



STATE OF IOWA

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DEPARTMENT OF HUMAN SERVICES
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July 1, 2011

GENERAL LETTER NO. 17-A(4)-6

ISSUED BY: Bureau of Child Welfare and Community Services,
Division of Adult, Child and Family Services

SUBJECT: Employees' Manual, Title 17, Chapter A(4), **ADDITIONAL INTAKE INFORMATION**,

Topic 1: "Definition of Terms Used in Intake and Assessment," pages 1 through 17, revised; and page 18, new;

Topic 7: "Criteria for Accepting an Allegation of Sexual Abuse," page 2, revised;

Topic 8: "Criteria for Accepting an Allegation of Denial of Critical Care," page 1, revised;

Topic 17: "Framework for Decision-Making Regarding Drug Referrals," page 4, revised.

Summary

The topic areas in this chapter are revised to update the definition of denial of critical care, child abuse, and access to obscene materials.

Effective Date

July 1, 2011

Material Superseded

Remove the following pages from Employees' Manual, Title 17, Chapter A(4), and destroy them:

<u>Page</u>	<u>Date</u>
Topic 1	
Page 1	July 3, 2009
Page 2	September 1, 2006
Pages 3-5	July 3, 2009
Pages 6-10	September 1, 2006
Page 11	August 31, 2007
Pages 12, 13	September 1, 2006
Pages 14, 15	August 31, 2007
Pages 16, 17	July 3, 2009

Topic 7 Page 2	September 1, 2006
Topic 8 Page 1	July 3, 2009
Topic 17 Page 4	July 3, 2009

Additional Information

Refer questions about this general letter to your area social work administrator.

Topic 1: Definition of Terms Used in Intake and Assessment

Link to [CPS Intake Procedure](#)

Link to [CINA Intake Procedure](#)

Link to [CPS Assessment Procedure](#)

Link to [CINA Assessment Procedure](#)

Where applicable, the legal basis follows the definition.

"ABC" is the acronym for the Iowa Automated Benefit Calculation system that is a database for recording recipients' financial and health benefits.

"ACAN" is an acronym for the Automated Child Abuse and Neglect System, which is the automated database for child abuse information placed on the Central Abuse Registry before July 1, 1997.

"Adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care" means food, shelter, clothing, medical or mental health treatment, supervision, or other care which if not provided would constitute a denial of critical care. (441 IAC 175.21(232,235A))

"Allegation" means a statement setting forth a condition or circumstance yet to be proven. (441 IAC 175.21(232,235A))

"Assessment" means the process by which the Department carries out its legal mandate to:

- ◆ Ascertain if child abuse has occurred.
- ◆ Record findings.
- ◆ Develop conclusions based upon credible evidence.
- ◆ Address the safety of the child.
- ◆ Address the family functioning.
- ◆ Engage the family in appropriate services.
- ◆ Enhance family strengths and meet identified needs in a culturally sensitive manner. (441 IAC 175.21(232,235A))

"Assessment data" (See "[child abuse information](#).")

"Assessment intake" means the process by which the Department receives and records reports of child abuse. (441 IAC 175.21(232,235A))

“**Basic needs**” are food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for a child’s health and welfare.

“**Bestiality**” (See “[child abuse](#).”)

“**Brothel**” is any building, structure, or other place offering shelter or seclusion that is principally or regularly used for the purpose of prostitution with the consent or connivance of the owner, tenant, or other person in possession of it. (Iowa Code section 702.4)

“**CAPTA**” is the acronym for the Child Abuse Prevention and Treatment Act, Public Law 104-235. CAPTA was originally enacted in 1974 as Public Law 93-247. It has been amended several times, most recently on December 20, 2010. CAPTA:

- ◆ Provides federal funding to states for support of prevention, assessment, investigation, prosecution, and treatment activities.
- ◆ Sets forth minimum definitions on child abuse and neglect.
- ◆ Identifies federal roles in supporting research, evaluation, technical assistance, and data collection activities.
- ◆ Establishes the Office of Child Abuse and Neglect.
- ◆ Mandates the National Clearinghouse on Child Abuse and Neglect Information.

“**Caretaker**” (See “[person responsible for the care of a child](#).”)

