

Title of Proposed Rule: **Program Area 4 Assessment Rules**

CDHS Tracking #: **18-09-28-01**

Office, Division, & Program:
OCYF, DCW

Rule Author:
Trevor Williams

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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)*

AG Initial Review

Initial Board Reading

AG 2nd Review

Second Board Reading / Adoption

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

Number
19 Amended Rules
3 New Rules
2 Repealed Rules
0 Reviewed Rules

What month is being requested for this rule to first go before the State Board?	1/2019
What date is being requested for this rule to be effective?	3/15/19
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 _____ 2nd Board _____ Effective Date _____

DOCUMENT 4

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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

In 2012, the Child Fatality Review Team recommended that the Division of Child Welfare explore the implementation of a safety assessment tool for the Program Area 4 (PA4): Youth in Conflict - population. Additionally, counties and stakeholders expressed concerns that services being provided to the PA4 population lacked consistency between counties. This was largely due to a lack of rules implementing a minimum standard of practice for the PA4 population, which led children/youth to: (1) youth enter placement and cases opening without a caseworker ever meeting a parent in person or seeing the home; (2) youth remaining in care for extended periods of time; and (3) a lack of urgency in locating permanent placements for PA4 children/youth. These rules are intended to increase parent engagement, ensure that all families are assessed for safety and risk, and provide a minimum standard of practice in order to reduce unnecessary out-of-home placements by promoting the use of kin for out of home placements.

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:

[Empty box for justification]

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2018)	State Board to promulgate rules
26-1-109, C.R.S. (2018)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2018)	State department to promulgate rules for public assistance and welfare activities
26-5-102(1)(a), C.R.S. (2018)	State department 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 department

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, C.R. S. (2018)	State department to promulgate rules for public assistance and welfare activities

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Does the rule incorporate material by reference?
Does this rule repeat language found in statute?

Yes
Yes

No
No

If yes, please explain.

n/a

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?

Children, youth, and families in Colorado, along with county child welfare caseworkers, will benefit from this rule. The changes will ensure that families who become involved with child welfare due to issues perceived to be stemming from conflict between the parent and children/youth are assessed for safety and risk, which will lead to more appropriate case planning and placement decisions at the initial stages of a case. Both the Child Fatality Review Team and the Federal Child and Family Services Review (CFSR) specifically noted that the lack of safety assessments in PA4 is a concern. While this will cause an increase in assessments for intake caseworkers, these rules will increase the capacity of caseworkers to make informed decisions and more accurately assess the needs of the children, youth, and families who become involved with child welfare in Colorado.

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?

The primary impact of this rule will be to ensure that children/youth and their families receive consistent assessment services through the state of Colorado when a referral for PA4 is screened in for assessment. This rule may also decrease the incidence of children/youth entering placement unnecessarily when becoming involved through a PA4 referral. These rules may also increase the use of lower levels of care by providing a structure for a meaningful assessment of the family's needs and directing caseworkers to use kinship placements whenever safe and possible.

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)

There is no state fiscal impact because the changes included will be managed through current staff, and any modifications to training will be small and will not require the development of new training.

County Fiscal Impact

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Additional assessment requirements will shift workload for county casework staff serving families who become involved with child welfare and are identified as PA4 at the point of initial assessment. Increases in workload upon initial referral will be offset by a reduction in subsequent referrals and more targeted case services. Due to the lack of requirements for assessment of PA4 referrals prior to a case opening, a significant number of previously assessed families are returning to county departments for additional subsequent assessments. In SFY17, 57.77% of clients who had previous PA4 assessments had additional referrals made to county departments of human services within 12 months, 38% had subsequent assessments, and of those referrals 39% were assigned by county staff as interfamilial abuse/neglect assessments. The data is similar for SFY15 and SFY16.

Additionally, earlier assessment is expected to reduce workload in the ongoing phase of cases since issues will be identified sooner. See the data description in question 4 for more detail on this analysis.

The best available data indicates this can be absorbed by existing staff. For example, Arapahoe County Department of Human Services implemented a single set of expectations for both PA4 and PA5 cases to create parity, and no overall fiscal impact could be identified as a result of that change.

Federal Fiscal Impact

The federal Administration for Children and Families (ACF) does not have different requirements for children/youth who experience intra-familial abuse and/or neglect and older children/youth who experience familial conflict that results in child welfare involvement. At this time, Colorado does not face federal sanctions as a result of inconsistent safety assessments in PA4; however, this practice issue is directly referenced in the most recent Child and Family Services Review report.

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

There is no other fiscal impact, because these changes will primarily impact child welfare practice.

4. Data Description

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

Data available from Trails demonstrates clients with closed PA4 assessments have a 57% chance of having a subsequent referral within 12 months, 38% (1,015 unique clients) of those unique clients have their referral screened in, and 39%, (399 unique clients) are assigned as intrafamilial abuse/neglect. Meetings with county partners who have implemented the safety and risk assessment for all families including PA4 indicated that this practice has been helpful in identifying potential safety concerns that were not initially known by the reporting party, and ensuring that the county caseworker and supervisor are fully apprised of the safety and risk factors within the family.

