

NOTICE OF PROPOSED RULE

DEPARTMENT OF CHILDREN AND FAMILIES Office of Child Welfare

RULE NO.: RULE TITLE:
65C-16.005 Evaluation of Applicants.

PURPOSE AND EFFECT: Align rule language regarding adoptions pursuant to Chapter Law 2024-177. Amendments will update and clarify language.

SUMMARY: Amendments include: (1) changes the number of references needed, (2) allows references to be made verbally or electronically, (3) allows the case manager or guardian ad litem to be a reference, (4) adds the rebuttable presumption, (5) reduces the number of in-home visits, (6) updates the home study requirements when the prospective adoptive parent is the current caregiver, (7) updates the requirements for the child abuse, abandonment, and neglect record check, (8) adds new form: Adoption Application Review Committee (AARC) Recommendation Cover Letter, and (9) updates the decision process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department used a checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory costs associated with this rule that exceeds the criteria in section 120.541(2)(a), F.S. Based upon this analysis, the Department has determined that the proposed rule is not expected to require legislative ratification.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 39.012, 63.093, 63.233 FS.

LAW IMPLEMENTED: 39.0138, 63.042, 63.062, 63.092, 63.093, 63.207 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elizabeth Floyd. Elizabeth can be reached at Elizabeth.Floyd@myflfamilies.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-16.005 Evaluation of Applicants.

(1) No change.

(2) An adoption home study which includes observation, screening and evaluation of the child and adoptive applicants shall be completed by a staff person with the CBC, subcontractor agency, or other licensed child-placing

agency prior to the ~~pre-adoptive~~ adoptive placement of the child. The aim of this evaluation is to select families who will be able to meet the physical, emotional, social, educational and financial needs of a child, while safeguarding the child from further loss and separation from siblings and significant adults. The adoption home study is valid for 12 months from the approval date.

(3) In determining which home studies and applications for adoption will be approved, all of the following criteria, not listed in any order of priority, must be considered:

(a) through (m) No change.

(n) Department, community-based-care lead agency (CBC) or Sub-Contractor Employees, Guardian ad Litem Employees, or Guardian ad Litem volunteers. Employees of the Department, the Guardian ad Litem program, and the CBC, including subcontractor staff, and Guardian ad Litem volunteers, may be considered as adoptive applicants. In situations where the employee or volunteer has a close working relationship with the foster care or adoption staff in his or her local area, or had such a relationship within the past two (2) years, completion of the applicant's adoption home study process shall be conducted by a licensed child-placing adoption agency outside the local area. The CBC agency must be notified within 72 hours when an application to adopt is received from a Department, CBC agency employee. The CBC agency will make a decision regarding whether the adoption home study for the employee will be completed by the CBC agency or if the services of another agency will be sought. If the decision is to have the employee's adoption home study and subsequent placement handled by another agency, the CBC agency shall make the necessary arrangements with the chosen agency. When an adoptive applicant is a member of a board or group which has actual or perceived authority over the Department, its CBC agency, its staff or operations, such applicant will be referred to another circuit or a local licensed child placing agency for handling;

(o) through (p) No change.

(q) References. A minimum of ~~three (3) five (5) written~~ references shall be required. Only one (1) reference may be obtained from an employer and only ~~one (1) two~~ of the references may be obtained from a relative. All other references must be obtained from persons who either: 1) have observed the applicants in situations that give some indication for their capacity for parenthood, or 2) who as the result of their relationship to the applicant, possess documentation or knowledge of the applicant's capacity for parenthood. All references must be obtained verbally by the child welfare professional and documented unless providing a written document electronically is more expeditious. References may include the case manager and Guardian ad Litem volunteers or staff who have been

assigned to the child's case; shall be provided directly to the agency person conducting the adoption home study by the person providing the reference; and

(r) No change.

(s) Rebuttable Presumption. When a current caregiver who meets the requirements of Section 39.522(3), F.S., applies to adopt the child, consideration must be given as to whether the presumption that it is in the child's best interest to remain in the current placement can be rebutted by the information learned during the evaluation process.

(4) Family Preparation and Study Process.

(a) Adoption staff must conduct a minimum of two (2) ~~in-home~~ visits with the prospective adoptive parent, one of which must be completed in the home. The adoption staff must adhere to the requirements as outlined in Section 63.093, F.S., regarding the family's preparation and home study process.

(b) through (c) No change.

(5) No change.

(6) Families Who Adopt Again. Prior approval of a family to adopt does not automatically deem the family appropriate to adopt again. Consideration of any family for placement of a subsequent child requires an updating of the previous adoption home study. The update shall include an assessment of the following:

(a) through (h) No change.

