

WSR 21-17-058
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)
[Filed August 10, 2021, 3:29 p.m.]

Subject of Possible Rule Making: The division of child support (DCS) is proposing to amend sections in chapter 388-14A WAC to increase efficiency and better serve our customers regarding eliminating joint noncustodial parent (JNCP) cases. A JNCP case is one where both parents are married and residing together and the child is not in the home.

DCS is amending WAC 388-14A-3140 What can happen at a hearing on a support establishment notice?, 388-14A-8100 Are there special rules for setting child support for children in foster care?, and 388-14A-8130 How does DCS complete the WSCSS worksheets when setting a joint child support obligation?

In order to carry out this rule making, DCS may also amend, repeal, or adopt other sections of chapter 388-14A WAC as necessary.

Statutes Authorizing the Agency to Adopt Rules on this Subject: DCS rule making is authorized under RCW 26.23.110, 34.05.220, 74.08.090, 74.20A.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The establishment of a joint and several administrative child support order does not work well when the goal of family reunification and the fluid nature of reunification plans are taken into account. Married parents often choose to separate (or are required to separate) so that the child can return to the home of one of them. The obligation of the parent with physical custody is suspended by WAC 388-14A-3810, leaving the parent out of the home bearing the full brunt of the joint and several administrative order, further impacting reunification efforts. When the parent out of the home seeks to modify the joint and several order, it is sometimes modified only as to that particular parent, leaving the first parent still subject to the joint and several order if the child ever leaves the first parent's custody. This result does not align with DCS's efforts to establish and enforce right size orders and can result in harm to families. To resolve this, DCS is changing its policy and will no longer be setting up joint obligations for married parents living together where the child is not living in the home.

The proposed change will allow DCS to discontinue the practice of setting up and enforcing JNCP cases.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Brady Horenstein at the DSHS DCS headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at <https://www.dshs.wa.gov/esa/division-child-support> or on the DSHS economic services administration's policy review website, which can be found at <https://fortress.wa.gov/dshs/f2ws03esaapps/extpolicy/>.

Rule-making forms and draft rules may also be found on the DSHS filings and rules page at <https://www.dshs.wa.gov/office-of-the-secretary/filings-and-rulings>.

DSHS/DCS encourages the public to take part in developing rules. After the rules are drafted, DSHS will file a copy with the office of the code reviser with a notice of proposed rule making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brady Horenstein, DCS Rules Coordinator, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone 360-664-5291, fax 360-664-5342, TTY 1-800-833-6384, email Brady.Horenstein@dshs.wa.gov.

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