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...”

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At this time there are no requirements for caseworkers to complete a full assessment of youth who have been identified as “youth in conflict” or “beyond control of parent,” nor is there a standardized method of designating referrals as PA4 or Program Area 5 (PA5) – Children in Need of Protection. The Division of Child Welfare has provided support and technical assistance to counties encouraging a more robust assessment, but this has not impacted practice. Additionally, current rules are inconsistent with federal requirements, which do not distinguish between PA4 and PA5. As a result, rules providing a minimum standard of practice are necessary to ensure children, youth, and families involved with child welfare through PA4 receive a complete assessment.

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OVERVIEW OF PROPOSED RULE

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



New



Revision



Technical Change

Repeal

Rule section Number	Type of Change/ Modification	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.103	Revision	Receipt of referral alleging intrafamilial or third party abuse and/or neglect – information to be gathered	Receipt Of Referral Alleging Intrafamilial Or Third Party Abuse And/Or Neglect AND/OR A YOUTH IN CONFLICT – Information To Be Gathered	Added YIC Language as previous language would not have captured that this information needs to be gathered for a YIC Assessment.	PA4/Youth Services Task Group
7.103 A	Revision	Upon receipt of a report alleging intrafamilial or third party abuse and/or neglect, the county departments or the hotline county connection center shall gather and document the following information, when available.	Upon receipt of a report alleging intrafamilial or third party abuse and/or neglect, AND/OR YOUTH IN CONFLICT , the county departments or the hotline county connection center shall gather and document the following information, when available.	Same as above.	PA4/Youth Services Task Group
7.103 (A)(1)(e)	Revision	Relationship to the alleged victim child(ren).	Relationship to the alleged victim child AND/OR YOUTH IN CONFLICT .	Same as above.	PA4/Youth Services Task Group
7.103 (A)(2)	Revision	Alleged victim child(ren)'s:	Alleged victim child(ren)'s AND/OR YOUTH IN CONFLICT :	Same as above.	PA4/Youth Services Task Group
7.103 (A)(3)(d)	Revision	Relationship to the alleged victim child(ren);	Relationship to the alleged victim child(ren) AND/OR YOUTH IN CONFLICT ;	Same as above.	PA4/Youth Services Task Group
7.103 (A)(6)	Revision	The date, time, and location the alleged victim child(ren) were last seen by the reporting party.	The date, time, and location the alleged victim child(ren), AND/OR YOUTH IN CONFLICT were last seen by the reporting party.	Same as above.	PA4/Youth Services Task Group
7.103.4(B)	Revision	The alleged victim child(ren) are not located or reside in the State of Colorado. In this circumstance, the county department shall inform the other state or county department of the referral;	The alleged victim child(ren) OR YOUTH IN CONFLICT are not located or reside in the State of Colorado. In this circumstance, the county department shall inform the other state or county department of the referral;	Revised to ensure a YIC referral can be screened out if the youth does not reside within the state.	PA4/Youth Services Task Group
7.103.4 (D)	Revision	Referral lacks sufficient information to locate the alleged victim child(ren);	Referral lacks sufficient information to locate the alleged victim child(ren) OR YOUTH IN CONFLICT ;	Revised to ensure a YIC referral can be screened out if there is not enough information to locate.	PA4/Youth Services Task Group

