



# 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 03, 2019

TIME: 9:54 AM

WSR 19-08-086

**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 Division of Child Support (DCS) is permanently adopting new and amended rules in chapter 388-14A WAC to implement changes to the Uniform Interstate Family Support Act (UIFSA, adopted in Washington as chapter 26.21A RCW) which were made to implement the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (known as the Hague Convention on Child Support).

Those statutory changes were adopted under Engrossed Substitute Senate Bill 5498 (ESSB 5498, Chapter 214, Laws of 2015) as part of Washington's state plan under Title IV-D of the federal Social Security Act. On September 29, 2014, President Obama signed into law H.R. 4980, entitled the Preventing Sex Trafficking and Strengthening Families Act ("the Act"), which became Public Law 113-183, which included a requirement that states adopt the Uniform Interstate Family Support Act (UIFSA) 2008 by July 1, 2015, as part of the state plan for the child support program under Title IV-D of the federal Social Security Act. 42 USC 654(20(A)); 42 USC 666(f).

These changes describe the procedures to be followed when DCS is enforcing or modifying a convention order, which is a child support order that was issued by a tribunal in a foreign country which has ratified the Hague Convention on Child Support.

*DCS is amending the following rules:*

WAC 388-14A-7100 "The division of child support may register an order from a tribe or another state or country for enforcement or modification"

WAC 388-14A-7110 "The division of child support may enforce interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state"

*DCS is adopting the following new rules:*

WAC 388-14A-7000 "The division of child support may register an order from a non-Washington jurisdiction for enforcement or modification"

WAC 388-14A-7005 "The division of child support may register an order from a foreign country under the Hague Convention on Child Support for enforcement or modification"

388-14A-7010 "What happens at a hearing on a notice of support debt and registration under the Hague Convention on Child Support?"

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

New: WAC 388-14A-7000, WAC 388-14A-7005, WAC 388-14A-7010

Repealed: None

Amended: WAC 388-14A-7100, WAC 388-14A-7110

Suspended: None

**Statutory authority for adoption:** RCW 26.21A.601 through RCW 26.21A.630, RCW 74.08.090

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 18-23-059 on November 16, 2018 (date).

Describe any changes other than editing from proposed to adopted version: None

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	<u>3</u>	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	<u>3</u>	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	<u>3</u>	Amended	<u>2</u>	Repealed	___

**Date Adopted:** April 2, 2019

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



NEW SECTION

**WAC 388-14A-7000 The division of child support may register an order from a non-Washington jurisdiction for enforcement or modification.**

(1) A child support order issued by a tribunal of another state, country, or jurisdiction is referred to in this chapter as a foreign order or an intergovernmental order. As described in subsection (3) of this section, there is a type of foreign order known as a convention order.

(2) Except for convention orders described in subsection (3) of this section, a child support order issued by a tribunal of another state or jurisdiction may be registered in this state for enforcement or modification at the request of a party to the order or at the request of the support enforcement agency of a tribe or of another state or country, using the Notice of Support Debt and Registration (NOSDR) as provided in WAC 388-14A-7100.

(3) Support orders issued by a tribunal in a foreign country which has ratified the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (known as the Hague Convention on Child Support) are known as convention orders. Convention orders may be registered in this state for enforcement or modification at the request of a party to the order or at the request of that country, using the Notice of Support Debt and Registration-Hague Convention on Child Support (NOSDR-HC) as provided in WAC 388-14A-7005.

(4) The Hague Convention on Child Support may, for the purposes of this chapter, also be known as the "Hague Convention."

NEW SECTION

**WAC 388-14A-7005 The division of child support may register an order from a foreign country under the Hague Convention on Child Support for enforcement or modification.**

(1) A child support order issued by a tribunal of a foreign country which has ratified the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (known as the Hague Convention on Child Support) may be registered in this state for enforcement pursuant to chapter 26.21A RCW at the request of a party to the convention order or at the request of the support enforcement agency of the foreign country.

(a) Such an order is, for the purposes of this chapter, known as a "convention order."

(b) At the option of the division of child support (DCS), a convention order may be registered with the superior court pursuant to RCW 26.21A.505 or it may be registered with the administrative tribunal according to subsection (2) of this section. Either method of registration is valid.

