

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 37.51.102, 37.51.202,)	PROPOSED AMENDMENT
37.51.203, 37.51.207, 37.51.209,)	
37.51.210, 37.51.216, 37.51.217,)	
37.51.301, 37.51.305, 37.51.310,)	
37.51.311, 37.51.602, 37.51.603,)	
37.51.608, 37.51.801, 37.51.802,)	
37.51.810, 37.51.816, 37.51.820,)	
37.51.825, 37.51.901, 37.51.902,)	
37.51.1001, 37.51.1404, and)	
37.51.1410 pertaining to foster care)	
licensing)	

TO: All Concerned Persons

1. On March 1, 2024, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89352080027?pwd=L1NVbEJhMnYwamU5cHIhNFZkR25JZz09>, meeting ID: 893 5208 0027, and password: 157497; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 893 5208 0027, and password: 157497. Find your local number: <https://mt-gov.zoom.us/j/89352080027?pwd=L1NVbEJhMnYwamU5cHIhNFZkR25JZz09>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on February 16, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.51.102 YOUTH FOSTER HOMES: DEFINITIONS The following definitions apply to youth foster home licensing rules:

(1) remains the same.

(2) "Crib" means full size crib, mini crib, or play pen which must meet the applicable requirements for full size baby cribs or non-full size baby cribs as specified by the U.S. Consumer Product Safety Commission.

(2) through (6) remain the same but are renumbered (3) through (7).

(8) "Household member" means any person residing in the home at the time of an emergency placement or foster care license application or any person staying in an emergency placement home or a licensed foster home for more than two weeks.

(7) through (10) remain the same but are renumbered (9) through (12).

~~(11)(13)~~ A "serious Serious incident" includes, ~~but is not limited to~~ suicide attempts, use of physical force by a foster parent or any member of the foster parent's household, sexual contact with the child by anyone, emergency medical treatment, injury to a foster child ~~which~~ that requires hospitalization, physical assault by the foster child, involvement with law enforcement by any member of the foster parent's household, including a foster child, or the death of a foster child.

~~(12)(14)~~ "Substitute care" or "foster care" means the full-time care of a child who is placed in a youth foster home by the department, another state agency, a tribe, or licensed child placing agency for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment, to children who are removed from or who are without the care and supervision of their parents or guardians.

(13) through (15) remain the same but are renumbered (15) through (17).

~~(16)(18)~~ "Youth foster home" or "foster home" means a youth care facility in which ~~substitute~~ care is provided to ~~one~~ a maximum of six children or youth residing in the home, other than including the foster parents' own children, stepchildren, or wards; and no more than two children under the age of two. Exceptions to these limits can be approved.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-22-622, MCA

IMP: 52-1-103, 52-2-102, 52-2-111, 52-2-112, 52-2-113, 52-2-115, 52-2-601, 52-2-603, 52-2-621, 52-2-622, MCA

37.51.202 YOUTH FOSTER HOMES: LICENSING PROCEDURES

~~(1) Application for a license must be made on an application form provided by the department.~~

~~(2)(1)~~ Upon receipt of a completed application packet for license or renewal of license and completion of a licensing assessment, the department shall determine if whether the applicant meets all requirements for licensure as established in these rules. A completed packet consists of all items on the checklist required for initial licensure or renewal except for the home assessment.

~~(3)(2)~~ If the department determines that an application or accompanying information is incomplete or erroneous, the department shall notify the applicant in writing of the specific deficiencies or errors, and the applicant shall submit the required or corrected information within 60 days. The department ~~shall~~ may not issue a regular license or renew a license until it receives all required or corrected information.

~~(4) The applicant or licensee shall cooperate with the department in providing the information required by these rules.~~

~~(5)(3) Failure to provide information the~~ An applicant's or licensee's failure to provide information they are is obligated to provide may result in the denial of the application; or, if a license has been issued, may result in other negative licensing action.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.203 YOUTH FOSTER HOMES: LICENSURE AND RENEWAL

(1) The department ~~shall~~ may issue a youth foster home, kinship foster home, or therapeutic foster home license to any license applicant that the department determines meets all licensing requirements established by these rules. The initial license will expire one year from the date it is issued unless it is extended up to an additional 60 days pursuant to ~~(5)(4)~~.

~~(2) For placement made on or after June 2, 2006, the number of children for whom a foster home is licensed will be based in part on the number of children already residing in the home. There shall be a maximum of seven children residing in a foster home at any one time unless an exception is made by the regional administrator.~~

~~(3)(2)~~ The department ~~shall~~ may renew a youth foster home or kinship home license biennially on the expiration date of the initial year's license if:

(a) the foster parents apply for renewal of the foster home license on a form ~~provided by~~ available on the department's website ~~at least 30 days~~ prior to the expiration date of the current license; and

(b) remains the same.

~~(4)(3)~~ The department ~~shall~~ may renew therapeutic foster care licenses annually on the expiration date of the previous year's license if:

(a) the foster parents apply for renewal of the foster home license on a form ~~provided by~~ available on the department's website ~~at least 30 days~~ prior to the expiration date of the current license; and

(b) remains the same.

~~(5)(4)~~ If the foster parent submits a completed application packet for renewal of a license ~~at least 30 days~~ prior to the expiration of the license, ~~but~~ and the department is unable to complete the relicensing study before the expiration of the license, and ~~but~~ makes a determination that the home is in compliance with the licensing requirements before the expiration date of the previous year's license, the previous year's license will continue in effect for no more than 60 days while the department completes the relicensing study.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.207 YOUTH FOSTER HOMES: PROVISIONAL LICENSURE (1) The department may, at its discretion, issue a provisional license restricted for care of a

specific child or children for any period up to ~~four~~ six months to any license applicant for a youth foster home or kinship foster home ~~which has that~~:

- (a) ~~met~~ meets all licensing requirements for fire safety;
- (b) ensures all adult household members complete, completed and signed sign, and submit a release of information form ~~provided by~~ available on the department's website;
- (c) ~~submitted~~ submits completed fingerprint cards on all adult household members;
- (d) ~~a satisfactory passes a Montana child protective protection background and adult protective services check for all adults present in the home household members; and~~
- (e) ~~agreed~~ agrees in writing to comply fully with all licensing requirements established by these rules prior to the expiration of the provisional license.