7.103.4 (G)	Technical Change	There is no current allegation of child abuse and/or neglect; and,	There is no current allegation of child abuse and/or neglect; and,	Modified to correct the list grammar.	
7.103.4 (H)	Revision	Other (applicable for Program Area 4 only and requires documentation explanation in the state automated case management system).	Other (applicable for Program Area 4 only and requires documentation explanation in the state automated case management system). MORE APPROPRIATE SERVICES FOR THE CHILD/YOUTH WHO IS ALLEGED TO BE A YOUTH IN CONFLICT ARE CURRENTLY BEING PROVIDED BY ANOTHER AGENCY;	Added the first of several specific reasons why a YIC referral would not require further action. This would be used when the youth meets the definition of YIC, but there are still more appropriate community based resources to serve the family.	PA4/Youth Services Task Group
7.103.4 (I)	New		REFERRAL DOES NOT MEET THE DEFINITION OF YOUTH IN CONFLICT AS DEFINED IN SECTION CCR 2509-1, 7.000.2; AND	A new reason that a YIC referral would not require further action, specifically indicating that the referral does not meet the definition of YIC outlined in rule.	PA4/Youth Services Task Group
7.103.4(J)	Technical Change	I. The decision to screen out a referral shall be made by a minimum of two (2) certified child welfare staff from the same county or in conjunction with another county. When there is disagreement to screen out, the referral shall be reviewed through the red team process.	J. The decision to screen out a referral shall be made by a minimum of two (2) certified child welfare staff from the same county or in conjunction with another county. When there is disagreement to screen out, the referral shall be reviewed through the red team process.	Changed lettering.	
7.103.5 (B)	Technical Change	Any time a case is opened, it shall come through the referral or assessment process in the state automated case management system with the exception of Interstate Compact on the Placement of Children (ICPC), out of state subsidized adoption, out of state Medicaid, Interstate Compact on Adoption and Medicaid Assistance (ICAMA), or Division of Youth Corrections (DYC) Medicaid only.	Any time a case is opened, it shall come through the referral or assessment process in the state automated case management system with the exception of Interstate Compact on the Placement of Children (ICPC), out of state subsidized adoption, out of state Medicaid, Interstate Compact on Adoption and Medicaid Assistance (ICAMA), or Division of Youth Corrections SERVICES (DYCS) Medicaid only.	Corrected the name of Division of Youth Services.	
7.103.5(C)	Technical Change	A. The county department shall review and respond, either with a face-to-face intervention or by telephone, when notified by the court appointed detention screener or a law enforcement officer, of a child or youth in the custody of a law enforcement agency who is inappropriate for secure detention but cannot be returned home.	F. THE COUNTY DEPARTMENT SHALL REVIEW AND RESPOND, EITHER WITH A FACE-TO-FACE INTERVENTION OR BY TELEPHONE, WHEN NOTIFIED BY THE COURT-APPOINTED DETENTION SCREENER OR A LAW ENFORCEMENT OFFICER OF A CHILD-OR-YOUTH IN THE CUSTODY OF A LAW ENFORCEMENT AGENCY WHO IS INAPPROPRIATE FOR SECURE DETENTION BUT CANNOT BE RETURNED HOME.	Moved This rule from 7.201, which is the case area of rule to 7.103.3 under "Initial review" within the assessment section. This rule ensures compliance with C.R.S. § 19-2-508.	PA4/Youth Services Task Group
7.103.6	Technical Change	7.103.61 Response Time for Referrals Assigned for Assessment	7.103.64 Response Time for Referrals Assigned for Assessment	Technical fix to correct numbering.	
7.103.6 (A)(3)(C)	Revision	If the victim child(ren)/youth cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent five business days.	If the victim child(ren)/youth OR YOUTH IN CONFLICT cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent five business days.	Added YIC language to clarify that the rule applies to that population as well.	PA4/Youth Services Task Group

7.103.61	Technical Change	7.103.6 Red Teams	7.103.61 Red Teams	Technical fix to correct numbering.	
7.105	New	(None)	(None) ASSESSMENTS INVOLVING ALLEGATIONS OF A YOUTH IN CONFLICT	This adds a new section for the structure of assessments for YIC Child(ren)/Youth. 7.105 was previously empty.	PA4/Youth Services Task Group
7.105 (A)	New		<p>A. THE YOUTH IN CONFLICT ASSESSMENT SHALL BE USED BASED ON THE FOLLOWING CRITERIA:</p> <ol style="list-style-type: none"> 1. THE REFERRAL IS ASSIGNED FOR ASSESSMENT; 2. THE REFERRAL MEETS THE DEFINITION OF BEYOND CONTROL OF PARENT, AS DEFINED IN SECTION 7.000.2; AND 3. THE REFERRAL DOES NOT CONTAIN ANY NEW ALLEGATIONS OF ABUSE AND/OR NEGLECT. 	This language identifies what referrals are appropriate for a YIC Assessment. Number one indicates that the referral must contain allegations that meet the definition of YIC as previously outlined in rule, and the second makes clear that any allegations of physical or sexual abuse/neglect should not be assessed using the rules.	PA4/Youth Services Task Group
7.105 (B)	New		<p>B. THE ASSESSMENT AT A MINIMUM SHALL INCLUDE:</p> <ol style="list-style-type: none"> 1. FACE-TO-FACE CONTACT WITH THE CHILD/YOUTH ALLEGED TO BE A YOUTH IN CONFLICT IF THE CHILD/YOUTH IS ABLE TO BE LOCATED. 2. FACE-TO-FACE CONTACT WITH THE PRIMARY CAREGIVER; 3. ASSESSING THE LIKELIHOOD OF SUBSTANTIAL HARM RESULTING FROM THE CONFLICT AND THE CAREGIVER'S RESPONSE TO THE CONFLICT; 4. CONSIDERING THE STRENGTHS AND NEEDS OF THE HOUSEHOLD; 5. CONSIDERING APPROPRIATE RESOURCES FOR THE CHILD/YOUTH AND THE HOUSEHOLD; 6. MAKING EFFORTS TO ENGAGE NON-CUSTODIAL PARENT(S); 7. MAKING REASONABLE EFFORTS TO PREVENT OUT OF HOME PLACEMENT WHICH INCLUDES: ENGAGING FAMILY AND EXTENDED FAMILY IN SUPPORTING THE CHILD/YOUTH WHO IS BEYOND CONTROL OF PARENT AND THEIR CAREGIVER; PROVIDING IN HOME SERVICES IF APPROPRIATE AND AVAILABLE; AND ENGAGING FAMILY AND EXTENDED FAMILY IN SECURING A KINSHIP PLACEMENT IF NEEDED; 8. THE USE OF THE COLORADO FAMILY SAFETY ASSESSMENT TOOL AS DESCRIBED IN SECTION 7.107.2; 9. THE USE OF THE COLORADO RISK ASSESSMENT TOOL AS DESCRIBED IN SECTION 7.107.2; 10. IF AT ANY POINT DURING THE ASSESSMENT, IT BECOMES APPARENT THAT THE CHILD/YOUTH IS DEMONSTRATING SYMPTOMS OF A MENTAL HEALTH 	This rule creates parity with 7.104 and creates a minimum set of rules to ensure the assessment of all YIC referrals that are assigned for assessment and ensures safety and risk are assessed as required by federal rules.	PA4/Youth Services Task Group, CFSR Safety and Risk PIP Subgroup

