

	<p><b>Department of Human Services</b>  <b>CHILDREN, ADULT and</b>  <b>FAMILIES</b>  <b>CLIENT SERVICES MANUAL I</b></p> <p><b>ISSUED BY:</b> Office of Permanency for Children  <b>EFFECTIVE DATE:</b> August 12, 1999</p>	<p><b>NUMBER:</b> I-F.3.2.1  <b>OAR:</b> 413-110-0200 / 0250</p> <p><b>SECTION:</b> F. Pre-Adoption Services</p> <p><b>SUBSECTION:</b> 3. Initiating Adoption Planning  2. Legal Assistance Program</p>
<p><b>SUBJECT:</b> 1. Termination of Parental Rights - Oregon Administrative Rule</p>		

Responsible Manager: Manager,  
Adoption Services

Approval: \_\_\_\_\_  
Administrator, Office of Permanency  
for Children

Interpretation: Manager,  
Adoption Services

**REFERENCES:** ORS 419B.350  
ORS 419B.502, .504, .506, .508  
PL 105-89, Adoption and Safe Families Act  
CAPTA  
SB 408 (1999)

## PURPOSE

**413-110-0200** The 1993 Oregon Legislature amended Oregon's termination of parental rights statute. The 1995 and 1997 Oregon Legislatures modified the definition for "extreme conduct" found in the termination of parental rights statutes. In addition, in 1996 Congress amended the Child Abuse Prevention and Treatment Act (CAPTA) and in 1997 passed the Adoption and Safe Families Act (ASFA). Pursuant to these laws SOSCF is mandated or authorized to seek termination of a parent's rights in certain cases where a child is in substitute care. These rules first outline under what circumstances SOSCF must seek the termination of parental rights of parents whose children are in SOSCF custody, and next under what circumstances it has the discretion to do so.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**

## DEFINITIONS

**413-110-0205 (1) "Compelling Reason":** A reason meeting specific criteria and documented in the case plan by the SOSCF branch, for SOSCF not to file a petition to terminate parental rights of the parents of a child(ren) where SOSCF would otherwise be required to do so under state and federal law.

**(2) “Date Child Entered Substitute Care”:** Oregon statute and federal law utilize the date the child is found to be within the jurisdiction of the court (under ORS 419B.100) or 60 days from date of removal, whichever is earlier. SOSCF shall use the date of the child’s initial substitute care placement for calculating Citizens Review Board reviews, court or permanency hearings intervals.

**(3) “Permanency Plan”:** A plan which will achieve permanency for the child. Although the plan may change as more information becomes available, the goal is to develop a safe and permanent resource with the parent(s), relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency, and be accessible and supportive to the child in adulthood. The child’s important attachments will be considered and maintained when in the best interest of the child and consistent with SOSCF policy.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**

## VALUES

**413-110-0210 (1)** Every child needs and deserves a safe, nurturing and permanent home. Termination of parental rights is one means by which SOSCF can achieve adoption of a child. Adoption is one of several possible permanent plans.

**(2)** No child shall be freed for adoption without the probability of being placed in a permanent home.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**

## POLICY

**413-110-0220** SOSCF shall only initiate a termination of parental rights action to free a child for adoption and where SOSCF has determine that adoption is in the child's best interest, and that other possible permanent plans such as guardianship would not be a more appropriate plan.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**

## PERMANENCY PLAN REVIEW

**413-110-0230** SOSCF shall review the permanency plan for each child in its legal custody after the 6 month review conducted under ORS 419A.106 or any hearing conducted in lieu of such review; but prior to the permanency hearing required by ASFA to determine the appropriateness of the permanency plan. If the permanency hearing is scheduled before the above 6 month review, SOSCF shall review the permanency

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plan prior to the permanency hearing even if the review has not occurred. If the child cannot be safely placed with a parent, in determining if adoption is the appropriate concurrent permanent plan:

**(1)** The branch designated review body shall consider whether the plan is in the best interest of the child and whether there is a potential adoptive resource for the child or a resource can be located; and

**(2)** The Legal Assistance Specialist shall provide consultation to the branch on whether the plan is consistent with statewide practice and whether the plan complies with the requirements of the SOSCF Adoption Program.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**

