



RULEMAKING COVER PACKET

Title of Proposed Rule: Clarification of Practice for Placement with Kin
CDHS Tracking #: 16-5-27-1
Revising official Rule #s: 12 CCR 2509-1
Office, Division, & Program: Rule Author: Jeannie Berzinkas Phone: (303) 866-4617
Division of Child Welfare E-Mail: jeannie.berzinkas@state.co.us

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:

- [X] Initial Circulation (check all that apply)
[X] that creates a rule(s)
[X] that revises a rule(s)
[X] that is technical clean-up of a rule(s)
[] Update #
[] that revises a proposed rule
[] that is technical clean-up of a proposed rule
[] Cancel

Specify reason(s) for update or cancellation:

Number of rules included for repeal Number of new rules:
Number of rules included for revision Number reviewed:
What month is being requested for this rule to first go before the October 2016
State Board?
What date is being requested for this rule to be effective? January 1, 2017

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

Table with columns for Pre-Board, 1st Board, 2nd Board, and Effective Date. Includes rows for Date, Comments, and Approved to go to AG.

STATEMENT OF BASIS AND PURPOSE

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

(State what the rule says or does, explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. How do these rule changes align with the outcomes that we are trying to achieve, such as those measured in C-Stat?)

To implement new guidance regarding placement with kin in order to promote consistent practice statewide. The current rules are vague and confusing causing multiple interpretations of the rule and inconsistent practice statewide. County departments have requested a rule revision to clarify expectations when placing with kin and the Child Welfare Sub-PAC and PAC approved a Policy Submittal request for revision to the kinship rules.

Authority for Rule:

State Board Authority: 26-1-107, C.R.S. (2015) - State Board to promulgate rules; 26-1-109, C.R.S. (2015) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2015) - state department to promulgate rules for public assistance and welfare activities.

Program Authority:

(give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority)

19-1-103, C.R.S.(2015) – definitions; and 26-6-106.5 C.R.S. (2015) Foster care – kinship care – rules applying generally – rule making.

Does the rule incorporate material by reference?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Does this rule repeat language found in statute?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

Child Welfare Sub-PAC; Policy Advisory Committee (PAC); Colorado Counties, Inc. (CCI); Colorado Association of Family and Children’s Agencies (CAFCA); Court Appointed Special Advocates (CASA); Colorado Coalition of Adoptive Families (COCAF); Colorado Department of Public Health and Environment (CDPHE); Colorado Human Services Directors Association (CHSDA); Colorado State Foster Parent Association; Colorado Trails User Group (CTUG); Division of Child Welfare Child Protection, Permanency, Placement Services, and Youth Services Teams, Fostering Colorado; Colorado Kinship Alliance; Foster and Kinship Care Coordinators; Office of the Child’s Representative (OCR); Rocky Mountain Children’s Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee and Workgroups, Permanency Task Group; Kinship Task Group; and CDHS Administrative Review Division.

[Note: Changes to rule text are identified as follows: deletions are shown as “strikethrough”, additions are in “all caps”, and changes made between initial review and final adoption are in brackets.]

- Attachments:**
 Regulatory Analysis
 Overview of Proposed Rule
 Stakeholder Comment Summary

REGULATORY ANALYSIS

(complete each question; answers may take more than the space provided)

1. List of groups impacted by this rule:

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

Section 7.000.2 (12 CCR 2509-1), adds definitions for “conviction” and “pattern of misdemeanor” that will provide a common and consistent understanding of the terms. Currently these definitions exist in a different section of rule and are being relocated to definitions for consistency. Children, youth, kinship caregivers, foster care and kinship foster care providers, county departments of human or social services, CPAs, community providers, and other constituents will benefit from definitions being located in a centralized location. County departments of human or social services and CPAs may bear a minimal burden to notify staff and community partners of the location change.

Section 7.304 (12 CCR 2509-4), revises and adds rules to clarify a number of pertinent issues involving living arrangements with kin including, legal custody status when a child/youth is placed in a non-certified kinship home (county involved vs. family arrangement); removal requirements; and consistent data entry when a child or youth is residing with kin. The rule establishes a practice framework outlining the possible options when placing with kinship caregivers.

County departments of human or social services, community providers, and other constituents will benefit from clarification provided in the rule, which will promote consistency in practice when placing with kinship caregivers. Children and youth will benefit from a consistent process regardless of county of residence.

The long-term impact for county departments of human or social services, children, youth, and their families, is placement will be with the most appropriate provider.