			<p>DISORDER, A REFERRAL SHALL BE MADE TO A MENTAL HEALTH PROVIDER FOR PRESCREENING;</p> <p>11. IF AT ANY POINT NEW INFORMATION IS GATHERED THAT CONTAINS INFORMATION DEFINED IN SECTION 7.103, A NEW REFERRAL SHALL BE GENERATED; AND</p> <p>12. DOCUMENTATION OF ASSESSMENT ACTIVITIES WITHIN THE STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM.</p>		
7.107.11(C)	Revision	If household members are not available at the time of initial response, the Colorado Family Safety Assessment shall be completed based on the information available and based on the interview or observation of the alleged victim child(ren)/youth.	If household members are not available at the time of initial response, the Colorado Family Safety Assessment shall be completed based on the information available and based on the interview or observation of the alleged victim child(ren)/youth AND/OR CHILD/YOUTH IN CONFLICT .	Ensures safety and risk are assessed as required by federal rules.	CFSR Safety and Risk PIP Subgroup
7.107.11(E)	Revision	At the time of contact with the alleged victim child(ren)/youth or other family members and current or impending danger is identified, the entire Colorado Family Safety Assessment tool shall be completed.	At the time of contact with the alleged victim child(ren)/youth, AND/OR CHILD/YOUTH IN CONFLICT or other family members and current or impending danger is identified, the entire Colorado Family Safety Assessment tool shall be completed.	Ensures safety and risk are assessed as required by federal rules.	CFSR Safety and Risk PIP Subgroup

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):

In October of 2016 a PAC and Child Welfare Sub-PAC authorized task group began meeting to recommend revisions to rules related to PA4. This group's membership included representatives from large, medium, and small counties; county attorneys, the Office of the Child's Representative (OCR), Senate Bill 94; Runaway and Homeless Youth Providers; and a provider network. Judicial was invited but did not participate. Meetings were held over the course of nearly two years and the group recommended this rule package unanimously. Additionally, the Safety and Risk assessment rules were discussed as a part of one of the CFSR program improvement plan subgroups.

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:

All members of the PA4 task group were notified that this rule package would be proposed at the final task group meeting.

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	10/4/2018		
What issues were raised?	A concern was raised regarding the use of the Colorado Risk Tool within PA4 cases, and a concern that the Colorado Safety and Colorado Risk Tools could be duplicative once Family First Act is implemented. The rules passed unanimously with 2 abstaining votes.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	0	2
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

Yes No

Date presented	11/1/2018		
What issues were raised?	No issues were raised.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
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.

Written Comment provided by Angela Lytle (Arapahoe County Dept. of Human Services) via email:

Overall, I have to say that the direction in which we decided to go several years ago [having the same assessment and contact expectations for PA4 and PA5] is one we would not change. While we cannot say to you there was a fiscal impact one way or another, what I can say is there has been a significant practice change with resulting outcomes that no doubt have a fiscal impact on the overall system in a very longitudinal manner. We have fewer youth emancipating out of our system, have exceeded the state goal with respect to the use of congregate care for more than a year without exception, despite Aurora's population and increasing penetration into the delinquency system, have met the goal of percentage of kids in foster care for 24+ months, etc. Moving our practice to a family based service system and away from an incident driven, behaviorally focused approach has had greater benefits than we even anticipated. In addition, assessments are done more consistently, those that don't belong in the child welfare system are more accurately shown the path to a different, more appropriate system (a work in progress), staff are better trained, there is a better understanding across the division of issues that were seen in both populations, but never truly served collectively (we were more siloed and so were our assessments). Our front door is more streamlined, more aligned and runs more smoothly.

