approval may occur upon completion of the entire home assessment process using results per OAC 340:75-7-15(a).

(2) Fingerprints are submitted to the FBI for a national criminal history records search before initial approval. Final approval, per OAC 340:75-7-18(b)(3), is contingent upon receipt of the results of the national criminal history records search.

(3) Applicants or adult household members who have lived in Oklahoma for less than five years must also provide the equivalent background records check from previous state(s) of residence prior to placement. Equivalent records check includes, but is not limited to, a state's criminal history search, including DPS and Sex Offenders Registry. OKDHS obtains the child abuse and neglect registry check from the previous state(s) of residence. ■ 3

(e) Occupancy of the household. A criminal history search is completed for every adult who sleeps in the household more than 30 days per calendar year or engages in a pattern of overnight visitation that meets this test. Such persons are considered household members.

(f) New occupants in the foster home. The foster parent notifies OKDHS within 24 hours of any person taking up residence in the foster home. OKDHS completes a background investigation, per OAC 340:75-7-15, for persons age 18 years or older. The foster parent's child who reaches age 18 is considered in this category. Adults in this category have no provider responsibility until the background investigation is complete. A foster family's failure to notify OKDHS of a new household member or refusal of a household member to consent to a background check is grounds for cancellation of the foster care contract.

(g) **Kinship applicant criminal background records search after normal business hours or on a holiday.** When OKDHS considers placement of a child with a prospective kinship foster family in an emergency situation, after normal business hours or on a holiday, OKDHS requests that local law enforcement conduct a name based National Crime Information Center (NCIC) criminal history search. This is based upon submission of the name, race, gender, date of birth, and Social Security number of each person age 18 years or older living in the household. Each person completes and signs Form 04AD003E to initiate the search. ■ 4

(h) **Assessment of background investigation results.**

(1) **History of felony convictions.** OKDHS denies a resource home application if the applicant, or any person residing in the home of the applicant, has a criminal conviction record for any of the felony offenses listed in (A) through (E). The criminal conviction of an approved foster parent or any person residing in the foster home of any of the felony offenses listed in (A) through (E) requires the closure of the foster home, cancellation of the foster care contract, and removal of each child in OKDHS custody. The felony offenses are:

(A) physical assault, battery, or a drug-related offense within the five year period preceding the application date;

(B) child abuse or neglect;

(C) domestic abuse;

(D) a crime against a child, including, but not limited to, child pornography; or

(E) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery. Homicide includes manslaughter.

(2) **Exceptions to history of felony convictions.** OKDHS does not grant exceptions regarding felony convictions, per OAC 340:75-7-15(h)(1), of a prospective or approved foster parent or of anyone residing in the foster home. Approval may be granted by the county director on a case-by-case basis, per OAC 340:75-7-15(h)(4), for any applicant who has, or is living with a person who has, a prior conviction or charges pending for any other felony or a relevant misdemeanor.

(3) **Sex related crimes.** OKDHS denies the application of an applicant if the

applicant, or any person residing in the applicant's home, has been convicted, whether upon a verdict or a plea of guilty or upon a plea of nolo contendere, for any crime specified per Section 582 of Title 57 of the Oklahoma Statutes. OKDHS denies the application of an applicant if the applicant is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offenders Registration Act.

(4) **History of crimes, charges, or other convictions.** Approval of any applicant who has, or is living with a person who has, a history of arrests, charges, or convictions for any felony other than those listed in OAC 340:75-7-15(h)(1) or a relevant misdemeanor may be approved on a case-by-case basis. A relevant misdemeanor includes, but is not limited to, assault and battery, alcohol or drug related offenses, crimes involving domestic abuse, and other such offenses. ■ 5

(5) **History of child abuse and neglect investigations.** OKDHS determines the approval of any applicant with a history of child abuse and neglect investigations on a case-by-case basis. The county director considers the:

- (A) nature and seriousness of the CW history;
- (B) time elapsed since the CW history;
- (C) circumstances of the CW history;
- (D) degree of rehabilitation;
- (E) risk, if any, to the child by such placement; and
- (F) results of appeals, if applicable. ■ 6

(6) **History of child abuse and neglect investigations on closed foster homes.** OKDHS determines whether to pursue the approval of any applicant that was previously a foster home with a history of child abuse and neglect investigations as a foster parent. The Children and Family Services Division Foster Care Section reviews investigations where there have been abuse or neglect allegations and confirmed findings. ■ 7

(7) **JOLTS information.** The information obtained from a JOLTS search on the child older than 13 years of age living in the applicant's home is used to determine whether that child poses a risk to a child in OKDHS custody. ■ 8

INSTRUCTIONS TO STAFF 340:75-7-15**Revised 11-1-07**

- 1. Background checks. All searches, except for Juvenile Justice Information System (JOLTS), are completed on each foster applicant and adult household member using current and previous names, aliases, and Social Security numbers.**

- (1) OSBI and FBI searches.**

- (A) Authorization by signature. Child Welfare (CW) staff advises the applicant that the applicant's signature on Form 04AD003E, Request for Background Check, authorizes Oklahoma Department of Human Services (OKDHS) to complete an investigation of the applicant.**

- (B) Process. The anticipated time frame for completion of the entire fingerprinting process is eight weeks. The process for obtaining, sharing, and recording an Oklahoma State Bureau of Investigation (OSBI) name and records search and Federal Bureau of Investigation (FBI) national criminal history records search consists of CW staff:**

