

Title of Proposed Rule:	County Department Response to Unregulated Custody Transfer of a Child/youth	
CDHS Tracking #:	24-08-30-01	
Office, Division, & Program:	Rule Author: Holly Harris-Yanker James Connell	Phone: 720-642-0194 720-636-5456
OCYF/Child Welfare/ Child Welfare Practice		E-Mail: Holly.Harris-Yanker@state.co.us 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 type="checkbox"/> AG Initial Review	<input type="checkbox"/>	<input type="checkbox"/> Initial Board Reading	<input type="checkbox"/>	<input type="checkbox"/> AG 2 nd Review	<input checked="" type="checkbox"/> Second Board Reading / Adoption
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This package contains the following types of rules: *(check all that apply)*

Number	
	Amended Rules
1	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	March 2025
What date is being requested for this rule to be effective?	May 2025
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 Dates:	1st Board <u>March 2025</u>	2nd Board <u>April 2025</u>	Effective Date <u>May 2025</u>
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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***

The Colorado Department of Human Services' Division of Child Welfare is updating Volume 7 administrative rules to align with the requirements of HB23-1157 regarding unregulated custody transfer (UCT).

The statute intends to protect children/youth from unregulated custody transfers or re-homing without adequate oversight and support national policy, as well as other states' laws. These situations can expose vulnerable children/youth who have already been adopted to further trauma and instability; the children/youth may be placed with individuals that have not been appropriately assessed or completed background checks, posing safety concerns; the children/youth are outside the purview of county departments and the courts; they may experience further abuse and/or neglect; and children/youth are at risk of repeated unregulated custody transfers.

The revised rule will implement the requirements of HB23-1157, including the definition of Unregulated Custody Transfers to benefit county departments in their work.

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)(b), C.R.S. (2024)	The state board shall have authority to adopt "board rules" for programs administered and services provided by the state department as set forth in this title and in title 27, C.R.S.
§ 26-1-109(3), C.R.S. (2024)	The state department shall cooperate with the federal department of health, education, and welfare and other federal agencies in any reasonable manner, in conformity with the laws of this state, which may be necessary to qualify for federal aid, including the preparation of state plans, the making of reports in such form and containing such information as any federal agency may from time to time require, and the compliance with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of the reports.

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26-1-111(2)(a), C.R.S. (2024)	The state department, under the supervision of the executive director, shall: Administer or supervise all forms of public assistance and welfare, including but not limited to assistance payments, food stamps, and social services under programs for old age pensions except for the old age pension health and medical care program, and shall also administer and supervise the Colorado works program, aid to the blind, aid to the needy disabled, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, and such other public assistance and welfare activities as may be vested in the state department pursuant to law
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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
§ 26-5-102(1)(a), C.R.S. (2024)	The state board shall adopt rules to establish a program of child welfare services administered by the state department or supervised by the state department and administered by the county departments, and, where applicable, in accordance with the conditions accompanying available federal funds for such purpose. . .

Does the rule incorporate material by reference?		Yes		x	No
Does this rule repeat language found in statute?		Yes		x	No
If yes, please explain.	This rule references section 19-3-304.5 of the Colorado Revised Statutes pertaining to Safe Haven, as an exception to what may be considered an unregulated custody transfer.				

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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?

County departments will benefit from this update because it applies the statutory definition of "unregulated custody transfer" to regulations and includes the statutory definition in regulation.

No populations are anticipated to be adversely affected by these changes.

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?

A county department may be impacted as this rule will establish what is considered an unregulated custody transfer, and in conjunction with rule packet 24-01-24-01 outline county department response to unregulated custody transfers.

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.

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 is anticipated with the establishment of a definition of Unregulated Custody Transfer. Current state staff will work with the training team to incorporate changes into existing training.

County Fiscal Impact

There is no anticipated fiscal impact based on the establishment of a definition of Unregulated Custody Transfer. This rule is running in tandem to 24-01-21-01, where there is an anticipated fiscal impact to counties which is outlined in that packet.

Federal Fiscal Impact

There is no anticipated federal fiscal impact based on the establishment of a definition of Unregulated Custody Transfer.

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

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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?

Please click this link (<https://qic-ag.org/wp-content/uploads/2016/09/UCT-Tip-Sheet-final.pdf>) to go to the [Capacity Building Center for States Tip Sheet](#) on the Unregulated Custody Transfer/Re-homing of Adopted Children. The information on the tip sheet is accurate regarding what is known about the concerns with unregulated custody transfer.

The [Uniform Law Commission](#) has also completed work on creating uniformity across states with regards to unregulated custody transfer, including a [webinar](#) walking through the act drafted. Please visit this link to visit the Uniform Law Commissions' website

(<https://www.uniformlaws.org/committees/community-home/librarydocuments?communitykey=473903e2-ea5a-4088-a8be-ba3f9086d46b&LibraryFolderKey=&DefaultView=>) and this second link to observe the webinar

(https://uniformlaws.zoom.us/rec/play/CGYV-J_xRBI1HuoET5CTkjVWYbSpggfBf9-r04V4I6jHZJ63YskSAeS4iapL9gWCPhmwTzpu-nl-CdPQ.i7X6ERCdD2DZ8Vkg?canPlayFromShare=true&from=share_recording_detail&startTime=1650474063000&componentName=rec-play&originRequestUrl=https%3A%2F%2Funiformlaws.zoom.us%2Frec%2Fshare%2FdgebQQmsox57Nxt3n01bpO56at14aGxfAFjVwJwVgJyMjtOIAOqAsc08J4S-gRGW.OsAPQqwzt4GeoakH%3FstartTime%3D1650474063000) .

