RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

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

Emergency Rule Only

Effective date of rule:
Emergency Rules
☒ Immediately upon filing.
☐ Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes ☒ No If Yes, explain:

Purpose:
The Background Check Central Unit is amending three sections of Chapter 388-06 WAC related to what crimes and pending charges may be considered disqualifying by Children's Administration when licensing or approving an individual to have unsupervised access to children. This rulemaking is being filed on behalf of Children's Administration to comply with Section 4 of Chapter 88, Laws of 2014 (SSB 6095).

Citation of existing rules affected by this order:
Repealed: None
Amended: WAC 388-06-0170, WAC 388-06-0180, WAC 388-06-0200
Suspended: None

Statutory authority for adoption: Chapter 88, Laws of 2014; RCW 43.43.832

Other authority : PL 105-89**; RCW** 74.15.030

EMERGENCY RULE
Under RCW 34.05.350 the agency for good cause finds:
☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☒ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Emergency revisions are necessary to implement Chapter 88, Laws of 2014 (SSB 6095) which limits the background information that Children's Administration may consider disqualifying.

This filing replaces and supersedes CR103E filed as WSR 14-13-063 on June 12, 2014

The initial public notice (CR-101) for permanent rule-making was filed as WSR 14-13-065 on June 12, 2014

Date adopted: July 22, 2014

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 24, 2014
TIME: 4:19 PM

WSR 14-16-017

(COMPLETE REVERSE SIDE)

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	0	Amended	3	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted in the agency's own initiative:

New _____ Amended _____ Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	0	Amended	3	Repealed	_____

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0170 Will a criminal conviction permanently prohibit me from being licensed, contracted, or authorized to have unsupervised access to children or to individuals with developmental disability? (1) There are convictions for certain crimes that will permanently prohibit you from being licensed, contracted, certified or authorized to have unsupervised access to children or to individuals with developmental disability. Those felony convictions are as follows:

(a) Child abuse and/or neglect;

(b) Spousal abuse;

(c) A crime against a child (including child pornography);

(d) A crime involving violence (including rape, sexual assault, or homicide but not including other physical assault or battery); or

(e) Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children or individuals with developmental disabilities in any home or facility.

(2) If you are convicted of one of the crimes listed in WAC 388-06-0170 (1)(a) through (e) you will not be able to:

(a) Receive a license to provide care to children;

(b) Be approved for adoption of a child;

(c) Be a contractor;

(d) Be employed by a licensed agency or contractor, if you will have unsupervised access to children or to individuals with a developmental disability;

(e) Volunteer or participate as an intern in a home or facility that offers care to children or to individuals with a developmental disability; or

(f) Provide any type of care to children or to individuals with a developmental disability, if the care is funded by the state.

AMENDATORY SECTION (Amending WSR 10-16-083, filed 7/30/10, effective 8/30/10)

WAC 388-06-0180 Are there other criminal convictions that will prohibit me from being licensed, contracted, or authorized to have unsupervised access to children or from working with children or individuals with a developmental disability? The department must disqualify you from licensing, contracting, certification, or from having unsupervised access to children or to individuals with a developmental disability if it has been less than five years from a conviction for the following crimes:

(1) Any felony physical assault or battery offense not included in WAC 388-06-0170;

(2) ((~~Any sex offense not included in WAC 388-06-0170;~~

~~(3) Any felony conviction not included in WAC 388-06-0170; or~~

~~(4)~~)) Felony violation of the following drug-related crimes:

(a) The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances (see chapter 69.52 RCW));

(b) The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);

(c) The Precursor Drug Act (substances used in making controlled substances, see chapter 69.43 RCW);

(d) The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or

(e) Unlawfully manufacturing, delivering or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.

(5) Any federal or out-of-state conviction for an offense that under the laws of Washington state would disqualify you for no less than five years from having unsupervised access to children or individuals with a developmental disability.

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0200 Will I be disqualified if there are pending criminal charges on my background check? (1) The department will not license, contract, certify, or authorize a person to have unsupervised access to children or individuals with a developmental disability who have a criminal charge pending for a disqualifying crime described in the adoption and safe families act of 1997, or a criminal charge pending for a disqualifying crime that relates directly to child safety, permanence, or well-being.

(2) You may reapply for a license, contract, certification, or approval to have unsupervised access to children or to individuals with a developmental disability by providing proof to the department that the charge against you has been dropped or that you were acquitted.