- (i) submitting Form 04AD003E to Children and Family Services Division (CFSD) Fingerprint Processing Section;**

- (ii) retaining a copy of Form 04AD003E in the resource record;**

- (iii) submitting one Form 04AD003E for the OSBI name search and a separate Form 04AD003E with fingerprint cards for the OSBI records search and FBI national criminal history records search for every adult household member;**

- (iv) providing two fingerprint cards to every person 18 years or older residing in the applicant's home;**

- (v) providing the applicant with an automated fingerprinting authorization through Finance AS400;**

- (vi) instructing the applicant to take the authorization and fingerprint**

cards to local law enforcement or a fingerprinting agency for fingerprinting services and return the cards to CW staff once fingerprinting is completed;

(vii) checking the fingerprint cards for accuracy and forwarding all cards for the applicant's household, along with Form 04AD003E to the Fingerprint Processing Section;

(viii) if the fingerprint cards are rejected and reprinting is necessary, returning the cards to and instructing the person to take the cards to the original vendor, who reprints the person at no additional charge; and

(ix) entering the results of the search in KIDS Criminal Background Check screen.

(2) Court records search. A search is completed to determine whether there has been any court involvement and, if so, the disposition of criminal charges and court involvement. The results are documented on Form 04AF007E, Records Check, and filed in the resource record. CW staff searches:

(A) the Oklahoma State Courts Network (OSCN) at www.oscn.net;

(B) offender information and offender lookup through Oklahoma Department of Corrections (DOC) at www.doc.state.ok.us; and

(C) Oklahoma District Court Records (ODCR) at www.odcr.com.

(3) OKDHS records search. CW staff completes a search of all OKDHS records including CW history. A search is completed using the Information Management System (IMS) and KIDS with the adult's Social Security number and date of birth. The information is recorded on Form 04AF007E and filed in the resource record.

(4) JOLTS search. CW staff completes a search on JOLTS of all children in the home older than 13. The results are documented on Form 04AF007E and filed in the resource record.

2. **Exception.** CW staff submits the request for an exception in writing to the Fingerprint Processing Section. Upon review, the Fingerprint Processing Section determines if the request meets the criteria for an exception and sends the request to the Foster Care Section for approval. It is not acceptable for an alternative background check process to be used when fingerprints impressions are of low quality due to lack of technological capacity or use of improper techniques. The Foster Care Section responds to the CW staff with the determination and the response is placed in the resource file. The Fingerprint Processing Section uses an alternative procedure and requests a name-based check of the NCID.

(1) Inability to obtain fingerprints due to a physical disability. A name-based check of the NCID must be conducted to obtain a comprehensive criminal background check when fingerprints cannot be obtained due to a physical disability. This alternative procedure is for limited and case-specific situations, such as when a fingerprint specialist has documented that the prospective foster parent's disabling condition prevents fingerprinting, or the individual does not have fingers.

(2) Inability to obtain results due to low quality fingerprints. If the individual's fingerprint impressions are rejected by the NCID, an alternate procedure to conduct a name-based check of the NCID must be conducted to obtain a comprehensive criminal background check. This alternative procedure is for limited and case-specific situations.

3. **Child Abuse and Neglect information.** If a state that maintains a child abuse and neglect registry does not respond appropriately to an information request, the foster care supervisor notifies the CFSD foster care programs manager who contacts the Administration for Children and Families regional office for assistance. If information cannot be obtained from the other state(s), the CW staff documents the name of the state(s) and efforts made to obtain the information in the resource record.

4. **Kinship applicant criminal background records search after normal business hours or on a holiday.** CW staff:

(1) request a purpose code x name-based NCIC criminal history search;

(2) documents the criminal history search by local law enforcement after

normal business hours and on holidays in KIDS Resource Contacts screen;

(3) submits signed Form 04AD003E to the Fingerprint Processing Section the next working day, indicating that it is an after hours follow-up;

(4) submits the fingerprint cards to the Fingerprint Processing Section within five business days of the name-based after hours background records check, attached to a copy of the previously submitted Form 04AD003E; and

(5) does not place a child in a kinship foster home if the prospective kinship applicant or person age 18 or older residing in the home refuses fingerprinting. A child in placement is removed if the prospective kinship applicant or person age 18 or older residing in the home refuses fingerprinting.

5. **Assessment of other related crimes, charges, and convictions.** The resource specialist conducts a thorough assessment of the risk potential to the child placed in the home and obtains consultation and written approval of the county director and CW field liaison (CWFL) prior to approving the home. The approval is documented in KIDS Pre-Resource or Resource Contacts screens, as applicable, and filed in the resource record.

(1) The resource specialist considers any other issues that may be relevant in assessing appropriateness of the applicant.

(2) According to Oklahoma law, a deferred sentence is not a conviction nor considered as such, but a finding or plea of guilty or nolo contendere to a charge may be considered even if the person has been granted a deferred sentence.

