

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-8

CDHS Tracking #: 22-07-14-03

Office, Division, & Program:
OCYF/ DCW/ Permanency

Rule Author: Korey Elger

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RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

- a. x | Board Executive Director
- b. X | Regular Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

AG Initial Review

X Initial Board Reading

AG 2nd Review

Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

- Number
- 1 Amended Rules
- 16 New Rules
- Repealed Rules
- Reviewed Rules

What month is being requested for this rule to first go before the State Board? December 2022

What date is being requested for this rule to be effective? January 2023

Is this date legislatively required? No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director’s Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated 1st Board 12/9/22 2nd Board 1/6/23 Effective Date 3/2/23
Dates: _____ _____ _____

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STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Char max***

House Bill 22-1038 “Concerning client-directed legal representation for youth in court proceedings for youth” was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation.

The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law, the rules that govern child welfare practice will need to be updated. This packet will include updates to 12 CCR-2509-8 to include counsel for youth and guardian ad litem and includes rule updates to incorporate language regarding the new law.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- to comply with state/federal law and/or
- to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107(5), (6), C.R.S. (2022)	State Board to promulgate rules.
26-1-109(3), (4), (5), C.R.S. (2022)	State department rules to coordinate with federal programs.
26-1-111(2), C.R.S. (2022)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-1-111(2), C.R.S. (2022)	State department to promulgate rules for public assistance and welfare activities.

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Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child welfare sub pac, Permanency Task Group, Stakeholder meetings, Office of the Child Representative, Office of Respondent Parent Counsel, children, youth, professionals, and families involved in the child welfare cases

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Children, youth, professionals, and families involved in the child welfare cases as well as relevant stakeholders will be impacted as these rules will comply with state law, which allows for youth over the age of 12 to have counsel and a voice for themselves in Dependency and Neglect and Juvenile Justice cases. The short and long term consequences will result in compliance with Colorado law.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because...."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

No State impact as this is providing guidance and there are no costs associated with the changes needed to modify state systems and rule changes. This is a planned for and absorbable impact for the state department.

County Fiscal Impact

No County impact as this is providing guidance and there are no costs associated with this change for counties.

Federal Fiscal Impact

No Federal Impact as this is providing guidance and there are no costs associated with this change.

Other Fiscal Impact (such as providers, local governments, etc.)

There will be a fiscal impact on the Office of Child Representative because they are developing training for Guardians Ad Litem due to the change to practice for attorneys.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

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This is not applicable as this is new law passed in April of 2022, so no time has passed for data to be collected.
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5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just “no alternative” answer should include “no alternative because...”

There is not an alternative to rulemaking as the rules will need to have a definition consistent with the statute about the roles of the Guardian Ad Litem and a Counsel for Youth in child welfare cases.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	<i>Incorrect Statutory Reference</i>	Section 26.5.103 C.R.S.	Section 26.5-101(3) C.R.S.		
7.704.11 Treatment Team		7.704.11 Treatment Team The treatment team members may include, and are not limited to: biological or adoptive parents, treatment foster parent(s), legal custodian(s), Guardian ad Litem (GAL), Court Appointed Special Advocate (CASA), county department of human/social services caseworker or designee, child placement agency staff, current or previous treatment providers, juvenile justice staff, school district personnel, and the child/youth If the child/youth is unable to or it is inappropriate to participate, the child/youth voice shall be represented in decision making.	7.704.11 Treatment Team The treatment team members may include, and are not limited to: biological or adoptive parents, treatment foster parent(s), legal custodian(s), Guardian ad Litem (GAL) AND/OR COUNSEL FOR YOUTH, Court Appointed Special Advocate (CASA), county department of human/social services caseworker or designee, child placement agency staff, current or previous treatment providers, juvenile justice staff, school district personnel, and the child/youth when appropriate . If the child/youth is unable to or it is inappropriate to participate, the child/youth voice shall be represented in decision making.	To include Counsel for youth	
7.708.2 Requirements for certification of family foster care homes 7.708.21 Character, Suitability, and Qualifications of Family		P. A foster parent must be able to communicate sufficiently to provide care for the child/youth, including the ability to communicate with the guardian ad litem (GAL) and case worker. If needed, a foster parent may use an interpreter to assist. A child may not be used to interpret. This must be documented in the home study and updated annually.	P. A foster parent must be able to communicate sufficiently to provide care for the child/youth, including the ability to communicate with the guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH and case worker. If needed, a foster parent may use an interpreter to assist. A child may not be used to interpret. This must be documented in the home study and updated annually.	To include Counsel for youth	

