

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby amends Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

These amendments provide parameters on weapons being present in a child care setting. Currently, there are no administrative rules regarding weapons in child development homes or licensed child care centers. It is recognized that some people choose to have weapons in their homes and also may utilize permits to carry weapons. As a result, it is important that the Department ensure that children in care are safe from any weapons.

Foster care homes that are licensed through the Department already have rules in place regarding weapons.

“Caring for Our Children: National Health and Safety Performance Standards” indicates that child care centers should have a written policy prohibiting firearms, ammunition, and ammunition supplies. While taking best practice into consideration for rule amendments, it is also recognized that some people approve of professionals in child care and educators having access to weapons in the event of an emergency. Additionally, many people have strong opinions about individual rights to keep and bear arms. While having weapons in any child care setting is highly discouraged, the Department is proposing allowance of weapons and firearms only under specific conditions to ensure the safety of children in care.

Child care homes should have a written policy that if firearms and other weapons are present, the firearms and weapons should have child protective devices, be unloaded or

disarmed, be kept under lock and key, and be inaccessible to children. Additionally, ammunition and ammunition supplies should be placed in locked storage, separate from firearms, and inaccessible to children. Parents/guardians should also be notified that firearms and other weapons are on the premises.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3437C** on November 8, 2017. The Department received no comments during the public comment period. These amendments are identical to those published as Notice of Intended Action.

The Council on Human Services adopted these amendments on December 13, 2017.

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 237A.12.

These amendments will become effective March 1, 2018.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 109.10(17):

109.10(17) Weapons.

- a. All weapons and firearms shall be inaccessible to a child of any age.
- b. The center shall have a written policy regarding weapons and firearms. The policy

shall include the following:

- (1) Weapons and firearms shall be maintained in a locked place, such as a gun case.
- (2) Ammunition shall be maintained in a locked place separate from the firearms.

(3) Any motor vehicles used to transport children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

c. Parents shall be advised if there are any weapons on the premises of the child care facility.

ITEM 2. Adopt the following new paragraph **110.8(1)“t”**:

t. The provider shall have written policies regarding weapons and firearms.

(1) Weapons and firearms shall be inaccessible to a child of any age.

(2) Weapons and firearms shall be maintained in a locked place, such as a gun case.

(3) Ammunition shall be maintained in a locked place separate from the firearms.

(4) Any motor vehicles used to transport children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

(5) Parents shall be advised if there are any weapons on the premises of the child care facility.

ITEM 3. Adopt the following new paragraph **120.8(1)“q”**:

q. The provider shall have written policies regarding weapons and firearms.

(1) Weapons and firearms shall be inaccessible to a child of any age.

(2) Weapons and firearms shall be maintained in a locked place, such as a gun case.

(3) Ammunition shall be maintained in a locked place separate from the firearms.

(4) Any motor vehicles used to transport children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

(5) Parents shall be advised if there are any weapons on the premises of the child care home.



Iowa Department of Human Services
Information on Proposed Rules

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1. Give a brief summary of the rule changes:

Rules will be put in place giving parameters on weapons being present in a child care setting

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

17A, 237A

3. What is the reason for the Department requesting these changes?

At this time, there are no rules regarding weapons in child development homes or licensed child care centers. It is recognized that some people choose to have weapons in their home and also may utilize permits to carry. As a result, it is important that we assure children in care are safe from any weapons.

Foster care homes that are licensed through the department have these rules already in place

Caring for Our Children, National Health and Safety Performance Standards indicate that child care centers should have a written policy prohibiting firearms, ammunition, and ammunition supplies. While taking best practice into consideration for rule proposals, it is also recognized that some people approve of professionals in child care and educators having access to weapons in the event of an emergency. Additionally, many people have strong opinions about individual rights to keep and bear arms. While weapons in any child care setting is highly discouraged, we are proposing allowance of weapons and firearms only under specific requirements to assure safety of children in care.

Child care homes should have a written policy that if firearms and other weapons are present, they should have child protective devices, be unloaded or disarmed, be kept under lock and key, and inaccessible to children. Additionally, ammunition and ammunition supplies should be placed in locked storage, separate from firearms, and inaccessible to children. Parents/guardian should also be notified that firearms and other weapons are on the premises.

4. What will be the effect of this rule making (who, what, when, how)?

This rule will affect parents and children by providing assurance that they are not exposed to the risk weapons may post. This will also affect child care providers that wish to carry or have weapons as they will need to assure they are kept in an appropriate place inaccessible to children.

5. Is the change mandated by State or Federal Law?

No

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's (organization's) benefit or detriment?

This rule will affect parents and children by providing assurance that they are not exposed to the risk weapons may pose. This will also affect child care providers that wish to carry or have weapons as they will need to assure they are kept in an appropriate place inaccessible to children.

7. What are the potential benefits of this rule?

The benefit of this rule is to assure that children attending child care in licensed facilities or registered homes are not at risk of exposure to weapons or ammunition that may cause harm.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?

There are no known potential costs.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

Iowa Code Chapter 724.22 states that it is unlawful for any person to store or leave a loaded firearm which is not secured by a trigger lock mechanism, placed in a securely locked box or container, or placed in some other location which a reasonable person would believe to be secure from a minor under the age of fourteen years, if such person knows or has reason to believe that a minor under the age of fourteen years is likely to gain access to the firearm without the lawful permission of the minor's parent, guardian, or person having charge of the minor, the minor lawfully gains access to the firearm without the consent of the minor's parent, guardian, or person having charge of the minor, and the minor exhibits the firearm in a public place in an unlawful manner, or uses the firearm unlawfully to cause injury or death to another person.

10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

N/A

11. Does this rule contain a waiver provision? If not, why?

This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department's general rule on exceptions at 441 – 1.8(17A, 217)

12. What are the likely areas of public comment?

Regulation of small business regarding gun rights.

13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)

No



Administrative Rule Fiscal Impact Statement

Date: 10/4/2017

Agency: Human Services

IAC citation: 441 IAC

Agency contact: Ryan Page

Summary of the rule:

This proposal is to put rules into place regarding firearms and weapons in child care settings.

Fill in this box if the impact meets these criteria:

No fiscal impact to the state.

Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

Fiscal impact cannot be determined.

Brief explanation:

The proposed rules have no fiscal impact to the state. They set policies and procedures for child care providers in regard to weapons and firearms.

Fill in the form below if the impact does not fit the criteria above:

Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	_____	_____

___ This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

___ Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

___ Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

Fiscal impact to persons affected by the rule:

None anticipated.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

None anticipated.

Agency representative preparing estimate: Kathy Blume

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