

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to group living foster care facilities
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 114, “Licensing and Regulation of All Group Living Foster Care Facilities for Children,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.3.

Purpose and Summary

Chapter 14 was reviewed as part of the Department’s five-year review of rules. This chapter outlines the basic standards for all group living foster care facilities and contains the basic standards applicable to community residential facilities for children. These proposed amendments update definitions and provide additional clarity. Qualifications are proposed to be amended to provide further information on related human services fields and experience in social work or experience in the delivery of human services in a public or private agency as additional ways to qualify as a caseworker. Rules are proposed to be updated to provide information on the record check process.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—114.1(237) as follows:

441—114.1(237) Applicability. This chapter outlines the basic standards for all group living foster care facilities and contains the basic standards applicable to community residential facilities for children. Additional standards applicable to specific levels of group living are discussed in 441—Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” and 441—Chapter 116, “Licensing and Regulation of Residential Facilities for Children with an Intellectual Disability or Brain Injury.”

~~This rule is intended to implement Iowa Code chapter 237.~~

ITEM 2. Amend rule **441—114.2(237)**, definitions of “Private juvenile detention home” and “Private juvenile shelter care home,” as follows:

“*Private juvenile detention home*” means a juvenile detention home as defined in Iowa Code section 232.2, which does not meet the requirements of being “county or multicounty” as defined in 441—~~subrule 105.1(2)~~ rule 441—105.1(232).

“*Private juvenile shelter care home*” means a juvenile shelter care home as defined in Iowa Code section 232.2, which does not meet the requirements of being “county or multicounty” as defined in 441—~~subrule 105.1(2)~~ rule 441—105.1(232).

ITEM 3. Rescind the implementation sentence in rule **441—114.3(237)**.

ITEM 4. Rescind the implementation sentence in rule **441—114.4(237)**.

ITEM 5. Adopt the following **new** paragraph **114.5(6)“g”**:

g. Providing personal care items to children in care. Personal care items must be provided to the children in care and must reflect the individual, cultural, racial and ethnic needs of the youth living in the facility’s programs.

ITEM 6. Rescind the implementation sentence in rule **441—114.5(237)**.

ITEM 7. Rescind the implementation sentence in rule **441—114.6(237)**.

ITEM 8. Amend subparagraph **114.7(3)“b”(8)** as follows:

(8) If the applicant, probationary employee or temporary employee has completed and submitted Form 470-2310, ~~Record Check Evaluation~~, to the agency, a copy shall be kept in the staff record.

ITEM 9. Amend paragraph **114.8(1)“a”** as follows:

a. A caseworker shall have a ~~bachelor of arts or bachelor of science~~ graduated from a four-year college or university with a bachelor’s degree in a human services field related to social work, psychology or a related behavioral science, plus two years of supervised or in education and the equivalent of one year of full-time experience; or a bachelor’s degree in social work with one year of supervised experience; in social work or in the delivery of human services in a public or private agency, or six years of supervised

child welfare experience in residential care or a combination of advanced education in the behavioral sciences and experience equal to six years.

ITEM 10. Amend paragraph **114.8(1)“e”** as follows:

e. A person who has a record of a criminal conviction or founded child or dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child or dependent adult abuse has been made by the department which concludes that the crime or founded child or dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child or dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, ~~“Record Check Evaluation.”~~ In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

ITEM 11. Rescind the implementation sentence in rule **441—114.8(237)**.

ITEM 12. Amend subparagraphs **114.9(4)“b”(2)** and **(3)** as follows:

(2) Written policies regarding children’s rights as in ~~114.13(2)~~ rule **441—114.13(237)**.

(3) Written policies regarding religion, work or vocational experiences, family involvement, ~~grievance procedures~~ and discipline as in ~~441—114.13(237)~~ rules **441—114.15(237)** to ~~114.18(237)~~ **441—114.17(237)** and ~~114.20(237)~~ rule **441—114.20(237)**.

ITEM 13. Rescind the implementation sentence in rule **441—114.9(237)**.

ITEM 14. Rescind the implementation sentence in rule **441—114.10(237)**.

ITEM 15. Rescind the implementation sentence in rule **441—114.11(237)**.

ITEM 16. Rescind the implementation sentence in rule **441—114.12(237)**.

ITEM 17. Rescind the implementation sentence in rule **441—114.13(237)**.

ITEM 18. Rescind the implementation sentence in rule **441—114.14(237)**.

ITEM 19. Rescind the implementation sentence in rule **441—114.15(237)**.

ITEM 20. Rescind the implementation sentence in rule **441—114.16(237)**.

ITEM 21. Rescind the implementation sentence in rule **441—114.17(237)**.

ITEM 22. Rescind the implementation sentence in rule **441—114.18(237)**.

ITEM 23. Amend rule **441—114.19(237)** as follows:

441—114.19(237) Child abuse. Written policies shall prohibit mistreatment, neglect, or abuse of children and specify reporting and enforcement procedures for the facility. Alleged violations shall be reported immediately to the director of the facility and ~~appropriate the~~ department of human services ~~personnel centralized abuse hotline~~. Any employee found to be in violation of Iowa Code chapter 232, ~~division~~ subchapter III, part 2, as substantiated by the department of human services’ investigation shall be subject to the agency’s policies concerning dismissal.

~~This rule is intended to implement Iowa Code section 237.2.~~

ITEM 24. Rescind the implementation sentence in rule **441—114.20(237)**.

ITEM 25. Rescind the implementation sentence in rule **441—114.21(237)**.

ITEM 26. Rescind the implementation sentence in rule **441—114.22(237)**.

ITEM 27. Rescind the implementation sentence in rule **441—114.23(237)**.

ITEM 28. Amend paragraph **114.24(2)“a”** as follows:

a. Scope. The evaluation shall consider the nature and seriousness of the founded child or dependent adult abuse or criminal conviction report in relation to:

(1) and (2) No change.

(3) The circumstances under which the abuse or crime was committed,

~~(3)~~ (4) The degree of rehabilitation,

~~(4)~~ (5) The likelihood that the person will commit the abuse or crime again, and

~~(5)~~ (6) The number of abuses or crimes committed by the person.

ITEM 29. Rescind the implementation sentence in rule **441—114.24(237)**.

ITEM 30. Rescind the implementation sentence in rule **441—114.25(237)**.

ITEM 31. Adopt the following **new** implementation sentence in **441—Chapter 114**:
These rules are intended to implement Iowa Code section 237.3.