(3) **Assessment of charges and convictions include, but are not limited to:**

(A) type of crime committed;

(B) time elapsed since the crime or conviction;

(C) length of the deferment or length and type of sentence imposed;

- (D) completion date of the sentence;**
 - (E) assignment of a probation officer and the officer's information;**
 - (F) positive changes the applicant has made in his or her lifestyle and a description of how and why the changes occurred;**
 - (G) self-evaluation by the applicant regarding how the experience may help children or youth placed in the home; and**
 - (H) provisions for the safety and well-being of a child in the home due to the applicant's criminal history.**
- 6. CW history results. The resource specialist consults on a case-by-case basis with the CW supervisor, CWFL, and county director about any CW history found, including appeal decisions.**
- 7. CW history results on closed foster homes. CFSD Foster Care Section reviews the CW history and makes a recommendation in writing to the county director.**
- 8. JOLTS information. The resource specialist consults on a case-by-case basis with the CW supervisor, CWFL, and county director about any JOLTS history found. The county director considers the:**
- (1) nature and seriousness of the JOLTS history;**
 - (2) time elapsed since the JOLTS history;**
 - (3) circumstances of the JOLTS history;**
 - (4) child's ongoing involvement with Office of Juvenile Affairs (OJA); and**
 - (5) child's degree of rehabilitation.**

340:75-15-84. Application process

Revised 11-1-07

(a) **Application to adopt.** The applicant is referred to the adoption specialist for the county in which the applicant lives. The adoption specialist responds promptly to prospective applicants. The applicant is invited to attend a group orientation meeting or an individual intake interview is scheduled upon request of the applicant. If the applicant chooses to apply, the adoption specialist provides an application packet. ■ 1 & 2 The adoption specialist discusses with the applicant information about the adoption program described in (1) through (10).

(1) The program is child focused. A family is selected who will best meet the child's long-term best interests and individual needs. Families inquiring about adopting a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future are advised their application will not be processed.

(2) The completed resource family assessment summary is the basis for selection.

(3) Oklahoma Department of Human Services (OKDHS) contracts with licensed child-placing agencies to complete resource family assessments.

(4) There is no assurance that a child will be placed as a result of the application. This includes foster parents and relative applicants.

(5) There is no fee for services provided by OKDHS to applicants who apply to adopt a child in the legal custody of OKDHS.

(6) A family is referred to licensed child-placing agencies if the family is interested in adopting a specific type of child that is not available through OKDHS.

(7) The requirement of a criminal background and Child Abuse and Neglect Information System check which includes, but is not limited to:

(A) fingerprinting and a Federal Bureau of Investigation (FBI) check of each applicant and adult residing in the household;

(B) an Oklahoma State Bureau of Investigation (OSBI) check that includes Department of Public Safety check and Sex Offenders Registry check for each adult household member;

(C) a Child Abuse and Neglect Information System check and OKDHS records check for each adult household member;

(D) a search of all applicable out-of-state child abuse and neglect registries when an applicant or adult household member has not lived continuously in Oklahoma for the past five years;

(E) an Oklahoma State Courts Network check at www.oscn.net;

(E) an Oklahoma District Court Records check (ODCR) at www.odcr.com;

(G) an offender information and offender lookup through Oklahoma Department of Corrections (DOC) at www.doc.state.ok.us;

(H) a Juvenile Justice Information System (JOLTS) records check for each child in the family 13 years of age or older; and

(I) a discharge from military duty, DD Form 214, Certificate of Release of Discharge From Active Duty, that is provided by the applicant.

(8) Verification of marriages, divorces, legal separations, or annulments, employment, and income are required.

(9) Applicants are required to complete 27 hours of pre-service training, including six hours of Behavior Crisis Management Training (BCMT), per OAC 340:75-7-14.

(10) Applicants are responsible for providing copies to OKDHS of any non-OKDHS assessments or evaluations, including previous adoptive, foster home, relative, divorce custody, or other custody assessments.

(11) OKDHS inquires whether the applicant has applied or been an approved foster or adoptive home in another state. OKDHS requests from all states that apply, any history of child abuse or neglect or criminal history from the appropriate state agency.

(b) **Application to adopt by OKDHS employees.** OKDHS employees may apply to adopt from OKDHS, though no preferential treatment is given.

(c) **Reapplication to adopt.** When previous adoptive parents apply to adopt again, the adoption application information is updated. ■ 3

(d) **Denial or withdrawal of applications.** When it becomes apparent that the

applicant does not meet the resource family requirements set out in Form 04AF002E, Guidelines for Resource Family Assessment, the resource family assessment process may be discontinued and the application withdrawn or denied.

(1) The reasons for discontinuing the assessment prior to completion, per OAC 340:75-15-88, are explained to the applicant in person when possible and are stated in a letter to the applicant regardless whether personal contact is made. ■ 4

(2) The applicant may voluntarily withdraw the application. If the applicant declines to withdraw the application, local staff denies the application.

(3) Families desiring to adopt a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future are referred to licensed child-placing agencies that are more likely to place children matching this request.

(e) **Out-of-state adoptive applicants.** OKDHS does not process applications from adoptive applicants outside of Oklahoma, but accepts certified resource family studies or assessments from a licensed agency or the public agency in another state.

(1) In cooperation with a licensed adoption agency in another state, an adoptive family may be considered for a child in Oklahoma.

(2) Children and Family Services Division Adoption Services Section coordinates placement and supervision with an agency in the state where the adoptive family resides.

(3) All provisions of the Interstate Compact on the Placement of Children are followed, per OAC 340:75-15-61 and 340:75-15-82.