County departments of human or social services will bear the burden of ensuring their staff are familiar with the new framework for placing children/youth with kin.

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?

In State Fiscal Year (SFY) 2015, the average daily placement was 5,222 children and youth, and of these:

- 1,872 (36%) were in non-certified kinship care; and,
- 280 (5%) were in a kinship foster care home.

Section 7.000.2 definitions may have a short-term impact prompting county departments of human or social services and CPAs to familiarize themselves with the new location. For the long-term, a consistent location for definitions will provide a consistent understanding for county departments, providers, and the general public.

Section 7.304.21 rule additions and revisions regarding placements with kin may have a short-term impact for county departments of human or social services requiring a review of their processes to align their internal policy with the outlined framework. For the long-term, consistency of policy and practice with kinship caregivers will be improved statewide.

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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)*

These new rules provide a framework for consistent kinship practice. The State is not anticipating any fiscal impact.

County Fiscal Impact

Many county departments are already practicing within this framework and would not incur additional costs. County departments participated in this rule-making process. County departments did not identify any county fiscal impact.

Federal Fiscal Impact

A fiscal impact is not anticipated because the rules provide a framework for consistent kinship practice. This framework does not impact families' current eligibility for federal funding.

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

A fiscal impact is not anticipated because the rules provide a framework for consistent kinship practice. This framework does not impact families' current eligibility for current programs.

4. Data Description:

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

Statewide Automated Child Welfare Information System (Trails) report regarding the number of children and youth placed in out-of-home care in SFY 2015.

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..."

The alternative to this rule-making is leaving kinship rules as they are. This is not an option because the current rules are vague and outdated. There is not statewide consistency for practice with kin families. County departments have been asking for rule clarification and would object to leaving the rules stagnant.

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OVERVIEW OF PROPOSED RULE

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

<u>Section Numbers</u>	<u>Current Regulation</u>	<u>Proposed Change</u>	<u>Stakeholder Comment</u>		
			X	Yes	No
7.000.2	Definitions	Adds the definitions of “convicted” and “pattern of misdemeanor” to this section. Makes a technical change to separate the definitions of “Reasonable efforts” and “RED teams.”	X	Yes	No
7.304.21, A	Definitions and purpose of kinship care	Repeal duplicative language			
7.304.21, B	Purpose of kinship care	Adds the terms “Youth” and “for but not limited to”			
7.304.21, C	Kinship placement when the county department does not have legal custody or authority of placement	Renumbers sections and adds a new section of rule with a continuum of kinship living arrangements			
7.304.21, D	Kinship placement when the county department has legal custody or authority for placement	As a result of renumbering, this section is now kinship placement when the county department does not have legal custody or authority for placement. Also repeals language regarding target group eligibility.			
7.304.21, D, 2	Provision of services to kin	Repeals language for technical clean up and adds the term “Youth” for consistency in language			
7.304.21, D, 3	Family assessment/home study	Revises language to include a county specific assessment			
7.304.21, D, 4	States legal representation is not required	Repeals information about the non-requirement of legal representation and adds language about the requirement of an application			
7.304.21, D, 5	Forms of support	Technical changes for consistency in language			
7.304.21, D, 6,	Background check requirements	Technical changes for consistency in language			
7.304.21, D, 6, b	Background check requirements	Repeal definitions of “convicted” and “pattern of misdemeanor” (moved to definitions for consistency) and repeals language for technical cleanup			
7.304.21, D, 7-9	Actions taken dependent on	Renumber for better			