“**Case**” means a report of child abuse that has been accepted for assessment services. (441 IAC 175.21(232,235A))

“**Child**” means any person under the age of 18 years. (Iowa Code section 232.68(1))

“**Child abuse**” means:

- ◆ **Physical abuse:** Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the results of the acts or omissions of a person responsible for the care of the child. (Iowa Code section 232.68(2)(a))
- ◆ **Mental injury:** Any mental injury to a child’s intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child’s ability to function within that child’s normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional. (Iowa Code section 232.68(2)(b))

◆ **Sexual abuse:** The commission of sexual offense with or to a child as defined in Iowa Code Chapter 709 section 726.2 or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child. Notwithstanding Iowa Code section 702.5, the commission of a sexual offense under this paragraph includes any sexual offense referred to in this paragraph with or to a person under the age of 18 years. (Iowa Code section 232.68(2)(c))

◆ **Denial of critical care:** The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, 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.

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. However, this provision does not preclude a court from ordering that medical service be provided to the child where the child's health requires it. (Iowa Code section 232.68(2)(d))

◆ **Child prostitution:** The acts or omissions of a person responsible for the care of a child that allow, permit, or encourage the child to engage in acts prohibited pursuant to Iowa Code section 725.1. Notwithstanding Iowa Code section 702.5, acts or omissions under this paragraph include an act or omission referred to in this paragraph with or to a person under the age of 18 years. (Iowa Code section 232.68(2)(e))

◆ **Presence of illegal drugs:** An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child. (Iowa Code section 232.68(2)(f))

◆ **Manufacturing or possession of a dangerous substance:** The person responsible for the care of a child:

- Has manufactured a dangerous substance in the presence of the child, or
- Possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers in the presence of the child with the intent to use the product as a precursor or an intermediary to a dangerous substance.

NOTE: See definitions of "[dangerous substance](#)" and "[in the presence of a child](#)" for clarification. (Iowa Code section 232.68(2)(g))

◆ **Bestiality in the presence of a minor:** Commission of a sex act with an animal in the presence of a minor by a person who resides with a child, as the result of the acts or omissions of the person responsible for the care of a child. (Iowa Code section 232.68(2)(h))

- ◆ **Allows access by a registered sex offender:** A person responsible for the care of a child:
 - Knowingly allows unsupervised access to a child by a person who is required to register or is on the sex offender registry, or
 - Knowingly allows a person who is required to register or is on the sex offender registry custody or control of a child up to age 14 (or up to the age of 18 if the child has a mental or physical disability).

The exceptions are if the registered sex offender is the caretaker's spouse or is the registered sex offender is a minor child of the caretaker. (Iowa Code section 232.68(2)(i))

- ◆ **Allows access to obscene materials:** A person responsible for the care of a child:
 - Knowingly allows child access to obscene material.
 - Knowingly exhibits or disseminates obscene material to a child.

NOTE: These definitions shall not be construed to hold a victim responsible for failing to prevent a crime against the victim. The intent is to protect the victim of domestic violence from a founded or confirmed child abuse report for failure to protect children from exposure to or involvement in domestic violence instances.

"Child abuse information" means any or all of the following data maintained by the Department in a manual or automated data storage system and individually identified: (Iowa Code section 235A.13(1))

- ◆ **"Report data"** means any of the following information pertaining to an assessment of an allegation of child abuse in which the Department has determined the alleged abuse meets the definition of child abuse:
 - The name and address of the child and the child's parents, or other person responsible for the child's care.
 - The age of the child.
 - The nature and extent of the injury, including evidence of any previous injury.
 - Additional information as to the nature, extent, and cause of the injury and the identity of the person or people alleged to be responsible for the injury.
 - The names and conditions of other children in the child's home.
 - Any other information believed to be helpful in establishing the nature, extent, and cause of the injury and the identity of the person or people alleged to be responsible for the injury. (Iowa Code section 235A.13(10))

- ◆ **“Assessment data”** means any of the following information pertaining to the Department’s evaluation of a family:
 - Identification of the strengths and needs of the child, and of the child’s parent, home, and family.
 - Identification of services available from the Department and informal and formal services and other support available in the community to meet identified strengths and needs. (Iowa Code section 235A.13(1))
- ◆ **“Disposition data”** means information pertaining to an opinion or decision as the occurrence of child abuse, including:
 - Any intermediate or ultimate opinion or decision reached by assessment personnel.
 - Any opinion or decision reached in the course of judicial proceedings.
 - The present status of any case. (Iowa Code section 235A.13(5))

“Child prostitution” (See [“child abuse.”](#))

“Child protection assistance team” means a group of people convened by the county attorney, involving the county attorney, law enforcement personnel, and Department personnel, established for each county or a multi-county area.

