



PROPOSED RULE MAKING

CR-102 (August 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 28, 2017

TIME: 8:42 AM

WSR 17-20-034

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

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 17-16-064 ; 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).**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) The department proposes amendments to WAC 388-14A-4505, "The notice of noncompliance and intent to suspend licenses" and WAC 388-14A-4510, "Who is subject to the DCS license suspension program?" in order to implement Engrossed Substitute House Bill 1814 (Chapter 269, Laws of 2017), which took effect on July 23, 2017. In addition to these proposed rules, the Division of Child Support (DCS) adopted emergency rules under WSR 17-16-026, effective July 23, 2017.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 7, 2017	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than November 8, 2017 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850, Olympia, WA 98504
Email: DSHSRPAURulesCoordinator@dshs.wa.gov
Fax: 360-664-6185
Other:
By (date) 5:00 p.m. November 7, 2017

Assistance for persons with disabilities:

Contact Jeff Kildahl, DSHS Rules Consultant
Phone: 360-664-6092
Fax: 360-664-6185
TTY: 711 Relay Service
Email: Kildaja@dshs.wa.gov
Other:
By (date) October 24, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: ESHB 1814 (Chapter 269, Laws of 2017), which took effect on July 23, 2017, amended RCW 74.20A.320 to change the requirements for service of the Notice of Noncompliance and Intent to Suspend Licenses, which is the first step in the process to suspend one or more licenses of a noncustodial parent who is not in compliance with a court order.

Reasons supporting proposal: In order to implement ESHB 1814, the Division of Child Support (DCS) must amend WAC 388-14A-4505 and must correct a cross-reference in WAC 388-14A-4510. DCS adopted emergency rules under WSR 17-16-026, effective July 23, 2017.

Statutory authority for adoption: Implementation of ESHB 1814 (Chapter 269, Laws of 2017), which took effect on July 23, 2017, is authorized under RCW 26.23.030, RCW 34.05.220(1)(a), RCW 34.05.322, RCW 34.05.350(1)(a) and (b), RCW 74.04.055, RCW 74.08.090, RCW 74.20.040(9), RCW 74.20A.310, and RCW 74.20A.328.

Statute being implemented: RCW 74.20A.320, as amended by ESHB 1814 (Chapter 269, Laws of 2017).

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: Implementation of state law change made by ESHB 1814 (Chapter 269, Laws of 2017).

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: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, POB 9162, Olympia WA 98507-9162	360-664-5065
Implementation: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, POB 9162, Olympia WA 98507-9162	360-664-5065
Enforcement: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, POB 9162, Olympia WA 98507-9162	360-664-5065

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

No: Please explain: Although this rule meets the definition of a significant legislative rule under RCW 34.05.328(5), the requirement for a cost-benefit analysis does not apply because this rule adopts a state statute [RCW 34.05.328(5)(b)(iii)] and the content of the rule is "explicitly and specifically dictated by statute" [RCW 34.05.328(5)(b)(v)].

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW RCW 34.05.328(5)(b)(iii) and 34.05.328(5)(b)(v).

Explanation of exemptions, if necessary: This rule does not have an economic impact on any business.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: September 26, 2017

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

WAC 388-14A-4505 The notice of noncompliance and intent to suspend licenses. (1) Before certifying a noncustodial parent (NCP) for noncompliance, the division of child support (DCS) must serve the NCP with a notice of noncompliance and intent to suspend licenses. This notice tells the NCP that DCS intends to submit the NCP's name to the department of licensing and any other appropriate licensing entity as a licensee who is not in compliance with a child support order.

(2) The language of the underlying child support order determines the method by which DCS must serve the notice of noncompliance and intent to suspend licenses.

(3) If the support order establishing or modifying the child support obligation includes a statement required under RCW 26.23.050 that the NCP's privileges to obtain and maintain a license may not be renewed or may be suspended if the NCP is not in compliance with a support order, DCS may serve the notice by regular mail to the NCP's last known mailing address on file with the department.

(a) Notice by regular mail is deemed served three days from the date the notice was deposited with the United States Postal Service.

(b) DCS may choose to serve the notice by personal service.

(4) If the support order does not include a statement that the NCP's privileges to obtain and maintain a license may not be renewed or may be suspended if the NCP is not in compliance with a support order:

(a) DCS must serve the notice by certified mail, return receipt requested.

(b) If DCS is unable to serve the notice by certified mail, DCS must serve the notice by personal service, as provided in RCW 4.28.080.