(c) A convention order is registered when the order is filed with the registering tribunal of this state.

(d) DCS may enforce a registered convention order in the same manner and subject to the same procedures as an order issued by a tribunal of this state.

(e) DCS may assess and collect interest on amounts owed under convention orders entered or established in a jurisdiction other than the state of Washington as provided in WAC 388-14A-7110.

(f) DCS notifies the parties that it is enforcing a convention order using the Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC) as provided in this section.

(2) DCS must give notice to the nonregistering party when it administratively registers a convention order. DCS gives this notice by using the Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC).

(a) The notice must inform the nonregistering party:

(i) That a registered convention order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered convention order, the party must request a hearing within thirty days after service of the notice on the nonregistering party, or if the contesting party does not reside in the United States, the contest must be filed no later than sixty days after notice of the registration;

(iii) That failure to contest the validity or enforcement of the registered convention order in a timely manner will result in confirmation and enforcement of the convention order and any alleged arrearages and such failure to contest the notice precludes further contest of the convention order with respect to any matter that could have been asserted;

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110; and

(v) Whether DCS has made a determination of controlling order under chapter 26.21A RCW, as described in WAC 388-14A-7325.

(b) The Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC) must be:

(i) Served on the nonregistering party by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Served on the registering party or entity by first class mail at the last known address; and

(iii) Accompanied by a copy of the registered convention order and any documents and relevant information accompanying the convention order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered convention order is the date DCS receives the request.

(3) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued by a foreign country that has ratified the Hague Convention on Child Support may register the convention order in this state according to RCW 26.21A.613 through 26.21A.615.

(a) The convention order must be registered as provided in subsection (1)(b) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a convention child support order registered for purposes of modification, as if a tribunal of this state had issued the order, but the registered convention order may be modified only if the requirements of RCW 26.21A.550 are met.

(4) Interpretation of the registered convention order is governed by RCW 26.21A.515.

NEW SECTION

**WAC 388-14A-7010 What happens at a hearing on a notice of support debt and registration under the Hague Convention on Child Support?** (1) After the service of a Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC) as described in WAC 388-14A-7005, either party to the convention order may object and request a hearing on the notice.

(2) A hearing under this section is for the limited purpose of determining if the nonregistering party (also called the contesting party for the purposes of this section) can prove one or more of the defenses listed in RCW 26.21A.617.

(3) If the contesting party presents evidence establishing a full or partial defense under 26.21A.617, the presiding officer must:

(a) Not limit the right of the division of child support (DCS) to enforce any severable parts of the convention order;

(b) Continue the proceeding to allow the parties to gather additional relevant evidence; or

(c) Issue other appropriate orders.

(4) As provided in RCW 26.21A.620, DCS may enforce an uncontested portion of the registered convention order by all remedies available under the law of this state before there is a final administrative order.

(5) If the contesting party does not establish a defense under 26.21A.617 to the validity or enforcement of the convention order, the presiding officer must issue an order confirming the registered convention order.

(6) The other party to the convention order may participate as a party to any hearing under this section.

(7) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) The issuing tribunal lacked personal jurisdiction consistent with RCW 26.21A.100;

(c) The order is not enforceable in the issuing country;

(d) The order was obtained by fraud in connection with a matter of procedure;

(e) A record transmitted in accordance with RCW 26.21A.613 lacks authenticity or integrity;

(f) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(h) Payment, to the extent alleged arrears have been paid in whole or in part;

(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) The order was made in violation of RCW 26.21A.625.

(8) If the presiding officer does not recognize the convention support order under subsection (7)(b), (7)(d) or (7)(i) of this section, the presiding officer may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order.

(9) DCS must take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under RCW 26.21A.607.

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

**WAC 388-14A-7100 The division of child support may register an order from a tribe or another state or country for enforcement or modification.** (1) A child support order or an income-withholding order for support issued by a tribunal of another state or jurisdiction may be registered in this state for enforcement pursuant to chapter 26.21A RCW at the request of a party to the order or at the request of the support enforcement agency of an Indian tribe or of another state or country.

