

WSR 21-23-020
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 8, 2021, 8:01 a.m., effective December 9, 2021]

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

Purpose: The department is adopting amendments to WAC

388-454-0006 The department makes background checks on adults who are acting in place of a parent without court-ordered custody. These amendments align TANF and SFA background check rules with 2SHB 1645 (chapter 270, Laws of 2020) and related department of children, youth, and families policies, and clarify that the department will not consider a founded finding of abuse, neglect, or dependency for clients who have a verified certificate of parental improvement.

Amendments also clarify that the department will not consider a conviction that is pardoned, vacated, or that the client has received a certificate of rehabilitation, for the purposes of this section.

Citation of Rules Affected by this Order: Amending WAC 388-454-0006.

Statutory Authority for Adoption: RCW 43.43.832, 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.12.290.

Adopted under notice filed as WSR 21-11-068 on May 17, 2021, 21-08-[0]72 on April 6, 2021, and 20-20-[0]86 on October 5, 2020.

Changes Other than Editing from Proposed to Adopted Version: Sub-section (7) has been modified to clarify that convictions that receive a pardon or certificate of rehabilitation do not count against the *In Loco Parentis* caregiver in the background check. The change was made because of comments received during the public comment period.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 4, 2021.

Katherine I. Vasquez
Rules Coordinator

SHS-4834.8

AMENDATORY SECTION (Amending WSR 16-24-037, filed 11/30/16, effective 1/1/17)

WAC 388-454-0006 The department makes background checks on adults who are acting in place of a parent without court-ordered custody. (1) We check your background when you ask for temporary assistance for needy families (TANF) or state family assistance (SFA) benefits for a child who:

(a) Is not related to you; and

(b) Lives with you but you do not have a court order that gives you legal custody of the child.

(2) A child who is not related to you cannot receive TANF/SFA benefits while living with you until we have completed a background check and the results of the background check meet the criteria in subsection (3) through (5) of this section.

(3) A child who is not related to you cannot receive benefits while living with you if:

(a) You have been convicted of a crime listed in WAC ~~((388-06A-0170))~~ 110-04-0100 (1) (a) through (e); or

(b) You have been convicted of a crime listed in WAC ~~((388-06A-0180))~~ 110-04-0110 (1) through (3) within the last five years; or

(c) You have a pending criminal charge for a disqualifying crime listed in WAC 110-04-0130 (1) (a) through (b); or

(d) You are determined by the department to not have the character, suitability, and competence necessary to receive benefits for a child not related to you, as described in subsection (4) and (5) of this section.

(4) We review your background when you have been convicted of a crime listed in WAC ~~((388-06A-0180))~~ 110-04-0110 (1) through (3), more than five years ago to determine your character, suitability, and competence to receive benefits for a child not related to you. We consider the following factors:

(a) The amount of time that has passed since you were convicted;

(b) The seriousness of the crime that led to the conviction;

(c) The number and types of convictions in your background; and

(d) Your age at the time of the conviction.

(5) When you have a conviction for a crime other than those listed in WAC ~~((388-06A-0170))~~ 110-04-0100 (1) (a) through (e), or ~~((388-06A-0180))~~ 110-04-0110 (1) through (3) or have a founded finding of child abuse or neglect, as defined in WAC 110-03-0020, we review your background as described in subsection (4) of this section.

(6) If you disclose to us that you have received a certificate of parental improvement, as described in WAC 110-05-0001, and we verify it, then the related founded finding of child abuse or neglect, or dependency finding will not be considered in our determination under this section.

(7) Expunged ((~~o~~)), pardoned, sealed, or vacated conviction records, or those convictions for which you received a certificate of rehabilitation, do not count against you.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090. WSR 16-24-037, § 388-454-0006, filed 11/30/16, effective 1/1/17. Statutory Authority: RCW 13.32A.080, 13.32A.082, 74.04.050, 74.08.090, 74.12.290, 74.12.450, 74.12.460. WSR 02-01-011, § 388-454-0006, filed 12/7/01, effective 1/7/02.]