

CHAPTER 175
ABUSE OF CHILDREN

[Prior to 7/1/83, Social Services[770] Ch 135]
[Previously appeared as Ch 135—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
CHILD ABUSE

[Rescinded IAB 5/6/98, effective 9/1/98]

441—175.1 to 175.20 Reserved.

DIVISION II
CHILD ABUSE ASSESSMENT

PREAMBLE

The purpose of this division is to implement requirements established in the Iowa Code which charge the department of human services with accepting reports of child abuse, assessing those reports and taking necessary steps to ensure a reported child's safety. Protection is provided through encouraging the reporting of suspected cases of abuse, conducting a thorough and prompt assessment of the reports, and providing rehabilitative services to abused children and their families. This response to reports of child abuse emphasizes child safety and engagement of a family in services, where necessary. The assessment-based approach recognizes that child protection and strong families are the responsibility not only of the family itself, but also of the larger community (including formal and informal service networks). It is the department's legal mandate to respond to reports of child abuse. The assessment approach shall allow the department to develop divergent strategies when responding to reports of child abuse, adjusting its response according to the severity of abuse, to the functioning of the family, and to the resources available within the child and family's community.

441—175.21(232,235A) Definitions.

"Adequate food, shelter, clothing or other care" means that food, shelter, clothing or other care which, if not provided, would constitute a denial of critical care.

"Allegation" means a statement setting forth a condition or circumstance yet to be proven.

"Assessment" means the process by which the department carries out its legal mandate to ascertain if child abuse has occurred, to record findings, to develop conclusions based upon evidence, to address the safety of the child and family functioning, engage the family in services if needed, enhance family strengths and address needs in a culturally sensitive manner.

"Assessment intake" means the process by which the department receives and records reports of child abuse.

"Caretaker" means a person responsible for the care of a child as defined in Iowa Code section 232.68.

"Case" means a report of child abuse that has been accepted for assessment services.

"Community care," as provided in rule 441—186.1(234), means child- and family-focused services and supports provided to families referred from the department. Services shall be geared toward keeping the children in the family safe from abuse and neglect; keeping the family intact; preventing the need for further intervention by the department, including removal of the child from the home; and building ongoing linkages to community-based resources that improve the safety, health, stability, and well-being of families served.

"Denial of critical care" is the failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so, or when offered financial or other reasonable means to do so, and shall mean any of the following:

1. Failure to provide adequate food and nutrition to the extent that there is danger of the child suffering injury or death.
2. Failure to provide adequate shelter to the extent that there is danger of the child suffering injury or death.
3. Failure to provide adequate clothing to the extent that there is danger of the child suffering injury or death.
4. Failure to provide adequate health care to the extent that there is danger of the child suffering injury or death. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child and shall not be placed on the child abuse registry. However, a court may order that medical service be provided where the child's health requires it.
5. Failure to provide the mental health care necessary to adequately treat an observable and substantial impairment in the child's ability to function.
6. Gross failure to meet the emotional needs of the child necessary for normal development.
7. Failure to provide for the proper supervision of the child to the extent that there is danger of the child suffering injury or death, and which a reasonable and prudent person would exercise under similar facts and circumstances.
8. Failure to respond to the infant's life-threatening conditions (also known as withholding medically indicated treatment) by providing treatment (including appropriate nutrition, hydration and medication) which in the treating physician's reasonable medical judgment will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's reasonable medical judgment any of the following circumstances apply: the infant is chronically and irreversibly comatose; the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane.

"Department" means the department of human services.

"Facility providing care to a child" means any public or private facility, including an institution, hospital, health care facility, intermediate care facility for mentally retarded, residential care facility for mentally retarded, or skilled nursing facility, group home, mental health facility, residential treatment facility, shelter care facility, detention facility, or child care facility which includes licensed day care centers, all registered family and group day care homes and licensed family foster homes. A public or private school is not a facility providing care to a child, unless it provides overnight care. Public facilities which are operated by the department of human services are assessed by the department of inspections and appeals.

"Illegal drug" means cocaine, heroin, amphetamine, methamphetamine or other illegal drugs, including marijuana, or combinations or derivatives of illegal drugs which were not prescribed by a health practitioner.

"Immediate threat" means conditions which, if no response were made, would be more likely than not to result in sexual abuse, injury or death to a child.

"Infant," as used in the definition of "Denial of critical care," numbered paragraph "8," means an infant less than one year of age or an infant older than one year of age who has been hospitalized continuously since birth, who was born extremely prematurely, or who has a long-term disability.

"Nonaccidental physical injury" means an injury which was the natural and probable result of a caretaker's actions which the caretaker could have reasonably foreseen, or which a reasonable person could have foreseen in similar circumstances, or which resulted from an act administered for the specific purpose of causing an injury.

"Physical injury" means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition or damage to any bodily tissue which results in the death of the person who has sustained the damage.

“Preponderance of evidence” means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

“Proper supervision” means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall the person place a child in a situation that may endanger the child’s life or health, or cruelly or unduly confine the child. Dangerous operation of a motor vehicle is a failure to provide proper supervision when the person responsible for the care of a child is driving recklessly, or driving while intoxicated with the child in the motor vehicle. The failure to restrain a child in a motor vehicle does not, by itself, constitute a cause to assess a child abuse report.

“Rejected intake” means a report of child abuse that has not been accepted for assessment.

“Reporter” means the person making a verbal or written statement to the department, alleging child abuse.

“Report of child abuse” means a verbal or written statement made to the department by a person who suspects that child abuse has occurred.