(2) ~~The department may, at its discretion, renew a provisional license for no more than a two month period of time if the license applicant shows good cause for unintentional failure to comply fully with all licensing requirements within the time period covered by the prior provisional license.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.209 YOUTH FOSTER HOMES: DUAL LICENSE (1) If an applicant for a foster home or kinship foster home is a licensed or registered day care provider, or if a licensee wishes to become a licensed or registered day care provider, their application must be approved by the regional administrator and the department's Quality Assurance Division (QAD) licensing bureau chief or designee and the designee for the Early Childhood and Family Support Division-Child Care Licensing must approve the dual license or registration.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, 52-2-721, 52-2-722, 52-2-723, MCA

37.51.210 YOUTH FOSTER HOMES: GRANTING LICENSURE EXCEPTIONS (1) An applicant against whom child abuse or neglect has been substantiated ~~or who has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or person with a developmental disability shall may~~ be denied a foster care license unless an exception is granted by a the department regional administrator in his discretion, after careful review of extenuating circumstances which that justify the issuance of a restricted license.

(2) An applicant whose child has been in foster care ~~shall may~~ be denied a foster care license, unless ~~an exception is granted by a the department regional administrator grants an exception~~ because the circumstances leading that led to the provision of services and placement no longer exist. This does not include an applicant whose children were in foster care prior to being placed with the applicant for adoption.

(3) ~~No applicant shall~~ An applicant may not be newly licensed as a youth foster home if any one of the following has occurred within 12 months of the application; unless an exception is granted ~~by a department regional administrator~~ by the appropriate resource family specialist supervisor:

(a) through (e) remain the same.

(4) If any event described in (3)(a) through (3)(e) occurs in a licensed foster home, the foster parents shall notify the licensing worker within 48 hours as required by ARM 37.51.602 and the licensing worker will reevaluate the home within 30 days to determine whether to recommend a change in the licensing status of the home.

(5) The department may grant an exception to a youth foster home or foster home that has more than the maximum of six children or youth residing in the home, including the foster parents' own children, stepchildren, wards, or more than two children under the age of two, after careful review of extenuating circumstances that justify exceeding the maximum numbers allowed.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.216 YOUTH FOSTER HOMES: NEGATIVE LICENSING ACTION

(1) The department, through written notice to the applicant, licensee, or potential emergency placement, will deny or revoke a license or emergency placement upon finding that the applicant, licensee, ~~or emergency placement, or any household member of the applicant's or licensee's household~~ has a conviction for any of the following types of crimes:

(a) ~~felony crimes involving violence, including such as homicide, spousal abuse, felony partner-family member assault, rape, sexual assault, human trafficking, robbery, burglary, kidnapping, animal cruelty, arson and felony aggravated assault, or convictions requiring registration on a sexual or violent offender registry but not including other assault and battery;~~

(b) ~~felony and misdemeanor acts and other crimes against children such as child abuse or neglect, endangering the welfare of a child, incest, child sexual abuse, ritual abuse of a minor, child pornography, child prostitution, internet crimes involving children, and felony unlawful transactions with children;~~

(c) ~~if within the previous five years, a felony conviction for a drug-related offense, including but not limited to the use, distribution, or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal manufacture of dangerous drugs, criminal possession, manufacture, or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs if within the previous five years;~~

(d) ~~if within the previous five years, a conviction for other crimes such as misdemeanor assault and battery, including misdemeanor partner-family member assault, robbery or burglary if convicted within the previous five years; or~~

(e) ~~felony and misdemeanor crimes against older persons or developmentally disabled persons, including such as abuse, sexual abuse, neglect, or exploitation.~~

(2) The department, through written notice to the applicant or licensee, may deny, suspend, restrict, or revoke a license upon a finding that:

(a) remains the same.

(b) ~~the foster home, or a foster parents, or any household member, is~~ are not in compliance with any other licensing requirements;

(c) ~~the a foster parent~~ has made any material misrepresentations to the department, either negligent or intentional, including an omission of information the foster parent is obligated to disclose to the department, regarding any aspect of the foster home;

(d) ~~the a foster parent~~ has failed to use the foster care payments for the support of the foster child;

(e) ~~the a foster parent~~ or other household member has been named as the perpetrator of child abuse or neglect in a substantiated report or their child has been placed in out of home care by the department;

(f) ~~the a foster parent~~ failed to report an incident of suspected child abuse or neglect of any child to the department as required by 41-3-201, MCA, within 24 hours of receiving information pertaining to the incident;

(g) ~~the~~ results of a psychological or medical examination provide reasonable grounds for the department to believe that the foster parent is not an appropriate caretaker for a child; ~~or~~

(h) ~~the a foster parents~~ or anyone living in the foster home may pose any risk or threat to the safety or welfare of a child placed in the foster home; or;

~~(3)(i) The a foster parent home~~ has failed to protect the health, welfare, or safety of a child or the foster home presents a threat to the health, welfare, or safety of a child.

~~(4) A foster care license may be suspended, restricted, or revoked at the discretion of a department regional administrator if the licensee's child is placed in foster care.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 2-4-631, 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.217 YOUTH FOSTER HOMES: HEARING PROCEDURES (1) Any applicant or licensee against whom the department takes negative licensing action regarding a youth foster home, kinship foster home, or therapeutic foster home license may request a fair hearing as provided in ARM 37.5.117, 37.5.304, 37.5.307, 37.5.313, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, and 37.5.337.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 2-4-102, 2-4-623, 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.301 YOUTH FOSTER HOMES: GENERAL REQUIREMENTS FOR FOSTER PARENTS AND OTHER HOUSEHOLD MEMBERS (1) Foster parents must:

(a) through (d) remain the same.

~~(e) be of good moral character;~~

(f) and (g) remain the same but are renumbered (e) and (f).

~~(h)(g)~~ have lived together for at least 24 months unless an exception is granted by a department regional administrator.