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	results of a background check	sequencing and repeals language for technical cleanup			
7.304.21, D, 10	Documentation of background checks	Repeals language for technical cleanup			
7.304.21, D, 11	Encourages county departments to conduct background checks on prospective kinship providers	Repeal as it is not a requirement			
7.304.21, E, 1	Eligible populations	Adds the term "Youth" for consistency in language			
7.304.21, E, 1, c-e	Advisement of options	Move to 7.304.21, E, 2 for better sequencing and technical cleanup			
7.304.21, E, 2, a		Adds the term "Youth" for consistency in language and adds advisement of options			
7.304.21, E, 2 b	Including kin in planning process	Adds the term "when considering"			
7.304.21, E, 2, e	Emergency visitation	Repeals emergency visitation as it is replaced by process in 7.304.21, C			
7.304.21, E, 2, f	Emergency placements	Technical changes for grammatical errors and consistency in language			
7.304.21, E, 2, f, 1)	Background checks	Repeals language about what counties are encouraged to do rather than what they are required to do			
7.304.21, E, 2, f, 2)	Background checks	Adds the terms "shall" and "unless ordered by the court"			
7.304.21, E, 2, f, 8)	Background checks	Repeals language about what counties are encouraged to do rather than what they are required to do and a technical change to correct a grammatical error			
7.304.21, E, 2, f, 10)	Documentation of background checks	Repeals language about specific areas in the State Automated Child Welfare Information System where items must be documented			
7.304.21, E, 2, f, 11)	Background checks	Technical change to correct a grammatical error			
7.304.21, E, 3, a	Funding options available for kinship placements	Technical changes for consistency in language			
7.304.21, E, 3, a, 13)		Adds Relative Guardianship Assistance Program as a type of support			
7.304.21, E, 5	Services to children	Technical change to add the term "youth"			
7.304.21, E, 6, a	Permanency planning in kinship care	Technical change to add the term "youth"			

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):

Kinship Task Group; Permanency Unit; Child Protection Unit; and Child Welfare Leadership Team.

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:

Child Welfare Sub-PAC; Policy Advisory Committee (PAC); Colorado Counties, Inc. (CCI); Colorado Association of Family and Children’s Agencies (CAFCA); Court Appointed Special Advocates (CASA); Colorado Coalition of Adoptive Families (COCAF); Colorado Department of Public Health and Environment (CDPHE); Colorado Human Services Directors Association (CHSDA); Colorado State Foster Parent Association; Colorado Trails User Group (CTUG); Division of Child Welfare Child Protection, Permanency, Placement Services, and Youth Services Teams, Fostering Colorado; Colorado Kinship Alliance; Foster and Kinship Care Coordinators; Office of the Child’s Representative (OCR); Rocky Mountain Children’s Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee and Workgroups, Permanency Task Group; Kinship Task Group; and CDHS Administrative Review Division.

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?

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

Yes No

Date presented June 2, 2016.

What issues were raised?

Clarification of when a family assessment is needed, during the assessment phase, or only during a case.

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

Yes No

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.

Please see attached spreadsheet for stakeholder comments.

Kinship Rule Proposal Stakeholder Feedback

Section	Feedback	Revision or rationale (if no change made)
7.000.2 "Convicted"	<ul style="list-style-type: none"> There is a definition of convicted in the Children's Code 19-1-103 (29.3) and should be used in rule 	<ul style="list-style-type: none"> Definition of conviction has been revised so the wording aligns with the definition in Title 19 instead of using different language.
7.000.2 "Pattern of Misdemeanors"	<ul style="list-style-type: none"> Need clarification of these definitions. They indicate that the misdemeanor convictions can be of "ANY TYPE", but then goes on to indicate that it has to be a combination of a certain type? Specifically two convictions of 3rd degree assault, AND/OR any misdemeanor including domestic violence. 	<ul style="list-style-type: none"> This language is consistent with other sections of rule including Volume III CCCAP rules. To change the language would cause inconsistency and possibly further confusion.
7.304.21 A	NO FEEDBACK	
7.304.21 B	<ul style="list-style-type: none"> The new language "FOR BUT NOT LIMITED TO" seems inappropriate. The list under B seems like the purpose of kinship care, so it seems it would read better as "IN ORDER TO." 	<ul style="list-style-type: none"> Revised wording to the stakeholder recommendation of "in order to."
7.304.21 B, 1	<ul style="list-style-type: none"> Instead of "across the life span" say "across the child's life span" 	<ul style="list-style-type: none"> Revised wording to get at the intent of the stakeholder comment, but also not duplicate language. Now reads "their life span"
7.304.21 C, 1	<ul style="list-style-type: none"> Children/youth should read child(ren)/youth. This is true throughout the document. Also check for child and/or youth and make the language consistent throughout. Is there a way to clarify these as non-court involved cases? 	<ul style="list-style-type: none"> Revised language in entire document to read "child(ren)/youth" These rules are based on who has custody (parent/guardian/kin or county department). To include court-involvement into the language would cause confusion as it can overlap with court involvement in many cases.
7.304.21 C, 2	<ul style="list-style-type: none"> What forms of support are they available for? Should the language be at initial response or anytime during the assessment? 	<ul style="list-style-type: none"> Revised the citation to reflect the forms of support are listed in 7.304.21, E, 3 and not in D, 3. The "prior to initial response.." language was stricken from 2, A) to alleviate confusion as this scenario could happen any time during the assessment period.
7.304.21 C, 3	<p>A.</p> <ul style="list-style-type: none"> Says the assessment cannot close until the child has been returned to their caregiver or documentation of legal custody 	<ul style="list-style-type: none"> Wording was changed to reflect the intent of assessment closure not occurring unless the child(ren)/youth being returned to their

