

**WSR 23-14-102
EMERGENCY RULES
DEPARTMENT OF**

CHILDREN, YOUTH, AND FAMILIES

[Filed June 30, 2023, 2:47 p.m., effective July 1, 2023]

Effective Date of Rule: July 1, 2023.

Purpose: The department of children, youth, and families (DCYF) is amending rules governing the transfer of individuals to the department of corrections (DOC).

Citation of Rules Affected by this Order: Amending WAC 110-745-0020, 110-745-0030, 110-745-0040, 110-745-0050, and 110-745-0060.

Statutory Authority for Adoption: RCW 13.40.280; RCW 72.01.410.

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.

Reasons for this Finding: For individuals in DCYF custody convicted as adults, RCW 72.01.410 (1) (a), coupled with RCW 13.40.280, requires a review hearing process for transfer to DOC where an individual presents a threat to the security of the institution. Transfer for individuals convicted as adults are already occurring without rules providing guidance for those review hearings, which will comply with due process requirements. Emergency rules are required to ensure the individual has notice of the procedures and rights they are afforded during the hearings.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 30, 2023.

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OTS-4727.3

**Chapter 110-745 WAC
TRANSFER OF ((~~JUVENILE OFFENDER~~)) INDIVIDUAL TO THE DEPARTMENT OF CORRECTIONS**

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

WAC 110-745-0020 Notification to ((juvenile)) proposed transferred individual. ~~((A juvenile))~~ Any individual in the custody of the department being considered for transfer to DOC ~~((shall))~~ must be notified in writing at least five days in advance of the review board hearing convened to consider the matter. Notification ~~((to the juvenile offender))~~ will include the reasons the transfer is being considered and a copy of the rules pertaining to the review board hearing. Prior to any review board hearing, the ~~((juvenile))~~ individual being considered for transfer to DOC, or the ~~((juvenile's))~~ individual's attorney, ~~((shall))~~ will have the right of access to, and adequate opportunity to examine any 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 or designee who will serve as the chairperson, and two other juvenile rehabilitation administrators appointed by the ~~((chairman))~~ chairperson. The chairperson may appoint one or more members of the department's legal office to serve on the review board.

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

WAC 110-745-0040 Attendance at hearing. Attendance at a review board ~~((shall))~~ will be limited to parties directly concerned. The chairperson may exclude unauthorized persons unless the parties agree to their presence. 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.

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

WAC 110-745-0050 Consideration of evidence. At the conclusion of the hearing, the review board will consider all evidence presented and make a decision 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 five business days after the hearing, unless extended by the secretary. The hearing must be recorded manually or by a suitable recording device. ~~((The review board shall be recorded manually, or by mechanical, electronic, or other device capable of transcription.))~~