(2) remains the same.

~~(3) The foster home shall protect the foster child from exposure to sexual or violent language and behavior inappropriate to the child's age, including but not limited to physical activity, visual or other media depictions, and music, including lyrics.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.305 YOUTH FOSTER HOMES: HEALTH VERIFICATION REQUIREMENTS FOR FOSTER PARENTS AND OTHER HOUSEHOLD

MEMBERS (1) A personal statement of health form, ~~provided by the department available on the department's website,~~ must be completed for each person in the applicant's household member. The form(s) must be submitted to the department with the initial licensure application, any renewal application, and a new form must be submitted prior to relicensure and/or anytime there is a new household member.

~~(2) Any person staying in the foster home for more than two weeks must complete a personal statement of health form provided by the department. If the person is an adult, the person must also complete a release of information form provided by the department. The completed forms are to be submitted to the department licensing worker.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.310 YOUTH FOSTER HOMES: CRIMINAL BACKGROUND CHECKS

(1) A satisfactory criminal background, motor vehicle, and child ~~and adult~~ protective services check is required for each person living in the household member of the applicant, licensee, or emergency placement.

~~(2) A new applicant must submit a completed fingerprint card so that a fingerprint based criminal records check can be requested.~~

~~(3)~~(2) If a new applicant or household member who has lived only in Montana cannot be successfully fingerprinted, or if two fingerprint cards cannot be successfully read by the Department of Justice (DOJ), a Montana name-based criminal records check will be used for applicants who have not lived in a state other than Montana.

~~(4)~~(3) If an applicant or household member who has lived in states other than Montana cannot be successfully fingerprinted, or if two fingerprint cards cannot be successfully read by the Department of Justice DOJ, a Montana federal name-based criminal records check will be completed ~~and:~~ by request from the DOJ.

~~(a) a criminal history check will be requested from every state in which an applicant has lived in the past 15 years;~~

~~(b) a check will be made of the violent offender and criminal history registries in those states if this information is available for states in which the applicant has lived; and~~

~~(c) if after 45 days, the department has been unable to obtain results of a criminal records check for an applicant who has lived in Montana for at least five years, the applicant must sign an affidavit attesting to his lack of criminal history or to~~

~~the details of existing criminal history. The affidavit will be accepted in lieu of results from a criminal history check.~~

~~(5)(4)~~ An annual name-based criminal records check and a motor vehicle check for licensed foster parents and all adult household members are is required for relicensure.

(5) A motor vehicle record check is required for all licensed drivers in the household for relicensure.

~~(6) Persons formerly licensed as foster parents will be treated as new applicants if the former foster parents have not been licensed for a period of more than one year or if the foster parents have lived out of state for any period of time since being licensed in Montana.~~

~~(7)(6)~~ A child protective services check will be requested from all states in which an applicant or any adult household member has lived in for a minimum of the past five years at a minimum.

~~(8) If after 45 days the department has been unable to obtain results from a child protective services check, the applicant must sign an affidavit attesting to his lack of child protective services history or to the details of existing child protective services history. The affidavit will be accepted in lieu of receipt of child protective services history results.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.311 YOUTH FOSTER HOMES: PSYCHOLOGICAL AND MEDICAL EXAMINATIONS (1) The department may require a psychological evaluation or medical examination, and/or a signed authorization for release of medical or psychological records from:

(a) remains the same.

(b) any currently licensed foster parent or any member of a currently licensed foster parent's household.

(2) The results of a psychological or medical examination may be considered in determining whether an applicant, ~~or licensee, or member of an applicant's or licensee's household~~ meets licensing requirements and may be relied upon as a basis for negative licensing action.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.602 YOUTH FOSTER HOMES: REPORTS OF CHANGE IN COMPOSITION OF FOSTER HOME (1) Foster parents shall notify the department licensing worker or supervisor, ~~and if applicable, or the licensed~~ child placing agency's licensing worker under whose jurisdiction the foster home operates, within 48 hours of:

(a) through (c) remain the same.

(d) the birth of a child to the ~~applicant's~~ foster parents; or

(e) loss of employment by ~~an applicant~~ one of the foster parents.

(2) At least 30 days prior to moving, foster parents shall report a planned change of residence to the department licensing worker or supervisor ~~and, if applicable, or~~ to the licensed child placing agency under whose jurisdiction the foster home operates. The licensing worker assigned to the family will evaluate the new residence for compliance as soon as possible but not more than ten ~~calendar~~ working days after the move to the new residence.

(3) Foster parents shall provide notice to the department licensing worker or supervisor ~~and, if applicable, or~~ the licensed child placing agency under whose jurisdiction the foster home operates:

~~(a) before agreeing to accept formal or informal placement of any child, including placement of an exchange student, when such placements have been arranged without prior approval of the agency which conducted the foster home licensing study;~~

(b) and (c) remain the same but are renumbered (a) and (b).

(4) If a foster parent is unwilling or unable to care for a child who is placed in the foster parent's care, the foster home shall notify the child's placing worker or their supervisor immediately. The foster parent is not authorized to make ~~his own~~ arrangements for care of the child, except for respite care.

(5) A foster parent may not accept a placement of any child, including foreign exchange students, Bureau of Indian Affairs placement, or tribal placement into the household without prior notice to, and prior approval by, the department or the licensed child placing agency under whose jurisdiction the foster home operates ~~and the prior approval of the department.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.603 YOUTH FOSTER HOMES: THERAPEUTIC FOSTER HOMES

(1) Therapeutic foster parents must meet all requirements for regular foster parents set forth in this rule, the requirements set forth in ARM 37.37.101, et seq., and the additional requirements in this rule and ARM 37.51.1403.

(2) Therapeutic foster parents are in home treatment providers who, in addition to carrying out usual family foster parent responsibilities, implement treatment strategies, and provide treatment interventions under the supervision of a therapeutic foster care agency's clinical staff according to the child's individual treatment plan.