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<p>Foster Parents, P</p> <p>7.708.31.1 substitute care, respite care, and alternative care</p>		<p>A. Substitute care is provided in the foster care home where the child/youth in foster care resides. Respite care is provided in another foster home. Alternative care is provided in the home of a natural support identified by the foster parent. These caregiving services provide opportunities for foster parents to have or take breaks of varying lengths. The following apply:</p> <ol style="list-style-type: none"> 1. At least 72 business hours' notice must be provided to the caseworker, If an emergency or an urgent situation arises, the foster parent or the certifying agency shall provide notice to the caseworker, as soon as possible. 2. Caregivers may not consent to activities requiring a consent form or safety gear for high risk activities as defined by the custodial county. Current procedures must be followed by the foster parent to obtain these permissions prior to the activity occurring. 3. Caregivers must ensure that all requirements related to family time, sibling time, treatment for the child/youth placed in foster care, school for the child/youth placed in foster care, and contact between child/youth and county department caseworker and GAL, are met unless other arrangements are agreed upon and consistent with court orders. <p>B. Substitute care in the foster care home occurs when a foster parent is</p>	<p>A. Substitute care is provided in the foster care home where the child/youth in foster care resides. Respite care is provided in another foster home. Alternative care is provided in the home of a natural support identified by the foster parent. These caregiving services provide opportunities for foster parents to have or take breaks of varying lengths. The following apply:</p> <ol style="list-style-type: none"> 1. At least 72 business hours' notice must be provided to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH. If an emergency or an urgent situation arises, the foster parent or the certifying agency shall provide notice to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH as soon possible. 2. Caregivers may not consent to activities requiring a consent form or safety gear for high-risk activities as defined by the custodial county. Current procedures must be followed by the foster parent to obtain these permissions prior to the activity occurring. 3. Caregivers must ensure that all requirements related to family time, sibling time, treatment for the child/youth placed in foster care, school for the child/youth placed in foster care, and contact between child/youth and county department caseworker and GAL, are met unless other arrangements are agreed upon and consistent with court orders. <p>B. Substitute care in the foster care home occurs when a foster parent is unable to provide supervision and care. The foster parent shall arrange for a qualified substitute who is familiar with these rules and with the children/youth in foster care in order to provide temporary supervision and care to the children/youth in the identified foster care home.</p>		
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		<p>unable to provide supervision and care. The foster parent shall arrange for a qualified substitute who is familiar with these rules and with the children/youth in foster care in order to provide temporary supervision and care to the children/youth in the identified foster care home.</p> <p>1. If care is to be provided for up to eight (8) hours in the foster care home, the substitute care provider must be at least sixteen (16) years of age. Exceptions based on age and maturity of the potential substitute care provider and the individual needs of the child/youth placed in foster care can be made with concurrence of the foster parent and the certifying authority, but in no case should the provider of substitute care be less than fourteen (14) years of age. The age exception must be documented in the foster parent's file.</p> <p>2. If care is provided for more than eight (8) hours in the foster care home or for overnight care in the foster care home, the substitute care provider must be at least eighteen (18) years of age, currently certified in First Aid and CPR, and the following completed checks of the substitute care provider must be placed in the foster parent's file:</p>	<p>1. If care is to be provided for up to eight (8) hours in the foster care home, the substitute care provider must be at least sixteen (16) years of age. Exceptions based on age and maturity of the potential substitute care provider and the individual needs of the child/youth placed in foster care can be made with concurrence of the foster parent and the certifying authority, but in no case should the provider of substitute care be less than fourteen (14) years of age. The age exception must be documented in the foster parent's file.</p> <p>2. If care is provided for more than eight (8) hours in the foster care home or for overnight care in the foster care home, the substitute care provider must be at least eighteen (18) years of age, currently certified in First Aid and CPR, and the following completed checks of the substitute care provider must be placed in the foster parent's file:</p> <ul style="list-style-type: none">a. Colorado Bureau of Investigation (CBI);b. Federal Bureau of Investigation (FBI);c. Comprehensive Child Welfare Information System (CCWIS); and,d. CBI sex offender name and address check and National Sex Offender Public Website name and address check. <p>3. A copy of the substitute care provider's driver's license, vehicle registration, and insurance must be</p>		
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		<p>a. Colorado Bureau of Investigation (CBI);</p> <p>b. Federal Bureau of Investigation (FBI);</p> <p>c. Comprehensive Child Welfare Information System (CCWIS); and,</p> <p>d. CBI sex offender name and address check and National Sex Offender Public Website name and address check.</p> <p>3. A copy of the substitute care provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the substitute care provider can drive the child/youth in foster care.</p> <p>4. Potential caregivers with background checks consistent with Section 7.701.33.d.7 cannot be used.</p> <p>C. Respite Care</p> <p>Respite care is provided in a foster care home, other than the current foster care home where the child/youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when children/youth in foster care need a temporary break from their current foster care home.</p> <p>1. A non-emergency respite care occasion may not exceed 30 calendar days, with a maximum of 60 days per calendar year. Exceptions in excess of 60</p>	<p>given to the certifying agency before the substitute care provider can drive the child/youth in foster care.</p> <p>4. Potential caregivers with background checks consistent with Section 7.701.33.d.7 cannot be used.</p> <p>C. Respite Care</p> <p>Respite care is provided in a foster care home, other than the current foster care home where the child/youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when children/youth in foster care need a temporary break from their current foster care home.</p> <p>1. A non-emergency respite care occasion may not exceed 30 calendar days, with a maximum of 60 days per calendar year. Exceptions in excess of 60 days per year may be allowed and must be approved by the certifying agency, caseworker, CHILD/YOUTH, and guardian ad litem AND/OR COUNSEL FOR YOUTH.</p> <p>2. Non-emergency respite care may not exceed the identified capacity of the respite foster care home.</p> <p>a. A sibling group may be considered a single placement; and,</p> <p>b. Space requirements in Section 7.708.22.b.8 apply.</p> <p>3. Emergency respite care that causes the foster care home to exceed the identified capacity shall not occur for more than seven (7) consecutive days per month and not exceed 28 days in a calendar year. The respite foster care home may not exceed more than two (2)</p>		
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		<p>days per year may be allowed and must be approved by the certifying agency, caseworker, CHILD/YOUTH, and guardian ad litem.</p> <p>2. Non-emergency respite care may not exceed the identified capacity of the respite foster care home.</p> <p>a. A sibling group may be considered a single placement; and,</p> <p>b. Space requirements in Section 7.708.22.b.8 apply.</p> <p>3. Emergency respite care that causes the foster care home to exceed the identified capacity shall not occur for more than seven (7) consecutive days per month and not exceed 28 days in a calendar year. The respite foster care home may not exceed more than two (2) children/youth in foster care above their identified capacity and age range.</p> <p>4. The respite foster care home must be in compliance with all other applicable rules regulating foster care homes.</p> <p>D. Alternative Care is Provided Outside of the Foster Care Home</p> <p>An alternative care provider is an individual with whom the foster parent has a personal association or relationship that is typically developed in the community. This is known as a natural support and it enhances the quality and security of life, including but not limited to, family relationships, friendships, and</p>	<p>children/youth in foster care above their identified capacity and age range.</p> <p>4. The respite foster care home must be in compliance with all other applicable rules regulating foster care homes.</p> <p>D. Alternative Care is Provided Outside of the Foster Care Home</p> <p>An alternative care provider is an individual with whom the foster parent has a personal association or relationship that is typically developed in the community. This is known as a natural support and it enhances the quality and security of life, including but not limited to, family relationships, friendships, and relationships developed through participation in clubs, organizations, and other civic activities.</p> <p>1. Alternative care (natural support) may be provided outside of the foster care home for up to 72 consecutive hours with a maximum of seven (7) days a month, unless approved by the certifying agency, caseworker, CHILD/YOUTH, and GAL AND/OR COUNSEL FOR YOUTH.</p> <p>a. An alternative care (natural support) provider must be familiar with the child/youth placed in foster care; and,</p> <p>b. Be at least eighteen (18) years of age.</p> <p>2. Before alternative care (natural support) is used overnight, the foster parent shall introduce the alternative care provider and the child/youth placed in foster care and arrange for the child/youth to visit the alternative care provider's home.</p> <p>3. An alternative care (natural support) consent form (state prescribed) must be completed between the foster</p>		
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		<p>relationships developed through participation in clubs, organizations, and other civic activities.</p> <p>1. Alternative care (natural support) may be provided outside of the foster care home for up to 72 consecutive hours with a maximum of seven (7) days a month, unless approved by the certifying agency, caseworker.</p> <p>a. An alternative care (natural support) provider must be familiar with the child/youth placed in foster care; and,</p> <p>b. Be at least eighteen (18) years of age.</p> <p>2. Before alternative care (natural support) is used overnight, the foster parent shall introduce the alternative care provider and the child/youth placed in foster care and arrange for the child/youth to visit the alternative care provider's home.</p> <p>3. An alternative care (natural support) consent form (state prescribed) must be completed between the foster parent and the alternative care provider prior to the care being provided to the child/youth.</p> <p>4. The certifying agency must review the consent form and complete background checks for all adults residing in the home in Colorado Courts (state judicial database), CBI sex offender name and address check, and National Sex Offender Public Website name and address check. A CBI and FBI</p>	<p>parent and the alternative care provider prior to the care being provided to the child/youth.</p> <p>4. The certifying agency must review the consent form and complete background checks for all adults residing in the home in Colorado Courts (state judicial database), CBI sex offender name and address check, and National Sex Offender Public Website name and address check. A CBI and FBI fingerprint-based criminal history record information check is required only if the adult has resided in Colorado less than five (5) years.</p> <p>a. When the county department is the certifying agency, staff will complete a child abuse/neglect background check in the CCWIS for the alternative care (natural support).</p> <p>b. When the foster parent is certified by a child placement agency, the alternative care (natural support) must submit a request for a CCWIS check from the Background Investigation Unit.</p> <p>5. A copy of the alternative care (natural support) provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the alternative care provider can drive the child/youth.</p> <p>6. Potential alternative care (natural support) with background checks consistent with Section 7.701.33.d.7 cannot be used.</p>		
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		<p>fingerprint-based criminal history record information check is required only if the adult has resided in Colorado less than five (5) years.</p> <p>a. When the county department is the certifying agency, staff will complete a child abuse/neglect background check in the CCWIS for the alternative care (natural support).</p> <p>b. When the foster parent is certified by a child placement agency, the alternative care (natural support) must submit a request for a CCWIS check from the Background Investigation Unit.</p> <p>5. A copy of the alternative care (natural support) provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the alternative care provider can drive the child/youth.</p> <p>6. Potential alternative care (natural support) with background checks consistent with Section 7.701.33.d.7 cannot be used.</p>			
<p>7.708.32 Foster Children's Rights</p>		<p>7.708.32 Foster Children's Rights</p> <p>A. The certifying authority shall have written policies and procedures that address and ensure the availability of</p>	<p>7.708.32 Foster Children's Rights</p> <p>A. The certifying authority shall have written policies and procedures that address and ensure the availability of each of the following core rights for foster children in residence. These rights may not be restricted or denied</p>	<p>To include Counsel for youth</p>	

