



**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: July 25, 2019

TIME: 10:45 AM

WSR 19-16-013

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) July 28, 2019

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 CR-103E, *Rule-Making Order*, to adopt an emergency rule amending WAC 388-14A-3903 in order to implement §§ 2 and 3 of Engrossed Substitute House Bill 1916 (ESHB 1916, Chapter 275, Laws of 2019), which takes effect on July 28, 2019.

At the same time, DCS is filing a CR-101, *Preproposal Statement of Inquiry*, to commence the regular rulemaking process to permanently amend WAC 388-14A-3903. 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 rules affected by this order:

New: None
Repealed: None
Amended: WAC 388-14A-3903
Suspended: None

Statutory authority for adoption: Emergency rulemaking is authorized under RCW 34.05.350(1)(a) and (b) in order to implement ESHB 1916 (Chapter 275, Laws of 2019), which takes effect on July 28, 2019. Further authority is found in 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: ESHB 1916 (Chapter 275, Laws of 2019), which takes effect on July 28, 2019, amended RCW 26.09.170 and RCW 74.20A.059 to change the criteria for modification or adjustment of child support orders. 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 by 25% to 15%. Another change, adopted due to federal requirements, provides that incarceration of the noncustodial parent in and of itself can serve 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. In order to implement ESHB 1916, DCS must amend WAC 388-14A-3903.

**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>1</u>	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:

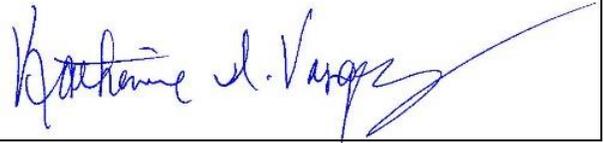
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: July 22, 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.