(3) Therapeutic foster care requires the availability of ~~one parent to provide~~ 24 hour per day supervision to deliver therapeutic services as needed. Parenting skills must be sufficient to meet the level of therapeutic foster care being provided, including being adequate to address the needs of the emotionally disturbed youth in the areas of behavior management, supportive counseling, and implementation of the treatment interventions identified in the child's individual treatment plan.

~~(4) One foster parent of a preschool age foster child placed in a therapeutic foster home must not be employed outside of the home unless a written exception is made by a department regional administrator.~~

(5) remains the same but is renumbered (4).

~~(6) A child receiving therapeutic foster care may not be placed in child care in excess of four hours per day without the written approval of a department regional administrator.~~

(7) remains the same but is renumbered (5).

~~(8)(6)~~ Therapeutic foster parents ~~must~~ shall regularly document the youth's progress toward achievement of the individual treatment plan. This documentation must be put in writing and must be incorporated into the youth's case file within 30 days.

~~(9)(7)~~ The department, in conjunction with the licensed child placing agency under whose jurisdiction the foster home operates, may approve the placement of children who are not approved for therapeutic foster care services with youth receiving therapeutic foster care services when:

(a) through (c) remain the same.

(d) the department and ~~treatment team~~ the licensed child placing agency under whose jurisdiction the foster home operates determine that a kinship placement is appropriate and an exception is granted by the regional administrator and licensing bureau chief.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-102, 52-2-111, 52-2-113, 52-2-115, 52-2-601, 52-2-603, 52-2-621, 52-2-666, MCA

37.51.608 YOUTH FOSTER HOMES: REPORTS OF SERIOUS INCIDENTS AND THREATS (1) Foster parents shall immediately as soon as possible but in not less than 24 hours report any serious incident as defined in ARM 37.51.102(13) involving a foster child to the person or agency which placed the child and to the department licensing worker or the licensed child placing agency under whose jurisdiction the foster home operates.

(2) Foster parents shall complete a written incident report ~~on a form, provided by the department~~ which is available on the department's website, of regarding any serious incident involving any child in the home. ~~The report shall include the date and time of the incident, the child involved, the nature of the incident, description of the incident and the circumstances surrounding the incident.~~ A copy of the report shall be maintained at the foster home and a copy sent to the department licensing worker or the licensed child placing agency under whose jurisdiction the foster home operates the next working day.

(3) Foster parents shall immediately as soon as possible but in not less than 24 hours report any foster child who has run away from home to the police and the department's Centralized Intake Bureau at 1 (866) 820-5437 ~~and shall report the runaway to the agency which placed the child within the next working day.~~

(4) remains the same.

(5) Foster parents shall report any threats to the health, welfare, or safety of a child at the time of the license application or, with respect to any threat that subsequently arises, within the next working day after becoming aware of the threat, to the placing worker and the department licensing worker or the licensed child placing agency under whose jurisdiction the foster home operates.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA
IMP: 2-4-631, 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.801 YOUTH FOSTER HOMES: GENERAL PROGRAM

REQUIREMENTS (1) ~~The~~ A foster parents shall not accept more children than the number specified on the license, without prior approval of the department licensing worker or licensed child placing agency under whose jurisdiction the foster home operates.

(2) ~~The~~ A foster parents ~~must~~ shall arrange for appropriate child care for every child in foster care when the child is not being cared for by a foster parent and is not in school.

(3) ~~The~~ A foster parent shall provide appropriate care including:

(a) remains the same.

(b) personal care, supervision, and attention appropriate to each child's age, needs, and level of functioning;

~~(c) opportunities for educational, social, and cultural growth, through suitable reading materials, toys, and equipment; and~~

~~(d) associations with peer groups and opportunities for experiences in school and community.~~

(4) A foster parent will make careful and sensible parental decisions that maintain the health, safety, and best interests of a child while also encouraging the emotional and developmental growth of the child. A foster parent shall use this standard when determining whether to allow a child in foster care, under the responsibility of the state, to participate in extracurricular, enrichment, cultural, religious, and/or social activities.

~~(4)(5)~~ The A foster parents shall teach each foster child age-appropriate personal care, hygiene, and grooming, and shall provide each child with the necessary supplies.

(5) remains the same but is renumbered (6).

~~(6)(7)~~ The A foster parents, in conjunction with the supervising worker, shall distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-102, 52-2-111, 52-2-113, 52-2-115, 52-2-601, 52-2-603, 52-2-621, ~~52-2-666~~, MCA

37.51.802 YOUTH FOSTER HOMES: COOPERATION OF FOSTER

PARENTS (1) ~~The~~ Foster parents shall cooperate with the placing agency, ~~and participate in case conferences and in-service training. Foster parents shall~~ implement decisions made by the department regarding the child, ~~and shall~~ support the department's ~~permanent~~ permanency plan for the child.

(2) ~~The~~ Foster parents shall permit and encourage contact and visitation between the foster child and the child's birth or legal family, including parents and siblings, except in those cases where a restriction of contact and visitation is part of a court order or the written case plan.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-102, 52-2-111, 52-2-113, 52-2-115, 52-2-601, 52-2-603, 52-2-621, ~~52-2-666~~, MCA

37.51.810 YOUTH FOSTER HOMES: CHILD CLOTHING (1) ~~The~~ A foster parents shall ensure that each foster child is supplied with his or her own clothing suitable to the child's age and size.

(2) Clothing ~~shall~~ must be comparable to the clothing of other children in the community.

(3) Children ~~shall~~ must be given appropriate choice in the selection of their clothing.

~~(4) The foster parent shall inventory the child's clothing and other possessions when the child is placed in the foster home and maintain the inventory throughout the time the child is in the foster home.~~

~~(a) All clothing or other items specifically purchased for or given to the child shall be added to the inventory list;~~

~~(b)(4) All clothing or other items that are outgrown, worn out, or missing shall be noted on the inventory list; however, no clothing~~ Clothing ~~or other possessions that came with the child from the child's home shall~~ must not be disposed of without approval from the child's social worker; ~~;~~

~~(c)(5) All of the~~ The child's current clothing and other possessions shall must be sent with the child to any subsequent placement, including a return to the child's s home; ~~;~~

~~(d) Foster parents shall record the cost of clothing on the inventory list when the clothing is purchased with funds from the maintenance payment and shall maintain receipts for clothing purchased with funds specifically provided to purchase clothing for the child; and~~

~~(e) Foster parents shall provide the clothing receipts and the inventory list at any time upon request of the department and shall provide the receipts and inventory list to the child's social worker when the child leaves the foster home.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.816 YOUTH FOSTER HOMES: SLEEPING ARRANGEMENTS AND REQUIREMENTS (1) and (2) remain the same.

