



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Social and Health Services, Financial Services Administration

- Preproposal Statement of Inquiry was filed as WSR: 17-07-122; or
- Expedited Rule Making--Proposed notice was filed as WSR: ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR:
- Continuance of WSR:

Title of rule and other identifying information: (Describe Subject)

The department is proposing to amend WAC 388-06-0700 "What definitions apply to WAC 388-06-0710 through 388-06-0720?" and create two new WAC sections, WAC 388-06-0800 "When must BCCU include a statement about a certificate of restoration of opportunity?" and WAC 388-06-0810 "Does a certificate of restoration of opportunity apply to any state abuse and neglect registry?".

Hearing location(s):

Office Building 2
DSHS Headquarters
1115 Washington
Olympia, WA 98504

Public parking at 11th and Jefferson. A map is available at:
<https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>

Date: August 22, 2017 Time: 10:00 a.m.

Date of intended adoption: Not earlier than August 23, 2017
(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850
Olympia, WA 98504
e-mail: DSHSRPAURulesCoordinator@dshs.wa.gov
fax: (360) 664-6185

by: 5:00 p.m. August 22, 2017

Assistance for persons with disabilities: Contact:

Jeff Kildahl, DSHS Rules Consultant by August 8, 2017
Phone: (360) 664-6092 or TTY: (360) 664-6178
Email: KildaJA@dshs.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

RCW 9.97.020(4)(a) mandates rulemaking by the department regarding the inclusion of certificates of restoration of opportunity (CROP) as part of reports, letters, or other assessments, and the application of a CROP to the state abuse and neglect registries. The proposed rules add language to explain when a CROP will be a part of such assessments and when they are not required, and clarify and update the definitions related to the background check central unit of the department and its processes.

Reasons supporting proposal: See purpose statement above.

Statutory authority for adoption: RCW 9.97.020

Statute being implemented: RCW 9.97.020

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE

July 7, 2017

NAME (type or print)

Katherine Vasquez

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: July 11, 2017

TIME: 9:04 AM

WSR 17-15-037

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Department of Social and Health Services

- Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|---------------|--|----------------|
| Drafting: | Teva Weissman | P.O. Box 45025, Olympia, WA 98504-5025 | (360) 902-0237 |
| Implementation: | Kerry Breen | P.O. Box 45025, Olympia, WA 98504-5025 | (360) 902-7823 |
| Enforcement: | Kerry Breen | P.O. Box 45025, Olympia, WA 98504-5025 | (360) 902-7823 |

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

Phone: ()

Fax: ()

e-mail

No. Explain why no statement was prepared.

The department has analyzed the proposed rules and concluded that they do not impact small businesses and are further exempt under RCW 19.85.025.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone: ()

fax: ()

e-mail:

No: Please explain:

The department has analyzed the proposed rules and concluded they do not meet the definition of "significant legislative rule" under RCW 34.05.328(5)(c)(iii).

WAC 388-06-0700 What definitions apply to WAC ((388-06-0710)) 388-06-0700 through ((388-06-0720)) 388-06-0800? The following definitions apply to WAC 388-06-0700 through 388-06-0810:

"Applicant" means an employee, volunteer, student, intern, licensee, service provider, contractor, or other individual who is the subject of the background check and who will work in a position that:

(1) May have unauthorized access to vulnerable adults, the developmentally disabled, juveniles, or children; or

(2) Is designated by the department as having access to sensitive information.

"Authorized entity" means a department ((of social and health services)), administration, division, program, unit, service provider, licensee, contractor, or other public or private ((agency)) entity that has permission from the department to ((conduct)) submit and receive background checks through ((the background check central unit)) BCCU.

(("Background check applicant" means an employee, volunteer, student, intern, licensee, service provider, contractor or other individual who is the subject of the background check and who will work in a position that:

(1) May have unsupervised access to vulnerable adults, juveniles or children as described in WAC 388-06-0610; or

(2) Is designated by the department as a sensitive position.))

"Background check central unit" or "BCCU" is the program responsible for conducting background checks for the department ((of social and health services)).

(1) ((The background check central unit)) BCCU is responsible for:

(a) Compiling background check information from external and internal data sources; ((and))

(b) Determining whether an applicant's background check information matches the appropriate department list of disqualifying crimes and negative actions; and

(c) Providing information to the authorized entity who requested the background check.

(2) ((The background check central unit)) BCCU does not:

(a) Make the final hiring, contracting, placement, or licensing decision for the department or authorized entity; ((or))

(b) Determine what program, service provider, licensee, contractor, or other public or private agency qualifies as an authorized entity; or

(c) Determine what crimes and negative actions are disqualifying under the respective department lists.

"Background check result" means a written notification that provides information on the results of the background check process conducted for a background check applicant. A disqualify result, review required result, or no record result are all background check results.

"Certificate of restoration of opportunity" or "CROP" means a certificate obtained under chapter 9.97 RCW.

"Department" means the department of social and health services.

"Disqualify result" means that BCCU has determined that the applicant's background check information has one or more items requiring automatic disqualification.

"No record result" means that BCCU has determined that no background information has been reported requiring automatic disqualification or review.

"Review required result" means that BCCU has determined that the applicant has one or more items of background check information, none of which require automatic disqualification.

NEW SECTION

WAC 388-06-0800 When must BCCU include a statement about a certificate of restoration of opportunity? (1) BCCU must include a statement about any existing CROP in background check results for all background check applicants that the department is authorized to disqualify for a license, certificate of authority, qualification to engage in the practice of a profession or business, or for admission to an examination to qualify for such a license or certificate, except as provided for in subsections (2) through (4) of this section.

(2) BCCU is not required to include a statement about any existing CROP for an applicant who is exempt under chapter 9.97 RCW.

(3) BCCU is not required to include a statement about any existing CROP when BCCU issues any interim communications, including when:

(a) Requesting additional information;

(b) Notifying about an error;

(c) Rejecting a form;

(d) Requesting a thumbprint; or

(e) Any other communication that does not assess the final results of a processed background check.

(4) BCCU is not required to include a statement about any existing CROP in any no record result.

NEW SECTION

WAC 388-06-0810 Does a certificate of restoration of opportunity apply to any state abuse and neglect registry? A CROP does not apply to the state abuse and neglect registry. No finding of abuse, neglect, or misappropriation of property may be removed from the registry based solely on a CROP.