



# RULE-MAKING ORDER EMERGENCY RULE ONLY

## CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 23, 2020

TIME: 9:33 AM

WSR 20-04-003

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

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) January 28, 2020

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

- Yes
  - No
- If Yes, explain:

**Purpose:** The DSHS Division of Child Support (DCS) files this second CR-103E, Rule-Making Order, to adopt second emergency rules amending WAC 388-14A-2200 and WAC 388-14A-2205 in order to implement §4 of Engrossed Substitute House Bill 1916 (ESHB 1916, Chapter 275, Laws of 2019).

ESHB 1916 took effect on July 28, 2019, but the changes to the annual fee took effect on October 1, 2019.

DCS previously filed emergency rules with the exact same language as WSR 19-20-082, effective October 1, 2019. We are filing this second emergency rule to maintain the status quo as we adopt permanent changes to WAC 388-14A-2200 and WAC 388-14A-2205 (which will have the same language).

DCS filed a CR-101, Preproposal Statement of Inquiry, as WSR 19-17-092 to commence the permanent rulemaking process to amend WAC 388-14A-2200 and WAC 388-14A-2205. The CR-102, Proposed Rulemaking, was filed December 9, 2019 as WSR 20-01-046 and the public rulemaking hearing was held January 22, 2020.

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

- New: None
- Repealed: None
- Amended: WAC 388-14A-2200, WAC 388-14A-2205
- Suspended: None

**Statutory authority for adoption:** RCW 34.05.350(1)(a) and (b), Section 4 of ESHB 1916 (Chapter 275, Laws of 2019), 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), and RCW 74.20A.310.

**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.

**Reasons for this finding:** Section 4 of ESHB 1916 (Chapter 275, Laws of 2019), which took effect on July 28, 2019, amended RCW 74.20.040, making two changes regarding the annual fee the Division of Child Support (DCS) imposes for each case in which support enforcement services are furnished where the person entitled to receive support has never received assistance under the temporary assistance for needy families, the aid to families with dependent children program, or a tribal temporary assistance for needy families program. These changes include the following: (1) the annual fee is increased from \$25 to \$35; and (2) the threshold amount that triggers the fee is increased from \$500 during a federal fiscal year to \$550 in collections.

**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	<u>2</u>	Repealed	___
Recently enacted state statutes:	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 on 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	<u>2</u>	Repealed	___
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**The number of sections adopted using:**

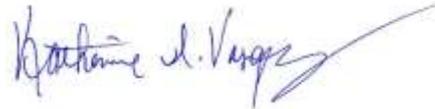
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>2</u>	Repealed	___

**Date Adopted:** January 22, 2020

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



AMENDATORY SECTION (Amending WSR 08-12-029, filed 5/29/08, effective 7/1/08)

**WAC 388-14A-2200 When does DCS charge a ((~~twenty-five~~)) thirty-five dollar annual fee on a child support case?** (1) Under RCW 74.20.040, the division of child support (DCS) must impose an annual fee of ((~~twenty-five~~)) thirty-five dollars for each case in which:

(a) The custodial parent (CP) has never received TANF, Tribal TANF or AFDC as the custodian of minor children; and

(b) DCS has collected and disbursed to the CP at least five hundred and fifty dollars on the case during that federal fiscal year. The federal fiscal year runs from October 1 through September 30.

(2) A custodial parent who has children with more than one non-custodial parent (NCP) may be assessed a separate ((~~twenty-five~~)) thirty-five dollar fee for each case in which DCS collects at least five hundred and fifty dollars in a federal fiscal year.

(3) If DCS has already collected the ((~~twenty-five~~)) thirty-five dollar annual fee on a Washington state case and the CP begins receiving TANF or Tribal TANF during the same federal fiscal year, DCS is not required to refund or cancel the fee.

(4) If the CP with a Washington case has paid a fee to another state during the same federal fiscal year, the CP is still subject to the fee in Washington if the Washington case qualifies for a fee under subsection (1) above.

(5) A CP has the burden of proving prior receipt of TANF, Tribal TANF or AFDC in any jurisdiction, which would exempt the CP from paying the annual fee.

(a) DCS may impose the fee until the CP provides proof of prior receipt of TANF, Tribal TANF or AFDC.

(b) DCS does not refund any fee which has been retained by the state, but stops charging the fee immediately when the CP provides proof that the CP is not subject to the fee.

(6) The fee is retained from support payments collected, which means that the NCP gets credit against the child support obligation for the total amount of the payment.

AMENDATORY SECTION (Amending WSR 08-12-029, filed 5/29/08, effective 7/1/08)

**WAC 388-14A-2205 How can a custodial parent be excused from payment of the annual fee?** (1) WAC 388-14A-2200 describes the cases that qualify for the ((~~twenty-five~~)) thirty-five dollar annual fee.

(2) A custodial parent (CP) seeking to be excused from payment of the fee may provide proof that he or she is exempt from the fee because he or she received TANF, Tribal TANF or AFDC from another state or tribe.

(3) A CP may request a conference board under WAC 388-14A-6400 to request a waiver of the fee for hardship reasons. The CP must provide proof that hardship in the CP's household justifies waiver of the fee.

(4) Payment of the annual fee in another state does not excuse the CP from the annual fee charged for a Washington case.

(5) If the CP seeks a waiver from payment of the annual fee during a year when the fee has already been collected, the fee for that

year is not refunded, but DCS waives collection of the fee for future years unless the waiver is overturned at a later time.