INSTRUCTIONS TO STAFF 340:75-15-84

Revised 11-1-07

1. (a) Response to prospective adoptive applicants. The adoption specialist:

(1) plans the intake interview for a location that best meets the needs of the family, such as:

(A) the local Oklahoma Department of Human Services (OKDHS) office;

(B) the family's home. When the intake interview is done in the home,

Form 04AF004E, House Assessment, is completed at this time; or

(C) another site selected by the family;

(2) explains the adoption process;

(3) explains the types of children waiting for adoptive homes;

(4) answers the prospective applicant's questions during the intake interview; and

(5) shares non-identifying information about children for whom OKDHS has responsibility for adoptive planning.

(A) The information is general and does not reveal confidential information about the child or the child's biological family.

(B) The information sharing process assists the family in gaining realistic expectations about the children available for adoption and the family's ability to parent these children.

(b) Initial screening. When an applicant inquires about adopting a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future, the adoption specialist:

(1) explains to the applicant this type of child is generally:

(A) part of a sibling group;

(B) placed with a relative; or

(C) placed with an existing approved applicant awaiting adoptive placement of sibling groups;

(2) provides information about the types of children available through OKDHS and encourages the applicant to consider these children; and

(3) refers the applicant to licensed child-placing agencies that are better able to place children matching their request.

2. (a) Application packet. The adoption specialist:

- (1) reviews each form with the family to explain its purpose;**
- (2) advises the family that the home assessment may begin when Forms 04AF001E, Resource Family Assessment Application, and 04AN009E, Notice to Adoptive Parent Applicant(s), are returned; and**
- (3) explains that the other forms may be completed during the assessment process. The forms included in the packet are:**

(A) Form 04AD003E, Request for Background Check, and fingerprint cards are completed by each applicant and all adult household members. All names, including maiden names, used by each adult household member must be included on Form 04AD003E.

(B) Form 04AF010E, Resource Family Financial Assessment;

(C) Form 04AF001E;

(D) Form 04AF008E, Medical Examination Report, for each adult family member and a doctor's statement of health on the children;

(E) Form 04AF017E, Family Health History;

(F) Form 04TB001E, Letter to Verify Tribal Membership of Resource Family Applicants. Resource family members who are tribal members or eligible for tribal membership submit this form;

(G) Forms 04AF020E, Family/Parent Questionnaire, and 04AF019E, Child's Questionnaire, that are an optional component of the assessment process. The family is advised they have the option of completing these forms or sharing this information through interviews with the adoption specialist;

(H) Form 04AF018E, Child Needs Information Checklist; and

(I) Form 04AN009E.

(b) Assessment procedure. The family is advised that an area subcontractor will contact the family to begin the resource family assessment.

3. The procedures for reapplication to adopt are:

- (1) when an adoptive home case is reopened after a family has adopted a child from OKDHS, the adoptive home case record is requested via e-mail from Children and Family Services Division Adoption Assistance Section;**
- (2) current Form 04AF001E is completed by the applicant. The top of Form 04AF001E is marked "Reapplication";**
- (3) current Form 04AF008E, or substitute medical statement, is completed for each family member;**
- (4) Form 04AN007E, Guidelines for Adoptive Home Annual Evaluation and Reapplication, that reflects changes in the family situation, is completed by the adoption specialist. Included in the update are:**
 - (A) changes in the family situation since the last home assessment;**
 - (B) a home visit;**
 - (C) at least one joint interview;**
 - (D) information on any child added to the family; and**
 - (E) family experiences;**
- (5) current Form 04AF010E, is completed;**
- (6) at minimum, three references are contacted. The appropriate references are selected from those identified in OAC 340:75-15-87 Instructions to Staff;**
- (7) updated Forms 04AD003E and 04AF007E, Records Check, are completed;**
- (8) if the family has moved or it has been over one year since finalization, a new Form 04AF004E is completed; and**
- (9) if the reapplication is from an employee who has a work relationship with the adoption specialist in the county, the area supervisor makes arrangements for the adoptive family assessment to be completed by an adoption specialist from outside the county or one who does not have a work relationship with the applicant.**

4. Notice of closure. When possible, the adoption specialist makes face-to-face contact with the adoptive family to clarify the reason for closure of the home.

(1) A letter is sent to the family, with the reason for closure stated in clear, concise language. Relevant OKDHS rules or procedures are cited and attached.

(2) The adoption specialist may consult with Children and Family Services Division Adoption Services Section staff to determine whether to close an adoptive home.

340:75-15-87. Assessment and preparation process

Revised 11-1-07

(a) **Assessment.** The assessment process is a tool for Oklahoma Department of Human Services (OKDHS) to assist the family in determining the family's ability to parent a child with special needs. The family is provided basic background information required to understand the adoption process, laws, and types of parenting issues faced by parents who adopt children with special needs. All services provided to the family in preparation for placement are designed to increase the family's ability to problem solve, access help, and cope with parenting a child with a unique history and needs. ■ 1

(b) **Joint approval of foster and adoptive families.** OKDHS may jointly approve Child Welfare (CW) foster homes that are also approved as adoptive homes. Before the home may be approved as a CW foster home and an adoptive home, the home must meet eligibility standards of both programs, per OAC 340:75-7-19. The differences in the goals of the two programs are explained to the family. The family is advised that children in foster care are not moved in order to place an adoptive child in the home. All children in the home, including children in foster care placement, are considered in making placement decisions regarding an adoptive placement.