We want to see the work you outline below [the PA 4 rule proposal] go across our state without exception and what we highly recommend is that we completely do away with "program areas" and labeling like "beyond control of parent" and continue to work towards language in rule and otherwise that reflect holistic family based work. This allows us especially with this population to move the focus away from the behavior of the youth and drive work towards the root cause of the behavior and what is driving the behavior. So many interventions with regards to our adolescent population are behaviorally driven and therefore if successful, only for a short time. This shift has and will continue to also move us as a whole system towards trauma informed work and encourage more creativity with interventions.

Written Comment provided by John Thirkell via email:

"Existing Laws of the State of Colorado that support definition of "Beyond Control of the Parent, Guardian, and/or Legal Custodian" as children or youth who are volitionally beyond the control of their caretaker, but not children who are beyond control symptomatic of mental illness and/or developmental/intellectual disability.

Section 27-67-102 Legislative Declaration

(1) The general assembly finds that many parents in Colorado have experienced the challenging circumstances because their children have significant mental health needs. Many times, the parents are loving, caring parents who have become increasingly frustrated in their attempts to navigate the various governmental systems including child welfare, mental health, law enforcement, juvenile justice, education, and youth corrections in an attempt to find help for their children. Frequently in these situations an action in dependency or neglect under article 3 of title 19, C.R.S., is neither appropriate nor warranted.

With respect to Dependency or Neglect proceedings, the statute requires contacts to the mental health agency or community centered board if the child or youth is determined to have mental health or developmental disabilities at the Assessment phase – Section 19-3-308(1.5)(b), C.R.S. 2018; Temporary

Custody phase - Section 19-3-403(4)(a); Adjudication, Dispositional, or Other stage – Sections 19-3-403(4)(b) and 19-3-506(1)-(4) which includes suspension or dismissal of the dependency or neglect proceedings in Section 19-3-506(3)(c).

The same is true of juvenile delinquency proceedings for youth held in detention – Section 19-2-508(3)(b)(I), C.R.S. 2018; at the time of sentencing – Section 19-2-916(1)-(2); and, if the youth is sentenced to the Division of Youth Services under Section 19-2-922(3)(a) and (3)(b)(I-III), C.R.S. 2018.

It should be noted that provision of services for mentally ill youth that the law requires that “the mental health agencies are responsible for providing the full range of mental health treatment services, including residential care,” for youth who are Medicaid eligible or who are not categorically eligible for Medicaid. Section 27-60-101(2), C.R.S. 2018.

The same is true with respect to developmental disability. Section 25.5-6-409(1) and (2), C.R.S. 2018.

The assertion that the definition of beyond control cannot be written to apply to youth who are volitionally beyond control based upon Constitutional considerations is not well founded. It is merely a definition of program parameters consistent with reality as to structure and resources. For example, the definition of child as a person under 18 determines program parameters and is not constitutionally impermissible.

Part of the reason such distinction is legal is that it is a program parameter and not a total exclusion of services. For vulnerable persons who are disabled and 18 or older or sixty or older is because Colorado law also creates adult protection services. Similarly, as noted in the statutes above, there are primary systems created to provide services to the mentally ill and the developmentally/intellectually disabled.

Pretending that child welfare has to be the catch all for the mentally ill and developmentally/intellectually disabled is not consistent with the laws of the State of Colorado as noted above nor legally required.

This is particularly true when noting that the child welfare program lacks effective training, resources, contacts, or protocols to assess and provide services for these populations when there are other specialized systems designed and primarily responsible to meet the needs of these populations. This approach dilutes the ability of the child welfare system to meet the needs of abused and neglected children state-wide. If youth who are beyond control are additionally the victims of provable child abuse and neglect, then obviously those children are already under the umbrella of the child protection program on that basis.”

Division Response:

Section 27-67-102, C.R.S acknowledges in legislative declaration that “Frequently in these situations an action in dependency or neglect under article 3 of title 19, C.R.S., is neither appropriate nor warranted.”

However, neither the statute nor the legislative declaration indicate that action in dependency or neglect statutes is never warranted or should be precluded. Rather, the statutes contemplate that, at times, both systems will be involved.

Additionally, the statutes requiring screenings and referrals for services listed under both Article 2 and 3 of Title 19 of the Colorado Revised Statutes (CRS) does not require that the county cease the provision of services. Rather, these statutes require the child welfare agency to refer for mental health or developmental screening and ensure treatment is provided if recommended. This all occurs while the child welfare agency continues to provide services as needed. Section 19-3-506, C.R.S. permits but does not require the court to suspend proceedings while a child is receiving treatment under § 27-65-107, C.R.S. The statutes in all cases allow the county department of human/social services, the mental health provider, and/or the community center board to serve the families simultaneously or separately as determined appropriate by the agencies and the court.