“Subject of a report of child abuse” means any of the following:

1. A child named in a report as having been abused, or the child’s attorney or guardian ad litem.
2. A parent or the attorney for the parent of a child named in a child abuse assessment summary as having been abused.
3. A guardian or legal custodian, or that person’s attorney, of a child named in a child abuse assessment summary as having been abused.
4. A person or the attorney for the person named in a child abuse assessment summary as having abused a child.

“Unduly” shall mean improper or unjust, or excessive.

441—175.22(232) Receipt of a report of child abuse. Reports of child abuse shall be received by local department offices, the central abuse registry, or the Child Abuse Hotline.

175.22(1) Any report made to the department which alleges child abuse as defined in Iowa Code section 232.68 shall be accepted for assessment.

175.22(2) Reports of child abuse which do not meet the legal definition of child abuse shall become rejected intakes.

a. If a report does not meet the legal definition of child abuse, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

b. If a report constitutes an allegation of child sexual abuse as defined under Iowa Code section 232.68, paragraph “c” or “e,” except that the suspected abuse resulted from the acts or omissions of a person who was not a caretaker, the department shall refer the report to law enforcement orally and, as soon as practicable, follow up in writing within 72 hours of receiving the report.

441—175.23(232) Sources of report of child abuse.

175.23(1) Mandatory reporters. Any person meeting the criteria of a mandatory reporter is required to make an oral report of the child abuse to the department within 24 hours of becoming aware of the abusive incident and make a written report to the department within 48 hours following the oral report. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

175.23(2) Others required to report. In addition to mandatory reporters which are so designated by the Iowa Code, there are other classifications of persons who are required, either by administrative rule or department policy, to report child abuse when this is a duty identified through the person’s employment. Others required to report include:

- a.* Income maintenance workers.
- b.* Certified adoption investigators.

175.23(3) Permissive reporters. Any person who suspects child abuse may make an oral or written report, or both, to the department. Mandatory reporters may report as permissive reporters when they suspect abuse of a child outside the scope of their professions. A permissive reporter may remain anonymous and is not required by law to report abuse.

441—175.24(232) Child abuse assessment intake process. The primary purpose of intake is to obtain available and pertinent information regarding an allegation of child abuse and determine whether a report of child abuse becomes a case or a rejected intake.

175.24(1) To result in a case, the report of child abuse must include some information to indicate all of the following.

- a. The alleged victim of child abuse is a child.
- b. The alleged perpetrator of child abuse is a caretaker.
- c. The alleged incident falls within the definition of child abuse.

175.24(2) Only mandatory reporters or the person making the report may be contacted during the intake process to expand upon or to clarify information in the report. Any contact with subjects of the report or with nonmandatory reporters, other than the original reporter, automatically causes the report of child abuse to be accepted for assessment.

175.24(3) When it is determined that the report of child abuse fails to constitute an allegation of child abuse, the report of child abuse shall become a rejected intake. Rejected intake information shall be maintained by the department for three years from the date the report was rejected and shall then be destroyed.

175.24(4) The county attorney shall be notified of all reports of child abuse. When a report of child abuse is received which does not meet the requirements to become a case, but has information about illegal activity, the department shall notify law enforcement of the report.

175.24(5) When it is determined that a report of a child needing the assistance of the court fails to meet the definition of “child in need of assistance” in Iowa Code section 232.2(6), the report shall become a rejected child in need of assistance intake. The department shall maintain the report for three years from the date the report was rejected and shall then destroy it.

[ARC 8453B, IAB 1/13/10, effective 3/1/10]

441—175.25(232) Child abuse assessment process. An assessment shall be initiated within 24 hours following the report of child abuse becoming a case. The primary purpose in conducting an assessment is to protect the safety of the child named in the report. The secondary purpose of the assessment is to engage the child’s family in services to enhance family strengths and to address needs, where this is necessary and desired. There are eight tasks associated with completion of the assessment. These are:

175.25(1) *Observing and evaluating the child’s safety.* In instances when there is an immediate threat to the child’s safety, reasonable efforts shall be made to observe the alleged child victim named in the report within one hour of receipt of the report. Otherwise, reasonable efforts shall be made to observe the alleged child victim within 24 hours of the report of child abuse becoming a case. When the alleged perpetrator clearly does not have access to the alleged child victim, reasonable efforts shall be made to observe the alleged child victim within 96 hours of receipt of the report. When reasonable efforts have been made to observe the alleged child victim within the specified time frames and the worker has established that there is no risk to the alleged child victim, the observation of the alleged child victim may be waived with supervisory approval.

175.25(2) *Interviewing the alleged child victim.* The primary purpose of an interview with the child is to gather information regarding the abuse allegation, the child’s immediate safety, and risk of abuse.

175.25(3) *Interviewing subjects of the report and other sources.* Attempts shall be made to conduct interviews with subjects of the report and persons who have relevant information to share regarding the allegations. This may include contact with physicians to assess the child’s condition. The child’s custodial parents or guardians and the alleged perpetrator (if different) shall be interviewed, or offered the opportunity to be interviewed. The court may waive the requirement of the interview for good cause.

175.25(4) *Gathering of physical and documentary evidence.* Evidence shall be gathered from, but not be limited to, interviews, observations, photographs, medical and psychological reports and records, reports from child protection centers, written reports, audiotapes and their transcripts or summaries, videotapes and their transcripts or summaries, or other electronic forms.