To the greatest extent possible, the team may be consulted in cases involving a forcible felony against a child younger than age 14 by a person responsible for the care of a child. The team may also be utilized in cases involving a violation of Iowa Code Chapter 709 or 726 or other crimes committed upon a victim. (Iowa Code 915.35, subsection 4, as amended by 2003 Iowa Acts, Senate File 353, section 4)

“Child protection worker” or **“CPW”** means a person designated by the Department to perform an assessment in response to a report of child abuse. (Iowa Code 232.68, subsection 2A)

“Child Protective Services Assessment Summary” means form 470-3240, the written document completed within 20 business days from the date a report of child abuse becomes a case. (441 IAC 175.26(232))

“Collateral contact” means any contact with a person other than a subject of a report.

“Collateral report” is a report of child abuse in which the allegations being made are exactly the same as allegations of abuse currently being assessed, or which have been previously investigated or assessed.

“Conditionally safe” means that one or more signs of present or impending danger have been identified, and the child’s vulnerability and caretaker’s protective capacities do not offset the present or impending danger of maltreatment.

NOTE: If a child is conditionally safe, a safety plan must be developed with the family. Controlling safety interventions must be initiated, as identified and agreed upon by all necessary parties in the written safety plan. The controlling safety intervention may include the parent arranging informal temporary care of the child.

“Confidentiality” is the requirement that all verbal or written information relating to Department records be released only under conditions set forth by the Code of Iowa.

“Confidential access” means access to a child who is alleged to be the victim of the child abuse, during an assessment of an alleged act of child abuse. The access may be accomplished by interview, observation, or examination of the child. (Iowa Code section 232.68, subsection 3)

◆ **“Interview”** means the verbal exchange between the child protection worker and the child for the purpose of developing information necessary to protect the child. A child protection worker is not precluded from recording visible evidence of abuse. (Iowa Code 232.68, subsection 3, paragraph a)

◆ **“Observation”** means:

- Direct physical viewing of a child under the age of four by the child protection worker, where viewing is limited to the child’s body other than the genitalia and pubes. (Iowa Code section 232.68, subsection 3, paragraph b)
- Direct physical viewing of a child age four or older by the child protection worker without touching the child or removing any article of clothing, and doing so without consent of the child’s parent, custodian, or guardian.

A child protection worker is not precluded from recording evidence of abuse obtained as a result of a child’s voluntary removal of an article of clothing without inducement by the child protection worker.

However, if prior consent of the child’s parent or guardian, or an ex parte court order is obtained, “observation” may include viewing the child’s unclothed body other than the genitalia and pubes. (Iowa Code section 232.68, subsection 3, paragraph b)

◆ **“Physical examination”** means direct physical viewing, touching and medically necessary manipulation of any area of the child’s body by a licensed physician. (Iowa Code section 232.68, subsection 3, paragraph c)

"Confirmed" means that the Department has determined by a preponderance of credible evidence (greater than 50%) that child abuse occurred.

"Confirmed but not placed on the Registry" means that the Department has determined by a preponderance of credible evidence (greater than 50%) that abuse has occurred, but the circumstances did not meet the criteria specified for placement on the Central Abuse Registry.

"Counselor or therapist" means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services. (Iowa Code section 709.15, subsection 1, paragraph a)

NOTE: This definition includes staff in residential facilities who have the titles of "counselor," "treatment worker," "therapist," "cottage parent," or other terms designating a position of authority over and responsibility for treatment services to children who are residing in the facility, even if these people do not have professional degrees or training.

"Custodian" means:

- ◆ A stepparent or a relative within the fourth degree of consanguinity (same blood or origin) to a minor child who has assumed responsibility for that child, or
- ◆ A person who has accepted a release of custody pursuant to a proceeding to terminate parental rights, or
- ◆ A person appointed by a court or juvenile court having jurisdiction over a child.

The rights and duties of a custodian with respect to a child are as follows:

- ◆ To maintain or transfer to another the physical possession of that child.
- ◆ To protect, train, and discipline that child.
- ◆ To provide food, clothing, housing, and medical care for the child.
- ◆ To consent to emergency medical care, including surgery.
- ◆ To sign a release of medical information to a health professional.