(c) **Interviews with applicants.** Individual and joint interviews are held with each family and household member with a minimum of two home visits on separate days. Information regarding the current family structure, family history, and social support is gathered through the interviews. ■ 2

(d) **Reference information.** Signed Form 04AF001E, Resource Family Assessment Application, grants OKDHS permission to contact the listed references. Forms are mailed to appropriate references. ■ 3

(e) **Health and age.** Form 04AF008E, Medical Examination Report, or other medical examination report by a doctor for each household member must be submitted before the assessment is complete. ■ 4 An application to adopt a specific child elicits information to assess the adoptive applicant's ability to provide care for the child into adult years, given the applicant's health history and age. ■ 5

(f) **Background checks.**

(1) **Authorization.** Section 7505-5.3 of Title 10 of the Oklahoma Statutes mandates a criminal background check and Child Abuse and Neglect Information System check for all public agency and private adoptive parent applicants and all other household members 18 years and older. The background check includes a search

of:

- (A) Oklahoma Department of Public Safety records;
- (B) Oklahoma State Bureau of Investigation (OSBI) records;
- (C) Federal Bureau of Investigations (FBI) national criminal history records search;
- (D) Department of Corrections (DOC) files maintained pursuant to the Sex Offenders Registration Act;
- (E) Oklahoma State Courts Network (OSCN);
- (F) Oklahoma District Court Records (ODCR);
- (G) Child Abuse and Neglect Information System; and
- (H) all applicable out-of-state child abuse and neglect registries when an applicant or adult household member has not lived continuously in Oklahoma for the past five years. If no registry is maintained in the applicable state, the adoption specialist requests any information that can be provided. The prospective adoptive parent is not approved without the results of the state-maintained child abuse and neglect registry check if a registry is maintained in the applicable state. ■ 8

(2) **Fingerprint search.** A national criminal history records search based upon submission of fingerprints is required for adoptive applicants and other household members 18 years and older.

(A) When a fingerprint search has been done in the past five years and is available for review by the person conducting the adoptive home study, then only an OSBI criminal background check is required. ■ 6

(B) A home study is not initiated if any applicant or adult household member refuses to submit the forms granting permission for the background check.

(i) All adult household members age 18 and older complete and sign Form 04AD003E, Request for Background Check, and submit fingerprint cards authorizing OKDHS to conduct a records check. ■ 7

(ii) Background information is considered in making a final recommendation.

Information that reveals a risk to the child is used in denying the application, per OAC 340:75-15-88. ■ 8

(3) **Fingerprinting charges.** Once an applicant receives fingerprint cards, law enforcement or a private fingerprinting company may fingerprint the applicant. There is no charge to OKDHS applicants. Non-OKDHS adoptive applicants are responsible for any charges incurred for this service.

(4) **Obtaining fingerprinting services.** Law enforcement is not mandated to provide the fingerprinting service. Local law enforcement is contacted to ascertain their willingness and availability to provide this service and the cost per person.

(5) **Time frames.** If the fingerprinting is not done correctly, the cards are rejected by either the OSBI or Federal Bureau of Investigation (FBI). The applicant must be reprinted when this occurs. If the fingerprint cards are found unacceptable the second time, the applicant must pay the fee to be re-fingerprinted and non-OKDHS applicants must pay the search fee. The estimated time frame to receive all results from the OSBI and FBI is approximately eight weeks.

(6) **Exception to fingerprinting.** The Director of OKDHS or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal records check for any adult residing in the home who has a severe condition that precludes such person being fingerprinted. The alternative procedure may be used in limited, and case-specific circumstances when OKDHS may not be able to:

(1) obtain an individual's fingerprints as a result of the individual's disability; or

(2) obtain legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the national crime information databases (NCID) to provide the results. ■ 6

(g) **Marriage history.** The applicant provides copies of present marriage license and any divorce decrees, legal separations, and annulments, if applicable. Documentation of the validity of the present marriage is necessary to determine eligibility to adopt and protect the legal status of the prospective adoptive child. If there is a child from a previous marriage, the child's role in the family is discussed and child support is documented.

(h) **Financial statement.** The applicant completes Form 04AF010E, Resource Family Financial Assessment, and provides documentation of employment and income. Management of resources is more important than the family's income and is addressed

in the assessment summary.

(i) **Photographs.** Recent photographs of the applicant are provided as part of the final assessment summary. ■ 9

(j) **Pre-service training.** Each adoptive applicant must complete a prescribed course of pre-service training consisting of approximately 27 hours of instruction designed to assist the applicant in evaluating the strengths, needs, and challenges in parenting a child with special needs, per OAC 340:75-7-14. ■ 10

INSTRUCTIONS TO STAFF 340:75-15-87

Revised 11-1-07

1. Assessment time frames.

(1) An at-home consultation is scheduled within ten working days after receiving the application or on a date agreed upon with the family.

(2) The assessment process begins with completion of Form 04AF004E, House Assessment, by the adoption specialist.

(3) Form 04AF002E, Guidelines for Resource Family Assessment, is followed in completing the process.

(A) Information is gathered in a series of interviews with persons who have applied to adopt and any other household members.

(B) Within two weeks of receipt of the completed application, a referral is made to the resource assessment contractor, per OAC 340:75-15-8 Instructions to Staff.

