

Secretary of State
Certificate and Order for Filing
**NOTICE OF PROPOSED RULEMAKING HEARING and
STATEMENT OF NEED AND FISCAL IMPACT**

Department of Human Services, Office of Child Welfare Programs	413
Agency and Division	Chapter Number
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Human Services Building 500 Summer St NE, E-48 Salem, OR 97301	
Rules Coordinator	Telephone
Address	

Rule Caption: *Relating to Department responsibilities when a child is missing or is a sex trafficking victim*

In the Matter of: *The amendment of OAR 413-080-0053 and 413-080-0062 and the repeal of OAR 413-080-0053 and 413-080-0062(T)*

Public Hearing: A public rulemaking hearing will be held on Friday, December 16, 2016 at 11 a.m. at the Human Services Building, 500 Summer Street NE, room 255 in Salem, Oregon, 97301.

Submit Comments: Written comments may be submitted until Friday, December 23, 2016 at 5:00 p.m. via email to kris.a.skaro@state.or.us, faxed to 503-373-7032, or mailed to Kris Skaro, Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon, 97301.

The hearing location is accessible to individuals with mobility impairments and auxiliary aids are available upon request. Written comments and comments submitted in person receive equal consideration prior to permanent adoption.

RULEMAKING ACTION

AMEND: 413-080-0053, 413-080-0062

REPEAL: 413-080-0053(T), 413-080-0062(T)

ORS 418.005

Stat. Auth.

Preventing Sex Trafficking and Strengthening Families Act of 2014; 42 USC 671

Other Auth.

ORS 418.005

Stats. Implemented

Rule Summary

The Department of Human Services, Office of Child Welfare Programs, is amending rules to implement section 104 of the [Preventing Sex Trafficking and Strengthening Families Act of 2014](#) relating to the

Department's responsibilities when a child or young adult in substitute care is missing, may be a sex trafficking victim, or is determined to be a sex trafficking victim. Specifically, the amendments require caseworkers to ensure law enforcement and the National Center for Missing and Exploited Children (NCMEC) are notified. These changes were adopted by temporary rule on November 1, 2016.

Rule text showing proposed changes is available at <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>.

Need for the Rules

On September 29, 2016, the Department implemented provisions of the [Preventing Sex Trafficking and Strengthening Families Act of 2014](#) relating to children and young adults in substitute care who are missing or who are, or are at risk of being, a victim of sex trafficking. (See Certificate and Order for Filing Permanent Administrative Rules at <http://www.dhs.state.or.us/policy/childwelfare/implement/413-20160929Perm.pdf>.) However, the amendments did not fully comply with the federal law. Specifically, those rule changes did not clearly state the Department's responsibility to notify law enforcement and NCMEC as required in section 104 of the Act ([42 USC 671\(a\)\(35\)](#)). These changes clearly state that requirement and bring the Department into compliance with federal law.

Documents Relied Upon

Email exchange with U.S. Department of Health and Human Services dated October 24, 2016, regarding Title IV-E State Plan compliance with H.R. 4980 available from the Hearings and Rules Unit, 500 Summer St. NE, Salem, OR 97301.

Fiscal and Economic Impact

The Department estimates that amending these rules will have a negative fiscal impact on the Department due to increased caseworker requirements, but the impact will be absorbed with existing resources. The Department estimates a negative fiscal on local government through increased notifications to law enforcement, but data is not available to estimate the impact. (Any fiscal impact results from the federal law, not from the rule changes in and of themselves.) The Department estimates no fiscal impact to other state agencies, clients, the public, or business, including small business. No small businesses are subject to these rules. There is no cost of compliance for small businesses.

How were small businesses involved in the development of this rule?

Small businesses were not involved in the development of these rules but are invited to provide input during the public comment period.

Administrative Rule Advisory Committee Consulted? If no, why not?

No. These changes are required for the Department to be in compliance with federal law; they are not optional. (In May 2015, the Department convened a Rule Advisory Committee to discuss provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to children and young adults in substitute care who are missing or who are, or may be at risk of being, a sex trafficking victim. These rule changes are consistent with those discussions.)

413-080-0053

When a Child or Young Adult in Substitute Care is Missing

(Adopted 01/01/16)

- (1) When a caseworker receives information that a *child* or *young adult* in *substitute care* is missing, the caseworker must:
 - (a) Make immediate efforts to locate the *child* or *young adult*;
 - (b) Ensure law enforcement and the National Center for Missing and Exploited Children are notified immediately and in no case later than 24 hours after receiving information on the missing *child* or *young adult*; and
 - ~~(c)~~ As soon as practicable, ensure the court and legal parties to the case are notified, unless notification may jeopardize the safety of the child or young adult or interfere with an investigation.
- (2) When a *child* or *young adult* missing from *substitute care* is located, the caseworker must:
 - (a) Determine and, to the extent possible, address the primary factors that contributed to the missing status of the *child* or *young adult*;
 - (b) Determine the *child* or *young adult*'s experiences when missing;
 - (c) Determine if the *child* or *young adult* is a *sex trafficking* victim or at risk of being a *sex trafficking* victim; and
 - (d) Ensure the court and legal parties to the case are notified the child or young adult has been located.
- (3) Documentation.
 - (a) When a *child* or *young adult* in substitute care is missing, the caseworker must document the following in the Department's electronic information system:
 - (A) Efforts made to locate the missing child or young adult; and
 - (B) The notifications in subsection (b) of section (1) of this rule.
 - (b) When a missing *child* or *young adult* is located, the caseworker must document the following in the Department's electronic information system:

- (A) The determinations and notifications made in subsections (a) to (d) of section (2) of this rule; and
- (B) Any actions taken to address the primary factors that contributed to the missing status of the *child* or *young adult*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-080-0062

Sex Trafficking Victim Identification

(Adopted 09/29/16)

When information is gathered or observations made that indicate a *child* or *young adult* may be a victim of *sex trafficking*, the caseworker must determine whether a *child* or *young adult* is, or is at risk of being, a victim of *sex trafficking*.

- (1) If a determination is made that a *child* or *young adult* is a victim of *sex trafficking* the caseworker must:
 - (a) Report to a *screeners* the identification of a *child* or a *young adult* as a *sex trafficking* victim;
 - (b) Ensure law enforcement and the National Center for Missing and Exploited Children are notified immediately and in no case later than 24 hours after determination that the *child* or *young adult* is a *sex trafficking* victim;
 - (bc) Identify and refer to appropriate services; and
 - (ed) Document the *child* or *young adult* is a *sex trafficking* victim in the Department's Electronic Information System.
- (2) If a determination is made that a *child* or *young adult* is at risk of being a victim of *sex trafficking* the caseworker must identify and refer to appropriate services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005