175.25(5) *Evaluating the home environment and relationships of household members.* The evaluation may, with the consent of the parent or guardian, include a visit to the home where the child

resides. If permission is refused, the juvenile court may authorize the worker to enter the home to observe or interview the child. An evaluation of the home environment shall be conducted during the course of the child abuse assessment. If protective concerns are identified, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care. Each case shall include a full description of information gathered during the assessment process. This description shall provide information which evaluates the safety of the child named in the report. If the child protection worker has concerns about a child's safety or a family's functioning, the worker shall conduct a more intensive assessment until those concerns are addressed. When an assessment is conducted at an out-of-home setting, an evaluation of the environment and relationships where the abuse allegedly occurred shall be conducted.

175.25(6) *Evaluating the information.* Evaluation of information shall include an analysis, which considers the credibility of the physical evidence, observations, and interviews, and shall result in a conclusion of whether or not to confirm the report of child abuse.

175.25(7) *Determining placement on central abuse registry.* A determination of whether the report data and disposition data of a confirmed case of child abuse is subject to placement on the central abuse registry pursuant to Iowa Code Supplement subsection 232.71D(3) shall be made on each assessment.

175.25(8) *Service recommendations and referrals.* During or at the conclusion of a child abuse assessment, the department may recommend information, information and referral, community care referral, or services provided by the department. If it is believed that treatment services are necessary for the protection of the abused child or other children in the home, juvenile court intervention shall be sought.

a. Information or information and referral. Families with children of any age that have confirmed or not confirmed abuse and low risk of abuse shall be provided either information or information and referral when:

- (1) No service needs are identified, and the worker recommends no service; or
- (2) Service needs are identified, and the worker recommends new or continuing services to the family to be provided through informal supports; or
- (3) Service needs are identified, and the worker recommends new or continuing services to the family to be provided through community agencies.

b. Referral to community care. With the exception of families of children with an open department service case, court action pending, or abuse in an out-of-home setting, a referral to community care shall be offered to:

- (1) Families with children whose abuse is not confirmed when there is moderate to high risk of abuse, service needs are identified, and the worker recommends community care.
- (2) Families with children that have confirmed but not founded abuse and moderate or high risk of abuse when service needs are identified and the worker recommends community care.
- (3) Families with children with founded abuse, a victim child six years of age or older, and a low risk of repeat abuse when service needs are identified and the worker recommends community care.

c. Referral for department services. Families with children that have founded abuse and moderate to high risk of abuse and families with victim children under age six that have founded abuse and low risk of abuse shall be offered department services on a voluntary basis.

(1) The worker shall recommend new or continuing treatment services to the family to be provided by the department, either directly or through contracted agencies.

(2) Families that refuse voluntary services shall be referred for a child in need of assistance action through juvenile court.

441—175.26(232) Completion of a child protective assessment summary. The child protection worker shall complete a child protective assessment summary within 20 business days from the date of the report of child abuse becoming a case. In most instances, the child protective assessment summary shall be developed in conjunction with the child and family being assessed. A child protective assessment summary shall consist of two parts as follows:

175.26(1) Report and disposition data. Form 470-3240, Child Protective Services Assessment Summary, shall include report and dispositional data as follows:

a. Allegations: the report of child abuse which caused the assessment to be initiated and additional allegations raised after the report of child abuse becomes a case that have not been previously investigated or assessed.

b. Evaluation of the child's safety: evaluation of the child's safety and the risk for occurrence or reoccurrence of abuse. Criteria to be used in the evaluation of the child's safety include, but are not limited to, the severity of the incident or condition, chronicity of the incident or condition, age of the child, attitude of the person responsible, current treatment services or supports, access of the person responsible for the abuse to the child, and protectiveness of the parent or caretaker who is not responsible for the abuse.

c. Findings and contacts: a description of the child's condition including identification of the nature, extent, and cause of the injuries, if any, to the child named in the report; identification of the injury or risk to which the child was exposed; the circumstances which led to the injury or risk to the child; the identity of the person alleged to be responsible for the injury or risk to the child; the name and condition of other children in the same home as the child named in the report if protective concerns are identified; a list of collateral contacts; and a history of confirmed or founded abuse.

d. Determination regarding the allegations of child abuse: a statement of determination of whether the allegation of child abuse was founded, confirmed but not placed on the central abuse registry, or not confirmed. The statement shall include a rationale for placing or not placing the case on the central abuse registry.

e. Recommendation for treatment services as specified in 175.25(8) and a statement describing whether treatment services are necessary to ensure the safety of the child or to prevent or remedy other identified problems.

(1) The statement shall include the type of treatment services recommended, if any, and whether these treatment services are to be provided by the department, community agencies, informal supports, or another treatment source.

(2) If treatment services are already being provided, the statement shall include a recommendation whether these treatment services should continue.

f. Juvenile court recommendation: a statement describing whether juvenile court action is necessary to ensure the safety of the child; the type of action needed, if any; and the rationale for the recommendation.

g. Criminal court recommendation: a statement describing whether criminal court action is necessary and the rationale for the recommendation.

h. Addendum: An addendum to an assessment summary shall be completed within 20 business days when any of the following occur:

(1) New information becomes available that would alter the finding, conclusion, or recommendation of the summary.

(2) Substantive information that supports the finding becomes available.

(3) A subject who was not previously interviewed requests an interview to address the allegations of the case.

(4) A review or a final appeal decision modifies the summary.

175.26(2) Assessment data. Form 470-4133, Family Risk Assessment, Form 470-4132, Safety Assessment, and Form 470-4461, Safety Plan, if applicable, may be used as part of the child's initial case plan, referenced at 441—subrule 130.7(3), for cases in which the department will provide treatment services.

441—175.27(232) Contact with juvenile court or the county attorney. The child protection worker may orally contact juvenile court or the county attorney, or both, as circumstances warrant.