### **DECISION TO FILE A PETITION TO TERMINATE PARENTAL RIGHTS**

**413-110-0240 (1)** Unless one of the exceptions outlined in (3)(a) through (c) of this rule applies, and is so documented in the case plan, SOSCF shall file a petition to terminate the parental rights of the parents to a child in SOSCF custody. The SOSCF branch, in consultation with the Legal Assistance Specialist, shall decide whether to file a petition to terminate the parental rights to a child who:

**(a)** Has been in foster care for 15 of the most recent 22 months as calculated from the date the child entered substitute care; or

**(b)** Has been determined by the court to be an abandoned child; or

**(c)** Has a parent who has been found by a court of competent jurisdiction to have:

**(A)** Committed murder, of another child of the parent;

**(B)** Committed manslaughter, of another child of the parent;

**(C)** Aided, abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of another child of the parent; or

**(D)** Committed felony assault that results in serious bodily injury to the child or another child of the parent.

**(2)** If a child in SOSCF custody has filed a petition to seek to terminate the parental rights of his/her parent(s) for reasons under (1), SOSCF shall seek to be joined as a party, unless one of the exceptions outlined in (3)(a) through (c) applies and is documented in the case plan.

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**(3)** SOSCF, however, is not required to file a petition to terminate the parental rights to children meeting the criteria of 413-110-0240(1)(a) through (c), or to join a petition to terminate parental rights filed by a child under (2) if:

**(a)** The child is being cared for by a relative and the permanent plan is for the child to remain with that relative;

**(b)** SOSCF has not provided to the family of the child, consistent with the time period in the case plan, the services SOSCF deemed necessary for the safe return of the child to the child's home, if the plan required reasonable efforts (or active efforts in the case of an Indian child under the Indian Child Welfare Act) to do so; or

**(c)** Branch staff have documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child. Compelling reasons may include, but are not limited to:

**(A)** A court or Citizens Review Board (CRB) has made a finding at a CRB review, permanency hearing or other hearing that SOSCF has made "no reasonable efforts" (or "active efforts" in the case of an Indian child under the Indian Child Welfare Act) to make it possible for the child to safely return home, as documented by CRB findings or a court order;

**(B)** A court has made a finding that the presumption to implement the concurrent permanency plan for the child is rebutted by any party, as documented by a court order; or

**(C)** SOSCF has determined that:

**(i)** The parent has made significant measurable progress and continues to make diligent efforts to complete the requirements of the case plan and reunification is likely within a reasonable time, but the parent needs more than 15 months to complete the requirements of the plan as documented by narrative recording on the CF 147A, CF 147B, or Service Agreement;

**(ii)** SOSCF is working with the non-offending parent to establish a permanent placement as documented by the narrative recording on the CF 147A, CF 147B, or Service Agreement;

**(iii)** There is a viable alternative to termination of parental rights that would free the child for adoption within a reasonable time;

**(iv)** If the child is an Indian child under the Indian Child Welfare Act (ICWA), the Indian child's tribe opposes adoption and

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has another plan for permanency for the child, in accordance with the provisions of the ICWA.

**(D)** SOSCF has determined that adoption is not an appropriate plan for the child for reasons that may include, but are not limited to:

**(i)** A child age 12 years or over or a child less than 12 years of age who is capable of making this decision will not consent to be adopted, and another permanency plan has been identified;

**(ii)** The parent and child have a significant bond, but the parent is unable to care for the child because of a disability and another permanent plan has been identified;

**(iii)** The child has a demonstrated inability to be maintained in a family setting as documented by a professional assessment that may include, but is not limited to, a medical, psychiatric or psychological assessment.

**(d)** If the compelling reason that SOSCF applied in making the determination that it would not be in the best interest of the child to file a petition to terminate parental rights no longer exists, SOSCF shall review the decision not to file, to determine if there is another compelling reason not to file the petition, or if it would be in the best interest of the child to proceed with filing.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**

## **OTHER SITUATIONS FOR FILING A TERMINATION PETITION**

**413-110-0250** SOSCF may file a petition to terminate the rights of a parent whose child is in SOSCF custody but is not required to do so if:

**(1)** The parent has engaged in extreme conduct as specified in ORS 419B.502;

**(2)** The parent is unfit due to conduct or condition that is seriously detrimental to the child as specified in ORS 419B.504.

**(3)** The parent has failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child as specified in ORS 419B.506.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: ORS 419B.350, ASFA, CAPTA**