

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 7, "Appeals and Hearings," and Chapter 175, "Abuse of Children," Iowa Administrative Code.

These amendments conform the Department's rules to statutory changes made in 2011 Iowa Acts, House File 562. Those changes:

- Shorten the time limit for appeal of a child abuse finding from six months to 90 days.
- Clarify that failure on the part of the person responsible for the care of a child to provide adequate medical or mental health treatment or to provide adequate supervision meets the definition of child abuse.
- Clarify when a finding of child abuse shall be placed on the Central Abuse Registry.
- Remove obsolete provisions for review of abuse cases that were placed on the Registry before 1997.

The legislation provides that, with certain exceptions, information on founded abuse cases shall not be placed on the Registry when the Department:

- Determines that an allegation of physical abuse is founded but determines that the resulting injury was minor, isolated, and unlikely to reoccur; or
- Determines that an allegation of abuse by failure to provide adequate supervision or adequate clothing is founded but determines that the resulting risk to the child's health and welfare was minor, isolated, and unlikely to reoccur.

Even in those circumstances, the founded abuse shall be placed on the Registry if:

- The case was referred for juvenile or criminal court action due to the acts or omissions of the alleged perpetrator of abuse;
- The Department has determined within the past 18 months that other acts or omissions of the alleged perpetrator met the definition of abuse; or
- The Department determines that the alleged perpetrator will continue to pose a danger to children.

The legislation also provides that the name of the alleged perpetrator of founded sexual abuse shall not be placed on the Registry when the alleged perpetrator is aged 13 or younger, and allows the court to find good cause for not listing the name when the alleged perpetrator is aged 14 through 17. All other child abuse information in these cases will be listed on the Registry.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 29, 2011, as **ARC 9589B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on August 10, 2011.

These amendments do not provide for waivers in specified situations because the Department does not have the authority to waive statutory provisions.

The Department finds that these amendments confer a benefit on the public by eliminating conflicts between the rules and the statute. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

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

These amendments are intended to implement Iowa Code chapter 235A and sections 232.68 and 232.71D as amended by 2011 Iowa Acts, House File 562.

These amendments became effective on August 15, 2011.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [7.5(4)“d,” 175.21, 175.25(7), 175.32, 175.39, 175.40] is being omitted. These amendments are identical to those published under Notice as **ARC 9589B**, IAB 6/29/11.

[Filed Emergency After Notice 8/15/11, effective 8/15/11]

[Published 9/7/11]

[For replacement pages for IAC, see IAC Supplement 9/7/11.]