There are situations where a family may be referred for services, or self-refer due to the child/youth’s behavior, and it has more to do with the parent’s inability to manage the conflict than the mental health symptoms or developmental disability of the child/youth. If rule summarily excluded the entire population of individuals who are experiencing mental health symptoms or who have developmental disabilities from even being assessed by the local child welfare agency, families in legitimate need of those services would be precluded from receiving assistance. While there are situations where child(ren)/youth with

mental health diagnosis, or developmental disabilities/delays experience behaviors related to those conditions, and are not in need of services from a child welfare agency, there are also those who are in need of the services and supports offered by their local child welfare agency. These rules need to create the space required to serve child(ren)/youth and families in need of services, while providing the space for a child welfare agency to screen out a referral if services are being provided by a more appropriate agency. This rule package allows for those referrals to be screened out (12 CCR 2509-02, 7.103.4(H)) while preserving the space to provide those services, as exists in 12 CCR 2509-02 currently.

Child welfare is also required to provide services to any youth who has been charged with a delinquent act under § 19-2-508, C.R.S. if so ordered by the Court or if requested by a law enforcement agency. Program Area 4 is the only program area suited to meet that statutory obligation. Child(ren)/youth with mental health diagnosis and/or developmental disabilities/delays are sometimes charged with delinquent acts and are determined to be in need of services as described in CRS § 19-2-508. Creating rule that precludes the county from providing that service would create conflict between statute and rule.

**EXAMPLE OF RULES WITH
SECRETARY OF STATE'S STYLE CODING
REPLACE WITH YOUR OWN RULES**

(12 CCR 2509-2)

***** (BREAK BETWEEN SECTIONS)

[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] or highlighted yellow]

7.103 Receipt Of Referral Alleging Intrafamilial Or Third Party Abuse And/Or Neglect AND/OR A YOUTH IN CONFLICT– Information To Be Gathered

- A. Upon receipt of a report alleging intrafamilial or third party abuse and/or neglect, AND/OR A YOUTH IN CONFLICT, the county departments or the Hotline County Connection Center shall gather and document the following information, when available.
1. Reporting party's:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Reporter type; and
 - e. Relationship to the alleged victim child(ren)/youth AND/OR A YOUTH IN CONFLICT.
 2. Alleged victim child(ren)/youth's AND/OR A YOUTH IN CONFLICT:
 - a. Name;
 - b. Address;
 - c. Current specific location;
 - d. School or child care (if applicable);
 - e. Birth date(s) or estimated age(s);
 - f. Information as to whether or not the child(ren)/youth have American Indian or native Alaskan heritage, and if so, the tribal affiliation; and
 - g. Any developmental delays, physical disabilities, competency or cultural considerations.
 3. Family and household members:
 - a. Names;
 - b. Birth date(s) or estimated age(s);

- c. Relationship to each other;
 - d. Relationship to the alleged victim child(ren)/youth AND/OR A **YOUTH IN CONFLICT**; and
 - e. Any developmental delays, physical disabilities, competency or cultural considerations.
4. Person(s) alleged to be responsible for the abuse and/or neglect:
- a. Name;
 - b. Birth date(s) or estimated age(s);
 - c. Present location;
 - d. Current or last known address;
 - e. Relationship to the alleged victim child(ren)/youth; and
 - f. Any developmental delays, physical disabilities, competency or cultural considerations.
5. Narrative describing the presenting problems and specific allegations of the abuse and/or neglect, including but not limited to:
- a. When it occurred;
 - b. Location;
 - c. Witness(es) of the incident; and
 - d. Description of any injury that was sustained.
6. The date, time, and location the alleged victim child(ren)/youth AND/OR A **YOUTH IN CONFLICT** were last seen by the reporting party.
7. The nature of any other environmental hazards in the home which may impact child(ren)/youth or worker safety.
8. The name and contact information of any individuals who may have information about the referral, and/or the identity and contact information of collateral agencies and individuals involved with the family.
9. Date and time referral received.
10. Family strengths and supports, and/or other protective factors or actions taken.

7.103.4 Referrals Requiring No Further Action

County departments may determine that a referral does not require further action and screen it out for the following reasons:

- A. The current allegations have previously been assessed;
- B. The alleged victim child(ren) OR **YOUTH IN CONFLICT** are not located or reside in the State of Colorado. In this circumstance, the county department shall inform the other state or county department of the referral;

- C. Referral does not meet criteria of abuse and/or neglect as defined in statutes and regulations;
- D. Referral lacks sufficient information to locate the alleged victim child(ren) **OR YOUTH IN CONFLICT**; or
- E. Referral is duplicative of a previous referral. In this circumstance, the county department shall associate the duplicate referral with the previous referral in the state automated case management system).

