

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

RULEMAKING PACKET

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

- a. Board Executive Director
 b. Regular Emergency

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

<input checked="" type="checkbox"/> AG Initial Review	<input type="checkbox"/>	<input checked="" type="checkbox"/> Initial Board Reading	<input type="checkbox"/>	<input type="checkbox"/> AG 2 nd Review	<input type="checkbox"/>	<input type="checkbox"/> Second Board Reading / Adoption
---	--------------------------	---	--------------------------	--	--------------------------	--

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

Number	
2	Amended Rules
6	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	November 2021
What date is being requested for this rule to be effective?	January 2022
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 11/2021 2nd Board 12/2021 Effective Date 01/2022
 Dates: _____ _____ _____

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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***

The Colorado Department of Human Services Division of Child Welfare is updating Volume 7 to include rules to address assessments of referrals when an infant is voluntarily surrendered to staff at a hospital, community clinic emergency center, or fire station within 72 hours of birth and the caregiver does not express an intent to return for the infant in accordance with C.R.S.19-3-304.5. The purpose of this addition and revision of rule is to provide consistency in assessments of voluntarily surrendered infants.

The revisions also contain changes to who may be designated at a county department to conduct an egregious, near-fatal, or fatal assessment. This revision follows a recommendation from the Child Fatality Review Team to review the requirements. The revision allows for county discretion in determining what constitutes a conflict of interest for a caseworker who has had prior involvement with a family.

Also included in the proposed rules is the addition of a definition for “medium” as it relates to the severity of an allegation of abuse and/or neglect. The term “medium” is used in Trails and County Notification letters as a severity level for abuse and neglect and “medium” IS NOT currently defined in Volume 7. This discrepancy creates a notice issue and could lead to administrative law judges overturning findings if it is determined that the alleged perpetrator did not receive proper notice of the finding made against them. This issue was identified by the AG.

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

Code	Description
------	-------------

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants		
CDHS Tracking #:	21-02-08-01		
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661	
		E-Mail: James.Connell@state.co.us	

Does the rule incorporate material by reference?	X	Yes			No
Does this rule repeat language found in statute?	X	Yes			No
If yes, please explain.	The proposed rule refers to C.R.S.19-3-304.5 and some of the language used in the statute to establish what population is included in the Safe Haven voluntarily surrendered infants assessment process.				

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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?

Caregivers seeking to safely surrender an infant in accordance with C.R.S.19-3-304.5 will benefit from a consistent response by county child welfare departments. Counties will benefit from the clear assessment process in this rule.

Child welfare departments will benefit from being able to determine what constitutes a conflict of interest for assessments. Families will benefit from the continuity of assessment and services offered by the county in which they reside.

Persons found responsible for the abuse and neglect will understand what “medium” means in relation to the severity of abuse or neglect findings. County departments will benefit from defining medium as it relates to severity level.

No populations are anticipated to be adversely impacted by this rule.

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 2020, 3 infants were voluntarily surrendered in accordance with C.R.S.19-3-304.5. County departments will have clearly defined processes for responding to these assessments.

In 2020, 75.0% of substantiated fatal child maltreatment incidents, the child, child’s family, and/or alleged perpetrator had prior involvement with the child welfare system. County departments will have the ability to determine what constitutes a conflict of interest in these assessments. Families will be able to be served by the county in which they reside.

In 2020, child welfare departments made founded findings and provided notification to individuals responsible for abuse and/or neglect in 7,779 assessments. The definition clarifies what a “medium” severity level means as it relates to founded abuse and/or neglect.

County departments will have clearly defined processes for responding to these assessments.

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....”***

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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 Fiscal Impact because there is no cost associated with the changes. Current state staff will work with the training team to revise existing training for assessments that are included as part of the annual training budget.

County Fiscal Impact

No County Fiscal Impact because counties are already required to conduct assessments.

Federal Fiscal Impact

No Federal Fiscal Impact as there are no Federal costs associated with the rule changes.

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

No other fiscal impact.

4. Data Description

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

As part of the rule drafting process, participants in Child Protection Task Group reviewed Safe Haven processes and legislation from all 50 states.

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...”

No alternative to rule-making because without updated assessment rules the caregivers who voluntarily surrender a newborn will not receive a consistent assessment response.

