

# 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 217.6 and 2016 Iowa Acts, Senate File 2258, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 105, “Juvenile Detention and Shelter Care Homes,” Chapter 113, “Licensing and Regulation of Foster Family Homes,” Chapter 114, “Licensing and Regulation of All Group Living Foster Care Facilities for Children,” and Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

These amendments implement the federal Preventing Sex Trafficking and Strengthening Families Act. These amendments update the description of reasonable supervision of foster children. These amendments also update language regarding liability of foster parents and add new requirements regarding annual fire inspections and building codes. Finally, these amendments change the requirement for provision of transition plan documents to any child leaving foster care at the age of 18 or older.

These amendments will provide better transition services for youths 14 years of age or older in foster care who are expected to age out of care when the youths reach 18 years of age.

Any interested person may make written comments on the proposed amendments on or before August 23, 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](mailto: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 217.6 and 2016 Iowa Acts, Senate File 2258.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 105.8(9):

**105.8(9) Liability.** Juvenile shelter care homes that apply the reasonable and prudent parent standard reasonably and in good faith in regard to a child in foster care shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This subrule shall not remove or limit any existing liability protection afforded under any other law.

ITEM 2. Amend subrule 105.17(5) as follows:

**105.17(5) Other information.** The following information shall be requested when the child remains in the facility more than four days and, when available, shall be placed in the child’s record.

a. to c. No change.

d. Medical.

(1) A record of all illnesses, immunizations, communicable diseases and follow-up treatment.

(2) Medical and surgical ~~authorization~~ releases or authorizations signed by the parent, guardian, custodian or court, including releases or authorizations for anesthesia and emergency medical and surgical treatment.

(3) A record of all medical and dental examinations, including findings.

(4) Date of last physical examination prior to placement.

e. No change.

f. Placement agreement, court order, and other releases and authorizations.

- ~~(1) Agreement shall authorize~~ An agreement authorizing the facility to accept the child.
- ~~(2) The An agreement shall set~~ setting forth the terms of payment for care.
- ~~(3) Medical release authorizing emergency medical and surgical treatment, including the administration of anesthesia.~~
- ~~(4) (3) All Other releases and authorizations shall be signed by the parent or legal guardian applicable to the placement.~~
- ~~(5) (4) All court orders affecting the custody or guardianship of the child.~~

ITEM 3. Adopt the following **new** definitions of “Age- or developmentally appropriate activities” and “Reasonable and prudent parent standard” in rule **441—113.2(237)**:

*“Age- or developmentally appropriate activities”* means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

*“Reasonable and prudent parent standard”* means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encourage the emotional and developmental growth of the child, that a caregiver shall use 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. For the purposes of this definition, “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution (including group homes, residential treatment, shelters, or other congregate care settings) in which a child in foster care has been placed.

ITEM 4. Amend subrule 113.7(7) as follows:

**113.7(7) Supervision.** The foster parents shall provide reasonable supervision of foster children to ensure their safety.

a. Foster parents shall ~~monitor~~ reasonably supervise foster children while the children are using any hazardous items. All or dangerous objects or equipment, including but not limited to trampolines, motorized vehicles, and power tools, shall be inaccessible to a child unless: In order for foster children to participate in age- or developmentally appropriate activities, the foster parent would apply the reasonable and prudent parent standard.

- ~~(1) There is reasonable supervision by the foster parent, and~~
- ~~(2) Permission has been obtained from the parent or guardian for the foster child to use the equipment or vehicle.~~

b. No change.

ITEM 5. Adopt the following **new** subrule 113.7(9):

**113.7(9) Liability.** Foster parents who apply the reasonable and prudent parent standard reasonably and in good faith in regard to a foster child placed in their home shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This subrule shall not remove or limit any existing liability protection afforded under any other law.

ITEM 6. Adopt the following **new** subrule 114.5(3):

**114.5(3) Fire inspection.** Each facility shall procure an annual fire inspection approved by the state fire marshal and shall meet the recommendations thereof.

ITEM 7. Adopt the following **new** subrule 114.5(4):

**114.5(4) Local codes.** Each facility shall meet local building, zoning, sanitation and fire safety ordinances. Where no local standards exist, state standards shall be met.

ITEM 8. Adopt the following **new** subrule 114.10(12):

**114.10(12) Liability.** Licensed group living foster care facilities that apply the reasonable and prudent parent standard reasonably and in good faith in regard to a child in foster care shall have

immunity from civil or criminal liability which might otherwise be incurred or imposed. This subrule shall not remove or limit any existing liability protection afforded under any other law.

ITEM 9. Amend subparagraph **202.11(7)“c”(4)** as follows:

(4) The transition plan shall document that any child leaving foster care at the age of 18 or older was provided with the following documents and information unless the child has been in foster care for less than ~~six months~~ 30 days or is not eligible to receive such document:

1. to 5. No change.