

## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

#### **CHAPTER 735. INDEPENDENT COURT-ORDERED ADOPTION EVALUATIONS**

##### **SUBCHAPTER C. MINIMUM REQUIREMENTS FOR THE PRE-PLACEMENT PORTION OF AN ADOPTION EVALUATION AND REPORT**

The Department of Family and Protective Services (DFPS) adopts amendments to §§735.323, 735.325, 735.405 and 735.411, in Chapter 735, concerning Independent Court-Ordered Adoption Evaluations. The amendments are adopted without changes to the proposed text published in the January 18, 2019, issue of the *Texas Register* (44 TexReg 329).

##### **BACKGROUND AND JUSTIFICATION**

The amendments are to correct citation references in the rules that are no longer accurate after the rules relating to independent court-ordered evaluations were administratively transferred from Subchapter O of Chapter 745 to Chapter 735 of Title 40, Texas Administrative Code (TAC).

##### **COMMENTS**

The 30-day comment period ended February 17, 2019. During this period, DFPS did not receive any comments regarding the proposed rules.

##### **STATUTORY AUTHORITY**

The amendments are adopted under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall adopt rules for the operation and provision of services by the department.

The amendments implement Texas Family Code §107.152.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

§735.323. What information must an update of the pre-placement portion of an adoption evaluation include?

It must include:

(1) Completing information about the new child as required by §735.303 of this title (relating to What requirements are there for obtaining information about the child in the pre-placement portion of an adoption evaluation?);

(2) A review and any necessary updates relating to the requirements in §735.305 of this title (relating to What information about the adoptive parents must be included in the pre-placement portion of an adoption evaluation?); and

(3) Documentation of at least one additional visit to the adoptive parents' home, including who was present during the visit. This visit should be within the 30-day period before the child begins living in the home.

§735.325. What information must the pre-placement portion of an adoption evaluation report include?

(a) The report must contain:

(1) Documentation of the requirements in Subchapters B, C, and E of this Chapter, including documentation of:

(A) Information that was obtained through the review of documents, reports, and inspections; and

(B) Interviews with the adoptive parents and their family, collateral contacts, and the child;

(2) Documentation of the criminal history and central registry background check results and an assessment of the results, including whether the results should bar placement of the child with the adoptive parents, or the subsequent adoption of the child by the adoptive parents;

(3) Assessments of the:

(A) Adoptive parents and their family's interaction with each other; and

(B) Relationship between the child and each adoptive parent, if a relationship currently exists;

(4) An assessment of the child's present and prospective physical, intellectual, social, and psychological functioning;

(5) An assessment of the basic care and safety issues, including the safety of the physical environment of the adoptive home;

(6) An assessment of the adoptive parents' individual strengths and weaknesses;

(7) Conclusions and recommendations to the court as to whether the:

(A) Adoptive parents' home environment will meet the child's needs once the child begins living in the adoptive parents' home; and

(B) Adoptive parents appear to have the ability to accept the child, assume parenting responsibilities, and adopt the child in the next six months to a year;

(8) For each adoption evaluator that conducted any part of the pre-placement portion of an adoption evaluation, including interviewing participants; making home visits; making assessments, conclusions, or recommendations; or writing the report:

(A) Their names, license numbers, if applicable, and role in conducting the pre-placement portion of an adoption evaluation; and

(B) A statement that each adoption evaluator:

(i) Has read and meets the qualification requirements of Texas Family Code §107.154; or

(ii) Was appointed by the court under Texas Family Code §107.155; and

(9) Telephone numbers for entities where it is appropriate for the adoptive parents to file complaints about how the pre-placement portion of an adoption evaluation was conducted, including phone numbers for:

(A) The court that ordered the adoption evaluation; and

(B) The board or agency that licenses the adoption evaluator who is primarily responsible for the pre-placement portion of an adoption evaluation, if applicable.

(b) The adoption evaluator primarily responsible for the pre-placement portion of an adoption evaluation must sign the report.

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## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

#### **CHAPTER 735. INDEPENDENT COURT-ORDERED ADOPTION EVALUATIONS**

##### **SUBCHAPTER D. MINIMUM REQUIREMENTS FOR THE POST-PLACEMENT PORTION OF AN ADOPTION EVALUATION AND REPORT**

###### **40 TAC §735.405, §735.411**

§735.405. What issues must an interview for the post-placement portion of an adoption evaluation address?

Each interview must focus on the adjustment of the family and the child living together in the adoptive parents' home. You must also address the:

(1) Requirements in §735.305 of this title (relating to What information about the adoptive parents must be included in the pre-placement portion of an adoption evaluation?) that have not been adequately addressed; and

(2) Assessments that are mandated in §735.411 of this title (relating to What information must be included in the post-placement portion of an adoption evaluation report?).

§735.411. What information must be included in the post-placement portion of an adoption evaluation report?

(a) The report must contain:

(1) Any previously incomplete or supplemental information regarding the adoptive parents and the child that was required to be obtained for the pre-placement portion of an adoption evaluation, including any updates relating to:

(A) A newly completed Health, Social, Educational, and Genetic History Report (HSEGH), or supplemental information;

(B) Any updates to the child's current physical, mental, and emotional status, including any special needs;

(C) An update regarding the child's legal status; and

(D) Any new information obtained regarding the adoptive parents in relation to §735.305 of this title (relating to What information about the adoptive parents must be included in the pre-placement portion of an adoption evaluation?);

(2) Documentation of the requirements in Subchapters B, D, and E of this Chapter, including documentation of:

(A) Information that was obtained through the review of documents, reports, and inspections; and

(B) Interviews with the adoptive parents, their family, and the child;

(3) A summary of the adjustment of the adoptive parents, other family members, others persons living in the adoptive home, and the child during the last five to six months the child was living with the adoptive parents;

(4) An updated assessment of the child's present and prospective physical, intellectual, social, and psychological functioning, including an assessment of how the adoptive parents responded to any special needs the child had;

(5) An updated assessment of basic care and safety issues, including the physical safety of the environment of the adoptive home and how the child has responded to living in the adoptive home;

(6) An updated assessment of the adoptive parents' individual strengths and weaknesses;

(7) Conclusions and recommendations to the court as to whether the adoptive parents have accepted the child and have the ability to parent and adopt the child;

(8) For each adoption evaluator that conducted any part of the post-placement portion of an adoption evaluation, including interviewing participants; making home visits; making assessments, conclusions, or recommendations; or writing the report:

(A) Their names, license numbers, if applicable, and role in conducting the post-placement portion of an adoption evaluation; and

(B) A statement that each adoption evaluator:

(i) Has read and meets the qualification requirements of Texas Family Code §107.154; or

(ii) Was appointed by the court under Texas Family Code §107.155; and

(9) Telephone numbers for entities where it is appropriate for the adoptive parents to file complaints about how the post-placement portion of an adoption evaluation was conducted, including phone numbers for:

(A) The court that ordered the adoption evaluation; and

(B) The board or agency that licenses the adoption evaluator who is primarily responsible for the post-placement portion of an adoption evaluation, if applicable.

(b) The adoption evaluator primarily responsible for the post-placement portion of an adoption evaluation must sign the report.

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