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		<p>each of the following core rights for foster children in residence. These rights may not be restricted or denied by the foster care home or certifying authority. Every foster child has the right to:</p> <ol style="list-style-type: none"> 1. Enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. A reasonable degree of privacy. 3. Have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Receive appropriate and reasonable adult guidance, support and supervision. 5. Be free from physical abuse or neglect and inhumane treatment. Every foster child has the right to be protected from all forms of sexual exploitation. 6. Receive adequate and appropriate medical care. 7. Receive adequate and appropriate food, clothing, and housing. 8. Live in clean, safe surroundings. 9. Participate in an educational program that will maximize his/her potential in accordance with existing law. 	<p>by the foster care home or certifying authority. Every foster child has the right to:</p> <ol style="list-style-type: none"> 1. Enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. A reasonable degree of privacy. 3. Have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Receive appropriate and reasonable adult guidance, support and supervision. 5. Be free from physical abuse or neglect and inhumane treatment. Every foster child has the right to be protected from all forms of sexual exploitation. 6. Receive adequate and appropriate medical care. 7. Receive adequate and appropriate food, clothing, and housing. 8. Live in clean, safe surroundings. 9. Participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Communicate with "significant others" outside the foster care home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer. 		
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		<p>10. Communicate with "significant others" outside the foster care home, such as a parent or guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer.</p>			
<p>7.708.5 Records and Reports 7/708.51 Records</p>		<p>7.708.5 RECORDS AND REPORTS 7.708.51 Records [Rev. eff. 1/1/16]</p> <p>A. The foster care home, in conjunction with the certifying authority, shall maintain complete records as required for the licensing or certification of the foster care home in accordance with the rules regulating foster care homes.</p> <p>B. Records for foster children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance.</p> <p>C. A record of admission shall be completed for each foster child in care prior to or at the time of placement. The admission record shall be maintained at the foster care home where the foster child resides and shall contain:</p> <p>1. Foster child's name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or foster child, date and reason for placement.</p>	<p>7.708.5 RECORDS AND REPORTS 7.708.51 Records [Rev. eff. 1/1/16]</p> <p>A. The foster care home, in conjunction with the certifying authority, shall maintain complete records as required for the licensing or certification of the foster care home in accordance with the rules regulating foster care homes.</p> <p>B. Records for foster children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance.</p> <p>C. A record of admission shall be completed for each foster child in care prior to or at the time of placement. The admission record shall be maintained at the foster care home where the foster child resides and shall contain:</p> <p>1. Foster child's name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or foster child, date and reason for placement.</p> <p>2. Foster child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the foster child.</p> <p>3. Name, address, day and nighttime telephone number of individual or agency</p>	<p>To include Counsel for youth</p>	

