

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** \_\_\_\_\_

**DIVISION** \_\_\_\_\_

**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_

**TELEPHONE NO.** \_\_\_\_\_ **FAX NO.** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** \_\_\_\_\_

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes \_\_\_\_\_ No \_\_\_\_\_
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes \_\_\_\_\_ No \_\_\_\_\_  
If an agency is proposing a more costly rule, please state the following:
  - (a) How the additional benefits of the more costly rule justify its additional cost;
  - (b) The reason for adoption of the more costly rule;
  - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
  - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:
  - (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_

Other (Identify)\_\_\_\_\_

Total\_\_\_\_\_

Other (Identify)\_\_\_\_\_

Total\_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue\_\_\_\_\_

Federal Funds\_\_\_\_\_

Cash Funds\_\_\_\_\_

Special Revenue\_\_\_\_\_

Other (Identify)\_\_\_\_\_

Total\_\_\_\_\_

**Next Fiscal Year**

General Revenue\_\_\_\_\_

Federal Funds\_\_\_\_\_

Cash Funds\_\_\_\_\_

Special Revenue\_\_\_\_\_

Other (Identify)\_\_\_\_\_

Total\_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$\_\_\_\_\_

**Next Fiscal Year**

\$\_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$\_\_\_\_\_

**Next Fiscal Year**

\$\_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
- Yes\_\_\_\_\_ No\_\_\_\_\_

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **Statement of Necessity and Rule Summary**

### **Providing Information to and Gathering from Resource Parents**

#### **Statement of Necessity:**

These revised rules are necessary to update the Division of Children and Family Services' policy and procedure regarding sharing information with and gathering information from resource parents pursuant to Acts 317 and 814 of the 93<sup>rd</sup> General Assembly, Regular Session. The rules will also update the procedures regarding resource parents traveling with children placed in their home, to align with current practice.

#### **Summary:**

Effective May 1, 2022, the Division of Children and Family Services implement the following revised rules:

- **Policy VII-H: Providing Information to and Gathering Information from Resource Parents**
  - VII-H1 was removed as this information can be handled with internal procedures.
  - To revise policy to allow for currently or previously licensed resource parents (i.e., foster parents) receiving records, concerning a child who was previously placed in their resource home, that are relevant to the period of time in which the child was placed in that resource home and for which the resource parent has a legitimate need as determined by DCFS pursuant to Act 317 of the 93<sup>rd</sup> General Assembly, Regular Session.
  - To update policy to reflect the requirement that all resource parents must be called as a witness when providing information to the court about a child placed in their home pursuant to Act 814 of the 93<sup>rd</sup> General Assembly, Regular Session.
  - To make formatting improvements and technical corrections.
- **Procedure VI-H9: Travel Not Related to the Interstate Compact on the Placement of Children**
  - To update the procedure to better align with other sections of policy regarding encouraging normalcy, such as travel with a resource parent.
  - To clarify that DHS has the right to consent to the child's travel on vacation or similar trips as per A.C.A. § 9-27-353 (e).
  - To formalize existing practice guidance in writing, regarding allowing resource parents to transport children in foster care for an overnight stay (or more) outside of Arkansas with prior DHS approval, and that DCFS will not pay for vacation expenses.
  - To make formatting improvements and technical corrections.

## NOTICE OF RULE MAKING

The Director of the Division of Children and Family Services of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: A.C.A. § 9-28-103.

### **Effective May 1, 2022:**

The Director of the Division of Children and Family Services (DCFS) amends the DCFS Policy and Procedures Manual. DCFS amends policy VII-H to revise policy to align with Acts 317 and 814 of the 93<sup>rd</sup> General Assembly. Resource parents may receive records concerning a child previously in their care and must be called as a witness when providing information to the court about a child placed in their custody. DCFS amends section VI-H9 to align travel procedures with other policy regarding the encouragement of normalcy. These amendments include that a child in foster care may travel on vacation or similar trips with approval from the Department of Human Services and that resource parents must have prior written approval to transport children in foster care for an overnight stay outside the state. The revision also outlines the procedural requirements for submission of the request. DCFS also makes formatting and technical corrections throughout the sections.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than **March 14, 2022**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-534-4138.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. **4502024715.**



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Mischa Martin, Director  
Division of Children and Family Services

## **POLICY VII-H: PROVIDING INFORMATION TO AND GATHERING INFORMATION FROM RESOURCE~~FOSTER~~ PARENTS**

015/2022~~18~~

~~ResourceFoster~~ parents will be considered as team members working with other child welfare professionals for the family. Complete information, such as a child's health and education records, reasons for entering care, siblings, and probable length of placement, will be provided to ~~foster-resource~~ parents at the time of placement. Additional information, including, but not limited to, a complete copy of the Child and Adolescent Needs and Strengths (CANS) assessment and complete copy of the case plan for each child placed in the home, will be shared promptly with the ~~resourcefoster~~ parents. Resource-Foster parents are also allowed to receive a copy of substantiated child maltreatment report for the child in their care.

The child's ~~S~~social ~~s~~Security number may be given to the ~~foster-resource~~ parents, only if the ~~resourcefoster~~ parent must have the number to obtain services, care, or treatment for the child (e.g., to enroll the child in school or to obtain medical treatment when treatment is needed for a child who is not Medicaid eligible). The ~~resource foster~~ parent must keep the child's Social Security number confidential and use the Social Security number only for allowable purposes.