Section	Feedback	Revision or rationale (if no change made)
	<p>to the kin. It needs to be clarified to give the 3 options of intent: 1) returned to parents; 2) custody to kin; and 3) a case is opened.</p> <ul style="list-style-type: none"> • What does “legal authority” mean? • It seems like 1-3 under A could be moved in front of A? • “Documentation is obtained demonstrating”, can this just be a ROC note or does it need to be legal documentation (hard copy or in ICON)? • Suggested language of adding the following toobtained demonstrating that legal authority has been granted to the relatives/kin OR IT HAS BEEN CONFIRMED AND DOCUMENTED IN THE STATEWIDE COMPUTER SYSTEM THAT THE SAFETY CONCERNS HAVE BEEN MITIGATED AND THERE ARE NO ONGOING SAFETY CONCERNS. • This rule is not very clear regarding fingerprints- spell out whether fingerprints are required <p>B.</p> <ul style="list-style-type: none"> • You reference if a child cannot return home by the conclusion of an assessment or family assessment response services plan, the assessment shall be closed. By rule, once a family assessment response services plan is created, a FAR has become a case (moved the services phase v. assessment phase). In other words, it would already be a case if it has a family assessment response services plan. • Refers to the completion of an assessment. Should it include the 60-day timeframe? (1) “A removal is not opened” should it also say in the SACWIS? • Indicates a removal will not be opened when the child cannot be returned home by the end of the assessment. However, this placement occurred under a safety plan. Safety plans are supposed to be short term (~ week). If an assessment lasts 60 days, and a child cannot be returned home by that time, wouldn’t a voluntary case have to be opened, or custody legally given to either the kin or the county? And if the county receives custody, then a removal would be opened. • Language suggestion: IF CHILDREN/YOUTH CANNOT RETURN HOME BY THE CONCLUSION OF AN ASSESSMENT OR FAMILY ASSESSMENT RESPONSE SERVICES PLAN <i>BECAUSE OF ONGOING SAFETY CONCERNS</i>, THE ASSESSMENT SHALL BE CLOSED AND A 	<p>parents/custodians; custody is given to kin; or a case is opened.</p> <ul style="list-style-type: none"> • Spoke with commenter about the suggested language of mitigating concerns and clarified the third option of opening a case. The intent of the rule is to eliminate the practice of mitigating the safety concern by the child(ren)/youth going to stay with a relative and the assessment closing with the parents having no recourse for mitigating the concerns and getting their child(ren)/youth returned to them. • “Legal authority” is not being defined in this rule to prevent language from being too prescriptive and hindering flexibility for county specific needs. • “Documentation is obtained demonstrating ...” is clarified to state that it must be documented in SACWIS. • This section of rule cites the rules to be followed in this scenario, which includes fingerprint checks. To mention fingerprints here would be duplicative. <p>B.</p> <ul style="list-style-type: none"> • According to the CPS team, a FAR services plan does not necessarily mean a case and the language should remain as is. • The second through fourth bullet points are covered in the language revision of # 3.