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		<p>2. Foster child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the foster child.</p> <p>3. Name, address, day and nighttime telephone number of individual or agency placing the foster child with the name of individual arranging the placement.</p> <p>4. Any documents pertaining to the foster child's legal status such as court orders, including the appointment of a Guardian ad litem, legal guardianship, or custody agreements.</p> <p>5. A copy of the placement agreement pursuant to 7.708.61, K.</p> <p>6. Health records including a health history, chronic medical problems of the foster child, illnesses the foster child has had during the last six months and a complete list of all medications the foster child is taking.</p>	<p>placing the foster child with the name of individual arranging the placement.</p> <p>4. Any documents pertaining to the foster child's legal status such as court orders, including the appointment of a Guardian ad litem AND/OR COUNSEL FOR YOUTH, legal guardianship, or custody agreements.</p> <p>5. A copy of the placement agreement pursuant to 7.708.61, K.</p> <p>6. Health records including a health history, chronic medical problems of the foster child, illnesses the foster child has had during the last six months and a complete list of all medications the foster child is taking.</p>		
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Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-8

CDHS Tracking #: 22-07-14-03

Office, Division, & Program: OCYF/ DCW/ Permanency
 Rule Author: Korey Elger

Phone: 303-249-5662

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<p>7.714.31 Children's Rights</p>		<p>A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility.</p> <ol style="list-style-type: none"> 1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every child has the right to a reasonable degree of privacy. 3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation. 6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs. 7. Every child has the right to receive adequate and appropriate food, clothing, and housing. 	<p>A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility.</p> <ol style="list-style-type: none"> 1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every child has the right to a reasonable degree of privacy. 3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation. 6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs. 7. Every child has the right to receive adequate and appropriate food, clothing, and housing. 8. Every child has the right to live in clean, safe surroundings. 	<p>To include Counsel for youth</p>	
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	<p>8. Every child has the right to live in clean, safe surroundings.</p> <p>9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.</p> <p>10. Every child has the right to communicate with "significant others" outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer.</p> <p>11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement.</p> <p>12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to Section 19-3-306, C.R.S. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child's parent or legal guardian except in the case of a child abuse or police investigation.</p> <p>13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age,</p>	<p>9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.</p> <p>10. Every child has the right to communicate with "significant others" outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.</p> <p>11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement.</p> <p>12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to Section 19-3-306, C.R.S. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child's parent or legal guardian except in the case of a child abuse or police investigation.</p> <p>13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age, sex, political affiliation, sexual orientation, financial status or disability.</p> <p>14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care.</p> <p>15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure.</p>		
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		<p>sex, political affiliation, sexual orientation, financial status or disability.</p> <p>14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care.</p> <p>15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure.</p> <p>16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied.</p> <p>17. Every child fifteen (15) years of age and older, who is not in the custody of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant to Section 27-10-103, C.R.S.</p>	<p>16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied.</p> <p>17. Every child fifteen (15) years of age and older, who is not in the custody of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant to Section 27-65-104, C.R.S.</p>		
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<p>7.714.31 Children's Rights D</p>		<p>D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility:</p> <ol style="list-style-type: none"> 1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights. 2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) 3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action. 	<p>D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility:</p> <ol style="list-style-type: none"> 1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights. 2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH. 3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action. 	<p>To include Counsel for youth</p>	
<p>7.714.52 Discipline F 10</p>		<p>F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following:</p> <ol style="list-style-type: none"> 1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling, 	<p>F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following:</p> <ol style="list-style-type: none"> 1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling, roughly handling a child, striking with an inanimate object, or any humiliating 	<p>To include Counsel for youth</p>	