All rights and duties of a custodian are subject to any residual rights and duties remaining in a parent or guardian. (Iowa Code section 232.2, subsection 11)

“Dangerous substance,” as used in the abuse category “manufacture or possession of a dangerous substance,” means any of the following:

- ◆ Amphetamine, its salts, isomers, or salts of its isomers;
- ◆ Methamphetamine, its salts, isomers, or salts of its isomers;
- ◆ A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:
 - The process of manufacturing an illegal or controlled substance;
 - As a precursor in the manufacturing of an illegal or controlled substance;
 - As an intermediary in the manufacturing of an illegal or controlled substance.(Iowa Code section 232.2, subsection 6, paragraph p, as amended by HF 178)

“Denial of critical care” is failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, 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. (441 IAC 175.21) It includes any of the following:

- ◆ **Failure to provide adequate food** and nutrition to such an extent that there is danger of the child suffering injury or death.
- ◆ **Failure to provide adequate shelter** to such an extent that there is danger of the child suffering injury or death.
- ◆ **Failure to provide adequate clothing** to such an extent that there is danger of the child suffering injury or death.
- ◆ **Failure to provide adequate health care** to such an 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 Central Abuse Registry. However, a court may order that medical service be provided where the child’s health requires it.
- ◆ **Failure to provide the mental health care** necessary to adequately treat an observable and substantial impairment to the child’s ability to function.
- ◆ **Gross failure to meet the emotional needs** of the child necessary for normal development.

- ◆ **Failure to provide for the proper supervision** of the child to such an extent that the failure resulted in direct harm or created a risk of harm or danger of the child suffering injury or death, and which a reasonable and prudent person would exercise under similar facts and circumstances.
- ◆ **Failure to respond to an infant's life-threatening conditions** (also known as withholding of medically indicated treatment) by providing treatment (including appropriate hydration, nutrition, and medication) which in the treating physician's reasonable medical judgment will be most likely to be effective in ameliorating or correcting all conditions.

Exception: This term does not include the failure to provide treatment to an infant (other than appropriate nutrition, hydration or medication) 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 such 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 such 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 Iowa Department of Human Services and includes the local offices of the Department.

"Direct contact" means face-to-face contact or voice-to-voice contact by telephone.

"Disposition data" (See "[child abuse information](#).")

"Expungement" means the process of removing child abuse information from the Central Abuse Registry. (Iowa Code section 235A.13(6))

"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;
- ◆ A group home, mental health facility, residential treatment facility, shelter care facility, or detention facility;
- ◆ A child-care facility, which includes licensed child-care centers, registered child-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. NOTE: The Department of Inspections and Appeals assesses allegations of abuse in public facilities operated by the Department of Human Services. (441 IAC 175.21(232,235A))

“Founded” means that a preponderance of credible evidence (greater than 50%) indicates that child abuse occurred and the circumstances meet the criteria for placement on the Central Abuse Registry. (Iowa Code section 232.71D, 441 IAC 175.39(230))

“Guardian” means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child, to:

- ◆ Have a permanent self-sustaining relationship with the child,
- ◆ Make important decisions which have a permanent effect on the life and development of that child, and
- ◆ Promote the general welfare of that child.

A guardian may be a court or a juvenile court. “Guardian” does not mean conservator, as defined in Iowa Code section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator. (Iowa Code section 232.2(21))

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

- ◆ To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.
- ◆ To serve as guardian ad litem, unless the interest of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.
- ◆ To serve as custodian, unless another person has been appointed custodian.
- ◆ To make periodic visitations if the guardian does not have physical possession or custody of the child.
- ◆ To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.
- ◆ To make other decisions involving protection, education, and care and control of the child.

“Health practitioner” means:

- ◆ A licensed physician and surgeon, osteopath, osteopathic physician or surgeon, dentist, optometrist, podiatrist, or chiropractor;
- ◆ A resident or intern in any of such professions;
- ◆ A licensed dental hygienist;
- ◆ A registered nurse or licensed practical nurse;
- ◆ A physician assistant;
- ◆ A basic emergency medical care provider certified under Iowa Code section 147.161 or an advanced emergency medical care provider certified under Iowa Code section 147A.6. (Iowa Code section 232.68(5))

“Health care facility” means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with mental retardation.

- ◆ **“Intermediate care facility for persons with mental illness”** means an institution designed to provide accommodation, board, and nursing care for a period exceeding 24 consecutive hours to people who primarily have mental illness.
- ◆ **“Intermediate care facility for persons with mental retardation”** means an institution with a primary purpose to provide health or rehabilitative services to people who primarily have mental retardation or a related condition. The facility must meet federal standards established pursuant to section 1905(c)(d) of the Social Security Act, as codified in 42 U.S.C. 1936d, which are contained in 42 C.F.R. Part 483, Subpart D, 410—480.