(C) The assessment is completed within 90 calendar days of the referral to the resource assessment contractor.

2. Interviews.

(1) Assessment and preparation process. The resource assessment contractor assists the adoptive applicant in:

(A) understanding the types of parenting issues faced by families who

adopt children with special needs.

(i) The family gains insight and feedback about their strengths, needs, and challenges in parenting the type of child they have applied to adopt.

(ii) The assessment includes the gender, age range, and race of child the family wishes to adopt, and the special needs the family feels they are capable of parenting. Special needs may include being part of a sibling group, age, race, mental, physical, or emotional disabilities, or being at high risk for developing a physical or mental disability; and

(B) reviewing Form 04AF018E, Child Needs Information Checklist, and explains the conditions listed.

(i) If the applicant has applied to adopt a specific child, the assessment summary addresses the applicant's relationship to the child, the child's needs, and whether the applicant can meet the child's special needs on a permanent basis and into adulthood.

(ii) When assessing an applicant, the most important criterion is the applicant's ability to parent a child not born to him or her. Marital status, income level, education, age, health, and other factors are considered only in relation to the applicant's ability to parent an adopted child.

(2) Assessment tools. The adoption specialist or resource assessment contractor uses the Genogram, Family Network Diagram, and Eco-Map as tools in assisting adoptive applicants to assess their strengths and challenges in parenting a child with special needs through adoption.

(A) The adoption specialist allows the applicants to determine the pace at which the process proceeds. Some applicants are ready to quickly move through the assessment, while others need more time to process information.

(B) The Genogram, Family Network Diagram, and Eco-Map are included with a narrative obtained through the interviews in the assessment summary.

3. References.

(1) The adoption specialist sends the applicant, as appropriate, Forms:

(A) 04AF015E, Resource Family Reference Letter for Adult Children;

(B) 04AF014E, Resource Family Reference Letter for School Personnel;

(C) 04AF011E, Resource Family Reference Letter for an Employer;

(D) 04AF016E, Resource Family Personal Reference Letter;

(E) 04AF013E, Resource Family Assessment Reference Letter for Mental Health Professionals; and

(F) 04AF012E, Child's Mental Health Reference Letter.

(2) References may be contacted for an interview if they fail to respond to the reference letter request or if information contained in the response requires further clarification. No additional references are contacted without the specific written permission of the applicant. If voluntary references contact the adoption specialist to provide information, this is included in the assessment.

4. Health.

(1) If any family member has received counseling or therapy, Form 08HI003E, Authorization to Disclose Medical Records, must be signed and:

(A) if the person is an adult, Form 04AF013E is sent requesting information about the treatment received; or

(B) if the person is younger than 18 years of age, Form 04AF012E is sent requesting information about the treatment received.

(2) The reference information is not given to the adoptive family as part of the completed assessment. If negative reference information is received, the issues are fully explored with the applicant without revealing the source of the information.

(3) Form 04AF017E, Family Health History, is completed by the applicant.

The narrative summary describes the family's health history, health insurance coverage, and assesses their ability to care for a child into adult years. A statement from the family physician is required for all children in the home to verify the children are free from communicable diseases and are current on immunizations.

5. **Age.** If the age difference between the applicant and the child is more than 55 years, the Child Welfare field liaison and Children and Family Services Division (CFSD) Adoption Services Section are consulted at the time of the local adoptive placement criteria staffing, per OAC 340:75-15-41.
6. **Fingerprinting.**

(1) **OKDHS adoptive applicants.** Oklahoma Department of Human Services (OKDHS) adoptive applicants and household members 18 years of age and older must be fingerprinted. If they have been fingerprinted in the last five years and the information is available for review by the person conducting the home study, then only an Oklahoma State Bureau of Investigation (OSBI) search is required. The search fee is paid by OKDHS for all OKDHS adoptive applicants and their adult household members.

(A) The adoption specialist provides the applicant and any household member 18 years of age and older with two fingerprint cards. The cards are taken to local law enforcement or a private fingerprinting company where the fingerprinting takes place. OKDHS pays for the required fingerprinting. Tribal homes that are in the process of certification to serve children in OKDHS custody are included in this process.

(B) After fingerprints are obtained, the applicant returns the cards to the respective adoption specialist who checks the fingerprint cards for completeness and applicant's signature. The completed fingerprint cards and Form 04AD003E, Request for Background Check, are placed in a sealed manila envelope marked confidential and mailed to CFSD Fingerprint Processing Section, PO Box 268935, Oklahoma City, OK 73126.

(C) The results are returned to the CFSD Fingerprint Processing Section in approximately eight weeks. If an FBI criminal history is found on the applicant, this information is not dispersed to non-governmental agencies. The applicant may access this information by mailing a letter of request, that includes an address in which to mail the information, to

the Fingerprint Processing Section.

(D) Exception to fingerprinting. CW staff submits the request for an exception in writing to the Fingerprint Processing Section. The Fingerprint Processing Section determines if the request meets the criteria for an exception and sends the request to the Adoption Section for approval. The Adoption Section responds to the CW staff with the determination and the response is placed in the adoption resource file. The Fingerprint Processing Section uses the alternative procedure and requests a name-based check of the national crime information databases (NCID) to obtain a comprehensive criminal background check. An alternative background check process is not to be used when fingerprint impressions are of low quality due to lack of technological capacity or use of improper techniques. The alternate procedure is for limited and case-specific situations, such as when a fingerprint specialist has documented that the prospective adoptive parent's disabling condition prevents fingerprinting, or the individual does not have fingers.