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		<p>roughly handling a child, striking with an inanimate object, or any humiliating or frightening method of discipline to control the actions of any child or group of children.</p> <p>2. Discipline that is designed to, or likely to, cause physical pain.</p> <p>3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment.</p> <p>4. Assignment of physically strenuous or harsh work that could result in harm to the child.</p> <p>5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment.</p> <p>6. Group discipline except in accordance with the facility's written policy and these rules.</p> <p>7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background.</p>	<p>or frightening method of discipline to control the actions of any child or group of children.</p> <p>2. Discipline that is designed to, or likely to, cause physical pain.</p> <p>3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment.</p> <p>4. Assignment of physically strenuous or harsh work that could result in harm to the child.</p> <p>5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment.</p> <p>6. Group discipline except in accordance with the facility's written policy and these rules.</p> <p>7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background.</p> <p>8. Denial of any essential/basic program service solely for disciplinary purposes.</p> <p>9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually.</p> <p>10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL)</p>		
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		<p>8. Denial of any essential/basic program service solely for disciplinary purposes.</p> <p>9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually.</p> <p>10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL) AND/OR COUNSEL FOR YOUTH or caseworker solely as a means of punishment.</p> <p>11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face.</p> <p>12. Denial of sleep.</p> <p>13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition.</p> <p>14. Denial of shelter, clothing or bedding.</p> <p>15. Withholding of emotional response or stimulation.</p> <p>16. Discipline associated with toileting, toileting accidents or lapses in toilet training.</p> <p>17. Sending a child to bed as punishment. This does not prohibit a</p>	<p>AND/OR COUNSEL FOR YOUTH or caseworker solely as a means of punishment.</p> <p>11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face.</p> <p>12. Denial of sleep.</p> <p>13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition.</p> <p>14. Denial of shelter, clothing or bedding.</p> <p>15. Withholding of emotional response or stimulation.</p> <p>16. Discipline associated with toileting, toileting accidents or lapses in toilet training.</p> <p>17. Sending a child to bed as punishment. This does not prohibit a facility from setting individual bedtimes for children.</p> <p>18. Force feeding a child.</p> <p>19. Use of physical management, restraint or seclusion as discipline for a child.</p>		
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		<p>facility from setting individual bedtimes for children.</p> <p>18. Force feeding a child.</p> <p>19. Use of physical management, restraint or seclusion as discipline for a child.</p>			
7.714.932 Records C, 4		<p>C. A record of admission shall be completed for each child in care prior to or at the time of placement. The admission record shall be maintained at the facility where the child resides and shall contain:</p> <ol style="list-style-type: none"> 1. Child's legal name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or child, date and reason for placement. 2. Child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the child. 3. Name, address, day and nighttime telephone number of individual or agency placing the child with the name of individual arranging the placement. 4. Any documents pertaining to the child's legal status such as court orders, including the appointment of a Guardian Ad Litem, legal guardianship, custody agreements, or the termination of parental rights. 	<p>C. A record of admission shall be completed for each child in care prior to or at the time of placement. The admission record shall be maintained at the facility where the child resides and shall contain:</p> <ol style="list-style-type: none"> 1. Child's legal name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or child, date and reason for placement. 2. Child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the child. 3. Name, address, day and nighttime telephone number of individual or agency placing the child with the name of individual arranging the placement. 4. Any documents pertaining to the child's legal status such as court orders, including the appointment of a Guardian Ad Litem AND/OR COUNSEL FOR YOUTH, legal guardianship, custody agreements, or the termination of parental rights. 5. A copy of the placement agreement pursuant to 7.714.2, G. 6. Health records including a health history, chronic medical problems of the child, illnesses the child has had 	To include Counsel for youth	

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	<p>5. A copy of the placement agreement pursuant to 7.714.2, G.</p> <p>6. Health records including a health history, chronic medical problems of the child, illnesses the child has had during the last six months and a complete list of all medications the child is taking.</p> <p>7. Current medical and dental reports, accident, injury, or illness reports, record of medication administered and necessary medical care provided to the child while in placement. Psychiatric and psychological reports, when available.</p> <p>8. Copies of educational records, including the Individualized Educational Plan (IEP) where applicable, and reports of school work, including scholastic performance, certificates of achievement or award, and extracurricular interests.</p> <p>9. The Individual Child's Plan (ICP) and Family Service Plan (FSP) when developed or Individualized Treatment Plan (ITP) for committed youth, a summary of the periodic evaluations of the child's progress and resultant changes in the ICP, FSP or ITP.</p> <p>10. Summary recording of significant contacts with parent(s), guardian(s) and other involved agencies.</p> <p>11. Documentation of all transfers and reasons for transfers within the authorized facility.</p>	<p>during the last six months and a complete list of all medications the child is taking.</p> <p>7. Current medical and dental reports, accident, injury, or illness reports, record of medication administered and necessary medical care provided to the child while in placement. Psychiatric and psychological reports, when available.</p> <p>8. Copies of educational records, including the Individualized Educational Plan (IEP) where applicable, and reports of school work, including scholastic performance, certificates of achievement or award, and extracurricular interests.</p> <p>9. The Individual Child's Plan (ICP) and Family Service Plan (FSP) when developed or Individualized Treatment Plan (ITP) for committed youth, a summary of the periodic evaluations of the child's progress and resultant changes in the ICP, FSP or ITP.</p> <p>10. Summary recording of significant contacts with parent(s), guardian(s) and other involved agencies.</p> <p>11. Documentation of all transfers and reasons for transfers within the authorized facility.</p>		
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<p>7715.44 Youth Rights</p>		<p>A. The shelter shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in residence. These rights may not be restricted or denied by the shelter.</p> <ol style="list-style-type: none"> 1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every youth has the right to a reasonable degree of privacy. 3. Every youth has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every youth has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every youth has the right to be free from physical abuse or neglect and inhumane treatment. Every youth has the right to be protected from all forms of sexual exploitation. 6. Every youth has the right to receive adequate, appropriate, and timely emergency medical care. 7. Every youth has the right to receive adequate and appropriate food, clothing, and housing. 8. Every youth has the right to live in clean, safe surroundings. 	<p>A. The shelter shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in residence. These rights may not be restricted or denied by the shelter.</p> <ol style="list-style-type: none"> 1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every youth has the right to a reasonable degree of privacy. 3. Every youth has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every youth has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every youth has the right to be free from physical abuse or neglect and inhumane treatment. Every youth has the right to be protected from all forms of sexual exploitation. 6. Every youth has the right to receive adequate, appropriate, and timely emergency medical care. 7. Every youth has the right to receive adequate and appropriate food, clothing, and housing. 8. Every youth has the right to live in clean, safe surroundings. 9. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Every youth has the right to communicate with others outside the shelter, such as a parent or guardian, 	<p>To include Counsel for youth</p>	
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		<p>9. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.</p> <p>10. Every youth has the right to communicate with others outside the shelter, such as a parent or guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer.</p>	<p>caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.</p>		
<p>7/721.5 Youth Rights</p>		<p>A. The child placement agency or county shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in host family home. These rights may not be restricted or denied by the host family home.</p> <p>1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.</p> <p>2. Every youth has the right to receive adequate and appropriate food, clothing, and housing.</p> <p>3. Every youth has the right to live in clean, safe surroundings</p> <p>4. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.</p> <p>5. Every youth has the right to communicate with others outside the host family home, such as a parent or</p>	<p>A. The child placement agency or county shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in host family home. These rights may not be restricted or denied by the host family home.</p> <p>1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.</p> <p>2. Every youth has the right to receive adequate and appropriate food, clothing, and housing.</p> <p>3. Every youth has the right to live in clean, safe surroundings</p> <p>4. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.</p> <p>5. Every youth has the right to communicate with others outside the host family home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer</p>	<p>To include Counsel for youth</p>	

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		guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer			
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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Cara Nord, Office of the Child's Representative

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Office of Child's representative, Office of respondent parent, Colorado Counties and Stakeholders

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes No

Name of Sub-PAC Child Welfare

Date presented Sept 2022

What issues were raised? None

Vote Count

<i>For</i>	<i>Against</i>	<i>Abstain</i>
All voted in favor		

If not presented, explain why.