(3) Children of the opposite sex who are five years of age or older ~~must~~ may not share a bedroom.

(4) and (5) remain the same.

~~(6) Each child must~~ A foster parent shall provide each child with ~~be provided with the child's~~ their own bed, which must be at least 30 inches wide and of a length ~~which is~~ that is adequate for the child's height.

(7) A child under the age of four may be provided with a toddler bed ~~which must use~~ that uses a standard crib mattress, ~~be~~ is at least 28 inches wide, and ~~have is of~~ a length adequate for the child's height.

(8) Children under age two must sleep in a crib, as defined in ARM 37.51.102(2). ~~Cribs must have a snug fitting mattress and there must not be more than 2 and 3/8 inches of space between the vertical slats.~~

(a) Foster parents shall comply with current safe sleep practices for all children under one year of age.

(9) Each bed or crib must have ~~adequate~~ appropriate bedding.

(10) Bunk beds more than two bunks high are prohibited. If bunk beds are used, the upper bunk must have a guardrail. Upper bunks ~~must~~ may not be used by children under eight years of age.

(11) ~~Each~~ A foster parent shall provide each child ~~must be provided~~ with space in a closet, locker, or dresser for storage of the child's clothing and personal belongings. ~~This storage space must be located in his~~ the child's sleeping area.

(12) When placement in a kinship foster home is determined to be in a child's best interests, ~~a regional administrator may approve a requested~~ an exception to one or more provisions (other than (8)(a)) of this rule may be granted by the department after careful review of the circumstances ~~on a case by case basis.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.820 YOUTH FOSTER HOMES: YOUTH INDEPENDENT LIVING

PROGRAM, JOB TRAINING, AND EMPLOYMENT (1) ~~The~~ Foster parents shall cooperate with the department's independent living program staff and contractors to ensure that eligible youth in foster care are encouraged and assisted to access services and benefits offered under the department's Independent Living Program.

(2) ~~The~~ Foster parents shall assist the placing agency, eligible youth in foster care ~~the youth~~, and the Independent Living Program staff, and contractors in developing an appropriate transitional plan for each eligible youth in foster care youth ~~aged 16~~ 14 or older.

(3) ~~The~~ Foster parents shall encourage and assist ~~each teenage~~ eligible youth in foster care youth to prepare for the transition from foster care to independent living.

(4) ~~The~~ Foster parents shall assist the placing agency, eligible youth in foster care ~~the youth~~, and the Independent Living Program staff, and contractors in developing the youth's job readiness skills and, when appropriate, assisting the youth in locating employment.

(5) ~~The~~ Foster parents shall assist eligible youth in foster care youth in exploring postsecondary educational opportunities.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-102, 52-2-111, 52-2-113, 52-2-115, 52-2-601, 52-2-603, 52-2-621, ~~52-2-666~~, MCA

37.51.825 YOUTH FOSTER HOMES: PHYSICAL CARE OF CHILDREN

(1) ~~The~~ Foster parents ~~must~~ shall work with the placing agency to ensure that the foster child's medical needs are met.

(2) Every foster child ~~shall~~ must have an identified physician.

(3) Medical and dental care, including examinations and treatment, ~~shall~~ must be obtained for children as needed.

(4) ~~The~~ Foster parents, in consultation with the placing agency, shall arrange for each child to have a complete Early Periodic Screening, Diagnosis, and Treatment (EPSDT) well child examination which includes a medical, dental, vision, and hearing screen within 30 days of placement in foster care. Subsequent examinations and treatment must be completed as recommended by the child's physician.

(5) Foster parents shall obtain psychiatric, psychological, and counseling services, including diagnosis and treatment, ~~shall be obtained~~ for each child as when these services are determined to be necessary by the placing agency.

(6) ~~The~~ Foster parents ~~must shall~~ keep the placing agency apprised of illnesses of each foster child ~~which that~~ require medical attention and the results of examinations, tests, and treatment recommended for each child.

(7) All medication ~~shall~~ must be kept in the original containers labeled with the original prescription labels in a place inaccessible to children.

(8) All medication ~~shall~~ must be given as prescribed unless a licensed health care provider rescinds the prescription or otherwise modifies it. The foster parent ~~shall will~~ notify the child's case worker of any changes in medication.

(9) ~~The~~ Foster parents ~~must shall~~ work with the placing agency to ensure that each foster child is immunized in accordance with ARM 37.51.306 and ~~37.51.307~~.

(10) In an emergency, the foster parents shall make arrangements for emergency care at a nearby hospital, clinic, or doctor's office and, as soon as possible thereafter, ~~shall~~ notify the placing agency.

~~(11) When a preschool child with special needs is in foster care, one of the foster parents should not be employed outside of the home. An exception may be granted by a regional administrator.~~

~~(12)~~(11) Foster parents ~~must~~ may not provide tobacco products in any form to children under the age of 18 who are placed in the foster home.

~~(13)~~(12) Foster parents ~~must~~ may not allow children placed in the foster home to be exposed to secondhand smoke in the foster parents' home or vehicle.

~~(14)~~(13) Nothing in ~~(14)~~(11) or ~~(15)~~(12) is meant to interfere with traditional or Native American ceremonies involving the use of tobacco.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.901 YOUTH FOSTER HOMES: ENVIRONMENTAL AND SAFETY REQUIREMENTS (1) The foster home and its premises ~~shall~~ must be comparable to other residences of the community and neighborhood in which it is located.

(2) remains the same.

(3) Every interior door ~~shall~~ must be designed to permit the opening of the locked door from the outside in an emergency.