175.27(1) Report of intake. When a report of child abuse is accepted or rejected for assessment, the county attorney shall be provided Form 470-0607, Child Protective Service Intake, with information about the allegation of child abuse and with identifying information about the subjects of the report.

175.27(2) Report of disposition. The child protection worker shall provide the juvenile court and the county attorney with a copy of Form 470-3240, Child Protective Services Assessment Summary, which pertains to the findings, determinations, and recommendations regarding the report of child abuse.

175.27(3) Report of assessment. The child protection worker shall provide the county attorney and the juvenile court with a copy of Form 470-4133, Family Risk Assessment, and Forms 470-4132, Safety Assessment, and 470-4461, Safety Plan, when any of the following occur:

a. County attorney's or juvenile court's assistance necessary. The worker requires the court's or the county attorney's assistance to complete the assessment process.

b. Court's protection needed. The worker believes that the child requires the court's protection.

c. Child adjudicated. The child is currently adjudicated or pending adjudication under a child in need of assistance petition or a delinquency petition.

d. County attorney or juvenile court requests copy. The county attorney or juvenile court requests a copy of the assessment data. The child protection worker shall document when the assessment data is provided to the county attorney or juvenile court and the rationale provided for the request.

[ARC 8453B, IAB 1/13/10, effective 3/1/10]

441—175.28(232) Consultation with health practitioners or mental health professionals. The child protection worker may contact a health practitioner or a mental health professional as circumstances warrant and shall contact a health practitioner or a mental health professional when the worker requires the assistance of the health practitioner or mental health professional in order to complete the assessment process or when the worker requires the opinion or advice of the health practitioner or mental health professional in order to determine if the child requires or should have required medical, health or mental health care as a result of abuse.

441—175.29(232) Consultation with law enforcement. The child protection worker may contact law enforcement as warranted and shall contact law enforcement when the worker believes that:

1. The abuse reported may require a criminal investigation and subsequent prosecution.

2. The child must be separated from the person responsible for the abuse.

3. Contact by the child protection worker with the family will result in a volatile and dangerous response by the child or family members.

441—175.30(232) Information shared with law enforcement. When the department is jointly conducting a child abuse assessment with law enforcement personnel, the department may share information gathered during the assessment process when an assessment is conducted in conjunction with a criminal investigation or the reported abuse has been referred to law enforcement.

441—175.31(232) Completion of required correspondence.

175.31(1) Notification to parents that a child abuse assessment is being conducted. Written notice shall be provided to the parents of a child who is the subject of an assessment within five working days of commencing an assessment unless the assessment is completed within the five working days. Both custodial and noncustodial parents shall be notified, if their whereabouts are known. If it is believed that notification will result in danger to the child or others, an emergency order to prohibit parental notification shall be sought from juvenile court.

175.31(2) Notification of completion of assessment and right to request correction. Written notice shall be provided to all subjects of a child abuse assessment and to the mandatory reporter who made the report of child abuse which indicates that the child abuse assessment is completed. Both custodial and noncustodial parents shall be notified if their whereabouts are known.

a. The notice shall contain information concerning the subject's rights to request correction and appeal rights. The subject may request correction of the information contained within the child protective assessment summary if the subject disagrees with the information.

b. If the child protective assessment results in a determination that abuse is confirmed, the notice shall indicate the type of abuse, name of the child and name of the person responsible for the abuse and whether the report has been placed on the registry.

441—175.32(232,235A) Case records. The assessment case record shall contain the child protective assessment summary as described in 441—175.26(232) and any related correspondence or information which pertains to the assessment or to the child and family. The name of the person who made the report of child abuse shall not be disclosed to the subjects of the report. The child protective assessment summary has two parts.

1. Report and disposition data as described in 175.26(1). Subjects of the report have access to report and disposition data, including, where applicable, confirmation of placement on the central abuse registry for abuse reports meeting the criteria pursuant to Iowa Code subsection 232.71D(3). Form 470-3240, Child Protective Services Assessment Summary, shall be submitted to the central abuse registry only if the abuse is confirmed and determined to meet the criteria pursuant to Iowa Code subsection 232.71D(3).

2. Assessment data as described in 175.26(2). Assessment data shall be available to subjects. Release of assessment data shall be accomplished only when the parent or guardian approves the release as provided through Iowa Code chapter 217, or as specified in Iowa Code section 235A.15. Assessment data shall not be submitted to the central abuse registry.

175.32(1) Assessments where abuse was confirmed but not placed on the central abuse registry. The following conditions apply to case records for assessments in which abuse was confirmed but not placed on the central registry.

a. Access to the report data and disposition data is authorized only to the subjects of the report, the child protection worker, law enforcement officer responsible for assisting in the assessment or for the temporary emergency removal of a child from the child's home, the multidisciplinary team assisting the department in the assessment of the abuse, county attorney, juvenile court, a person or agency responsible for the care of the child if the department or juvenile court determines that access is necessary, the department or contract personnel necessary for official duties, the department of justice, and the attorney for the department.

b. The child protective assessment summary is retained five years from date of intake or five years from the date of closure of the service record, whichever occurs later.

c. The child protective assessment summary is subject to confidentiality provisions of Iowa Code chapter 217 and 441—Chapter 9. No confidential information shall be released without consent except where there is otherwise authorized access to information as specified in the provisions of Iowa Code section 235A.15.

