



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: November 04, 2019

TIME: 1:41 PM

WSR 19-22-055

Agency: Washington State Patrol

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 19-19-016 ; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject) Employment – Conviction Records: Review of refusal to alter record

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 12, 2019	9:00am	10611 <sup>th</sup> Avenue SW, Room 1011 Olympia, WA 98504	

Date of intended adoption: December 13, 2019 (Note: This is NOT the effective date)

### Submit written comments to:

Name: Kimberly Mathis, Agency Rules Coordinator  
 Address: 106 11<sup>th</sup> Avenue SW; Olympia, WA 98504  
 Email: [wsprules@wsp.wa.gov](mailto:wsprules@wsp.wa.gov)  
 Fax:  
 Other:  
 By (date) December 10, 2019

### Assistance for persons with disabilities:

Contact Kimberly Mathis  
 Phone: 360-596-4017  
 Fax:  
 TTY:  
 Email: [wsprules@wsp.wa.gov](mailto:wsprules@wsp.wa.gov)  
 Other:  
 By (date) December 10, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To amend language in WAC 446-20-160 to specify that RCW 43.43.730; *s de novo* hearing process applies to the WSP, allowing an individual to appear after a refusal by WSP to alter a record

**Reasons supporting proposal:** Provide clarification regarding the hearing process

**Statutory authority for adoption:** Chapters 10.97 and 43.43

**Statute being implemented:** RCW 43.43.730

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization)  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Kimberly Mathis	Olympia, WA	360-596-4017
Implementation:	Washington State Patrol	Olympia, WA	360-596-4017
Enforcement:	Washington State Patrol	Olympia, WA	360-596-4017

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:  
Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: This rule is exempt pursuant to RCW 34.05.328(5)(b)(v)

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

**Date:** November 1, 2019

**Name:** John R. Batiste

**Title:** Chief

**Signature:**

AMENDATORY SECTION (Amending WSR 10-01-109, filed 12/17/09, effective 1/17/10)

**WAC 446-20-160 Review of refusal to alter record.** A person who is the subject of a criminal record and who disagrees with the refusal of the agency maintaining or submitting the record to correct, complete, or delete the record, may request a review of the refusal within twenty business days of the date of receipt of such refusal. The request for review must be in writing, and must be made by the completion of a form substantially equivalent to that set forth in WAC 446-20-410. If review is requested in the time allowed, the head of the agency whose record or submission has been challenged must complete the review within thirty days and make a final determination of the challenge. The head of the agency may extend the thirty-day period for an additional period not to exceed thirty business days. If the head of the agency determines that the challenge should not be allowed, he or she must state his or her reasons in a written decision, a copy of which must be provided to the subject of the record. Denial by the agency head will constitute a final decision under RCW ((34.04.130)) 34.05.570. Notwithstanding this section, RCW 43.43.730 governs an individual's request to the Washington state patrol identification and criminal history section to purge, modify, or supplement that individual's criminal history record information on file with the Washington state patrol identification and criminal history section.