Section	Feedback	Revision or rationale (if no change made)
7.304.21 C, 4	<p>CASE SHALL BE OPENED. Does this need a wording change.</p> <p>A.</p> <ul style="list-style-type: none"> Should it say the county assumes legal authority of the child(ren)/youth and they...."are considered to be in OOH care and a removal is required"...should we add to be opened in the SACWIS? What happens if it is the JD court orders placement to kin? What background checks are completed? Where does this fit in rule? <p>B/C.</p> <ul style="list-style-type: none"> B and C seem contradictory again. B says it can't be closed, and C says it shall be closed. 	<p>A.</p> <ul style="list-style-type: none"> Language was revised to mirror the format of # 3 and addresses the concerns outlined in bullet 1 in A and the bullet in B/C. There is a section of rules outlining practice of JD cases and adding information here would be duplication.
7.304.21 D, 1	<ul style="list-style-type: none"> Should the language read court involved (vs. non-court involved in letter C)? Are children/youth whose cases are initially addressed through a safety plan but are then taken into legal custody by the county, documented? 	<ul style="list-style-type: none"> These rules are based on who has custody (parent/guardian/kin or county department). To include court-involvement into the language would cause confusion in many cases.
7.304.21 D, 2	<ul style="list-style-type: none"> Please clarify viable option- is this temporary or permanent? If permanent, it contradicts the remainder of this rule. Are the "... services to kin shall be used to help provide permanency for the child/youth" for children/youth who cannot be returned to parent's home, the same services as those identified, at a minimum, in Section 7.304.21, E, 3? 	<ul style="list-style-type: none"> After obtaining initial feedback, the majority of people stated they understood that returning to the parent's home is not a viable option right now and that this is not necessarily referring to a permanent situation. Language to be left as is.
7.304.21 D, 3	<ul style="list-style-type: none"> The Kinship Task Group is not in favor of a state approved, county specific assessment as it is seen as too much oversight. Is there a timeframe for when the SAFE has to be completed? And requirements about where/how it is documented? This rule sounds like the county department is required to complete a SAFE kinship evaluation regardless of our type of involvement. This process should be required ONLY if the department facilitated the placement AND the child is with kin for more than 30 days. My suggested wording: <i>IF THE COUNTY DEPARTMENT FACILITATED THE PLACEMENT AND THE CHILDREN/YOUTH ARE PLACED WITH THE KIN FOR 30 DAYS OR LONGER, THE COUNTY DEPARTMENT SHALL COMPLETE A FAMILY ASSESSMENT USING THE DEPARTMENT'S MODIFIED STRUCTURED ANALYSIS FAMILY EVALUATION (SAFE) OR A STATE APPROVED, COUNTY SPECIFIC ASSESSMENT FOR NON-CERTIFIED KINSHIP FAMILIES TO DETERMINE CHARACTER AND SUITABILITY</i> 	<ul style="list-style-type: none"> There are currently 2 drafts of this section: the one approved by DCW and the proposal from the Kinship Task Group. The timeframe for completion is not being added as the group writing the proposed language feels that the assessment would begin at the time of placement/change in living arrangement and be ongoing as additional information surfaced. DCW would not be in favor of leaving a child in a home for 30 days that has been assessed as assessment begins prior to or at the time of placement/change in living arrangement.

Section	Feedback	Revision or rationale (if no change made)
	<p>OF THE FAMILY, APPROPRIATENESS OF THE HOME AND CHILD CARE PRACTICES. IT IS NOT REQUIRED THAT THE COUNTY DEPARTMENT COMPLETE THE FOSTER CARE CERTIFICATION PROCESS.</p> <ul style="list-style-type: none"> • Are the non-certified kin assessments maintained at both the county and state level, and/or documented in Trails? 	
7.304.21 D, 4	<ul style="list-style-type: none"> • Is there a timeframe for completion? • This rule sounds like the kin always need to complete an application to provide care for children and youth, regardless of the department's involvement. My suggested wording: <i>IF THE COUNTY DEPARTMENT FACILITATED THE PLACEMENT, THE COUNTY DEPARTMENT SHALL ENSURE COMPLETION OF A SIGNED ORIGINAL APPLICATION TO PROVIDE CARE FOR CHILDREN AND YOUTH OR A STATE APPROVED, COUNTY SPECIFIC KINSHIP APPLICATION.</i> • Are original applications to provide kinship care for children/youth maintained at both the county and state level, and/or documented in Trails? What oversight is in place to ensure that counties follow this requirement? 	<ul style="list-style-type: none"> • Add language to the application stating it must be documented in the SACWIS. • Language added to clarify that the application must be initiated at the time of change in living arrangement. • Oversight of the completion of the application will occur through the impending non-certified kin review process.
7.304.21 D, 5	NO FEEDBACK	
7.304.21 D, 6	<ul style="list-style-type: none"> • Says a background check needs to be done on all "cases". Is this really intended to be only at case, or is it supposed to include at time of assessment? Also, it looks like this only applies at the closing of an assessment when the child couldn't be returned home by the conclusion of the assessment. That means we were fine with the child living with the kin for up to 60 days without doing a background check, but now need to do them once it moves to a case? Should "of the county department" be added between "involvement" and "facilitation" (take out "in the") and add "for the child(ren)/youth to include" at the end of that sentence? <p>B.</p> <ul style="list-style-type: none"> • I think the cite included, 7.304.21 D 2 f will change as a result of this rule change, so it should be updated here. • Question about frequency of all background checks. Sex offender states must be done annually. 	<ul style="list-style-type: none"> • DCW would not endorse a child/youth living in a home for up to 60 days without background checks being completed. • Language was slightly revised to clarify that background checks have to be completed prior to placement/change in living arrangement, not that checks need to be completed on people who lived in the home prior. <p>B.</p> <ul style="list-style-type: none"> • This was an oversight. Citation for the first bullet point has been changed. • After reviewing the statute again, nothing states that sex offender checks must be done annually for non-certified kinship placements, nor have counties been trained to this. It is proposed that "annually" be stricken from the rule.
7.304.21 D, 7	<ul style="list-style-type: none"> • Has cites that will change as a result of this rule change and 	<ul style="list-style-type: none"> • This comment refers to language that is stricken.