175.32(2) Assessments not placed on the central abuse registry where abuse was not confirmed. The following conditions apply to case records for assessments in which abuse was not confirmed and not placed on the central registry:

a. Access to the report data on a child abuse assessment summary where abuse was not determined to have occurred and, therefore, the assessment was not placed on the central abuse registry is authorized only to the subjects of the assessment, the child protection worker, county attorney, juvenile court, a person or agency responsible for the care of the child if the department or juvenile court determines that access is necessary, the department of justice, and department or contract personnel necessary for official duties.

b. Records are retained five years from date of intake or five years from the date of closure of the service record, whichever occurs later.

c. The child protective assessment summary is subject to confidentiality provisions of Iowa Code chapter 217 and 441—Chapter 9. No confidential information shall be released without consent except where there is otherwise authorized access to information as specified in the provisions of Iowa Code section 235A.15.

441—175.33(232,235A) Child protection centers. The department may contract with designated child protection centers for assistance in conducting child abuse assessments. When a child who is the subject of an assessment is interviewed by staff at a child protection center, that interview may be used in conjunction with an interview conducted by the child protection worker. Written reports developed by the child protection center shall be provided to the child protection worker and may be included in

the assessment case record. Video or audio records are considered to be part of the assessment process and shall be maintained by the child protection center under the same confidentiality provisions of Iowa Code chapter 217 and 441—Chapter 9.

441—175.34(232) Department-operated facilities. When an allegation of child abuse occurs at a department-operated facility, the allegation shall be referred to the department of inspections and appeals for investigation or assessment.

441—175.35(232,235A) Jurisdiction of assessments. Child protection workers serving the county in which the child's home is located have primary responsibility for completing the child abuse assessment except when the abuse occurs in an out-of-home placement. Circumstances in which the department shall conduct an assessment when another state is involved include the following:

175.35(1) *Child resides in Iowa but incident occurred in another state.* When the child who is the subject of a report of abuse physically resides in Iowa, but has allegedly been abused in another state, the worker shall do all of the following:

- a. Obtain available information from the reporter.
- b. Make an oral report to the office of the other state's protective services agency and request assistance from the other state in completing the assessment.
- c. Complete the assessment with assistance, as available, of the other state.

175.35(2) *Child resides in another state, but is present within Iowa.* When the child who is the subject of a report of abuse is a legal resident of another state, but is present within Iowa, the worker receiving the report shall do all of the following:

- a. Act to ensure the safety of the child.
- b. Contact the child's state of legal residency to coordinate the assessment of the report.
- c. Commence an assessment if the state of legal residency declines to conduct an investigation.

175.35(3) *Child resides in another state and perpetrator resides in Iowa.* When the child who is the subject of a report of abuse resides in another state and the perpetrator resides in Iowa, the worker receiving the report shall do all of the following:

- a. Contact the state where the child resides and offer assistance to that state in its completion of a child abuse assessment. This assistance shall include an offer to interview the person allegedly responsible for the abuse and any other relevant source of information.
- b. Commence an assessment if the child's state of legal residency declines to conduct an investigation.

441—175.36(235A) Multidisciplinary teams. Multidisciplinary teams shall be developed in county or multicounty areas in which more than 50 child abuse cases are received annually. These teams may be used as an advisory group to assist the department in conducting assessments. Multidisciplinary teams consist of professionals practicing in the disciplines of medicine, public health, mental health, social work, child development, education, law, juvenile probation, law enforcement, nursing, and substance abuse counseling. Members of multidisciplinary teams shall maintain confidentiality of cases in which they provide consultation. Rejected intakes shall not be shared with multidisciplinary teams since they are not considered to be child abuse information. During the course of an assessment, information regarding the initial report of child abuse and information related to the child and family functioning may be shared with the multidisciplinary team. After a conclusion is made, only report data and disposition data on confirmed cases of child abuse may be shared with the team members. When the multidisciplinary team is created, all team members shall execute an agreement, filed with the central abuse registry, which specifies:

175.36(1) *Consultation.* The team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of child abuse cases.

175.36(2) *Redissemination.* No team member shall redisseminate child abuse information obtained through the multidisciplinary team. This shall not preclude redissemination of information as authorized

by Iowa Code section 235A.17 when an individual team member has received information as a result of another authorized access provision of the Iowa Code.

175.36(3) *Department not bound.* The department shall consider the recommendation of the team in a specific child abuse case but shall not, in any way, be bound by the recommendation.

175.36(4) *Confidentiality provisions.* Any written report or document produced by the team pertaining to an assessment case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of 441—Chapter 9, unless the assessment results in placement on the central abuse registry in which case the written report or document shall be subject to all confidentiality provisions of Iowa Code chapter 235A.

175.36(5) *Written records.* Any written records maintained by the team which identify an individual assessment case shall be destroyed when the agreement lapses.

175.36(6) *Compensation.* Consultation team members shall serve without compensation.

175.36(7) *Withdrawal from contract.* Any party to the agreement may withdraw with or without cause upon the giving of 30 days' notice.

175.36(8) *Expiration date.* The date on which the agreement will expire shall be included.

441—175.37(232) *Community education.* The department shall conduct a continuing publicity and educational program for the personnel of the department, mandatory reporters, and the general public to encourage recognition and reporting of child abuse, to improve the quality of reports of child abuse made to the department, and to inform the community about the assessment-based approach to child abuse cases.

441—175.38(235) *Written authorizations.* Requests for information from members of the general public as to whether a person is named on the central abuse registry as having abused a child shall be submitted on Form 470-3301, Authorization for Release of Child Abuse Information, to the county office of the department or the central abuse registry. The form shall be completed and signed by the person requesting the information and the person authorizing the check for the release of child abuse information.

