



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 08, 2021

TIME: 8:01 AM

WSR 21-23-020

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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 adopting amendments to WAC 388-454-0006, The department makes background checks on adults who are acting in place of a parent without court-ordered custody. These amendments align TANF and SFA background check rules with Second Substitute House Bill 1645 (Chapter 270, Laws of 2020) and related Department of Children Youth and Families policies, and clarify that the department will not consider a founded finding of abuse, neglect, or dependency for clients who have a verified Certificate of Parental Improvement.

Amendments also clarify that the department will not consider a conviction that is pardoned, vacated, or that the client has received a certificate of rehabilitation, for the purposes of this section.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WAC 388-454-0006
- Suspended: None

Statutory authority for adoption: RCW 43.43.832, RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.08.090 and RCW 74.12.290

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-11-068 on May 17, 2021; WSR 21-08-72 on April 6, 2021; and WSR 20-20-86 on October 5, 2020 (date).

Describe any changes other than editing from proposed to adopted version: Section 7 has been modified to clarify that convictions that receive a pardon or certificate of rehabilitation do not count against the *In Loco Parentis* caregiver in the background check. The change was made because of comments received during the public comment period.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name: N/A
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**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	___	Amended	<u>1</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>1</u>	Repealed	___
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The number of sections adopted using:

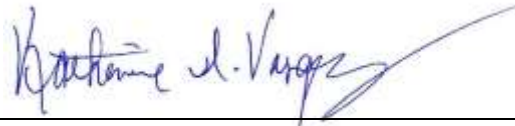
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: November 4, 2021

Name: Katherine I. Vasquez

Title: Rules Coordinator

Signature:



WAC 388-454-0006 The department makes background checks on adults who are acting in place of a parent without court-ordered custody. (1) We check your background when you ask for temporary assistance for needy families (TANF) or state family assistance (SFA) benefits for a child who:

(a) Is not related to you; and

(b) Lives with you but you do not have a court order that gives you legal custody of the child.

(2) A child who is not related to you cannot receive TANF/SFA benefits while living with you until we have completed a background check and the results of the background check meet the criteria in subsection (3) through (5) of this section.

(3) A child who is not related to you cannot receive benefits while living with you if:

(a) You have been convicted of a crime listed in WAC ((388-06A-0170)) 110-04-0100(1)(a) through (e); or

(b) You have been convicted of a crime listed in WAC ((388-06A-0180)) 110-04-0110(1) through (3) within the last five years; or

(c) You have a pending criminal charge for a disqualifying crime listed in WAC 110-04-0130(1)(a) through (b); or

(d) You are determined by the department to not have the character, suitability, and competence necessary to receive benefits for a child not related to you, as described in subsection (4) and (5) of this section.

(4) We review your background when you have been convicted of a crime listed in WAC ((388-06A-0180)) 110-04-0110(1) through (3), more than five years ago to determine your character, suitability, and competence to receive benefits for a child not related to you. We consider the following factors:

(a) The amount of time that has passed since you were convicted;

(b) The seriousness of the crime that led to the conviction;

(c) The number and types of convictions in your background; and

(d) Your age at the time of the conviction.

(5) When you have a conviction for a crime other than those listed in WAC ((388-06A-0170)) 110-04-0100(1)(a) through (e), or ((388-06A-0180)) 110-04-0110(1) through (3) or have a founded finding of child abuse or neglect, as defined in WAC 110-03-0020, we review your background as described in subsection (4) of this section.

(6) If you disclose to us that you have received a certificate of parental improvement, as described in WAC 110-05-0001, and we verify it, then the related founded finding of child abuse or neglect, or dependency finding will not be considered in our determination under this section.

(7) Expunged ((~~o~~)), pardoned, sealed, or vacated conviction records, or those convictions for which you received a certificate of rehabilitation, do not count against you.