(a) At the option of the division of child support (DCS), the support order or income-withholding order may be registered with the superior court pursuant to RCW 26.21A.505 or it may be registered with the administrative tribunal according to subsection (2) of this section. Either method of registration is valid.

(b) A support order or income-withholding order issued in another state or jurisdiction is registered when the order is filed with the registering tribunal of this state.

(c) DCS may enforce a registered order issued in another state or jurisdiction in the same manner and subject to the same procedures as an order issued by a tribunal of this state.

(d) DCS may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than the state of Washington as provided in WAC 388-14A-7110.

(e) DCS may notify the parties that it is enforcing a non-Washington support order using the notice of support debt and demand for payment under WAC 388-14A-3304 or using the notice of support debt and registration as provided in this section and in WAC 388-14A-7110. Either method of notice is valid.

(2) DCS must give notice to the nonregistering party when it administratively registers a support order or income-withholding order

issued in another state or jurisdiction. DCS gives this notice with the Notice of Support Debt and Registration (NOSDR).

(a) The notice must inform the nonregistering party:

(i) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered order, the party must request a hearing within twenty days after service of the notice on the nonregistering party within Washington state. If the nonregistering party was served with the notice outside of Washington state, the party has sixty days after service of the notice to request a hearing to contest the validity or enforcement of the registered order;

(iii) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted;

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110; and

(v) Whether DCS has made a determination of controlling order under chapter 26.21A RCW, as described in WAC 388-14A-7325.

(b) The notice must be:

(i) Served on the nonregistering party by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Served on the registering party by first class mail at the last known address; and

(iii) Accompanied by a copy of the registered order and any documents and relevant information accompanying the order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered order is the date DCS receives the request.

(3) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state or jurisdiction may register the order in this state according to RCW 26.21A.540 through 26.21A.550.

(a) The order must be registered as provided in subsection (1)(a) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a child support order of another state or jurisdiction registered for purposes of modification, as if a tribunal of this state had issued the order, but the registered order may be modified only if the requirements of RCW 26.21A.550 are met.

(4) Interpretation of the registered order is governed by RCW 26.21A.515.

(5) For information about the registration of a child support order under the 23 November 2007 Convention on the International Recover of Child Support and Other Forms of Family Maintenance, see WAC 388-14A-7005.

**WAC 388-14A-7110 The division of child support may enforce interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state.** (1) The division of child support (DCS) may accept an intergovernmental request to enforce interest when:

(a) The request is from:

(i) Another state's IV-D agency;

(ii) An Indian tribe;

(iii) A foreign country which has entered into a reciprocal agreement with the United States of America or with the state of Washington; ~~((or))~~

(iv) A foreign country which has ratified the Hague Convention on Child Support; or

(v) A custodial parent (CP) or noncustodial parent (NCP) who resides outside of Washington state who has filed a petition under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

(b) The party requesting that DCS enforce interest provides a calculation of the interest claimed which has been certified by a IV-D agency or a certified public accountant (CPA); and

(c) The support order was entered or established in a jurisdiction other than Washington state.

(2) When a foreign support order has been submitted for enforcement under UIFSA, DCS may, at its option, either:

(a) Use the notice of support debt and demand for payment to enforce interest on an out-of-state support order. See WAC 388-14A-3304 for the rules regarding the notice of support debt and demand for payment; or

(b) Use a notice of support debt and registration to enforce interest on the foreign order. See WAC 388-14A-7100 and 388-14A-7005 for the rules regarding registration of a foreign order.

(3) When an out of state order has been submitted for registration for enforcement and modification under UIFSA, DCS uses a notice of support debt and registration to enforce interest on the out of state order. See WAC 388-14A-7100 and 388-14A-7005 for the rules regarding registration of a foreign support order.

(4) Any hearing held on a notice of support debt and registration which includes a claim for interest is conducted in accordance with WAC 388-14A-7125 ~~((and))~~, 388-14A-7115, and 388-14A-7005.

(a) WAC 388-14A-7135 describes the procedures for confirmation of the registered order.

(b) WAC 388-14A-7135 describes the effect of confirmation of the registered order.

(5) At any time after the notice of support debt and registration becomes a final administrative order, DCS may update the amount of interest as provided in WAC 388-14A-7120.