441—175.39(232) *Founded child abuse.* Reports of child abuse where abuse has been confirmed shall be placed on the central abuse registry as founded child abuse for ten years under any of the circumstances specified by Iowa Code Supplement subsection 232.71D(3). Reports of denial of critical care by failure to provide adequate clothing or failure to provide adequate supervision and physical abuse where abuse has been confirmed and determined to be minor, isolated, and unlikely to reoccur shall not be placed in the central abuse registry as a case of founded child abuse as specified by Iowa Code Supplement subsections 232.71D(2) and (3). The confirmed abuse shall be placed on the registry unless all three conditions are met. Minor abuse shall be placed on the registry if there is a prior confirmed abuse.

441—175.40(235A) *Retroactive reviews.* Review of child abuse information which is on the central abuse registry as of July 1, 1997, shall be performed using the requirements for child abuse cases to be placed on the central abuse registry as founded child abuse pursuant to Iowa Code Supplement subsections 232.71D(2) and (3). If the review indicates the information should not be placed on the central abuse registry, the information shall be expunged from the registry. The information shall be retained as a service record for five years from the date of intake. The time the report has been placed on the central abuse registry shall count toward the five years' total.

175.40(1) *Eligibility for retroactive reviews.* Eligibility for retroactive reviews is limited to reports which do not meet the criteria for placement in the central abuse registry as a case of founded child abuse specified in Iowa Code Supplement subsection 232.71D(3). The reports eligible for review are reports where the confirmed abuse involved one of the following circumstances:

- a. Physical abuse where the injury was minor and isolated and is unlikely to reoccur.

b. Denial of critical care by failure to provide adequate clothing or failure to provide adequate supervision, where the risk to the child's health and welfare was minor and isolated and is unlikely to reoccur.

175.40(2) *Reviews initiated by subject.* Rescinded IAB 5/6/98, effective 7/1/98.

175.40(3) *Reviews initiated by department.* Reviews shall be performed when the department is reviewing a case for the purpose of one of the following:

a. A record check evaluation is being completed for licensing, registration, or employment or residence in a child care facility. If the department worker completing the record check evaluation determines the case does not meet the criteria specified in Iowa Code subsection 232.71D(3) and, therefore, should be expunged from the central abuse registry, the department worker shall provide copies of the written report and Form 470-2310, Record Check Evaluation, to the bureau of protective services.

(1) Within 30 days the bureau chief shall determine if the report is to be expunged from the central abuse registry and shall notify the service area manager or designee in writing of that decision and the time frame for retention or expungement of the report. The bureau chief or designee shall notify the person on whom the review was completed of the decision to expunge the case from the central abuse registry.

(2) If the department determines that the case is to be expunged from the central abuse registry, no record check evaluation is necessary and the department shall notify the requester.

(3) If the department determines that the case does meet the criteria for placement on the central abuse registry, the department shall proceed with the record check evaluation.

b. Rescinded IAB 8/4/04, effective 7/9/04.

441—175.41(235A) Access to child abuse information. Requests for child abuse information shall include sufficient information to demonstrate that the requesting party has authorized access to the information.

175.41(1) *Written requests.* Requests for child abuse information shall be submitted on Form 470-0643, Request for Child Abuse Information, to the county office of the department, except requests made for the purpose of determining employability of a person in a department-operated facility shall be submitted to the central abuse registry. Subjects of a report may submit a request for child abuse information to the county office of the department on Form 470-0643, Request for Child Abuse Information, or on Form 470-3243, Notice of Child Abuse Assessment: Founded; Form 470-3575, Notice of Child Abuse Assessment: Confirmed Not Registered; or on Form 470-3242, Notice of Child Abuse Assessment: Not Confirmed. The county office is granted permission to release child abuse information to the subject of a report immediately upon verification of the identity and subject status.

175.41(2) *Oral requests.* Oral requests for child abuse information may be made when a person making the request believes that the information is needed immediately and if the person is authorized to access the information. When an oral request to obtain child abuse information is granted, the person approving the request shall document the approval to the central abuse registry through use of Form 470-0643, Request for Child Abuse Information, or Form 470-3243, Notice of Child Abuse Assessment: Founded.

Upon approval of any request for child abuse information authorized by this rule, the department shall withhold the name of the person who made the report of child abuse unless ordered by a juvenile court or district court after a finding that the person's name is needed to resolve an issue in any phase of a case involving child abuse. Written requests and oral requests do not apply to child abuse information that is disseminated to an employee of the department, to a juvenile court, or to the attorney representing the department as authorized by Iowa Code section 235A.15.

175.41(3) *Written authorizations.* Requests for information from members of the general public as to whether a person is named on the central abuse registry as having abused a child shall be submitted on Form 470-3301, Authorization for Release of Child Abuse Information, to the county office of the department or the central abuse registry. The form shall be completed and signed by the person requesting the information and the person authorizing the check for the release of child abuse information.

The department shall not provide requested information when the authorization form is incomplete. Incomplete authorization forms shall be returned to the requester.

441—175.42(235A) Person conducting research. The supervisor of the central abuse registry shall be responsible for determining whether a person requesting child abuse information is conducting bona fide research, whether the research will further the official duties and functions of the central abuse registry, and whether identified information is essential to the research design. A bona fide research design is one which shows evidence of a good-faith, academically objective and sincere intent to add to the body of knowledge about child abuse. To make this determination, the central abuse registry shall require the person to submit credentials and the research design. Additional criteria for approval of a research project may include whether the research involves contact with subjects of child abuse information, and whether contact with department personnel is required to complete the research design. If it is determined that the research will involve use of identified information, the central abuse registry shall also determine under what circumstances and in what format the information is to be used and shall execute an agreement with the researcher which will enable the researcher to obtain access to identified information on subjects of child abuse investigations, as an agent of the central abuse registry. The department will require the researcher to assume costs incurred by the department in obtaining or providing information for research purposes. The department shall keep a public record of persons conducting this research.