PAC

Have these rules been approved by PAC?

Yes No

Date presented October 2022

What issues were raised? no

Vote Count

<i>For</i>	<i>Against</i>	<i>Abstain</i>
All voted in favor		

If not presented, explain why.

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

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If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

to Gretchen, me, Cara, Sheri, Chris, Zaven, Melissa

Hello everyone,

Thank you for agreeing to meet with the ORPC about our concerns with some of the proposed rules related to HB 22-1038. I am attaching the two PDFs where we had questions or concerns. Our comments are saved on the PDFs, and I have also summarized them below. Please ignore the highlighting – I was trying to highlight to make it easier, and the PDF was being really wonky so I stopped. Sheri, this is giving me flashbacks to editing the GRID with you, but I promise it is not that extensive!

Need Clarity:

- 7.301.24 – I think there is an error in the new language – I think it is supposed to be deleting 16 and changing it to 12 in S4, but that is not how it reads.
- 7.301.241 – the language seems to exclude parents whose children have been removed but whose rights are still intact. This is not a change, but just noticed it in reading the original rule. Would like to discuss whether this needs to be changed (but not as part of this rule packet).
- 7.304.651 – this QRTP rule lists youth, GAL, and/or CFY specifically as being able to object to QRTP placement, but all parties can (as the rule correctly identifies). Why list out just these parties separately?

Places where RPC should be added

- 7.301.241 – counsel for youth are being added to the BID meeting, but RPC are not included even though parents are included on the list. CFY represent youth and RPC represent parents, both in client-directed roles, so it does not make logical sense to add one and not the other.
- 7.304.65 – same logic as above.
- 7.704.11 - same logic as above.

Places where parents and RPC should be added

- 7.304.53 – the requirement to share background checks when ordered by the court should include RPC and parents.
 - 7.708.2 – foster parents should have the ability to communicate with parents.
- 7.708.31.1 – parents and RPC should be notified in the same way that GAL/CFY are notified when alternative care is provided.
 - 7.714.31 – parents and RPC should be able to obtain a report from facilities who deny children's rights.

We did not have any concerns with packets 2 or 3. I don't think we will need the full time we have allocated for the meeting to discuss these concerns, so I am hoping that we can address these concerns first and then, if there is enough time, have a separate conversation with CDHS about how our office can better engage in the rule-making process with CDHS. Thank you.

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-8

CDHS Tracking #: 22-07-14-03

Office, Division, & Program: Rule Author: Korey Elger
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Best regards,

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To schedule a case consultation, go here: <https://calendly.com/mjordan-orpc>

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7.704 RULES REGULATING TREATMENT FOSTER CARE

7.704.11 Treatment Team

The treatment team members may include, and are not limited to: biological or adoptive parents, treatment foster parent(s), legal custodian(s), Guardian ad Litem (GAL) AND/OR COUNSEL FOR YOUTH Court Appointed Special Advocate (CASA), county department of human/social services caseworker or designee, child placement agency staff, current or previous treatment providers, juvenile justice staff, school district personnel, and the child/youth ~~when appropriate~~. If the child/youth is unable to or it is inappropriate to participate, the child/youth voice shall be represented in decision making.

7.708 RULES REGULATING FAMILY FOSTER CARE HOMES

7.708.2 REQUIREMENTS FOR CERTIFICATION OF FAMILY FOSTER CARE HOMES

7.708.21 Character, Suitability, and Qualifications of Family Foster Parents

P. A foster parent must be able to communicate sufficiently to provide care for the child/youth, including the ability to communicate with the guardian ad litem (GAL) AND/ OR COUNSEL FOR YOUTH and case worker. If needed, a foster parent may use an interpreter to assist. A child may not be used to interpret. This must be documented in the home study and updated annually.

7.708.3 REQUIREMENT FOR THE ONGOING OPERATION OF FOSTER CARE HOMES

7.708.31.1 SUBSTITUTE CARE, RESPITE CARE, AND ALTERNATIVE CARE

A. Substitute care is provided in the foster care home where the child/youth in foster care resides. Respite care is provided in another foster home. Alternative care is provided in the home of a natural support identified by the foster parent. These caregiving services provide opportunities for foster parents to have or take breaks of varying lengths. The following apply:

1. At least 72 business hours' notice must be provided to the caseworker, GAL AND/OR COUNSEL FOR YOUTH AND CHILD/YOUTH. If an emergency or an urgent situation arises, the foster parent or the certifying agency shall provide notice to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH as soon possible.

B. Substitute care in the foster care home occurs when a foster parent is unable to provide supervision and care. The foster parent shall arrange for a qualified substitute who is familiar with these rules and with the children/youth in foster care in order to provide temporary supervision and care to the children/youth in the identified foster care home.

1. If care is to be provided for up to eight (8) hours in the foster care home, the substitute care provider must be at least sixteen (16) years of age. Exceptions based on age and maturity of the potential substitute care provider and the individual needs of the child/youth placed in foster care can be made with concurrence of the foster parent and the certifying authority, but in no case should the provider of substitute care be less than fourteen (14) years of age. The age exception must be documented in the foster parent's file.

2. If care is provided for more than eight (8) hours in the foster care home or for overnight care in the foster care home, the substitute care provider must be at least eighteen (18) years of age, currently certified in First Aid and CPR, and the following completed checks of the substitute care provider must be placed in the foster parent's file:
 - a. Colorado Bureau of Investigation (CBI);
 - b. Federal Bureau of Investigation (FBI);
 - c. Comprehensive Child Welfare Information System (CCWIS); and,
 - d. CBI sex offender name and address check and National Sex Offender Public Website name and address check.
3. A copy of the substitute care provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the substitute care provider can drive the child/youth in foster care.
4. Potential caregivers with background checks consistent with Section 7.701.33.d.7 cannot be used.