(4) Protective plugs ~~shall~~ must be installed on electrical outlets in all homes occupied by foster children under five years of age.

(5) The foster parents shall keep the home clean and in good repair and the premises ~~shall be kept~~ free from objects, materials, and conditions ~~which that~~ constitute a danger to the occupants.

(6) ~~The~~ Foster parents ~~must~~ shall protect any foster child from any environmental danger or other hazard on the foster care property that the foster parent is aware of and that could affect the health, welfare, or safety of children in care. The foster parent must notify the licensing worker of ~~the~~ any existing concern.

(7) All foster homes ~~shall~~ must be equipped with, or provide access to, a landline or cellular telephone. Telephone numbers of the placing agency, hospital, police department, fire department, ambulance, and poison control center must be posted ~~by each telephone~~ in a place visible to a child in placement.

(8) remains the same.

(9) If the home's water supply is not from a municipal system, ~~the a~~ foster ~~home parent~~ must arrange to, at a minimum, have a basic screen water test conducted at least annually through the Department of Public Health and Human Services, Public Health and Safety Division, Laboratory Services Bureau, Environmental Laboratory Section, Cogswell Building, 1400 Broadway, Room B-204, Helena, MT 59620 to ensure that the water supply remains safe for human consumption. Documentation of the test results must be provided to the licensing worker. If a home's water supply is obtained from an approved source, but the water is stored in a cistern, it is recommended that a basic screen water test be conducted each time the water is replaced and the results provided to the licensing worker.

(10) Children ~~shall~~ may not be knowingly exposed to unsafe levels of lead as determined by the Environmental Protection Agency.

(11) Cleaning materials, flammable liquids, detergents, aerosol products, and other poisonous and toxic materials ~~shall~~ must be kept in their original containers or ~~shall~~ be clearly labeled with both symbols and words indicating that the contents are hazardous. Such substances ~~shall~~ must be kept in a place inaccessible to children and shall be childproofed, if possible. ~~They shall and~~ be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children.

(12) Any pet or animal present at the home with the foster parents' permission ~~shall~~ must not pose a threat to the safety or well-being of any child placed in the home.

(a) ~~The~~ Any pet or animal ~~shall show no evidence of carrying disease present at the home with a foster parent's permission must be vaccinated in accordance with local laws.~~

(b) Documentation provided by a veterinarian verifying that any pet or animal belonging to ~~the a~~ foster parents and present at the home is in good health must be provided to the department upon request.

(c) Foster parents are responsible for their negligent actions and for any resulting injuries that may be caused by any animal allowed in or around the foster home.

(13) Foster parents shall keep ~~Guns~~ guns and ammunition ~~shall be kept~~ in locked storage with guns stored separately from ammunition. Guns kept in vehicles ~~shall~~ must be locked in the glove compartment or gun rack, ~~shall~~ must be unloaded, and ammunition must be kept locked in a separate location in the vehicle.

(14) Any outdoor play area shall must be maintained hazard free. If any part of the play area is adjacent to a well, machinery, road, drainage ditch, holes, or other hazardous areas, the play area shall must be enclosed with fencing or natural barriers when preschool children are in placement to restrict the children from these areas.

(15) Outdoor equipment, such as climbing apparatus, slides, swings, and trampolines, shall must be anchored firmly and placed in a safe location. A responsible adult must be present and directly observing any activity of a foster child on a trampoline at all times.

(16) ~~The~~ Foster parents shall make swimming and wading pools, and swimming areas, and hot tubs inaccessible to children except when directly supervised by a responsible adult.

~~(17) Foster parents will exercise careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. All foster parents shall use this standard when determining whether to allow a child in foster care, under the responsibility of the State, to participate in extracurricular, enrichment, cultural, and social activities.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.902 YOUTH FOSTER HOMES: FIRE SAFETY REQUIREMENTS

(1) ~~There shall be two~~ Two unobstructed means of exit must exist from all sleeping areas occupied by foster children. ~~Foster parents must prepare a written plan to rescue children if the primary means of exit is blocked.~~

(2) Foster parents ~~must~~ shall devise a written plan for everyone in the home to exit the home in emergencies and ~~must~~ teach the plan to children placed in the home. ~~There must be regular fire drills at different times of the day and night.~~

(3) A working smoke detector ~~which~~ that is properly maintained and regularly tested shall must be located in each bedroom and in the hallway leading to the bedroom with at least one smoke detector on each level of the foster home.

(4) remains the same.

(5) Each foster home must have a workable portable fire extinguisher with a minimum rating of 2A10BC. Extinguishers shall must be readily accessible and shall be mounted.

(6) ~~No~~ Portable unvented fuel-fired heating devices, such as portable kerosene or oil heaters, are not allowed.

(7) ~~An~~ No extension cord shall may not be used as permanent wiring.

(8) remains the same.

(9) ~~Upon request of the department, the state fire marshal or his designee shall inspect any home for which a license is applied or issued and shall report its findings to the department.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.1001 YOUTH FOSTER HOMES: TRANSPORTATION (1) Foster parents and any person transporting foster children with ~~the a foster parents' parent's permission, shall must~~ possess a valid driver's license and ~~shall meet at least~~ the minimum liability insurance coverage requirements set by state law.

(2) ~~All doors on vehicles~~ Vehicle doors must be locked whenever the vehicle is in motion.

(3) No vehicle shall begin moving until all children are seated and secured in age-appropriate safety restraints ~~which must~~ that are to remain fastened at all times while the vehicle is in motion.

(4) Foster parents must request and receive written travel authorization before taking any child placed by the department:

(a) out of the county for more than 72 hours;

(b) out of the state for more than 72 hours; or

(c) out of the country for travel at any time.

(5) Any travel that interferes with visitation, therapy, education, or other services provided to the foster child must receive prior approval.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.1404 YOUTH FOSTER HOMES: TRAINING EXEMPTIONS
EXCEPTIONS (1) An ~~exemption~~ written exception to the required orientation and preservice training must be approved ~~by a department regional administrator~~ prior to initial licensure.