Currently, potential unregulated custody transfers of adopted children are primarily reported through a contracted entity that reviews private domestic and intercountry adoptions (mandated reporter). The state does not have data regarding reports of unregulated custody transfer in the Comprehensive Child Welfare Information System, however, does track if a child/youth has been adopted.

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..."

Consideration was given to alternatives, however, unregulated custody transfer is illegal and impacts child/youth safety, permanency, and well-being with children/youth that are already vulnerable. This rule change will provide clarity to county departments for all available options to address concerns that an unregulated custody transfer has occurred.

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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
7.000.2	Identified need to clarify the population included in an unregulated custody transfer.		<p>"UNREGULATED CUSTODY TRANSFER" REFERS TO WHEN A PARENT, GUARDIAN, CUSTODIAN OR AN INDIVIDUAL WITH WHOM A CHILD HAS BEEN PLACED FOR ADOPTION TRANSFERS (OR INTENDS TO TRANSFER) CUSTODY OF THE CHILD/YOUTH TO ANOTHER PERSON WITH THE INTENT, AT THE TIME OF THE TRANSFER, OF ABANDONING THEIR RIGHTS AND RESPONSIBILITIES OF THE CHILD/YOUTH PERMANENTLY, OUTSIDE OF A LEGAL ADOPTION OR GUARDIANSHIP PROCEEDING, JUDICIAL AWARD OF CUSTODY, OTHER JUDICIAL OR TRIBAL ACTION, OR COLORADO'S SAFE HAVEN LAW AS DESCRIBED IN SECTION 19-3-304.5, C.R.S.</p> <p>UNREGULATED CUSTODY TRANSFER DOES NOT APPLY WHEN A TRANSFER OF CUSTODY OF A CHILD/YOUTH BY A PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD/YOUTH IS TO:</p> <ol style="list-style-type: none"> 1. A PARENT OF THE CHILD/YOUTH, 2. A STEPPARENT OF THE CHILD/YOUTH, 3. AN ADULT WHO IS RELATED TO THE CHILD/YOUTH BY BLOOD, MARRIAGE, ADOPTION, OR OTHER RELATIONSHIP RECOGNIZED BY OTHER LAW, 		

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			<p>4. AN ADULT WHO, AT THE TIME OF THE TRANSFER, HAS HAD A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD/YOUTH FOR AT LEAST SIX MONTHS PRIOR TO THE TRANSFER, AND WHOM THE TRANSFERRING INDIVIDUAL BELIEVES, AT THE TIME OF TRANSFER, TO BE A FIT CUSTODIAN FOR THE CHILD/YOUTH,</p> <p>5. AN INDIAN CUSTODIAN, AS OUTLINED IN THE "INDIAN CHILD WELFARE ACT OF 1978", 25 U.S.C. SECTION 1903(6).</p>		

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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):

The Division of Child Welfare's Child Protection Task Group is the stakeholding body for these rules. The Child Protection Task Group is a public-facing meeting attended by small, medium, and large size county department of human/social services staff from across the state, as well as stakeholders from the Child Protection Ombudsman, Office of the Child's Representative, and the public.

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 placement agencies (foster care and adoption), Child Protection Task Group, Colorado Association of Family and Children's Agencies (CAFCA), Colorado Coalition of Adoptive Families (COCAF), Colorado Department of Human Services (CDHS), Colorado Human Services Directors Association (CHSDA), Colorado State Foster Parent Association, Colorado Trails User Group (CTUG), County Adoption Supervisors, County Foster Care Caseworkers and Supervisors, Division of Child Welfare (DCW) Child Protection and Prevention Services, Permanency Services, Provider Services, Training and Development, and Youth Services, Fostering Colorado, Foster Source, Office of the Child's Representative (OCR), Office of the Respondent Parent Counsel (ORPC), and the Permanency Task Group

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	12/5/2024		
What issues were raised?	Recommendation to add specific ICWA statute reference.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous by those in attendance		
If not presented, explain why.			

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PAC

Have these rules been approved by PAC?

☒ Yes ☐ No

Date presented	1/9/2025		
What issues were raised?	N/A		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Passed on consent by those in attendance		
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.

7.000.2 Definitions

"UNREGULATED CUSTODY TRANSFER" REFERS TO WHEN A PARENT, GUARDIAN, CUSTODIAN OR AN INDIVIDUAL WITH WHOM A CHILD HAS BEEN PLACED FOR ADOPTION TRANSFERS (OR INTENDS TO TRANSFER) CUSTODY OF THE CHILD/YOUTH TO ANOTHER PERSON WITH THE INTENT, AT THE TIME OF THE TRANSFER, OF ABANDONING THEIR RIGHTS AND RESPONSIBILITIES OF THE CHILD/YOUTH PERMANENTLY, OUTSIDE OF A LEGAL ADOPTION OR GUARDIANSHIP PROCEEDING, JUDICIAL AWARD OF CUSTODY, OTHER JUDICIAL OR TRIBAL ACTION, OR COLORADO'S SAFE HAVEN LAW AS DESCRIBED IN SECTION 19-3-304.5, C.R.S.

UNREGULATED CUSTODY TRANSFER DOES NOT APPLY WHEN A TRANSFER OF CUSTODY OF A CHILD/YOUTH BY A PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD/YOUTH IS TO:

1. A PARENT OF THE CHILD/YOUTH,
2. A STEPPARENT OF THE CHILD/YOUTH,
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