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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
7.104	<i>Could be misinterpreted to apply to Safe Haven assessments without clarifying language.</i>	Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18]	Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18] THE REQUIREMENTS OF THIS SECTION ADDRESS INTRAFAMILIAL, INSTITUTIONAL AND THIRD-PARTY ABUSE AND/OR NEGLECT ASSESSMENTS EXCEPT FOR SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS. FOR ASSESSMENT RULES PERTAINING TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS SEE SECTION 7.106.4.	Direct individuals to the correct section of the rule for Safe Haven assessments	
7.106.4		New	7.106.4 SAFE HAVEN VOLUNTARILY SURRENDERED INFANT GROUNDS FOR ASSESSMENT THE REQUIREMENTS OF THIS SECTION ADDRESS ASSESSMENTS OF REFERRALS WHEN AN INFANT IS VOLUNTARILY SURRENDERED TO STAFF AT A HOSPITAL, COMMUNITY CLINIC EMERGENCY CENTER, OR FIRE STATION WITHIN 72 HOURS OF BIRTH AND THE CAREGIVER DOES NOT EXPRESS AN INTENT TO RETURN FOR THE INFANT IN ACCORDANCE WITH C.R.S. 19-3-304.5. REQUIREMENTS SET FORTH IN SECTION 7.104 THROUGH 7.104.15 DO NOT APPLY TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANT ASSESSMENTS	Clarifies the population that this section of the rule applies to.	
7.106.41		New	7.106.41 AGENCY RESPONSIBLE FOR CONDUCTING THE ASSESSMENT THE COUNTY DEPARTMENT RESPONSIBLE FOR CONDUCTING THE ASSESSMENT OF A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT SHALL	Establishes jurisdiction for Safe Haven assessments.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

			BE THE COUNTY IN WHICH THE INFANT WAS VOLUNTARILY SURRENDERED.		
7.106.42			<p>7.106.42 ASSESSMENT PROCEDURES – TIMING AND REQUIREMENTS</p> <p>COUNTY DEPARTMENTS SHALL:</p> <ul style="list-style-type: none"> A. ASSIGN PRIORITY IN RESPONSE TIME USING THE CRITERIA SET FORTH IN SECTION 7.103.60. B. CONDUCT A FACE-TO-FACE OBSERVATION WITH THE ALLEGED VICTIM CHILD IN ACCORDANCE WITH THE ASSIGNED RESPONSE TIME. C. CONDUCT A CHECK WITH LAW ENFORCEMENT FOR REPORTED MISSING INFANTS. D. PLACE THE INFANT IN A POTENTIAL ADOPTIVE HOME. E. OPEN A CASE TO PURSUE PERMANENCY. F. REPORT THE ASSESSMENT TO THE STATE DEPARTMENT WITHIN 5 BUSINESS DAYS OF RECEIVING A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT. G. IF ADDITIONAL ALLEGATIONS OF KNOWN OR SUSPECTED ABUSE AND/OR NEGLECT ARE IDENTIFIED DURING THE COURSE OF THE ASSESSMENT, THE REQUIREMENTS SET FORTH IN SECTIONS 7.104 THROUGH 7.104.15 SHALL APPLY. 	Establishes what is to be included in an assessment of a voluntarily surrendered newborn.	
7.106.43		New	<p>7.106.43 FINDINGS</p> <ul style="list-style-type: none"> A. A PARENT, CAREGIVER OR GUARDIAN SHALL NOT BE THE SUBJECT OF A CONFIRMED ALLEGATION OF ABUSE AND/OR NEGLECT SOLELY BASED ON SURRENDERING AN INFANT PER C.R.S 19-3-304.5. 	Establishes procedures for findings.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

7.106.44		New	7.106.44 DOCUMENTATION REQUIRED AT CONCLUSION OF ASSESSMENT A. ENTER A CLOSURE SUMMARY CONTAINING A BRIEF SUMMARY OF INITIAL CONCERNS AND ANY ADDITIONAL CONCERNS DISCOVERED DURING THE ASSESSMENT AND THE ACTIONS THAT WERE TAKEN. B. THE ASSESSMENT SHALL BE APPROVED BY A CERTIFIED SUPERVISOR AND CLOSED WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE THE REFERRAL WAS RECEIVED.	Establishes what documentation is required at the assessment closure.	
7.106.12 1 B1	The rule as written limits who may conduct an assessment.	B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions: 1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. The assigned individual(s) shall not have had prior involvement with the family during a referral, assessment, case or other services with the county department. In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by	B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions: 1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. The assigned individual(s) shall not have had prior involvement with the family during a referral, assessment, case or other services with the county department. In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by another county department with personnel having appropriate training and skill.	Allows for county discretion in determining what constitutes a conflict of interest for a caseworker who has had prior involvement with a family.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

		another county department with personnel having appropriate training and skill.			
7.000.2		New	"MEDIUM," A TERM FOUND IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM THAT WHEN USED FOR THE PURPOSES OF DETERMINING SEVERITY LEVEL, HAS THE SAME MEANING AS THE TERM "MODERATE."	Brings the term "medium" into alignment with the term "moderate".	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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):

Child Protection Task Group (which includes participants from small, medium, and large counties, the Administrative Review Division, members of Child Fatality Review Team, the Child Protection Ombudsman Office) , Child Welfare Sub-PAC, Colorado Safe Haven for Newborns

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 Protection Task Group (which includes participants from small, medium, and large counties, the Administrative Review Division, members of Child Fatality Review Team, the Child Protection Ombudsman Office) , Child Welfare Sub-PAC, Colorado Safe Haven for Newborns

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 Sub-PAC		
Date presented	08/05/2021		
What issues were raised?	A possible need for statutory change related to the ongoing case requirements for voluntarily surrendered infants regarding an accelerated path towards the termination of parental rights.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

Yes No

Date presented	
What issues were raised?	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

Other Comments

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.