175.42(1) *Child abuse factors.* For purposes of conducting research pursuant to Iowa Code sections 235A.15 and 235A.23, official duties and functions of the central abuse registry shall include analysis or identification of child abuse factors in at least one of the following areas:

- a. Causes of abuse—victim, parent and perpetrator characteristics, types of abuse, and correlations to family and environmental factors.
- b. Effects of abuse—immediate and long-term effects of abuse on the individual child victim, the child’s family and the perpetrator, in areas such as family functioning, foster placement, emotional and medical problems, and criminal activity; and effects of abuse on the community and society in general.
- c. Prevention of abuse—intervention, prevention and treatment strategies.
- d. Treatment of abuse—impact of service delivery upon recidivism and maintenance of the family unit.
- e. Reporting of abuse—mandatory and permissive reporter characteristics, training needs, and perception of the department’s protective services to children and families.
- f. Identification of strengths and weaknesses in statute, policy or practice concerning child abuse services.

175.42(2) *Guidelines.* To be accepted by the central abuse registry, a research proposal originating outside the department shall meet the following guidelines:

- a. The proposal shall meet the criteria listed above as “official duties and functions” of the central abuse registry.
- b. The research shall be conducted by a competent researcher, evidenced by affiliation with a recognized human services agency, government body, or academic, social work or medical facility. The researcher shall demonstrate an ability to conduct nonbiased research and present findings in a professional and responsible manner which will benefit the department in providing protective services to children and families.
- c. The proposed research shall not unduly interfere with the ongoing duties and responsibilities of department staff.
- d. When the proposed research includes contact with subjects of child abuse information, the research design shall reflect a plan for initial subject contact by the department, which includes the following:
 - (1) Subjects shall be informed in writing of their right to refuse to participate in the research.
 - (2) Subjects shall receive written assurance that their participation in the research will not affect eligibility for services.
 - (3) Department staff shall be advised of research goals and procedures prior to contact with subjects, in order to answer questions which may arise.

(4) Subjects shall receive written assurance that when identifying information is released by the central abuse registry to research staff, the information will remain confidential and that all child abuse information will be deidentified prior to publication of the research findings.

175.42(3) Approval procedures. Procedures for approval of a research proposal are conducted as follows:

a. The supervisor of the central abuse registry shall designate a person to be the single point of contact (SPOC) for all research proposals requesting child abuse information or involving department staff who provide child protective services. All proposals shall be routed to the SPOC at the Division of Adult, Children and Family Services, Department of Human Services, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114.

b. Having received a research proposal, the SPOC shall log the date the proposal was received and other identifying information about the researcher and the research design and shall convene a research advisory committee to review the proposal. This committee may consist of:

- (1) The unit supervisor of the child and dependent adult abuse registry, when applicable.
- (2) The unit managers for the programs addressed by the research proposal.
- (3) The research specialist.
- (4) Representatives from the field, including a service area manager or designee and one representative from a service area, appointed by the service area manager, if a specific service area is involved.
- (5) A representative from the department's division of data management, when the proposal involves use of one of the department's computerized data systems.
- (6) A representative of the attorney general's office, when the proposal involves legal questions or issues.
- (7) Other persons whom the SPOC may designate to assist in the review.

c. The SPOC is responsible for ensuring that advisory committee members receive copies of the research proposal.

d. The advisory committee may meet in person or by teleconference.

e. The researcher may, at the discretion of the SPOC, be provided an opportunity to address the advisory committee concerning the research proposal and answer questions about the research design.

f. The committee shall determine the value of the proposed research and formulate recommendations for acceptance of the proposal (with conditions as necessary) or rejection of the proposal (with rationale for the rejection). These recommendations shall be submitted to the SPOC.

g. The SPOC shall transmit the committee's recommendations, with additional comments and recommendations, as needed, to the division administrators for the divisions involved.

h. The division administrators shall review committee recommendations and submit the research proposal to the director or designee for final approval.

i. After review by the director, the proposal shall be returned to the SPOC, who shall notify the researcher of the director's decision, which decision shall be final.

j. If the research proposal is approved, the SPOC shall prepare a written research agreement with the researcher which provides:

- (1) The purpose of the research.
- (2) The research design or methodology.
- (3) The control of research findings and publication rights of all parties, including the deidentification of child abuse information prior to publication.
- (4) The duties of all parties in conducting the research.
- (5) The transfer of funds, if applicable.

k. The SPOC shall be responsible for securing written approval of the research agreement from the attorney general's office, applicable division administrators, and the researcher.

l. The SPOC shall be responsible for maintaining the research agreement throughout the research project and renewing or modifying the agreement when necessary.

441—175.43(235A) Child protection services citizen review panels. The purposes of the child protection services citizen review panels established in this rule are to comply with requirements set forth by the Child Abuse Prevention and Treatment Act and to take advantage of this process to identify strengths and weaknesses of the child protective service system as a whole, including community-based services and agencies. The specific objectives are to clarify expectations for child protective services with current policy; to review consistency of practice with current policy; to analyze trends and recommend policy to address them; and to provide feedback on what is or is not working, and why, and to suggest corrective action if needed.

