

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Human Resources
(DLS Control No. 15-321)**

Overview and Legal and Fiscal Impact

The regulations repeal existing regulations .01-.09 and add new regulations .01-.09 under COMAR 07.02.12 Adoption. Key changes are summarized below under Summary of Regulations.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Human Resources:

Social Services Administration: Adoption: COMAR 07.02.12.01-.09

Legal Analysis

Summary of Regulation

The regulations repeal and recodify, with changes, existing regulations governing placement of a child for adoption, adoption services, and adoption assistance payments. Significant substantive changes include the following:

- requiring a family with whom a child has been placed for adoption to sign an Intent to Adopt Placement Agreement;
- requiring a local department of social services to provide postplacement services to a prospective adoptive family after a child has been placed for adoption but before the adoption has been finalized, and specifying the goals, duration, and content of the services;
- requiring a family receiving adoption assistance payments to report the receipt of any other benefits to the Social Services Administration;
- expanding provisions specifying each state's responsibilities regarding adoption assistance when there is an interstate adoption;

- authorizing a local department to recover an overpayment of State-funded monthly adoption assistance;
- authorizing a local department to suspend State-funded monthly adoption assistance or post adoption assistance payments if a child who was adopted reenters out-of-home care;
- authorizing a local department to reduce the amount of State-funded monthly adoption assistance if a child receives Supplemental Security Income; and
- reducing, from 21 to 18 years, the age of an adoptive child at which State-funded post adoption assistance may be terminated, if the child does not meet specified conditions for continuation.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Human Resources cites as statutory authority for the regulations § 15-106.1 of the Education Article; § 4-207 of the Human Services Article; Title 5, Subtitle 3, Subtitle 3A, Subtitle 3B, Subtitle 4, and Subtitle 4A of the Family Law Article; §§ 5-101, 5-501, 5-524, 5-525, 5-525.1, 5-525.2 and 5-530 of the Family Law Article; Ch. 444, Acts of 2007; 25 U.S.C. §§ 1901-1963; 42 U.S.C. § 670 *et seq.*; and 45 CFR; §§ 1355, 1356.40, and 1356.41.

Section 4-207 of the Human Services Article authorizes the Executive Director of the Social Services Administration to adopt regulations.

Title 5, Subtitle 3, Subtitle 3A, and Subtitle 3B of the Family Law Article govern adoption through a local department of social services, adoption through a private child placement agency, and independent adoptions, respectively, while Title 4 governs the Adoption Subsidy Program, and Title 4A authorizes the Social Services Administration to enter into interstate adoption assistance compacts. Section 5-530 of the Family Law Article authorizes the department to contribute to the support of a child formerly under foster care after the child is adopted.

25 U.S.C. §§ 1901-1963 is the Indian Child Welfare Act. 42 U.S.C. § 670 *et seq.* establish requirements for federal payments for foster care and adoption assistance. 45 CFR Part 1355 establishes requirements for states to receive federal funds under Title IV-E of the Social Security Act; 45 CFR § 1356.40 establishes the federal Adoption Assistance Program; and § 1356.41 establishes federal requirements for payments for nonrecurring adoption expenses.

With the exception of Chapter 444 of 2007, which terminated December 31, 2009, the relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The Department of Legislative Services advised the department of a number of technical and grammatical errors for correction prior to publication.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations reflect current practice and have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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