Two listening sessions were hosted and no public comments were made.

7.104 Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18]

THE REQUIREMENTS OF THIS SECTION ADDRESS INTRAFAMILIAL, INSTITUTIONAL AND THIRD-PARTY ABUSE AND/OR NEGLECT ASSESSMENTS EXCEPT FOR SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS. FOR ASSESSMENT RULES PERTAINING TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS SEE SECTION 7.106.4.

7.106.4 SAFE HAVEN VOLUNTARILY SURRENDERED INFANT GROUNDS FOR ASSESSMENT

THE REQUIREMENTS OF THIS SECTION ADDRESS ASSESSMENTS OF REFERRALS WHEN AN INFANT IS VOLUNTARILY SURRENDERED TO STAFF AT A HOSPITAL, COMMUNITY CLINIC EMERGENCY CENTER, OR FIRE STATION WITHIN 72 HOURS OF BIRTH AND THE CAREGIVER DOES NOT EXPRESS AN INTENT TO RETURN FOR THE INFANT IN ACCORDANCE WITH C.R.S. 19-3-304.5. REQUIREMENTS SET FORTH IN SECTION 7.104 THROUGH 7.104.15 DO NOT APPLY TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANT ASSESSMENTS

7.106.41 AGENCY RESPONSIBLE FOR CONDUCTING THE ASSESSMENT

THE COUNTY DEPARTMENT RESPONSIBLE FOR CONDUCTING THE ASSESSMENT OF A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT SHALL BE THE COUNTY IN WHICH THE INFANT WAS VOLUNTARILY SURRENDERED.

7.106.42 ASSESSMENT PROCEDURES – TIMING AND REQUIREMENTS

COUNTY DEPARTMENTS SHALL:

- A. ASSIGN PRIORITY IN RESPONSE TIME USING THE CRITERIA SET FORTH IN SECTION 7.103.60.**
- B. CONDUCT A FACE-TO-FACE OBSERVATION WITH THE ALLEGED VICTIM CHILD IN ACCORDANCE WITH THE ASSIGNED RESPONSE TIME.**
- C. CONDUCT A CHECK WITH LAW ENFORCEMENT FOR REPORTED MISSING INFANTS.**
- D. PLACE THE INFANT IN A POTENTIAL ADOPTIVE HOME.**
- E. OPEN A CASE TO PURSUE PERMANENCY.**
- F. REPORT THE ASSESSMENT TO THE STATE DEPARTMENT WITHIN 5 BUSINESS DAYS OF RECEIVING A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT.**
- G. IF ADDITIONAL ALLEGATIONS OF KNOWN OR SUSPECTED ABUSE AND/OR NEGLECT ARE IDENTIFIED DURING THE COURSE OF THE ASSESSMENT, THE REQUIREMENTS SET FORTH IN SECTIONS 7.104 THROUGH 7.104.15 SHALL APPLY.**

7.106.43 FINDINGS

- A. A PARENT, CAREGIVER OR GUARDIAN SHALL NOT BE THE SUBJECT OF A CONFIRMED ALLEGATION OF ABUSE AND/OR NEGLECT SOLELY BASED ON SURRENDERING AN INFANT PER C.R.S 19-3-304.5.**

7.106.44 DOCUMENTATION REQUIRED AT CONCLUSION OF ASSESSMENT

- A. ENTER A CLOSURE SUMMARY CONTAINING A BRIEF SUMMARY OF INITIAL CONCERNS AND ANY ADDITIONAL CONCERNS DISCOVERED DURING THE ASSESSMENT AND THE ACTIONS THAT WERE TAKEN.**
- B. THE ASSESSMENT SHALL BE APPROVED BY A CERTIFIED SUPERVISOR AND CLOSED WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE THE REFERRAL WAS RECEIVED.**

7.106.121 Additional Actions When County Department has had Prior/Current Involvement

B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the

child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions:

1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. ~~The assigned individual(s) shall not have had prior involvement with the family during a referral, assessment, case or other services with the county department.~~ In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by another county department with personnel having appropriate training and skill.

7.000.2 Definitions

“MEDIUM,” A TERM FOUND IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM THAT WHEN USED FOR THE PURPOSES OF DETERMINING SEVERITY LEVEL, HAS THE SAME MEANING AS THE TERM “MODERATE.”