~~((3) The notice must include a copy of the NCP's child support order and must contain the address and phone number of the DCS office which issued the notice.~~

~~(4))~~ (5) The notice must contain the information required by RCW 74.20A.320(2), including:

(a) The address and telephone number of DCS office that issued the notice;

(b) That in order to prevent DCS from certifying the NCP's name to the department of licensing or other licensing entity, the NCP has twenty days from receipt of the notice, or sixty days after receipt if the notice was served outside the state of Washington, to contact the department and:

(i) Pay the overdue support amount in full;

(ii) Request a hearing as provided in WAC 388-14A-4527;

(iii) Agree to a payment schedule as provided in WAC 388-14A-4520; or

(iv) File an action to modify the child support order with the appropriate court or administrative forum, in which case DCS will stay the certification process up to six months.

(c) That failure to contact DCS within twenty days of receipt of the notice (or sixty days if the notice was served outside of the state of Washington) will result in certification of the NCP's name to the department of licensing and any other appropriate licensing entity for noncompliance with a child support order. Upon receipt of the notice:

(i) The licensing entity will suspend or not renew the NCP's license and the department of licensing (DOL) will suspend or not renew any driver's license that the NCP holds until the NCP provides DOL or the other licensing entity with a release from DCS stating that the NCP is in compliance with the child support order;

(ii) The department of fish and wildlife will suspend a fishing license, hunting license, occupational licenses (such as a commercial fishing license), or any other license issued under chapter 77.32 RCW that the NCP may possess. In addition, suspension of a license by the department of fish and wildlife may also affect the NCP's ability to obtain permits, such as special hunting permits, issued by the department. Notice from DOL that an NCP's driver's license has been suspended shall serve a notice of the suspension of a license issued under chapter 77.32 RCW.

(d) That suspension of a license will affect insurability if the NCP's insurance policy excludes coverage for acts occurring after the suspension of a license; and

(e) If the NCP subsequently comes into compliance with the child support order, DCS will promptly provide the NCP and the appropriate licensing entities with a release stating the NCP is in compliance with the order.

(6) DCS is not required to include a copy of the NCP's child support order with the notice. Upon request from the NCP, DCS must provide a copy of the order or orders that serve as a basis for the notice of noncompliance.

AMENDATORY SECTION (Amending WSR 10-03-029, filed 1/12/10, effective 2/12/10)

WAC 388-14A-4510 Who is subject to the DCS license suspension program?

(1) The division of child support (DCS) may serve a notice of noncompliance on a noncustodial parent (NCP) who is not in compliance with a child support order.

(a) DCS may serve a notice of noncompliance on an NCP who meets the criteria of this section, even if the NCP is in jail or prison. Unless the NCP has other resources available while in jail or prison, DCS stays the commencement of the objection period set out in WAC ((~~388-14A-4505-(4)(b)~~) 388-14A-4505(5)(b)) until the NCP has been out of jail or prison for thirty days.

(b) DCS may serve a notice of noncompliance on an NCP who meets the criteria of this section, even if the NCP is a public assistance recipient. DCS stays the commencement of the objection period in WAC ((~~388-14A-4505-(4)(b)~~) 388-14A-4505(5)(b)) until the thirty days after the NCP's cash assistance grant is terminated.

(2) Compliance with a child support order for the purposes of the license suspension program means the NCP owes no more than six months' worth of child support.

(3) Noncompliance with a child support order for the purposes of the license suspension program means an NCP has:

(a) An obligation to pay child support under a court or administrative order; and

(b) Accumulated a support debt, also called an arrears or arrearage, totaling more than six months' worth of child support payments; or

(c) Failed to do one of the following:

(i) Make payments required by a court order or administrative order towards a support debt in an amount that is more than six months' worth of payments; or

(ii) Make payments to the Washington state support registry under a written agreement with DCS toward current support and arrearages and the arrearages still amount to more than six months' worth of child support payments.

(4) There is no minimum dollar amount required for license suspension, as long as the arrears owed by the NCP amount to more than six months' worth of support payments:

Example 1. Assume the child support order sets current support at one hundred dollars per month: The NCP has not made a single payment since the order was entered seven months ago. This NCP is more than six months in arrears.

Example 2. Assume the child support order sets current support at one hundred dollars per month: The NCP has paid for the last few months, but owes arrears of over six hundred dollars. This NCP is more than six months in arrears.

Example 3. Assume the child support order sets current support at one hundred dollars per month: The child is over eighteen, and no more current support is owed. However, the NCP has a debt of over one thousand two hundred dollars. This NCP is more than six months in arrears.

Example 4. Assume a judgment of three thousand dollars is entered by the court: The order requires the NCP to pay fifty dollars per month toward the arrears. The NCP has not made payments toward this obligation for eight months. This NCP is more than six months in arrears.