(i) Updated References. A minimum of two (2) ~~five (5)~~ references shall be obtained when updating an adoption home study toward placement of an additional child. References shall address how the family seems to have managed with the previously adopted child and how they believe the family will cope with additional children. References must be obtained from persons who either: 1) have observed the applicants in situations that give some indication for their capacity for parenthood, or 2) who as the result of their relationship to the applicant, possess documentation or knowledge of the applicant's capacity for parenthood. The case manager shall attempt to obtain a reference from an adult child of the applicant, if applicable. Only one (1) ~~two (2)~~ of the references may be obtained from a relative. All references must be obtained verbally by the child welfare professional and documented unless providing a written document electronically is more expeditious. References may include child welfare professionals and Guardian ad Litem volunteers or staff who have been assigned to the child's case;

(j) through (k) No change.

(7) The Written Adoption Home Study. A written report, generally referred to as the adoption home study, must

be prepared for each studied family. The adoption home study must address the issues discussed in subsections (1) through (6), above, along with the requirements set out in section 63.092(3), F.S. If the prospective adoptive parent is the current caregiver, the following applies:

(a) The case manager or adoption counselor may review the last approved home study in the child welfare information system with the prospective adoptive parent in person or virtually, determine if any information has changed, and document their assessment and any changes.

(b) The case manager or adoption counselor may complete a general adoption home study before termination of parental rights has been granted.

(c) If the child was placed before the termination of parental rights, the placement or licensing home study may serve as the adoption home study but must also include the requirements set out in section 63.092(3), F.S.

(8) No change.

(9) Adoption Applicant Review Committee. Each CBC agency responsible for providing adoption services for children in the Department's custody must establish an Adoption Applicant Review Committee.

(a) No change.

(b) The committee will provide consultation and assistance to the adoption counselor on any child-specific adoption home study in which the counselor and supervisor are recommending denial, or adoption case situations which present challenging issues. Requests for committee review may be made by the adoption counselor, the Department or the CBC agency. Requests for committee review must be made in writing and forwarded to the CBC agency. While the committee is available to review any challenging case, all cases with the following issues, except as set forth below, must be referred to the committee.

1. through 2. No change.

3. Child Abuse, Abandonment and Neglect Record Check. Applicants in which the Child Abuse, Abandonment and Neglect Record Check reveals verified findings of abuse, neglect, or abandonment which did not result in a disqualifying felony conviction, ~~and cases in which abuse or neglect was not substantiated~~. When an applicant has one (1) or more investigations with a ~~findings of verified~~ finding or not substantiated, all of the investigations that involve the applicant must be reviewed to assess if there are reoccurring circumstances that may affect the safety and well-being of the children in the home. If the applicant has one (1) or more investigations with a not substantiated finding, referral of these applicants to the Adoption Applicant Review Committee is not required but

must be submitted to the community-based care lead agency (CBC) or designee for approval.

4. through 5. No change.

(c) The review committee chairperson will convene the committee within 10 business ~~15~~ days of receipt of the request and provide all necessary written documents to the committee members no less than five (5) business days prior to the committee convening. Each committee member shall submit their recommendation to the chair within five (5) business days of the conclusion of the review. The chair shall submit the "Adoption Application Review Committee (AARC) Recommendation Cover Letter," form CF-FSP 5498, (insert date), incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX>. ~~A written recommendation will be submitted to the Department and the CBC agency within 10 business days of the committee's recommendation, but no later than 15 business days from the conclusion of the review decision. The Following input from the Department will make the final decision after reviewing the committee's recommendation to ensure the evaluation of the application complies with Chapter 65C-16 and Florida Statutes. and the CBC agency, the chairperson will prepare a written report within ten (10) business days summarizing consensus of the committee and the recommendation from the Department and the CBC agency. The recommendation to approve the applicant will be submitted to the CBC agency or a designee. The recommendation to deny the applicant will be submitted to the Family Well-Being Director and the CBC agency or a designee.~~

(d) The CBC agency will provide the applicant with written notification of the decision to approve within 10 business days of receipt of the Department's final decision. When the Department denies an application to adopt a child, the Department must adhere to the protocols set forth in Section 39.812, F.S. ~~The Family Well-Being Director shall provide the applicant with written notification of the decision to deny the application, within 10 business days of the decision. The written notice must include the reason for the denial, and must advise the applicant of his or her option for review of the denial pursuant to Chapter 120, F.S.~~

(e) The county of jurisdiction shall complete all Adoption Applicant Review Committee staffings on any child or any adoption home study related to the child. If the county of jurisdiction can not complete the staffing due to a conflict, a request shall be made, in consultation with the Department Family Well-Being Director ~~or designee~~, to transfer the staffing to another county.

Rulemaking Authority 39.012, 63.093, 63.233 FS. Law Implemented 39.0138, 63.042, 63.062, 63.092, 63.093, 63.207 FS. History—New 2-14-84, Formerly 10M-8.05, Amended 4-28-92, 4-19-94, 8-17-94, 1-8-95, 7-18-95, Formerly 10M-8.005,

Amended 12-23-97, 8-19-03, 11-30-08, 7-7-16, 8-15-21, 7-20-23. Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Valerie Proctor

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Shevaun L. Harris

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 28, 2025

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: