

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Health and Human Services

2. Bureau:

Children's Services Agency

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Child Placing Agencies

5. Rule numbers or rule set range of numbers:

R 400.12101 - R 12808

6. Estimated time frame:

3 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The child placing agency rules dictate the requirements and standards for the care and supervision of court-ordered temporary and permanent wards in foster care homes and other facilities in the State. The child placing agency develops policies of standards and requirements required by federal and state law including background checks, safety of the home and facilities, and reasonable and prudent parental standards for each foster child placed in a home. In February 2019, the federal Health and Human Services agency published the final foster family and group home standards. The standards included requirements for firearms and ammunition storage in the foster home. Michigan will adopt and is required to amend its state plan to include these standards for firearms and ammunition of foster homes and other facilities for temporary and permanent wards of the State.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Department Director.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

By authority conferred on the director of the Michigan Department of Human Services by sections 2, 5, 10, and 14 of 1973 PA 116, and the Executive Reorganization Order 2015-1, MCL 722.112, 722.115, 722.120, 722.124, and 400.227.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The rules are currently the subject of the newly imposed standards by the federal government for foster home requirements under the "Family First Preservation Services Act" as part of the Bipartisan Budget Act of 2018, PL 115-123, 132 Stat 170. The rules are not mandated.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

There is a similar rule under the "Foster Family Home and Foster Group Home" rules, specifically Mich Admin Code R 400.9415. That rule and this rule are being amended simultaneously to avoid conflicts. Both rules are adopting standards under federal law.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

A technical assistance handbook is available that accompanies the rule set.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes, the rules were part of the ARP for 2020.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The Department of Health and Human Services (DHHS) requests to promulgate the Child Placing Agency rule, Mich Admin Code R 400.12321, under MCL 24.244(1) for the reason the rule promulgation is "...required to make obviously needed corrections to make the rule conform to an amended or new statute[.]" In 2018, Congress passed the Family First Preservation Services Act (FFPSA) as part of the Bipartisan Budget Act of 2018, PL 115-123, 132 Stat 170. Section 50731 of the FFPSA directs the federal Health and Human Services agency to identify "identify reputable model licensing standards with respect to the licensing of foster family homes" (as defined in section 472(c)(1) of the Social Security Act). The final national standards were released in February 2019. The language also appears under 42 USC 671(a)(10)(D) of the Act. Within the standards, the following language appears for firearms and ammunition requirements:

Foster Family Home Health and Safety – b. Condition of the Home-Subsection iv.-Weapons and ammunition (separately) stored, locked, unloaded, and inaccessible to children.

Michigan must submit a Title IV-E state plan amendment providing specific information regarding the state foster family home licensing standards are consistent with the final model licensing standards and, if not, the reason for the deviation. Michigan will adopt the final licensing standards. The current licensing rules regarding firearms and ammunition do not adequately address the final licensing standards and need to be amended to come into conformity under the new standards and for the state plan.