(2) Non-OKDHS adoptive applicants. Non-OKDHS adoptive applicants and adult household members 18 years of age and older must complete Form 04AD003E. An OSBI check is required for all OKDHS and non-OKDHS applicants and includes a search of:

(A) Oklahoma Department of Corrections files maintained pursuant to the Sex Offenders Registration Act; and

(B) Oklahoma Department of Public Safety records.

(i) Non-OKDHS applicants are responsible for paying the cost of fingerprinting and OSBI name search. The cost for the FBI and OSBI search for an applicant is \$50. Of this cost, \$9 is for OKDHS administrative fees and \$41 is the actual cost for the search. An OSBI name search is required for each member of an applicant's household who is 18 years of age or older. The cost for this search is \$20 for each applicant. Of this cost, \$5 is for OKDHS administrative fees and \$15 is the actual cost for the search.

(ii) The private agency, private attorney, or tribal office provides each applicant with two fingerprint cards. The applicant takes the cards to local law enforcement or a private fingerprinting company where

the fingerprinting takes place. Each applicant is responsible for paying the cost of fingerprinting.

(iii) After fingerprints are obtained, the applicant returns the cards to the respective private agency, private attorney, or tribal office. Fingerprint cards are not returned to local OKDHS offices. The private agency, private attorney, or tribal office reviews the cards with the applicant for completeness and applicant's signature.

(iv) Completed Form 04AD003E must accompany each set of fingerprint cards. Completed forms and fingerprint cards for all members of the same household must be submitted together. The payment is a check or money order made payable to OKDHS. Fingerprint cards and forms received without payment by CFSD are returned. The completed fingerprint cards, Form 04AD003E, and payment are mailed by the private agency, private attorney, or tribal office in a sealed envelope marked confidential to CFSD Fingerprint Processing Section, PO BOX 268935, Oklahoma City, OK 73126.

(v) The results are returned to the private agency, private attorney, or tribal office in approximately eight weeks. A return address must be provided for results to be returned. If an FBI criminal history is found on an applicant, this information is not dispersed to non-governmental agencies. OKDHS provides the non-governmental agency with a response letter stating only that criminal history was found. The applicant may access this information by mailing a written request, that includes the address in which to mail the information, to CFSD Fingerprint Processing Section.

7. **Criminal background check.** A review is completed of any existing OKDHS records and information systems checks, including Oklahoma State Courts Network (OSCN) and Oklahoma District Court Records (ODCR) on each adult household member. Any significant information obtained through completed Form 04AD003E and other information systems checks is reviewed thoroughly, verbally discussed with the applicant, and included in the written assessment summary in the Verification section.
8. **Child abuse and neglect information.** A Child Abuse and Neglect Information System (CANIS) search is required for all OKDHS and non-OKDHS adoptive applicants. The Adoption Services Section completes all CANIS searches. CANIS search results are forwarded to the agency or other person authorized

to conduct home study investigations per Section 7505-5.4 of Title 10 of the Oklahoma Statutes.

(1) OKDHS applicant. Any significant information obtained through completing Form 04AF007E, Records Check, is reviewed thoroughly, verbally discussed with the applicant, and included in the Verification section of the assessment summary.

(2) Non-OKDHS applicant. The applicant must complete a written request for a CANIS search via Form 04AN028E, Request for Child Abuse and Neglect Information System Search, that is submitted with verification of impending adoption to the Adoption Services Section by the applicant or agency or other person authorized to conduct home study investigations.

(3) Out of State Child Abuse and Neglect Registry Checks. If a state that maintains a child abuse and neglect registry does not respond appropriately to an information request, the adoption supervisor notifies the CFSD adoption programs manager who contacts the Administration for Children and Families regional office for assistance. If information cannot be obtained from the other state(s), the adoption specialist documents the name of the state(s) and efforts made to obtain the information in the resource record. The documentation is entered in the KIDS system in the resource case under "home/crime."

9. Photographs. The family is encouraged to incorporate photographs, such as photographs of parents, relatives, home, work space, school, pets, activities, other children in the family, and the neighborhood, into a family Life Book. The Life Book must be 8 ½ X 11 inches and filed with the assessment.
10. Pre-Service training. The information about the adoption process provided to adoptive applicants allows them to decide whether adoption is appropriate for their family. The dates the applicants attended pre-service training, and a description of their reaction to the information provided is included in the Training section of the assessment summary. Exceptions must be requested from the Adoption Services Section.

340:75-15-88. Completed resource family assessment and recommendation

Revised 11-1-07

(a) **Resource family assessment.** The resource family assessment is conducted as outlined in Form 04AF002E, Guidelines for Resource Family Assessment. The completed assessment includes impressions of the family, their strengths and risks in adopting, and the special needs, age range, and gender of the child(ren) they wish to adopt.

(1) A copy of the resource family assessment, excluding the verification and reference sections, is reviewed with the family prior to completion of the final written assessment summary. The reference and verification sections are confidential and are not provided to the family.

(2) The family is given an opportunity to correct errors prior to completion of the final written assessment.

