



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: December 09, 2019

TIME: 9:24 AM

WSR 20-01-045

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 19-15-101 ; 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); or

Proposal is exempt under RCW .

Title of rule and other identifying information: (describe subject) The DSHS Division of Child Support (DCS) is proposing to amend WAC 388-14A-3903 "How does DCS decide whether to petition for modification of a support order?" to implement §§ 2 and 3 of Engrossed Substitute House Bill 1916 (ESHB 1916, Chapter 275, Laws of 2019), which took effect on July 28, 2019.

DCS filed a CR-103E Rule-making Order as WSR 19-16-013, effective July 28, 2019. That first emergency rule expired on November 22, 2019. DCS filed a second CR-103E Rule-making Order as WSR 19-24-022, effective November 23, 2019, with the same rule text to maintain the status quo until the permanent rule is effective.

The text of the proposed permanent rule is the same as the rule text used in the two emergency rule filings.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 22, 2020	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/office-of-the-secretary/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than January 23, 2020 (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. January 22, 2020

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) January 8, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is implementation of Section 4 of ESHB 1916 (Chapter 275, Laws of 2019), which amended RCW 74.20.040. ESHB 1916 amended the criteria used by the DCS for modification or adjustment of child support orders in RCW 26.09.170 and RCW 74.20A.059. This change potentially allows more families to benefit from modification of their child support orders by reducing the requirement that the child support amount change as a result of the review from 25% to 15%. Another change relates to incarceration of the noncustodial parent as a reason for modification review of the child support order at any time without a showing of a substantial change in circumstances or a 15% change in the order amount when incarceration is the reason for the change in the support order. DCS may make additional changes to the modification criteria that will allow for greater flexibility for child support order modifications.

Reasons supporting proposal: The amendment to the rules is necessary to implement changes in RCW 26.09.170 and RCW 74.20A.059 regarding review and modification of child support orders.

Statutory authority for adoption: §§ 2 and 3 of Engrossed Substitute House Bill 1916 (ESHB 1916, Chapter 275, Laws of 2019) which took effect on July 28, 2019 and amended RCW 26.09.170 and RCW 74.20A.059, RCW 26.09.105, RCW 26.18.170, RCW 34.05.220(1)(a), RCW 34.05.322, RCW 74.04.055, RCW 74.08.090, RCW 74.20.040(9), RCW 74.20A.310

Statute being implemented: RCW 26.09.170, RCW 74.20A.059

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: 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: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, P.O. Box 9162, Olympia WA 98507-9162	360-664-5065
Implementation: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, P.O. Box 9162, Olympia WA 98507-9162	360-664-5065
Enforcement: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, P.O. Box 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 may meet the definition of a significant legislative rule under RCW 34.05.328, the requirement for a cost-benefit analysis does not apply under RCW 34.05.328(5)(b)(vii).

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 19.85.025(4).

Explanation of exemptions, if necessary: This proposal does not affect small businesses.

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: December 5, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-14A-3903 How does DCS decide whether to petition for modification of a support order? (1) The division of child support (DCS) petitions to modify a support order when DCS finds during the review that each of the following conditions are present:

(a) The proposed change in child support based on the Washington state child support schedule:

(i) Is at least (~~twenty-five~~) fifteen percent above or below the current support obligation;

(ii) Is at least one hundred dollars per month above or below the current support obligation; and

(iii) Is at least a two thousand four hundred dollar change over the remaining life of the support order; or

(iv) Will provide enough income to:

(A) Make the family ineligible for public assistance if the non-custodial parent (NCP) pays the full amount due under the proposed order; or

(B) Allow a family, otherwise eligible for public assistance, to remain off of assistance.

(b) The case meets the legal requirements for modification under RCW 26.09.170, 74.20A.059, or WAC 388-14A-3925.

(2) DCS may petition to modify the order without regard to subsection (1)(a)(i) of this section if the reason DCS reviewed the order is the noncustodial parent's incarceration.

(3) DCS may petition to modify the order without regard to subsection (1)(a) of this section when:

(a) The order does not require the NCP to provide health insurance coverage for the children; and

(b) Health insurance coverage is available through the NCP's employer or union at a reasonable cost; or

(c) Both parties agree to an order modifying the support amount.