(2) An written exception ~~exemption~~ to the required 15 hours of annual training ~~for relicensure~~ must be approved ~~by a department regional administrator~~ prior to a license being renewed.

(3) ~~Exemptions to any training requirement must be written and a copy maintained in the licensing file.~~

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.1410 YOUTH FOSTER HOMES: REQUIRED TRAINING FOR THERAPEUTIC FOSTER HOMES (1) Therapeutic foster parents ~~must shall~~ each complete ~~48 hours of orientation and preservice training and 15 hours of training described in (2)(a) and (b)~~ 30 hours of training before initial licensure.

(2) Each year thereafter, therapeutic foster parents ~~must shall~~ complete a total of 30 hours of annual training, ~~that may include training in the general areas identified in ARM 37.51.1405(2), but which must also include~~ including a minimum of 15 hours of training directly related to:

(a) through (3) remain the same.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

4. STATEMENT OF REASONABLE NECESSITY

As a result of review of the foster care licensing rules through the Red Tape Relief/Regulatory Reform Initiative, the Department of Public Health and Human Services (department) has determined that the administrative rules for foster care licensing should be amended. Many of the rules were written or last amended in 2006, and changes are needed to ensure the licensing process and rules are current to national standards; are clearly defined; and eliminate or mitigate barriers for the department and providers, while maintaining adequate safety standards for children in care. The department, thus, proposes to amend the rules identified in this notice to update, consolidate, and simplify the administrative rules governing foster care licensing, and to ensure that the licensing process and rules reflect current federal and state requirements and current practices.

37.51.102 YOUTH FOSTER HOMES: DEFINITIONS

The department proposes to add or amend certain definitions to ensure that individuals pursuing a foster care license or seeking to understand the applicable requirements have a clear and complete understanding of terms used in these rules.

Cribs: The proposed definition would align with current federal standards, as well as the department's child care licensing requirements.

Household member: The department proposes to add this definition to provide clarity as to the individuals who are subject to certain requirements in these rules because of their presence in a foster home, thus ensuring that no child is exposed to an individual who poses a risk while in a foster care placement.

Youth foster home: The department proposes to revise this definition, to provide clarity on the total number of children (and the total number of children under the age of two) permitted in a foster home, in the best interests of all the children in the home and to preserve safety. These proposed limits would ensure that foster families have adequate capacity to provide care and supervision to the children placed in their home, while providing the ability to seek an exception in appropriate circumstances.

37.51.202 YOUTH FOSTER HOMES: LICENSING PROCEDURES

The department proposes changes to this rule to combine, streamline, and clarify foster care licensing procedures and to allow for greater flexibility in the licensing process.

37.51.203 YOUTH FOSTER HOMES: LICENSURE AND RENEWAL

The department proposes to amend this rule to provide greater flexibility to foster parents on the timing of renewal applications, while maintaining the requirement that such completed renewal applications be submitted prior to the expiration of their current license. It also proposes to eliminate current ARM 37.51.203(2) because the provision is addressed in the definition of "youth foster home" in ARM 37.51.120(18).

37.51.207 YOUTH FOSTER HOMES: PROVISIONAL LICENSURE

The department proposes to amend the rule to allow for provisional licensing for up to six months, rather than the current four months with an option for two additional months. This would provide greater flexibility and reduce the burden on applicants and CFSD staff, who would not have to submit or process extension requests, while preserving child safety by requiring the applicant and all adult household members to submit to certain background checks.

37.51.209 YOUTH FOSTER HOMES: DUAL LICENSE

The changes proposed to this rule reflect organizational changes in the department and changes in responsibility for foster care and child care licensing within the department.

37.51.210 YOUTH FOSTER HOMES: GRANTING LICENSURE EXCEPTIONS

The department's proposed amendments would remove the language on licensure exceptions for conviction for crimes from this rule, since such convictions would be addressed in amended ARM 37.51.216. The proposal would also revise the provisions addressing how an exception and a license is approved to reflect organizational changes in the department and current departmental practice as to who is authorized to grant or deny such licenses, as well as providing flexibility for future changes in such authorizations.

37.51.216 YOUTH FOSTER HOMES: NEGATIVE LICENSING ACTION

The department proposes to make changes in the list of disqualifying crimes for licensure purposes, to adequately reflect those crimes which pose a risk to children and to add the definition of violent crimes from the Montana Code Annotated (which would prevent confusion with respect to disqualifying offenses). It would also amend the rule to reflect the Social Security Act requirement that all household members in emergency placements and youth foster homes are subject to the same background and other checks as the applicant/foster parents.

37.51.217 YOUTH FOSTER HOMES: HEARING PROCEDURES

Changes to this rule are proposed to make clear that negative licensure action is subject to the fair hearing process.

37.51.301 YOUTH FOSTER HOMES: GENERAL REQUIREMENTS FOR FOSTER PARENTS AND OTHER HOUSEHOLD MEMBERS

The department proposes to remove the requirement that foster parents and household members be of good moral character to reflect current practice; the requirement was difficult to operationalize and is no longer practicable. CFSD has been unable to use the requirement as a basis for licensure revocation or denial in a number of years. The proposed elimination of the obligation to protect the foster child from exposure to certain behavior and language inappropriate to the child's age would not preclude the department from holding providers to a standard to ensure the safety and well-being of the foster children in their care. Other changes are proposed to reflect departmental reorganization, current department practice, and to provide flexibility for any future changes in departmental organization or practice.

37.51.305 YOUTH FOSTER HOMES: HEALTH VERIFICATION REQUIREMENTS FOR FOSTER PARENTS AND OTHER HOUSEHOLD MEMBERS

The department proposes to amend the rule to incorporate the term "household member," which would be defined in another proposed amendment, and to streamline the rule as a result of the use of that term.

37.51.310 YOUTH FOSTER HOMES: CRIMINAL BACKGROUND CHECKS

The department proposes to amend this rule to reflect the federal requirement that the members of the household of applicants, licensees, and emergency placements submit to background checks. This would ensure clarity for providers as well as department staff in the licensing process. Other changes are proposed to reflect the current procedures for obtaining background checks.