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	<p>will need to be updated (7.304.21 D 9 & 10)</p> <ul style="list-style-type: none"> This rule also needs clarification that the county department facilitated the placement. My suggested wording: <i>IF THE COUNTY DEPARTMENT FACILITATED THE PLACEMENT , THE COUNTY DEPARTMENT SHALL RECEIVE AFFIRMATION OF THE PLACEMENT EITHER THROUGH A COURT ORDER OR COUNTY DIRECTOR(S) AFFIRMATION TO PLACE OR ALLOW CONTINUED PLACEMENT OF A CHILD AND/OR YOUTH WITH A NON-CERTIFIED KIN OR OTHER ADULT LIVING IN THE HOME THAT WOULD OTHERWISE BE DISQUALIFIED IN SECTION 7.304.21, C, 8 AND 9.</i> 	<p>The only other section of rule that would refer back to this section is Placement Activities in 7.304.62. That section was reviewed to ensure all citations were correct.</p> <ul style="list-style-type: none"> Facilitation of placement language is not being added as the department may not have been involved in the initial facilitation, but choosing to continue the placement. Background checks would be required in those situations.
7.304.21 D, 8	<ul style="list-style-type: none"> Has cites that will change as a result of this rule change and will need to be updated 	<ul style="list-style-type: none"> This comment refers to language that is stricken. The only other section of rule that would refer back to this section is Placement Activities in 7.304.62. That section was reviewed to ensure all citations were correct.
7.304.21 D, 9	<ul style="list-style-type: none"> Uses "as soon as possible", will there be any guidance as to what this means? It appears that the concerns need to be addressed within 2 weeks of placement, so the plan would have to be before that. Also, "in the contact log in the resource section or in the record" is recommended to be taken out in a later part of the draft (on page 12). 	<ul style="list-style-type: none"> The concerns need to be remedied within 2 weeks, so a plan would need to be completed prior to that. Adding a timeframe for completion of the plan is fairly prescriptive and not flexible to county department needs. This language was already stricken.
7.304.21 D, 10	<ul style="list-style-type: none"> This should use the same language that was used on page 6, #8. (18 and older) 	<ul style="list-style-type: none"> The proposal is to strike number 10 as it is addressed elsewhere in rule.
7.304.21 D, 11	NO FEEDBACK	
7.304.21 E, 1	NO FEEDBACK	
7.304.21 E, 2	<p>A.</p> <ul style="list-style-type: none"> It indicates that some information shall be documented in Trails. Should a similar requirement also apply to 7.304.21 E 1 & 2? Also, "The information including date(s) information was provided shall be I think there should be a comma between "The information," and "provided, shall" This section states that kinship care providers should be advised of the types of support available to them; however, it is not for each placement type. For example, if kin do not meet all certification standards, they may accept APR instead of kinship foster care if they are not aware that certain non-safety standards can be waived. We request that the language 	<p>A.</p> <ul style="list-style-type: none"> E, 1 outlines the eligibility requirements and does not require any documentation. Language was revised to clarify that information provided, not just the dates, should be included in the documentation. This revision also changes the punctuation. E, 2, a, 2) mentions the ability to have non-safety standards waived and cites the applicable rule section. Rule language will not be changed here. "Family Preservation" refers to services, not permanency outcomes. Language is fine as