“Illegal drug” means cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, including marijuana, or combinations or derivatives of illegal drugs that were not prescribed by a health practitioner. (Iowa Code section 232.77(2)) (441 IAC 175.21(232,235A))

“Imminent danger” (See [“immediate threat.”](#))

“Immediate threat” means conditions that, if no response were made, would be more likely than not to result in sexual abuse, injury, or death to a child. (441 IAC 175.21(232,235A))

“Impending danger” means a foreseeable state of danger in which family behaviors, attitudes, motives, or emotions or the child’s physical environment poses a threat of maltreatment.

“In the presence of a child,” as used in the abuse category “manufacture or possession of a dangerous substance,” means:

- ◆ The physical presence of a child during the manufacture or possession,
- ◆ The manufacture or possession occurred in a child’s home, on the premises, or in a motor vehicle located on the premises, or
- ◆ The manufacture or possession occurred under other circumstances in which a reasonably prudent person would know that the manufacture or possession may be seen, smelled, or heard by a child. (Iowa Code section 232.2(6)(p)(1))

“Infant,” generally means a child less than one year of age. As used in the definition of “denial of critical care: failure to respond to an infant’s life-threatening condition” (also known as withholding of medically indicated treatment), an “infant” is a child less than one year of age **or** a child over one year of age who:

- ◆ Has been continuously hospitalized since birth, or
- ◆ Was born extremely prematurely, or
- ◆ Has a long-term disability. (441 IAC 175.21(232,235A))

“Informant” means any person who has made an allegation of child abuse to the reporter.

“Intent” means a mental state, emotion, or condition of the mind with a design, resolve, or determination that the doing of an act shall be with a certain purpose. In determining intent of a person, it may be inferred that the person intended to cause the natural and probable consequence of the person’s action.

“Interview” (See [“confidential access.”](#))

“Mandatory reporter” means a person who is required by law to report child abuse. (Iowa Code 232.69)

“Mental health professional” means a person who meets the following requirement:

- ◆ Holds at least a master’s degree in a mental health field, including but not limited to, psychology, counseling, nursing, or social work or is licensed to practice medicine pursuant to Iowa Code Chapter 148, 150, or 150A.
- ◆ Holds a license to practice in the appropriate profession.
- ◆ Has at least two years of post degree experience supervised by a mental health professional in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals. (Iowa Code 232.68, subsection 6)

“Mental health service” means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental or social dysfunction, including an interpersonal or interpersonal dysfunction. (Iowa Code section 709.15, subsection 1, paragraph d) NOTE: This definition covers virtually all child placement facilities and their services, even if they are providing only assessment, as in shelter or detention facilities.

“Mental injury” (See [“child abuse.”](#))

“Multidisciplinary team” means a group of people who:

- ◆ Possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases, and
- ◆ Are professionals practicing in the disciplines of medicine, nursing, public health, substance abuse, mental health, social work, child development, education, law, juvenile probation, law enforcement, domestic violence or a group established pursuant to Iowa Code section 235B.1, subsection 1. (Iowa Code 235A.13, subsection 8, as amended by 2003 Iowa Acts, House File 489, section 1)

“Near fatality” means an act that places the child in serious or critical condition, as certified by a physician. (CAPTA (10-3-96), section 106 (b)(4)(A))

“Nonaccidental physical injury” means an injury that:

- ◆ Was the natural and probable result of a caretaker’s actions that the caretaker could have reasonably foreseen, or
- ◆ A reasonable person could have foreseen in similar circumstances, or
- ◆ Resulted from an act administered for the specific purpose of causing an injury. (441 IAC 175.21)

“Not confirmed” means that there was not a preponderance of credible evidence (greater than 50%) indicating that child abuse occurred.

“Observation” (See [“confidential access.”](#))

“Parent” means a biological or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated. (Iowa Code section 232.2, subsection 39)

"Peace officer" means a law enforcement officer or a person designated as a peace officer by provision of the Iowa Code. (Iowa Code section 232.2, subsection 40)

"Permissive reporter" means a person who is not required by law to report child abuse. (Iowa Code 232.69)

"Person responsible for the care of a child" (also referred to as "caretaker") means:

- ◆ A parent, guardian, or foster parent.
- ◆ A relative or any other person with whom the child resides and who assumes care or supervision of the child, without reference to the length of time or continuity of such residence.
- ◆ An employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.
- ◆ Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care. A person who assumes responsibility for the care or supervision of the child may assume such responsibility through verbal or written agreement, or implicitly, through the willing assumption of the care-taking role. (Iowa Code section 232.68, subsection 7)

"Physical abuse" (See "[child abuse](#).")