C. Respite Care

Respite care is provided in a foster care home, other than the current foster care home where the child/youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when children/youth in foster care need a temporary break from their current foster care home.

1. A non-emergency respite care occasion may not exceed 30 calendar days, with a maximum of 60 days per calendar year. Exceptions in excess of 60 days per year may be allowed and must be approved by the certifying agency, caseworker, CHILD/YOUTH and guardian ad litem AND/OR COUNSEL FOR YOUTH.
2. Non-emergency respite care may not exceed the identified capacity of the respite foster care home.
 - a. A sibling group may be considered a single placement; and,
 - b. Space requirements in Section 7.708.22.b.8 apply.
3. Emergency respite care that causes the foster care home to exceed the identified capacity shall not occur for more than seven (7) consecutive days per month and not exceed 28 days in a calendar year. The respite foster care home may not exceed more than two (2) children/youth in foster care above their identified capacity and age range.
4. The respite foster care home must be in compliance with all other applicable rules regulating foster care homes.

D. Alternative Care is Provided Outside of the Foster Care Home

An alternative care provider is an individual with whom the foster parent has a personal association or relationship that is typically developed in the community. This is known as a natural support and it enhances the quality and security of life, including but not limited to, family relationships, friendships, and relationships developed through participation in clubs, organizations, and other civic activities.

1. Alternative care (natural support) may be provided outside of the foster care home for up to 72 consecutive hours with a maximum of seven (7) days a month, unless approved by the certifying agency, caseworker, CHILD/YOUTH AND GAL AND/OR COUNSEL FOR YOUTH.

- A. The certifying authority shall have written policies and procedures that address and ensure the availability of each of the following core rights for foster children in residence. These rights may not be restricted or denied by the foster care home or certifying authority. Every foster child has the right to:
1. Enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.\
 2. A reasonable degree of privacy.
 3. Have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.
 4. Receive appropriate and reasonable adult guidance, support and supervision.
 5. Be free from physical abuse or neglect and inhumane treatment. Every foster child has the right to be protected from all forms of sexual exploitation.
 6. Receive adequate and appropriate medical care.
 7. Receive adequate and appropriate food, clothing, and housing.
 8. Live in clean, safe surroundings.
 9. Participate in an educational program that will maximize his/her potential in accordance with existing law.
 10. Communicate with "significant others" outside the foster care home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/ OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

7.708.5 RECORDS AND REPORTS

7.708.51 Records

- A. The foster care home, in conjunction with the certifying authority, shall maintain complete records as required for the licensing or certification of the foster care home in accordance with the rules regulating foster care homes.
- B. Records for foster children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance.
- C. A record of admission shall be completed for each foster child in care prior to or at the time of placement. The admission record shall be maintained at the foster care home where the foster child resides and shall contain:
1. Foster child's name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or foster child, date and reason for placement.
 2. Foster child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the foster child.
 3. Name, address, day and nighttime telephone number of individual or agency placing the foster child with the name of individual arranging the placement.
 4. Any documents pertaining to the foster child's legal status such as court orders, including the appointment of a Guardian ad litem AND/OR COUNSEL FOR YOUTH, legal guardianship, or custody agreements.
 5. A copy of the placement agreement pursuant to 7.708.61, K.
 6. Health records including a health history, chronic medical problems of the foster child, illnesses the foster child has had during the last six months and a complete list of all medications the foster child

is taking.

7.714 QUALITY STANDARDS FOR TWENTY-FOUR (24)-HOUR CHILD CARE

7.714.31 Children's Rights

- A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility.
1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.
 2. Every child has the right to a reasonable degree of privacy.
 3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.
 4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision.
 5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation.
 6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs.
 7. Every child has the right to receive adequate and appropriate food, clothing, and housing.
 8. Every child has the right to live in clean, safe surroundings.
 9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.
 10. Every child has the right to communicate with "significant others" outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.
 11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement.
 12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to Section 19-3-306, C.R.S. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child's parent or legal guardian except in the case of a child abuse or police investigation
 13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age, sex, political affiliation, sexual orientation, financial status or disability.
 14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care.
 15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure.
 16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied.
 17. Every child fifteen (15) years of age and older, who is not in the custody of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant

to Section 27-65-104, C.R.S.

- B. The following children's rights may be limited to reasonable periods during the day or restricted according to written policies of the facility to ensure the protection of the children, staff, and program from unreasonable and unnecessary intrusions and disruptions and from health and safety hazards.
1. Every child has the right to have access to letter-writing materials, including postage, and to have staff members of the facility assist him/her if unable to write, prepare, and mail correspondence.
 2. Every child has the right to have access to telephones to both make and receive calls in privacy.
 3. Every child has the right to have convenient opportunities to meet with visitors.
 4. Every child has the right to wear his/her own clothes, keep and use his/her own personal possessions, and keep and be allowed to spend a reasonable sum of his/her own money.
 5. Every child has the right to receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held, or censored by the personnel of the child care facility.
- C. Written policies that restrict or limit a child's rights as listed at 7.714.31, B, must include at a minimum:
1. Plans for how and when telephone and written communications will take place.
 2. Plans for regular visits of the child with relatives, friends, or others interested in his/her welfare, both within and outside of the facility, unless in the judgment of treatment staff and the placement agency visits would be detrimental to the child and/or his/her family.
 3. Plans for extenuating circumstances and emergency situations affecting the child and his/her family.
 4. The requirement that the facility notify the child, if appropriate to the age of the child, and his/her parent(s) or guardian(s) at the time of admission of any policy that would limit or restrict a child's rights. The notification must be communicated in a language or mode of communication the child can understand and, if possible, be signed by the child and his/her parent(s) or guardian(s).
- D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility:
1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights.
 2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH.
 3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action.