Section	Feedback	Revision or rationale (if no change made)
	<p>be modified to include this clarification.</p> <ul style="list-style-type: none"> • "Kinship caregivers for Title IV-E eligible children/youth are entitled to the same level of reimbursement as non-related providers." There is a state-&-county assistance program for non iv-e eligible foster and adopted children (which, at least for adopted kids, is almost -- with 1 exception -- identical to the IV-e program); I'm guessing since these children are with non-certified kin, that this kind of support would not be available to these families? • Is 'family preservation' equivalent to accepting permanent guardianship/APR? Is this defined in regulation? • Does a kinship caregiver have an appeals option if the county director/designee does not allow a 'waiver for non-safety certification standards' and if so, is the county mandated to provide the appeals process to families? We would otherwise be concerned that waivers may not be approved in circumstances where they would be appropriate. <p>F.</p> <ul style="list-style-type: none"> • Change emergency placement rules to "e" • (2/3) Seems like some of the timeframes throughout here conflict. Some say you can't place a child if a person residing in the home has certain charges, but you have until 5 days after the placement to run the fingerprint background check. • (8) a and b, what is the timeframe? • Use the same "adult"/18 years and older language. 8c says "placement, and annually, and". The other two places in the document prior, they do not put commas in that sentence. • (11) a, c, d what is the timeframe? d is the only place that requirement exists (when the rest of the requirements are the same elsewhere). 	<p>written.</p> <ul style="list-style-type: none"> • 7.708.74 clearly states that kinship caregivers do not have the right to appeal the decision related to non-safety waivers. <p>F.</p> <ul style="list-style-type: none"> • Language still exists in "e" regarding provisional certification, so emergency placement will be left in "f" • Because this is an emergency placement, an NCIC check would be completed, giving the county department some knowledge of criminal histories. This check must be completed prior to placement and fingerprint based checks must be completed within 5 days. • Timeframe is mentioned numerous times throughout the rule; prior to placement. • Removed commas from c) for consistency.
7.304.21 E, 3	NO FEEDBACK	
7.304.21 E, 4	NO FEEDBACK	
7.304.21 E, 5	NO FEEDBACK	
7.304.21 E, 6	<ul style="list-style-type: none"> • Should the following language, "The preferred permanent placement shall be adoption, legal guardianship, or permanent custody" be amended to specifically include the Relative Guardianship Assistance Program (RGAP), or is this implicit in either 'legal guardianship' or 'permanent custody'? 	<ul style="list-style-type: none"> • The language will not be changed as not all permanent placements will be eligible for the Relative Guardianship Assistance Program
GENERAL FEEDBACK	<ul style="list-style-type: none"> • A primary concern regarding the kinship care rules continues to 	

Section	Feedback	Revision or rationale (if no change made)
	<p>be those cases where families are not being informed by counties of all placement options, despite CDHS regulations mandating this. This is especially concerning given that: 1) many kinship families can have lower incomes and less resources than non-relative foster-adopt families; and 2) of the average daily placement of children/youth in care in SFY 2015, 36% (1,872) were in non-certified kinship care.</p> <ul style="list-style-type: none"> • Commenter would be glad to provide contact information for kinship families who were not informed of the possible placement options. In foster care adoptions, by state and federal law, parents are allowed to request a post-finalization adoption assistance if they were not informed about the option of adoption assistance prior to the adoption, and the child would otherwise have met eligibility (7.306.41, F - "There are situations after finalization when adoptive parents can request a state level fair hearing before an Administrative Law Judge concerning the adopted child's eligibility for adoption assistance benefits or the amount of those benefits.") There does not appear to be a similar protection for kinship caregivers. Section 7.304.21 E, a, 2, c states that "Kinship caregivers for Title IV-E eligible children/youth are entitled to the same level reimbursement as non-related providers" - they should also be entitled to the same appeals protocol in the event that they are not properly informed of all placement options. Commenter is requesting that the current language be amended to include language similar to 7.306.41, F for kinship care providers. 	

(12 CCR 2509-1)

7.000.2 DEFINITIONS [Rev. eff. 1/1/16]

A. The following are definitions of commonly used terms used in these rules:

“Child Welfare Services” are the services and payments for services (other than medical services covered by the “Colorado Medical Assistance Act”) available, directly or indirectly, through the state and county departments for the benefit of eligible persons pursuant to rules adopted by the State Department or State Board of Human Services.

“Client” means any person applying for or receiving child welfare services from a county department.

“Colorado Safety Assessment Tool” means the tool in the State automated case management system that guides a case worker through a safety assessment process.

“Concurrent planning” means the simultaneous preparation of plans to:

- 1) assist the child's parents or caregivers in completing a treatment plan that, when completed successfully will allow the child to return home safely; and,
- 2) place the child in a setting that will become the child's permanent home if the parents or caregivers are unable to successfully complete their treatment plan.

