

WSR 22-23-093
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed November 15, 2022, 3:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-056 and 22-18-062; and Expedited [Emergency] Rule Making—Proposed notice was filed as WSR 22-18-061.

Title of Rule and Other Identifying Information: The department of children, youth, and families (DCYF) is amending:

- WAC 110-80-0260 What are the consequences of an adopted child being placed in foster care?
- WAC 110-50-0300 What cases must be referred to the division of child support (DCS)?
- WAC 110-50-0320 What constitutes good cause for not pursuing the collection or establishment of child support or paternity?

DCYF is repealing WAC 110-50-0310 Does children's administration refer foster care cases to the division of child support where good cause exists?

Hearing Location(s): On December 27, 2022, telephonic. Oral comments may be made by calling 360-972-5385 and leaving a voicemail that includes the comment and an email or physical mailing address where DCYF will send its response. Comments received through and including December 27, 2022, will be considered.

Date of Intended Adoption: December 29, 2022.

Submit Written Comments to: DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by December 27, 2022.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-522-3691, email dcyf.rulescoordinator@dcyf.wa.gov, <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by December 23, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DCYF is making changes regarding referrals to the division of child support when children are placed into the care of DCYF. DCYF had an automatic referral process to start collecting child support 72 hours after a child or youth is removed from the parents' or guardians' care and custody, unless good cause existed to not pursue collection. DCYF is revising good cause criteria to minimize the number of referrals to the division of child support.

Reasons Supporting Proposal: These changes are being made to help to alleviate financial hardship and other barriers families often experience, which in turn helps reunify and stabilize children and their families sooner. In addition, the governor's office has included minimized referrals as a cost-savings in the 2022 budget proposal.

Statutory Authority for Adoption: RCW 74.20.040.

Statute Being Implemented: RCW 74.20.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Tara Camp, Olympia, 509-823-7503; Implementation and Enforcement: DCYF, state-wide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This proposed rule does not impact small businesses as defined in RCW 19.85.020.

Scope of exemption for rule proposal:

Is fully exempt.

November 15, 2022
Brenda Villarreal
Rules Coordinator

OTS-4046.2

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0300 ((What)) When will cases ((must)) be referred to the division of child support (DCS)? ~~((Each case where the department participates in the payment of foster care must be referred to the division of child support, except when:~~

~~(1) Collection would not be cost effective, including placements of seventy-two hours or less;~~

~~(2) Collection is exempt by law; or~~

~~(3) A child with developmental disabilities is eligible for admission to or discharged from a residential habilitation center as defined by RCW 71A.10.020(8), unless the child is placed as a result of an action taken under chapter 13.34 RCW.))~~ (1) The department will refer cases to DCS when a court has made a finding of abandonment as defined in RCW 13.34.030, unless good cause exists.

(2) Nothing in this section prohibits a parent, guardian, or relative from pursuing child support by contacting DCS directly.

[WSR 18-14-078, recodified as § 110-50-0300, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 2004 c 183, 74.20.040, and 74.13.020. WSR 05-06-091, § 388-25-0225, filed 3/1/05, effective 4/1/05. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0225, filed 3/30/01, effective 4/30/01.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0320 What constitutes good cause for not pursuing the collection or establishment of child support or paternity? ~~((Child-
ren's administration uses the following criteria to determine whether
sufficient good cause exists for requesting that DCS not pursue col-
lection or establish child support or paternity on foster care ca-
ses:))~~ Good cause for not pursuing the collection of child support or
establishing paternity exists when:

- (1) It is not in the child's or youth's best interest; and
- (2) The parent or ~~((other legally obligated person))~~ guardian, or the ~~((parent or other person's))~~ parent's or guardian's child or youth, spouse, or spouse's child or youth was the victim of the offense for which the child or youth was committed to the custody of the juvenile rehabilitation ~~((administration (JRA)))~~ division (JRD) and the child or youth is being placed directly into foster care from a ~~((JRA))~~ JRD facility until this placement episode closes;
- (3) Adoption proceedings for the child or youth are pending in court or the custodial parent or guardian is being helped by a private or public agency to decide if the child or youth will be placed for adoption;
- (4) The child or youth was conceived as a result of incest or rape ~~((and establishing paternity would not be in the child's best interest))~~;
- (5) The juvenile or tribal court in ~~((the))~~ dependency proceedings or the department finds that the parents or guardians will be unable to comply with an agreed reunification plan with the child or youth due to ~~((the))~~ financial hardship caused by paying child support ~~((The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification; or))~~;
- (6) The custodial parent ~~((and/or))~~ or guardian or the child or youth may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the ~~((person that the division of child support))~~ individual that DCS would be pursuing for collection action;
- (7) The child support obligation would result in a financial hardship for parents or guardians because the child's or youth's household was low income at the time of removal; or
- (8) The parent of a newborn child abandons the child by transferring the child to a qualified individual at an appropriate location, per RCW 26.20.030.

[WSR 18-14-078, recodified as § 110-50-0320, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 2004 c 183, 74.20.040, and 74.13.020. WSR 05-06-091, § 388-25-0227, filed 3/1/05, effective 4/1/05.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 110-50-0310

Does children's administration refer foster care cases to the division of child support where good cause exists?

OTS-4047.2

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-80-0260 What are the consequences of an adopted child being placed in foster care? (~~((1) If a child is on active status with Washington state's adoption support program and the department places the child in foster care, the department is required to refer the case to the division of child support and the program may report that good cause exists for not pursuing collection of support payments.~~

~~(2))~~) The department may review the adoption support agreement and may renegotiate the amount of any cash payments to the adoptive parent during the child's out-of-home placement.

[WSR 18-14-078, recodified as § 110-80-0260, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0265, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0265, filed 3/30/01, effective 4/30/01.]