A referral cannot be considered duplicate if the following circumstances are present:

1. Different incident date;
 2. Different alleged victim;
 3. Different alleged person responsible for abuse and/or neglect;
 4. Different household; and/or
 5. Additional information poses a new or renewed threat of safety to the child(ren)/youth.
- F. The person alleged to be responsible for the abuse and/or neglect is a third (3rd) party and ten (10) years of age or older. In this circumstance, the county department shall send the referral to the appropriate law enforcement agency.
 - G. There is no current allegation of child abuse and/or neglect; ~~and,~~
 - H. ~~Other (applicable for Program Area 4 only and requires documentation explanation in the state automated case management system)~~ MORE APPROPRIATE SERVICES FOR THE CHILD/YOUTH WHO IS ALLEGED TO BE **A YOUTH IN CONFLICT** ARE CURRENTLY BEING PROVIDED BY ANOTHER AGENCY;
 - I. REFERRAL DOES NOT MEET THE DEFINITION OF **YOUTH IN CONFLICT** AS DEFINED IN SECTION CCR 2509-1, 7.000.2; AND
 - J. The decision to screen out a referral shall be made by a minimum of two (2) certified child welfare staff from the same county or in conjunction with another county. When there is disagreement to screen out, the referral shall be reviewed through the red team process.

7.103.5 Criteria For Assigning A Referral For Assessment

- A. County departments shall screen in and assign a referral for assessment if it:
 1. Contains specific allegations of known or suspected abuse and/or neglect as defined in Section 7.000.2;
 2. Provides sufficient information to locate the alleged victim; and,
 3. Identifies a victim under the age of eighteen (18).
- B. Any time a case is opened, it shall come through the referral or assessment process in the state automated case management system with the exception of Interstate Compact on the Placement of Children (ICPC), out of state subsidized adoption, out of state Medicaid, Interstate Compact on Adoption and Medicaid Assistance (ICAMA), or Division of Youth ~~Corrections~~SERVICES (DYGS) Medicaid only.
- C. THE COUNTY DEPARTMENT SHALL REVIEW AND RESPOND, EITHER WITH A FACE-TO-FACE INTERVENTION OR BY TELEPHONE, WHEN NOTIFIED BY THE COURT-APPOINTED DETENTION

SCREENER OR A LAW ENFORCEMENT OFFICER OF A CHILD OR/YOUTH IN THE CUSTODY OF A LAW ENFORCEMENT AGENCY WHO IS INAPPROPRIATE FOR SECURE DETENTION BUT CANNOT BE RETURNED HOME.

7.103.640 Response Time for Referrals Assigned for Assessment

- A. County departments shall assign the appropriate response time for assessments based upon the date the referral is received using the following criteria:
 - 1. An immediate response is required when a referral indicates that:
 - a. There may be present danger of moderate to severe harm; or,
 - b. The child's vulnerability and/or factors such as drug and alcohol abuse, violence, isolation, or risk of flight increase the need for immediate response.
 - C. An immediate response shall require a response within eight (8) hours from the receipt of the referral. If the victim child(ren)/youth cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made every twenty-four (24) hours from the time of the initial attempted contact.
 - 2. A three (3) calendar day response is required when a referral indicates that:
 - a. There may be impending danger of moderate to severe harm; or,
 - b. The alleged victim child(ren)'s vulnerability and/or factors such as drug and alcohol abuse, violence, isolation, or risk of flight, increase the need for intervention in the near future.
 - c. The three (3) calendar day count starts on the day following the receipt of a referral, and expires at the end of the third calendar day at 11:59 PM following receipt of the referral.
 - D. If the victim child(ren)/youth cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent three calendar days.
 - 3. A five (5) working day response is required when:
 - A. A referral indicates an absence of safety concerns.
 - B. The five (5) day count starts on the first business day following the receipt of a referral and expires at the end of the fifth business day at 11:59 PM following the receipt of the referral.
 - C. If the victim child(ren)/youth **OR CHILD/YOUTH IN CONFLICT** cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent five business days.
- B. The decision of how quickly to initiate an assessment shall be based on specific reported information that is credible and that indicates whether a child may be unsafe or at risk of harm.

7.103.61 Red Teams

- A. County departments shall implement a process utilizing the Red Team framework to review referrals with:

1. Child welfare history that includes three (3) or more assessments within the past year regarding the household members in the current referral;
 2. Narrative that identifies the alleged victim child(ren)/youth as a child/youth with a vulnerability as defined in section 7.000.2;
 3. Two (2) or more screened out non-duplicative referrals with no assessment in the prior twelve (12) months; and/or,
 4. Criminal history that includes felony and/or misdemeanor convictions related to child abuse and/or neglect, including crimes of violence, domestic violence, and/or unlawful sexual behavior regarding the household members in the current referral.
- B. County departments practicing Differential Response shall utilize the RED Team process for track assignment decisions when considering the Family Assessment Response (FAR) track on assessments requiring three (3) calendar or five (5) business day response times.
- C. The Red Team process is not required for review of the following exceptions:
1. Referrals necessitating an immediate response;
 2. Referrals necessitating a response prior to the next business day;
 3. Referrals alleging institutional abuse and/or neglect; or,
 4. Referrals alleging youth in conflict.
- D. County departments may choose to utilize the RED team process for the above exceptions.
- E. The RED team process shall be documented in the framework. The documentation shall reflect the discussion and justification for the decisions.
- F. All RED team decisions shall be approved by a certified supervisor by the end of the calendar day and documented in the state automated case management system by the end of the next business day.

