

WSR 21-15-059
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed July 15, 2021, 2:40 p.m., effective August 15, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments to chapter 388-826 WAC align with recent amendments to chapter 74.13 RCW, and align with new chapter 71A.28 RCW, Out-of-home services. These amendments are necessary to update the program from the voluntary placement services model to the way the program will now operate under chapter 71A.28 RCW as out-of-home services.

Citation of Rules Affected by this Order: New WAC 388-826-0018, 388-826-0019, 388-826-0042, 388-826-0043, 388-826-0044, 388-826-0073, 388-826-0074, 388-826-0231, 388-826-0232, 388-826-0233, 388-826-0234, 388-826-0235, 388-826-0236 and 388-826-0237; repealing WAC 388-826-0011 and 388-826-0050; and amending WAC 388-826-0001, 388-826-0005, 388-826-0010, 388-826-0016, 388-826-0040, 388-826-0041, 388-826-0070, 388-826-0071, 388-826-0072, 388-826-0075, 388-826-0077, 388-826-0078, 388-826-0079, 388-826-0095, 388-826-0096, 388-826-0097, 388-826-0098, 388-826-0130, 388-826-0133, 388-826-0138, 388-826-0145, 388-826-0150, 388-826-0160, 388-826-0170, 388-826-0175, 388-826-0200, 388-826-0205, 388-826-0230, and 388-826-0240.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapters 71A.28, 74.13 RCW.

Adopted under notice filed as WSR 21-09-055 on April 16, 2021.

Changes Other than Editing from Proposed to Adopted Version: **Under WAC 388-826-0005, developmental disabilities administration (DDA) changed the definition of "custody" to replace "as allocated between two divorcing parents" with "as allocated by a court to one of two parents under a parenting plan." This change broadens the definition to include parents who were not married.**

Under WAC 388-826-0019, DDA changed the text as shown below:

(1) Out-of-home services ~~must~~ may be terminated if:

~~(1) The client is receiving services in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or other institution for thirty consecutive days or longer.~~

(2) Out-of-home services must be terminated if:

(2a) The client's parent or legal guardian terminates services;

or

(2b) The client is over eighteen and terminates services.

DDA made this change because out-of-home services also follow waiver rules under chapter 388-845 WAC. Under WAC 388-845-0060, DDA may terminate a client's waiver enrollment if the client resides in one of the settings above for at least one full calendar month. Changing "must" to "may" in WAC 388-826-0019 aligns with the permissiveness in WAC 388-845-0060.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 29, Repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 29, Repealed 2.

Date Adopted: July 15, 2021.

Donald Clintsman
Acting Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-16](#) issue of the Register.