



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 18, 2023

TIME: 4:27 PM

WSR 23-15-104

Agency: Department of Children, Youth, and Families (DCYF)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-11-033 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR** _____ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject)

- 110-745-0020 Notification to juvenile.
- 110-745-0030 Composition of board.
- 110-745-0040 Attendance at hearing.
- 110-745-0050 Consideration of evidence.
- 110-745-0060 Record of decision.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 22, 2023		Telephonic	Make oral comments by calling 360-972-5385

Date of intended adoption: August 23, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DCYF Rules Coordinator
 Address:
 Email: dcyf.rulescoordinator@dcyf.wa.gov
 Fax:
 Other: <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>
 By (date) August 22, 2023

Assistance for persons with disabilities:

Contact DCYF Rules Coordinator
 Phone: 360) 902-7956
 Fax:
 TTY:
 Email: dcyf.rulescoordinator@dcyf.wa.gov
 Other: <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>
 By (date) August 17, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: DCYF is amending these rules to provide governance when transferring individuals convicted as adults to the Department of Corrections.

Reasons supporting proposal: See Purpose

Statutory authority for adoption: RCW 13.40.280; RCW 72.01.410

Statute being implemented: RCW 13.40.280; RCW 72.01.410

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Children, Youth, and Families (DCYF)

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Andrea Ruiz	Olympia, WA	360-764-0221
Implementation:	DCYF	statewide	
Enforcement:	DCYF	statewide	

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No
If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?
 Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:
 No: Please explain: A cost benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328(5)(i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:
- This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.
- This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|--|---|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: July 18, 2023

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:

Chapter 110-745 WAC
TRANSFER OF ((JUVENILE OFFENDER)) INDIVIDUAL TO THE DEPARTMENT OF COR-
RECTIONS

NEW SECTION

WAC 110-745-0010 Applicable transfers. WAC 110-745-0020 through 110-745-0060 apply only to transfers pursuant to RCW 13.40.280.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-745-0020 Notification to ((juvenile)) proposed transfer-red individual. ((A juvenile)) (1) Individuals in the custody of the department being considered for transfer to DOC ((shall)) must be notified in writing at least ((five)) seven calendar days in advance of the review board hearing convened to consider the matter.

(2) The written notification ((to the juvenile offender will)) must include the reasons the transfer is being considered and a copy of the rules pertaining to the review board hearing.

(3) Prior to any review board hearing, ((the juvenile)) individuals being considered for transfer to DOC, or ((the juvenile's)) their attorney, ((shall)) will have the right ((of)) to access ((to, and adequate opportunity to)) and examine any department files or records ((of the department)) pertaining to the proposed transfer of the ((juvenile)) individual to the ((department of corrections)) DOC.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-745-0030 Composition of board. The review board will be composed of the ((director of DJR)) assistant secretary of juvenile rehabilitation division (JRD) or designee who will serve as the chairperson, and two ((other juvenile rehabilitation)) JRD administrators appointed by the ((chairman)) chairperson. The chairperson may also appoint up to three members of the department's legal office to serve on the review board. In the event of a tie vote, the chairperson or designee will act as the tiebreaker.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-745-0040 (~~(Attendance at)~~) Conduct of hearing. (1) Attendance at a review board (~~(shall)~~) hearing will be limited to parties directly concerned.

(2) The chairperson may exclude unauthorized persons unless the parties agree to their presence.

(3) Parties (~~(shall)~~) will have the right to present evidence, cross-examine witnesses, and make recommendations to the board.

(~~All relevant and material evidence is admissible which, in the opinion of the chairperson, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness.~~) (4) The hearing must be recorded manually or by a suitable recording device.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-745-0050 Consideration of evidence. (1) The review board must consider all evidence presented at the hearing by assessing the relevance, credibility, and usefulness of the evidence.

(2) At the conclusion of the hearing, the review board will consider all evidence presented and (~~(make a decision)~~) decide whether continued placement of the (~~(juvenile offender in an)~~) individual in a juvenile rehabilitation institution (~~(for juvenile offenders)~~) presents a continuing and serious threat to the safety of others in the institution.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-745-0060 Record of decision. The (~~(chair of the)~~) review board will prepare a written record of the decision and reasons (~~(therefore)~~) no later than seven calendar days after the hearing, unless extended by the secretary. (~~(The review board shall be recorded manually, or by mechanical, electronic, or other device capable of transcription.)~~)