In addition, currently or previously licensed resource parents may receive records concerning a child who was previously placed in their resource home that are relevant to the period of time in which the child was placed in that resource home and for which the resource parent has a legitimate need as determined by the Division of Children and Family Services (DCFS). Examples may include providing the Social Security number of a child previously placed in the resource home for tax filing purposes.

~~Resource Foster~~ parents, to include pre-adoptive parents, and relative caregivers have the right to be heard in any proceeding held with respect to a child in their care and will be called as a witness to do so. DCFS staff are encouraged to support resource parents in sharing information with the court given that resource parents have a significant amount of knowledge about the child's daily functioning, strengths, and needs.

~~ResourceFoster~~ parents will not be made a party to any such proceeding while reunification remains the court ordered goal or solely on the basis that such persons are entitled to notice and the opportunity to be heard.

## **PROCEDURE VII-H1: Providing Information to Foster Parents**

04/2018

The Family Service Worker will:

- ~~A. Provide foster parents with copies of the CFS-6010: Case Plan, CFS-368: Health Services Plan and CFS-6007: Placement Plan-Placement Plan Provider Information Report within five calendar days of completion or revision.~~
- ~~B. Provide the foster parent with the child's Social Security number, when it is required, to obtain services, care, or treatment for the child.~~
- ~~C. Review and update the child's health and education records and provide copies to the out of home care provider at the time of placement.~~
- ~~D. Provide any additional information, as it becomes available, such as a complete copy of the most recent CANS assessment and the child's case plan.~~
  - ~~E. Submit the CFS-343: Notification of Court Appearance to foster parents within 10 calendar days of any review hearing to be held with respect to a child in their care. Send the CFS-343 through certified mail for all Permanency Planning Hearings.~~
- ~~— Provide the foster parent with a copy of a substantiated child maltreatment report on the child in their care, if requested. within two (2) business days regarding if the resource parent has a legitimate need for that information.~~
  - ~~— If the FSW Supervisor agrees that the resource parent has a legitimate need for the information, he or she will send the request to the for review and approval within two (2) business days of receipt of the request~~
  - ~~— The DCFS will review the request to assess if the resource parent has a legitimate need for the information and:~~
    - ~~— Approve or deny the request accordingly; and,~~
- ~~F. Inform the FSW Supervisor and FSW of the decision within two (2) business days of receipt of the request.~~

The foster parents will:

- ~~A. Maintain the information shared as confidential.~~
- ~~B. Use information contained in the case plan and other provided information to assist the child placed in the foster home in understanding the progress of the child's foster care case.~~



## **PROCEDURE VI-H9: ~~Other Travel Not Related to the Interstate Compact on the Placement of Children n ICPC and Non-DCFS Children Not in DHS Custody~~**

05/2022

Children in foster care may have the opportunity or need to travel for reasons not related to ICPC. These may include but are not limited to, vacationing with their resource family, an out-of-state visit with a family member, or attending a funeral of a family member. Any travel that promotes a sense of normalcy and connection for children in foster care is encouraged, as appropriate for a particular child and in accordance with the reasonable and prudent parent standard (see Policy VII-G for more information).

An out-of-state visit is thirty (30) days or less and is not subject to ICPC. However, if it is greater than thirty (30) days, it is a placement, which is subject to ICPC.

Because the Department of Human Services (DHS) is the appointed custodian of a child in foster care, DHS has the right to consent to the child's travel on vacation or similar trips as per A.C.A. § 9-27-353 (e). As such, resource parents must have prior written authorization to transport children in foster care for an overnight stay outside the State of Arkansas. Such requests will be made to the FSW as soon as travel planning begins, and at a minimum of two (2) weeks prior to scheduled travel dates, if possible.

Resource parents will not have to submit a request for out-of-state travel in order to cross the state border when travel plans do not require an overnight stay outside the State of Arkansas (for example: shopping or visiting with a relative in a nearby town over state lines).

When vacationing as a family, resource parents are encouraged to take any children placed in their home with them. However, DCFS will not pay for vacation expenses. As noted above, travel out of state involving an overnight stay or more requires prior written authorization.

For children placed out-of-state by an Arkansas court and who are not in DHS custody as the result of a dependency-neglect or dependency case, the sending party is responsible for arranging transportation rather than DHS.

For ~~n~~Non-ICPC travel of a child in DHS custody, the Family Service Worker will:

- A. Ensure that all parties to the case are made aware of and have input regarding the child in foster care traveling out of state (for example: to attend a funeral, go on vacation with a resource parent, or attend camp).
- B. Request prior agency approval, ~~by submitting~~using the DHS-1010 for ~~the~~a child and ~~for~~ an escort, as appropriate, to the FSW Supervisor who, if approved, will continue to request approval and associated signatures through the following chain of command:
  - 1) Area Director or designee;
  - 2) Assistant Director of Community Services or designee; and
  - 1)3) DCFS Director or designee. ~~-(e.g., to attend a funeral, go on vacation with a foster parent or go on a visit of less than 30 days.)~~

~~A. Direct requests and questions to the Foster Care Unit.~~

~~B. Exception: For children placed out of state by an Arkansas court, the sending party is responsible for arranging transportation (DHS does not have legal custody).~~

~~Forward the DHS-1010 to the Assistant Director of Community Services and then the DCFS Director for signatures.~~

~~Attach the child's court order giving authority to travel and written documentation from the attorney ad litem.~~

Notes:

~~An out-of-state visit is thirty (30) days or less and is not subject to ICPC. However, if it is greater than thirty (30) days, it is a placement, which is subject to ICPC.~~

~~Exception: For children placed out of state by an Arkansas court, the sending party is responsible for arranging transportation (DHS does not have legal custody).~~

C.