37.51.311 YOUTH FOSTER HOMES: PSYCHOLOGICAL AND MEDICAL EXAMINATIONS

The department's proposed amendment seeks to clarify that psychological and medical evaluation requirements apply also to currently licensed foster parents and their household members.

37.51.602 YOUTH FOSTER HOMES: REPORTS OF CHANGE IN COMPOSITION OF FOSTER HOME

The purpose of the proposed amendments to this rule is to clarify to whom foster care providers are required to provide notice of changes in the composition of the foster home and the timeline(s) that apply to such notifications. The department also proposes to simplify compliance with the rule by combining and clarifying two related requirements on notice and prior approval of the placement of any child into the household.

37.51.603 YOUTH FOSTER HOMES: THERAPEUTIC FOSTER HOMES

The department proposes to eliminate the requirements that one foster parent of a young child in a therapeutic foster home not be employed outside the home and that a child in therapeutic foster care not be placed in child care for more than four hours per day without written approval. The changes are proposed to reflect current practice, especially in light of the current availability of child care facilities that can provide appropriate day care for children with therapeutic needs. The proposed revision would also create greater opportunities for families to foster such children. The department retains the requirement that the use of child care be approved by the child's treatment team and included in the child's treatment plan. Other proposed changes to the rule would clarify and reflect the department's current practice with respect to approvals needed with respect to certain placements in therapeutic foster homes.

37.51.608 YOUTH FOSTER HOMES: REPORTS OF SERIOUS INCIDENTS AND THREATS

The department's proposed amendments would clarify (1) by reference to the definition in ARM 37.51.102, what constitutes a serious incident; (2) to whom reports of serious incidents and threats should be reported; and (3) where forms for such

reports can be obtained. These proposed amendments should simplify foster parent compliance, while ensuring the safety and well-being of children in foster care.

37.51.801 YOUTH FOSTER HOMES: GENERAL PROGRAM REQUIREMENTS

The department proposes to revise this rule (1) to clarify decision making authority regarding foster homes; (2) to remove requirements addressed elsewhere; and (3) to incorporate the parental decision making standard (based on the federal Preventing Sex Trafficking and Strengthening Families Act) previously included in a different rule, but which is more appropriately included in this rule on general foster parent requirements. The proposed clarifications should simplify foster parent compliance.

37.51.802 YOUTH FOSTER HOMES: COOPERATION OF FOSTER PARENTS

The department's proposed amendments would align the rule with current department practice by removing certain mandates on foster parents.

37.51.810 YOUTH FOSTER HOMES: CHILD CLOTHING

The department proposes to remove the requirement for foster parents to maintain an inventory of the foster child's clothing and other possessions. This would eliminate an undue burden on foster families, while maintaining requirements and assurances that the child's clothing and other possessions not be disposed of without social worker approval and that such items be transferred with the child to any subsequent placement.

37.51.816 YOUTH FOSTER HOMES: SLEEPING ARRANGEMENTS AND REQUIREMENTS

The department proposes to amend the rule to clarify existing requirements, reflect changes in departmental organization and decision making authority and practice, and incorporate current safety standards with respect to sleeping (including by cross-reference to the proposed new definition of "crib").

37.51.820 YOUTH FOSTER HOMES: YOUTH INDEPENDENT LIVING PROGRAM, JOB TRAINING, AND EMPLOYMENT

The proposed amendment would align this rule with the current federal criteria for access to the Chaffee program that changed the eligibility age from age 16 to age 14.

37.51.825 YOUTH FOSTER HOMES: PHYSICAL CARE OF CHILDREN

The department proposes substantive amendments to this rule (1) to remove an inapplicable cross-reference; (2) to align this rule with proposed revisions in ARM 37.51.603 with respect to therapeutic foster parents of young children (which would create greater opportunities for families to foster children with therapeutic needs); and (3) to update internal cross-references.

37.51.901 YOUTH FOSTER HOMES: ENVIRONMENTAL AND SAFETY REQUIREMENTS

The department's proposed substantive changes would align the rule with current community and legal standards (including with respect to telephone service, lead paint exposure and abatement, and animals present in the foster home). These proposed changes would reduce burden on foster parents, while ensuring the safety and well-being of foster children. In addition, the department proposes to move the parental decision making standard from this rule to ARM 37.51.801.

37.51.902 YOUTH FOSTER HOMES: FIRE SAFETY REQUIREMENTS

The department proposes to amend this rule to clarify that the requirement for a fire emergency/fire escape plan is a requirement for a written plan. The department proposes to eliminate two current fire safety requirements, judging that child fire safety needs are better met with a written fire escape plan and adequate fire safety equipment in the home. In addition, the department proposes to repeal the requirement for state fire marshal fire inspections; the department has learned that the state fire marshal is unable to conduct fire safety assessments of individual homes and believes that other rules address overall home safety and are adequate to ensure that any questions or concerns regarding fire safety can be addressed by the licensing agency.

37.51.1001 YOUTH FOSTER HOMES: TRANSPORTATION

These proposed amendments would align the rule with current federal requirements under the Preventing Sex Trafficking and Strengthening Families Act on foster parents' transportation of foster children, while still ensuring the safety and well-being of the children.

37.51.1404 YOUTH FOSTER HOMES: TRAINING EXEMPTIONS

The proposed amendments would align the rule to the department's current practices and organization and would provide clarity for families applying for foster care licenses on training and the process of obtaining exceptions from the training requirements.

37.51.1410 YOUTH FOSTER HOMES: REQUIRED TRAINING FOR THERAPEUTIC FOSTER HOMES

The department proposes amendments to this rule to provide clarity about training for families applying for therapeutic foster care licenses and to give flexibility for the child placing agencies that license them on the type of required training.

Fiscal Impact

These proposed rule amendments will not create administrative costs, nor are there any projected cost savings. The proposed rulemaking is estimated to affect all future licensed foster homes as well as those approved for adoption and/or guardianship.

5. The department intends these amendments to be effective April 13, 2024.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., March 8, 2024.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Paula M. Stannard
Paula M. Stannard
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State January 30, 2024.