

	Department of Human Services CHILDREN, ADULTS & FAMILIES	NUMBER: I-AB.11 OAR: 413-015-1100 thru 1125
	CLIENT SERVICES INDEX	SECTION: AB. Child Protective Services
	ISSUED BY: Office of Safety & Permanency for Children FINAL: 7-28-05	SUBSECTION: 11. Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices
SUBJECT: 11. Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices – OAR		

REFERENCES:

- ORS 419B.005
- ORS 418.747
- ORS 419B.005 through .020
- APSAC: American Professional Society on the Abuse of Children
- Annie E. Casey Foundation
- I-AB.1 Introduction to Child Protective Services, 413-015-0100 through 0125
- I-AB.2 Screening, 413-015-0200 through 0225
- I-AB.3 Cross Reporting, 413-015-0300 through 0310
- I-AB.4 CPS Assessment, 413-015-0400 through 0410
- I-AB.5 Child Safety Assessment & Child Safety Planning, 413-015-0500 - 0510
- I-AB.6 Working with Other Entities, 413-015-0600 through 0635
- I-AB.7 Interviewing, 413-015-0700 through 0740
- I-AB.8 Photographing and Documenting, 413-015-0800
- I-AB.9 Medical Examination and Medical History, 413-015-0900 through 0905
- I-AB.10 CPS Assessment Dispositions, 413-015-1000

413-015-1100

Authority And Responsibility

- (1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services and foster care. ORS 419B.020 provides that, upon receipt of a report of child abuse, the Department or a law enforcement agency is required to immediately cause an investigation to be made to determine the nature and cause of the abuse. In addition, ORS 418.640 requires the Department to adopt rules it deems necessary or advisable to protect the best interests of children in foster homes. Finally, ORS 181.537 authorizes the Department to conduct criminal records checks on subject individuals, as defined by the Department, if deemed necessary by the Department.

- (2) The Department of Human Services Child Welfare Program has determined that, in order to protect children from abuse or neglect and to protect the best interests of children in foster homes, it is necessary for the Department to permit local Child Welfare offices to perform criminal records checks on subject individuals when the Department is conducting a child protective services assessment, has an open child welfare case, or determines that emergency foster home certification decisions must be made.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1105

Purpose

- (1) The primary purposes of LEDS access in local Child Welfare offices are to assist staff in making child protective services related decisions and for emergency certification purposes as outlined in these rules (OAR 413-015-1100 to 413-015-1125). Criminal history information obtained from LEDS will be considered, along with other risk influences, to—
 - (a) assess child safety; or
 - (b) determine if behavior that is revealed by criminal history is inconsistent with providing care to children or having access to children.
- (2) These rules do not address criminal records checks for non-emergency certification or adoption approval. Criminal records checks for non-emergency certification or adoption approval are governed by OAR 413-120-0400 to 413-120-0470.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1110

Definitions

The following definitions apply to OAR 413-015-1100 to 413-015-1125:

- (1) "Law Enforcement Data System (LEDS)" means the computerized criminal history information system maintained by the Oregon State Police.
- (2) "LEDS representative" means the staff person in the local DHS office who has been designated under OAR 257-015-0050(5) by the DHS Assistant Director for Children, Adults and Families and who has completed the training required by Oregon State Police in order to train other employees to be LEDS users.

- (3) "LEDS user" means a staff person in the local DHS office who has been trained by a LEDS representative and has been certified by the Oregon State Police to access LEDS information.
- (4) "Notice" means a subject individual has been informed in writing that the Department may conduct criminal records checks and that the subject individual has a right to obtain a copy of his or her LEDS record and has a right to challenge information in the record by contacting Oregon State Police. Notice does not imply consent or permission.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1115

Requirements

- (1) LEDS representatives must train and certify designated LEDS users as outlined in OAR 257-015-0050.
- (2) The Department will complete background checks on all LEDS representatives and LEDS users as provided in OAR 257-015-0050(6).
- (3) The Department will implement information security measures as provided in OAR 257-015-0000 to 257-015-0100.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1120

LEDS Use For Child Protective Service Purposes

- (1) The local Child Welfare office may perform criminal records checks on subject individuals using the LEDS system available in the local office and use LEDS information pertaining to subject individuals for Child Protective Services purposes when—
 - (a) *Notice* as defined at OAR 413-015-1110(4) has been provided to a subject individual before the Department performs criminal records checks on the subject individual; and
 - (b) A child abuse allegation is being assessed or there is an open Child Welfare case.
- (2) When conducting criminal records checks for a Child Protective Services purpose under this rule, a subject individual is defined as:

- (a) A person who is alleged to be the perpetrator of child abuse or neglect when the allegation is being assessed by Child Protective Services;
- (b) A person who resides in or frequents a household where the alleged victim of child abuse resides on a full- or part-time basis; or
- (c) A person in the household to which a child is being returned.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1125

LEDS Use for Certification Purposes in Emergency Situations

- (1) The local Child Welfare office may perform criminal records checks using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for emergency certification purposes when—
 - (a) The subject individual has consented to the Department conducting a criminal records check by signing form DHS 1011F, "Consent For Criminal Records & Fingerprint Check";
 - (b) There is an emergent need to place a child or maintain a placement of a child, and the Criminal Records Unit is unable to complete the check in time;
 - (c) Staff refer to and comply with OAR 413-120-0400 to 413-120-0470; and
 - (d) A child abuse allegation is being assessed or there is an open child welfare case;
- (2) When conducting criminal records checks for emergency certification purposes under this rule, a subject individual is defined as—
 - (a) An adult who resides in or plans to reside in a household that is being certified for placement of a child;
 - (b) An adult who resides in or plans to reside in a household that is being re-certified to place or maintain a child in the household;
 - (c) A person assisting in the household to enrich the care provided to children placed in the household by tutoring or providing recreation, relief care, or other services such as household chores, whether paid or unpaid; or

- (d) A member of the household under 18 years of age if there is reason to believe that member may pose a risk to children placed in the household.
- (3) Staff in local Child Welfare offices who access LEDS information for emergency certification purposes as outlined in these rules must:
- (a) Refer to and comply with OAR 413-120-0400 to 413-120-0470; and
 - (b) Forward fingerprints and consent forms to the Department's Criminal Records Unit for processing if–
 - (A) LEDS information reveals an arrest or conviction of any kind;
 - (B) The subject individual discloses an arrest or conviction of any kind;
or
 - (C) It is known that the subject individual has lived outside of Oregon within the last five years.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020