(3) Once the assessment is finalized, it is signed by the resource family applicant and contractor and submitted to the area adoption supervisor for approval. A copy of the final supervisor approved resource family assessment, excluding the verification and reference sections, is provided to the applicant by the adoption specialist. ■ 1

(b) **Approval.** The resource family assessment is approved by the area adoption supervisor if the applicant meets requirements as outlined in Form 04AF002E and Oklahoma Department of Human Services (OKDHS) policy. ■ 1

(c) **Resource family relocation.** When a family moves to another county within Oklahoma the assigned adoption specialist transfers the resource family record. An evaluation is done to reflect the adoptive family's new home and situation. ■ 2

(d) **Denial.** Reasons for denial may include, but are not limited to:

(1) a lack of a stable, adequate income to meet the applicant's own or total family needs or poor management of available income;

(2) a physical facility that is inadequate to accommodate the addition of children to the home or that presents health or safety concerns;

(3) the applicant or any person residing in the home has a history of alleged or confirmed child abuse, neglect, or both; ■ 3

(4) the applicant or any person residing in the home has a history of arrests or convictions.

(A) A felony conviction for any of the offenses listed in (i) through (iii) results in an automatic denial of the application.

(i) A crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery.

(ii) Child abuse or neglect.

(iii) A crime against a child, including, but not limited to, child pornography.

(B) A felony conviction for physical assault, domestic abuse, battery, or a drug related offense within a five year period preceding the date of the application results in denial of the application. ■ 3

(C) The application is denied if the applicant has been convicted of a sex offense and subject to or married to or living with a person subject to the Oklahoma Sex Offenders Registration Act;

(5) the age, health, or any other condition of the applicant would impede his or her ability to provide care for a child on a permanent basis into adult years;

(6) relationships in the household are unstable and unsatisfactory;

(7) the mental health of the applicant or other family or household member would impede the applicant's ability to provide care for a child;

(8) references are guarded or have reservations in recommending the applicant;

(9) the applicant does not complete the required pre-service training within one year of application, unless the applicant has previously completed Parent(s)' Resource for Information, Development and Education (PRIDE). Exceptions must be requested from the Adoption Services Section;

(10) the applicant has applied to adopt a child of a certain age, race, or other characteristic that OKDHS reasonably believes may not be available for adoption in the foreseeable future, per OAC 340:75-15-84; and

(11) one or more other factors concerning the applicant, a family, or household member or conditions in the home as described in the denial letter renders the

applicant or home environment inappropriate as an adoptive resource.

INSTRUCTIONS TO STAFF 340:75-15-88

Revised 6-1-07

- 1. Filing the assessment.** Upon completion of the written resource family assessment, the assigned adoption specialist files it in his or her office.
- 2. Transfer of a resource record.** When transferring a resource family record, the assigned adoption specialist e-mails notification to the adoption specialist with responsibility for the family's new county of residence. When contacted, the adoption specialist in the new county requests the record by completing Form 04AD002E, Transfer Between Counties. The KIDS resource is transferred through KIDS Assign screen.
- 3. Applicant history information.**
 - (1) When child abuse and neglect history of an applicant is found, full consideration is given to the:**
 - (A) nature of the referral;**
 - (B) finding of the investigation;**
 - (C) nature and seriousness of the alleged or confirmed abuse or neglect in relation to the current request to adopt;**
 - (D) time elapsed since the referral;**
 - (E) circumstances under which the abuse or neglect occurred;**
 - (F) degree of rehabilitation, including verifiable documentation;**
 - (G) number of referrals; and**
 - (H) evidence that a child will not be at risk if placed in the home.**
 - (2) Consultation with and prior approval by the area adoption supervisor and Children and Family Services Division Adoption Services Section is required at the application stage of the assessment in all cases with Child**

Welfare history.

(3) When the applicant has a history of arrests or convictions, excluding those convictions that result in automatic denial of the application:

(A) proof of disposition of those arrests or convictions is required;

(B) the circumstances surrounding each arrest or conviction are thoroughly explored with the applicant; and

(C) prior to consultation with the area adoption supervisor or Adoption Services Section, an evaluation is made based upon consideration of the:

(i) type of arrest or conviction;

(ii) elapsed time since the arrest or conviction;

(iii) length of the deferment or length and type of sentence imposed;

(iv) completion date of the sentence;

(v) assignment of a probation officer and the officer's information;

(vi) positive changes the applicant has made in his or her lifestyle and a description of how and why the changes occurred since the arrest or conviction;

(vii) self-evaluation by the applicant regarding how the experience may help children or youth placed in the home; and

(viii) provisions for the safety and well-being of a child in the home due to the applicant's arrest or conviction history.

(4) A homicide includes any type of murder or manslaughter or other charge involving the death of a person. Consultation with and prior approval by the area adoption supervisor and Adoption Services Section is required at the application stage of the assessment in all cases with an arrest history.

(5) If the applicant has a history of arrests, proof of disposition of those

arrests is required and the circumstances surrounding each arrest are thoroughly explored with the applicant.

(6) Notice of closure. When possible, the adoption specialist makes face-to-face contact with the adoptive family to clarify the reason for closure of the home.

(A) A letter is sent to the family, with the reason for closure stated in clear, concise language. Relevant OKDHS rules or procedures are cited and attached.

(B) The adoption specialist may consult with Children and Family Services Division Adoption Services Section staff to determine whether to close an adoptive home.