“Continuously available” means the assignment of a person to be near an operable telephone, pager system, cellular telephone, or to have such arrangements made through agreements with the local law enforcement agencies.

"CONVICTED", FOR THE PURPOSES OF THE CRIMINAL HISTORY RECORD INFORMATION CHECK, MEANS A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER [SECTION 18-1.3-102, C.R.S.](#), A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO CONTEST ACCEPTED BY THE COURT, OR HAVING RECEIVED A DISPOSITION AS A JUVENILE OR HAVING BEEN ADJUDICATED A JUVENILE DELINQUENT BASED ON THE COMMISSION OF ANY ACT THAT CONSTITUTES SEXUAL ASSAULT, AS DEFINED IN SUBSECTION (96.5) OF 19-1-103, C.R.S.

“County Department” means a county department of human or social services or, if applicable, the county agency responsible for providing child welfare services as defined by Section 26-5- 101(3), C.R.S.

“De novo” means that when an issue is reviewed, affording no deference to the original decision.

“Dedicated Child Abuse and Neglect Reporting Telephone Line” is a county department telephone number that is used to receive calls related to child abuse and/or neglect. Calls to county departments’ dedicated child abuse and neglect reporting telephone lines will be routed through the statewide hotline system for recording and data collection purposes and routed to the county departments’ hotline workers.

“Non-certified kinship care” means a child and/or youth is being cared for by a relative or kin, who has a significant relationship with the child and/or youth, in circumstances when there is a safety concern by a county department in the home of the parent or legal guardian and the relative or kin has not met the foster care certification requirements for a kinship foster care home or has chosen not to pursue certification.

"PATTERN OF MISDEMEANORS" FOR THE PURPOSES OF THE CRIMINAL HISTORY RECORD INFORMATION CHECK SHALL BE DEFINED AS:

- A) THREE (3) OR MORE CONVICTIONS OF 3RD DEGREE ASSAULT AS DESCRIBED IN SECTION 18-3-204, C.R.S., AND/OR ANY MISDEMEANOR, THE UNDERLYING FACTUAL

BASIS OF WHICH HAS BEEN FOUND BY ANY COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S. ; OR,

B) FIVE (5) MISDEMEANOR CONVICTIONS OF ANY TYPE, WITH AT LEAST TWO (2) CONVICTIONS OF 3RD DEGREE ASSAULT AS DESCRIBED IN SECTION 18- 3-204, C.R.S., AND/OR ANY MISDEMEANOR, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY ANY COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6- 800.3, C.R.S.; OR,

C) SEVEN (7) MISDEMEANOR CONVICTIONS OF ANY TYPE

“Personal Contact” is a method of contact in which two people exchange information in person or through live communication either via telephone or other emerging communications technology.

“Potential disqualifying factor” for the purpose of completing a background check for non-certified kinship care and kinship foster care homes, means information that may preclude the placement of a child and/or youth by a county department of human or social services or a child placement agency into a prospective home. Factors include, but are not limited to:

1. A criminal conviction that may be prohibited;
2. Confirmed child abuse and/or neglect in the state automated case management system or another state’s child abuse and neglect registry, and following a review of the information, it is determined that any safety concerns can be mitigated;
3. The court orders and affirms the placement of the child or youth with kin; or,
4. Additional documented information that was acquired that raises concern about safety in the home.

“Preponderance of evidence” means credible evidence that a claim is more likely true than not.

“Present danger” means an immediate, significant, and clearly observable threat to child safety that is actively occurring and will likely result in moderate to severe harm to a child.

“Reasonable and prudent parent standard” means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use when determining whether to allow a child or youth in foster care under the responsibility of the county or in non-secure residential settings under the responsibility of the Division of Youth Corrections (DYC) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).

“Reasonable efforts” means the exercise of diligence and care throughout county department involvement with children, youth, and families. ~~“RED Team” is the acronym for Review, Evaluate and Direct. The RED Team is a group decision making process that utilizes the framework and agency response guide to determine county department response to referrals.~~

“RED TEAM” IS THE ACRONYM FOR REVIEW, EVALUATE AND DIRECT. THE RED TEAM IS A GROUP DECISION MAKING PROCESS THAT UTILIZES THE FRAMEWORK AND AGENCY RESPONSE GUIDE TO DETERMINE COUNTY DEPARTMENT RESPONSE TO REFERRALS.

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