7.105 (None)ASSESSMENTS INVOLVING ALLEGATIONS OF A YOUTH IN CONFLICT

- A. THE **YOUTH IN CONFLICT** ASSESSMENT SHALL BE USED BASED ON THE FOLLOWING CRITERIA:
1. THE REFERRAL IS ASSIGNED FOR ASSESSMENT;
 2. THE REFERRAL MEETS THE DEFINITION OF **YOUTH IN CONFLICT**, AS DEFINED IN SECTION 7.000.2; AND;
 3. THE REFERRAL DOES NOT CONTAIN ANY NEW ALLEGATIONS OF ABUSE AND/OR NEGLECT.
- B. THE ASSESSMENT AT A MINIMUM SHALL INCLUDE:
1. FACE-TO-FACE CONTACT WITH THE CHILD/YOUTH **ALLEGED TO BE A YOUTH IN CONFLICT** IF THE CHILD/YOUTH IS ABLE TO BE LOCATED.
 2. FACE-TO-FACE CONTACT WITH THE PRIMARY CAREGIVER;
 3. ASSESSING THE LIKELIHOOD OF SUBSTANTIAL HARM RESULTING FROM THE CONFLICT AND THE CAREGIVER'S RESPONSE TO THE CONFLICT;

4. CONSIDERING THE STRENGTHS AND NEEDS OF THE HOUSEHOLD;
5. CONSIDERING APPROPRIATE RESOURCES FOR THE CHILD/YOUTH AND THE HOUSEHOLD;
6. MAKING EFFORTS TO ENGAGE NON-CUSTODIAL PARENT(S);
7. MAKING REASONABLE EFFORTS TO PREVENT OUT OF HOME PLACEMENT WHICH INCLUDES: ENGAGING FAMILY AND EXTENDED FAMILY IN SUPPORTING THE CHILD/YOUTH WHO IS BEYOND CONTROL OF PARENT AND THEIR CAREGIVER; PROVIDING IN HOME SERVICES IF APPROPRIATE AND AVAILABLE; AND ENGAGING FAMILY AND EXTENDED FAMILY IN SECURING A KINSHIP PLACEMENT IF NEEDED;
8. THE USE OF THE COLORADO FAMILY SAFETY ASSESSMENT TOOL AS DESCRIBED IN SECTION 7.107.2;
9. THE USE OF THE COLORADO RISK ASSESSMENT TOOL AS DESCRIBED IN SECTION 7.107.2;
10. IF AT ANY POINT DURING THE ASSESSMENT, IT BECOMES APPARENT THAT THE CHILD/YOUTH IS DEMONSTRATING SYMPTOMS OF A MENTAL HEALTH DISORDER, A REFERRAL SHALL BE MADE TO A MENTAL HEALTH PROVIDER FOR PRESCREENING;
11. IF AT ANY POINT NEW INFORMATION IS GATHERED THAT CONTAINS INFORMATION DEFINED IN SECTION 7.103, A NEW REFERRAL SHALL BE GENERATED; AND
12. DOCUMENTATION OF ASSESSMENT ACTIVITIES WITHIN THE STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM.

7.107.11 Parameters for Use of the Colorado Family Safety Assessment Tool

The Colorado Family Safety Assessment shall be completed:

- A. At the time of initial response with household members.
- B. As soon as additional household members are available, each household member shall be assessed using the current or impending dangers identified in the Colorado Family Safety Assessment tool.
- C. If household members are not available at the time of initial response, the Colorado Family Safety Assessment shall be completed based on the information available and based on the interview or observation of the alleged victim child(ren)/youth AND/OR CHILD/YOUTH **IN CONFLICT**.
- D. If no current or impending danger is identified within 14 calendar days through the Colorado Family Safety Assessment, interviews with additional household members identified outside of the 14 calendar days, shall be documented in the state automated case management system.
- E. At the time of contact with the alleged victim child(ren)/youth AND/OR CHILD/YOUTH **IN CONFLICT**, or other family members and current or impending danger is identified, the entire Colorado Family Safety Assessment tool shall be completed.
- F. The tool shall be completed using available information and accessible household members to mitigate the danger.
- G. Prior to end dating a safety plan.
- H. Whenever there is a significant change in household circumstances or situations that might pose a new or renewed threat to the safety of child(ren)/youth.

