



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: April 02, 2018

TIME: 3:29 PM

WSR 18-08-066

Agency: Department of Social and Health Services, Aging and Long-Term Support 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 amending the list of disqualifying crimes found in WAC 388-113-0020 related to the passage of HB 1153 and HB 1163 in the 2017 legislative session.

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 388-113-0020
 Suspended: None

Statutory authority for adoption: RCW 74.08.090, RCW 43.43.842, RCW 74.39A.056

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-22-090 on October 30, 2017 (date).

Describe any changes other than editing from proposed to adopted version: Reference to chapter 388-106 WAC was included in the question but inadvertently left out of the answer.

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

Name:
 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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___
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The number of sections adopted using:

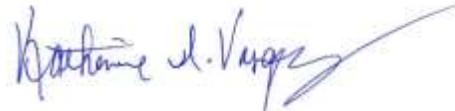
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: April 2, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC?

(1) Individuals who must satisfy background checks requirements under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC (~~may~~) must not work in a position that may involve unsupervised access to minors or vulnerable adults if (~~he or she~~) the individual has been convicted of or has a pending charge for (~~one~~) any of the following crimes:

- (a) Abandonment of a child;
- (b) Abandonment of a dependent person;
- (c) Abuse or neglect of a child;
- (d) Arson 1;
- (e) Assault 1;
- (f) Assault 2;
- (g) Assault 3;
- (h) Assault 4/simple assault (less than three years);
- (i) Assault 4 domestic violence felony;
- (j) Assault of a child;
- (~~(j)~~) (k) Burglary 1;
- (~~(k)~~) (l) Child buying or selling;
- (~~(l)~~) (m) Child molestation;
- (~~(m)~~) (n) Coercion (less than five years);
- (~~(n)~~) (o) Commercial sexual abuse of a minor/patronizing a juvenile prostitute;
- (~~(o)~~) (p) Communication with a minor for immoral purposes;
- (~~(p)~~) (q) Controlled substance homicide;
- (~~(q)~~) (r) Criminal mistreatment;
- (~~(r)~~) (s) Custodial assault;
- (~~(s)~~) (t) Custodial interference;
- (~~(t)~~) (u) Custodial sexual misconduct;
- (~~(u)~~) (v) Dealing in depictions of minor engaged in sexual explicit conduct;
- (~~(v)~~) (w) Domestic violence (felonies only);
- (~~(w)~~) (x) Drive-by shooting;
- (~~(x)~~) (y) Drug crimes, if they involve one or more of the following:
 - (i) Manufacture of a drug;
 - (ii) Delivery of a drug; (~~and~~)
 - (iii) Possession of a drug with the intent to manufacture or deliver.
- (~~(y)~~) (z) Endangerment with a controlled substance;
- (~~(z)~~) (aa) Extortion;
- (~~(aa)~~) (bb) Forgery (less than five years);
- (~~(bb)~~) (cc) Homicide by abuse, watercraft, vehicular homicide (negligent homicide);
- (~~(cc)~~) (dd) Identity theft (less than five years);
- (~~(dd)~~) (ee) Incendiary devices (possess, manufacture, dispose);
- (~~(ee)~~) (ff) Incest;
- (~~(ff)~~) (gg) Indecent exposure/public indecency (felony);
- (~~(gg)~~) (hh) Indecent liberties;
- (~~(hh)~~) (ii) Kidnapping;

((+ii)) (jj) Luring;
 ((+jj)) (kk) Malicious explosion 1;
 ((+kk)) (ll) Malicious explosion 2;
 ((+ll)) (mm) Malicious harassment;
 ((+mm)) (nn) Malicious placement of an explosive 1;
 ((+nn)) (oo) Malicious placement of an explosive 2 (less than five years);
 ((+oo)) (pp) Malicious placement of imitation device 1 (less than five years);
 ((+pp)) (qq) Manslaughter;
 ((+qq)) (rr) Murder/aggravated murder;
 ((+rr)) (ss) Possess depictions minor engaged in sexual conduct;
 ((+ss)) (tt) Promoting pornography;
 ((+tt)) (uu) Promoting prostitution 1;
 ((+uu)) (vv) Promoting suicide attempt (less than five years);
 ((+vv)) (ww) Prostitution (less than three years);
 ((+ww)) (xx) Rape;
 ((+xx)) (yy) Rape of child;
 ((+yy)) (zz) Residential burglary;
 ((+zz)) (aaa) Robbery;
 ((+aaa)) (bbb) Selling or distributing erotic material to a minor;
 ((+bbb)) (ccc) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
 ((+ccc)) (ddd) Sexual exploitation of minors;
 ((+ddd)) (eee) Sexual misconduct with a minor;
 ((+eee)) (fff) Sexually violating human remains;
 ((+fff)) (ggg) Stalking (less than five years);
 ((+ggg)) (hhh) Theft 1;
(iii) Theft from a vulnerable adult 1;
(jjj) Theft from a vulnerable adult 2 (less than ten years);
 ((+hhh)) (kkk) Theft 2 (less than five years);
 ((+iii)) (lll) Theft 3 (less than three years);
 ((+jjj)) (mmm) Unlawful imprisonment
 ((+kkk)) (nnn) Unlawful use of building for drug purposes (less than (5) five years);
 ((+lll)) (ooo) Use of machine gun in a felony;
 ((+mmm)) (ppp) Vehicular assault;
 ((+nnn)) (qqq) Violation of temporary restraining order or preliminary injunction involving sexual or physical abuse to a child;
 ((+ooo)) (rrr) Violation of a temporary or permanent vulnerable adult protection order (VAPO) that was based upon abandonment, abuse, financial exploitation, or neglect; and
 ((+ppp)) (sss) Voyeurism.

(2) If "(less than ten years)," "(less than five years)," or "(less than three years)" appears after a crime listed in subsection (1) ((above)) of this section, the individual is not automatically disqualified if the required number of years has passed since the date of the conviction. ~~((For example, if three or more years have passed since an individual was convicted of Theft in the 3rd degree that conviction would not be automatically disqualifying. If the required number of years has passed, the employer must conduct an overall assessment of the person's))~~ This will result in a letter from the background check central unit indicating a character, competence, and suitability review is required before allowing unsupervised access to children or vulnerable adults ((and minors)).

(3) When the department determines that a conviction or pending charge in federal court or in any other court, including state court is equivalent to a Washington state crime that is disqualifying under this section, the equivalent conviction or pending charge is also disqualifying.