



# RULE-MAKING ORDER

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

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

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) July 23, 2017

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:**

The department is amending WAC 388-14A-4505 and WAC 388-14A-4510 in order to implement Engrossed Substitute House Bill 1814 (Chapter 269, Laws of 2017), which takes effect on July 23, 2017.

At the same time, the department is filing a CR-101, *Preproposal Statement of Inquiry*, to commence the regular rulemaking process to permanently amend WAC 388-14A-4505 and WAC 388-14A-4510. The Division of Child Support (DCS) hopes that the regular rulemaking process can be completed within the span of this emergency filing, but recognizes that the timelines under chapter 34.05 RCW may require the adoption of a second emergency rule to maintain the status quo if the final rule cannot be made effective within that time.

**Citation of existing rules affected by this order:**

Repealed: None  
 Amended: WAC 388-14A-4505, WAC 388-14A-4510  
 Suspended: None

**Statutory authority for adoption:**

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, RCW 74.20A.328

**Other authority:**

**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:

ESHB 1814 (Chapter 269, Laws of 2017), which takes 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.

In order to implement ESHB 1814, DCS must amend WAC 388-14A-4505 and must correct a cross-reference in WAC 388-14A-4510.

**Date adopted:**

July 20, 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 21, 2017**

**TIME: 12:21 PM**

**WSR 17-16-026**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

**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.