7.714.5 SAFETY, DISCIPLINE, PHYSICAL MANAGEMENT, RESTRAINT, AND SECLUSION

7.714.52 Discipline

- A. The facility shall have written policies and procedures regarding discipline that must be explained to all children, parent(s), guardian(s), staff, and placing agencies. These policies must include positive responses to a child's appropriate behavior.
- B. Discipline shall be constructive or educational in nature and may include talking with the child about the situation, praise for appropriate behavior, diversion, separation from the problem situation, and withholding privileges.

- C. Basic rights shall not be denied as a disciplinary measure.
- D. Separation when used as discipline must be brief and appropriate to the child's age and circumstances. The child shall always be within hearing of an adult in a safe, clean, well-lighted, well-ventilated room in the facility that contains at least 50 square feet of floor space. No child shall be isolated in a bathroom, closet, attic, pantry, or garage.
- E. Children in care at the facility shall not discipline other residents. This does not prohibit a facility from operating an organized therapeutic self-government program or positive peer culture that is conducted in accordance with the written policies of the facility and these rules, and is directly supervised by a staff member
 - F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following:
 1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling, roughly handling a child, striking with an inanimate object, or any humiliating or frightening method of discipline to control the actions of any child or group of children.
 2. Discipline that is designed to, or likely to, cause physical pain.
 3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment.
 4. Assignment of physically strenuous or harsh work that could result in harm to the child
 5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment.
 6. Group discipline except in accordance with the facility's written policy and these rules.
 7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background.
 8. Denial of any essential/basic program service solely for disciplinary purposes.
 9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually.
 10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL) AND/OR COUNSEL FOR YOUTH or caseworker solely as a means of punishment.
 11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face.
 12. Denial of sleep.
 13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition.
 14. Denial of shelter, clothing or bedding.
 15. Withholding of emotional response or stimulation.
 16. Discipline associated with toileting, toileting accidents or lapses in toilet training.
 17. Sending a child to bed as punishment. This does not prohibit a facility from setting individual bed times for children.
 18. Force feeding a child.
 19. Use of physical management, restraint or seclusion as discipline for a child.

7.714.9 PERSONNEL/POLICY REQUIREMENTS

7.714.932 Records

- A. The facility shall maintain an organized, legible, chronological, current record for each child in care as required for the licensing or certification of the facility in accordance with the rules regulating the facility. The record shall be separated into discrete sections addressing medical, education, clinical, milieu, and fee for service therapy.
- B. Records for children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance.
- C. A record of admission shall be completed for each child in care prior to or at the time of placement. The admission record shall be maintained at the facility where the child resides and shall contain:
 - 1. Child's legal name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or child, date and reason for placement.
 - 2. Child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the child.
 - 3. Name, address, day and nighttime telephone number of individual or agency placing the child with the name of individual arranging the placement.
 - 4. Any documents pertaining to the child's legal status such as court orders, including the appointment of a Guardian Ad Litem AND/ OR COUNSEL FOR YOUTH, legal guardianship, custody agreements, or the termination of parental rights.
 - 5. A copy of the placement agreement pursuant to 7.714.2, G.
 - 6. Health records including a health history, chronic medical problems of the child, illnesses the child has had during the last six months and a complete list of all medications the child is taking.
 - 7. Current medical and dental reports, accident, injury, or illness reports, record of medication administered and necessary medical care provided to the child while in placement. Psychiatric and psychological reports, when available.
 - 8. Copies of educational records, including the Individualized Educational Plan (IEP) where applicable, and reports of school work, including scholastic performance, certificates of achievement or award, and extracurricular interests.
 - 9. The Individual Child's Plan (ICP) and Family Service Plan (FSP) when developed or Individualized Treatment Plan (ITP) for committed youth, a summary of the periodic evaluations of the child's progress and resultant changes in the ICP, FSP or ITP.
 - 10. Summary recording of significant contacts with parent(s), guardian(s) and other involved agencies.
 - 11. Documentation of all transfers and reasons for transfers within the authorized facility.

7.715.4 PROGRAM

7.715.44 Youths Rights

A. The shelter shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in residence. These rights may not be restricted or denied by the shelter.

1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.
2. Every youth has the right to a reasonable degree of privacy.
3. Every youth has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.
4. Every youth has the right to receive appropriate and reasonable adult guidance, support and supervision.
5. Every youth has the right to be free from physical abuse or neglect and inhumane treatment. Every youth has the right to be protected from all forms of sexual exploitation.
6. Every youth has the right to receive adequate, appropriate, and timely emergency medical care.
7. Every youth has the right to receive adequate and appropriate food, clothing, and housing.
8. Every youth has the right to live in clean, safe surroundings.
9. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.
10. Every youth has the right to communicate with others outside the shelter, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/ OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

7.721.5 YOUTH RIGHTS

7.721.51 Youth Rights

A. The child placement agency or county shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in host family home. These rights may not be restricted or denied by the host family home.

1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.
2. Every youth has the right to receive adequate and appropriate food, clothing, and housing.
3. Every youth has the right to live in clean, safe surroundings.
4. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.

5.

B. Every youth has the right to communicate with others outside the host family home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/ OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

C. Written policies that restrict or limit a youth's rights as listed at Section 7.721.5 must include at a minimum the requirement that the host family home notify the youth at the time of admission of any policy that would limit or restrict a youth's rights. The notification must be communicated in a language or mode of communication the youth can understand and, if possible, be signed by the youth.

- D. If the host family home enforces any restrictions upon the youth's rights as listed at Section 7.721.5, the host family home must, in compliance with the written policy and procedure of the host family home:
1. Inform the youth in a language or mode of communication the youth can understand, of the conditions of and reasons for restriction or termination of his/her rights.
 2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the youth's rights in that youth's case record along with information about if or when the youth's right(s) can be restored. This information must be made available to the youth upon request.
 3. When a restriction of a youth's rights affects another youth in the host family home, the youth shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action.