

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 119, “Record Check Evaluations for Certain Employers and Educational Training Programs,” Iowa Administrative Code.

These amendments add a definition for “deferred judgment” and clarify that deferred judgments will be considered in criminal background checks.

In keeping with case law analysis, the Department evaluates deferred judgments as convictions because the statutes that the Department relies upon to conduct record check evaluations are designed to protect Iowa’s most vulnerable populations. These amendments will assist attorneys who advise clients and judges who consider dispositive options in administrative and criminal venues.

Any interested person may make written comments on the proposed amendments on or before May 17, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Deferred judgment” in rule **441—119.1(135B,135C)**:

“*Deferred judgment*” means deferred judgment as defined in Iowa Code section 907.1 and is considered an admission of committing an act. Under this chapter, the admission of committing an act must be considered a conviction for purposes of public protection.

ITEM 2. Amend subrule 119.2(1) as follows:

119.2(1) *Record check evaluations on prospective employees and students.* A requesting entity shall request a record check evaluation prior to employment or enrollment of a person whose background check indicates a criminal or dependent adult abuse or child abuse record. Any deferred judgments will be considered in criminal background checks. Criminal, child abuse and dependent adult abuse background checks are required on all prospective employees or students, including employees or students who have terminated employment or participation in a training program for any reason or any length of time and wish to return to the same employment or training program, unless an exemption is provided in these rules.

a. and b. No change.