175.43(1) Establishment of panels. The department shall establish at least three panels, with at least one panel each at the state level, multicounty level, and county level. The department may designate as panels one or more existing entities established under state or federal law, such as multidisciplinary teams, if the entities have the capacity to satisfy the requirements of the function of a citizen review panel set forth in the Child Abuse Prevention and Treatment Act and the department ensures that the entities will satisfy the requirements. The department shall establish procedures to be used for selecting the panels.

175.43(2) Membership of panels. Each panel established shall be composed of a multidisciplinary team of volunteer members who are broadly representative of the community in which the panel is established, including members who possess knowledge and skills related to the diagnosis, assessments, and disposition of child abuse cases, and who have expertise in the prevention and treatment of child abuse. The membership of each panel shall include professionals practicing in the disciplines of medicine, nursing, public health, substance abuse, domestic violence, mental health, social work, child development, education, law, juvenile probation, law enforcement; or representatives from organizations that advocate for the protection of children. The panel shall function under the leadership of a chairperson and vice-chairperson who are elected annually by the membership. Members shall enter into a contract with the department by signing Form 470-3602, Iowa Child Protection System Citizens' Review Panel Contract.

175.43(3) Meetings. Each panel established pursuant to this rule shall meet not less than once every three months.

175.43(4) Functions. Each panel established pursuant to this rule shall:

a. Evaluate the extent to which the department effectively discharges the child protection responsibilities in accordance with: the state plan and the child protection standards under subsection (b) of the Child Abuse Prevention and Treatment Act of 1996; the child protection duties of the department set forth in Iowa Code chapters 232 and 235A; and any other criteria that the panel considers important to ensure the protection of children, including:

(1) A review of the extent to which the child protective services system is coordinated with the foster care and adoption programs established under Part E of Title IV of the Social Security Act (42 USCS 670 et seq.); and

(2) A review of child fatalities and near fatalities.

b. Provide for public outreach and comment in order to:

(1) Assess the impact of current procedures and practices upon children and families in the community; and

(2) Make recommendations to the state and the public on improving the child protective services system at the state and local levels.

175.43(5) Redissemination. No panel member shall redisseminate child abuse information obtained through the citizen review panel. This shall not preclude redissemination of information as authorized by Iowa Code section 235A.17 when an individual panel member has received information as a result of another authorized access provision of the Iowa Code.

175.43(6) Department not bound. The department shall consider the recommendations of the panel but shall not, in any way, be bound by the recommendations.

175.43(7) Confidentiality. Members and staff of a panel may not disclose child abuse information about any specific child abuse case to any person or government official and may not make public any information unless authorized by the Iowa Code to do so.

175.43(8) Reports. Each panel established under this rule shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.

175.43(9) Staff assistance. The department shall provide staff assistance to citizen review panels for the performance of their duties, upon request of the panel.

175.43(10) Access to child abuse information. Citizen review panels shall be under contract to carry out official duties and functions of the department and have access to child abuse information according to Iowa Code section 235A.15 [2“e”(2)].

These rules are intended to implement Iowa Code sections 232.67 to 232.77 and Iowa Code chapter 235A.

[Filed August 26, 1974]

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

[Filed 5/8/78, Notice 11/30/77—published 5/31/78, effective 7/5/78]

[Filed 10/24/79, Notice 2/21/79—published 11/14/79, effective 12/19/79]

[Filed 6/2/81, Notice 2/18/81—published 6/24/81, effective 7/29/81]

[Filed 9/26/83, Notice 8/3/83—published 10/12/83, effective 12/1/83]

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]

[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]

[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]

[Filed 7/26/85, Notice 6/19/85—published 8/14/85, effective 10/1/85]

[Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 11/1/85]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 3/3/87, Notice 12/31/86—published 3/25/87, effective 5/1/87¹]

[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]

[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]

[Filed 10/12/90, Notice 8/22/90—published 10/31/90, effective 1/1/91]

[Filed emergency 7/17/92 after Notice 5/13/92—published 8/5/92, effective 8/1/92]

[Filed 7/14/93, Notice 5/26/93—published 8/4/93, effective 10/1/93]

[Filed 9/15/94, Notice 5/11/94—published 10/12/94, effective 12/1/94]

[Filed 11/16/95, Notice 9/13/95—published 12/6/95, effective 1/10/96²]

[Filed emergency 6/13/96—published 7/3/96, effective 6/13/96]

[Filed 8/15/96, Notices 6/19/96, 7/3/96—published 9/11/96, effective 11/1/96]

[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]

[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]

[Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98³]

[Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 9/1/98]

[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]

[Filed emergency 7/9/04—published 8/4/04, effective 7/9/04]

[Filed 9/23/04, Notice 8/4/04—published 10/13/04, effective 11/17/04]

[Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]

[Filed 10/21/05, Notice 7/6/05—published 11/9/05, effective 12/14/05]

[Filed emergency 6/14/07 after Notice 4/11/07—published 7/4/07, effective 7/1/07]

[Filed ARC 8453B (Notice ARC 8209B, IAB 10/7/09), IAB 1/13/10, effective 3/1/10]

¹ Effective date of amendments to subrule 175.8(4), paragraph “a,” subparagraphs (7), (9), and (10); subrule 175.8(5); rules 175.9 and 175.15 delayed 70 days by the Administrative Rules Review Committee.

² Effective date of 175.25(4) “d” delayed 70 days by the Administrative Rules Review Committee at its meeting held January 3, 1996; delay lifted by the Committee at its meeting held February 5, 1996, effective February 6, 1996.

³ Effective date of amendments adopted in ARC 7975A delayed 70 days by the Administrative Rules Review Committee at its meeting held June 9, 1998.