"Physical examination" (See "[confidential access](#).")

"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 that results in the death of the person who has sustained the damage. (441 IAC 175.21)

"Preponderance of evidence" means evidence that is of greater weight or more convincing (greater than 50%) than the evidence that is offered in opposition to it, not as to quantity (number of witnesses), but as to quality (believability and greater weight of important facts proved). (441 IAC 175.21)

"Presence of illegal drugs" (See "[child abuse](#).")

“Present danger” means immediate, significant and clearly observed maltreatment occurring to a child in the present or an immediate threat of maltreatment requiring immediate action to protect the child.

“Proper supervision” means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances. In no event shall the person place a child in a situation that may result in direct harm to the child or 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. (441 IAC 175.21)

“Prohibited sexual act” means any of the following:

- ◆ A sex act as defined in (Iowa Code) section 702.17.
- ◆ An act of bestiality involving a minor.
- ◆ Fondling or touching the pubes or genitals of a minor.
- ◆ Fondling or touching the pubes or genitals of a person by a minor.
- ◆ Sodomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse.
- ◆ Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the nude minor. (Iowa Code 728.1, subsection 7, paragraphs a-g)

“Putative father” means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child. (Iowa Code 144.12A, subsection 1, paragraph d)

“Registry” means the central registry for child abuse information established in section 235A.14. (Iowa Code 232.68, subsection 8)

“Rejected intake” means a report of child abuse that has not been accepted for assessment. (441 IAC 175.21)

“Report data” (See [“child abuse information.”](#))

“Report of child abuse” means a verbal or written statement made to the Department by a person who suspects that child abuse has occurred. (441 IAC 175.21)

“Reporter” means the person making a verbal or written statement to the Department alleging child abuse. (441 IAC 175.21)

“Restraint” means direct physical contact to prevent a child from hurting self, others or property.

“Safe” means there are no signs of present or impending danger identified, or one or more signs of present or impending danger identified but the child’s vulnerability or the caretaker’s protective capacity offsets the current danger. The child is not likely to be in imminent danger of maltreatment.

“Safety plan” means a specific, formal, concrete strategy for controlling threats of maltreatment or harm or supplementing protective capacities. The plan is employed immediately when a family’s protective capacities are insufficient to manage immediate threats of maltreatment. A plan is to be designed to manage the foreseeable dangers in the least restrictive manner to allow child protective services intervention to proceed.

“Sealing” means the process of removing child abuse information from authorized access as provided by (Iowa Code) Chapter 235A. (Iowa Code 235A.13, subsection 11)

“Serious” means having dangerous possible consequences.

“Sex act” means any sexual contact between two or more people by:

- ◆ Penetration of the penis into the vagina or anus;
- ◆ Contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person;
- ◆ Contact between the finger or hand of one person and the sexual genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to Iowa Code Chapter 148, 148C, 150, 150A, 151, or 152; or
- ◆ Use of artificial sexual organs or substitutes thereof in contact with the genitalia or anus. (Iowa Code 702.17)

“Sexual abuse” means the commission of sexual offenses with or to a child as a result of the acts or omissions of a caretaker. (Iowa Code section 232.68(2)(c)) The sexual offenses (listed according to Iowa Code order) are:

- ◆ Sexual abuse 1st degree (Iowa Code section 709.2)
- ◆ Sexual abuse 2nd degree (Iowa Code section 709.3)
- ◆ Sexual abuse 3rd degree (Iowa Code section 709.4)
- ◆ Lascivious acts with a child (Iowa Code section 709.8)
- ◆ Indecent exposure (Iowa Code section 709.9)
- ◆ Assault with intent to commit sexual abuse (Iowa Code section 709.11)
- ◆ Indecent contact with a child (Iowa Code section 709.12)
- ◆ Lascivious conduct with a minor (Iowa Code section 709.14)
- ◆ Sexual exploitation by a counselor or therapist (Iowa Code section 709.15)
- ◆ Sexual misconduct with offenders and juveniles (Iowa Code section 709.16)
- ◆ Incest (Iowa Code section 726.2)
- ◆ Sexual exploitation of a minor (Iowa Code section 728.12)
- ◆ Invasion of privacy (nudity) (Iowa Code section 709.21)

“Sexual offense” means a sex act or other sexual behavior prohibited by Iowa Code Chapter 709 or sections 702.17, 726.2, 728.1(7) or 728.12(1).

“STAR” is an acronym for the Statewide Tracking of Assessment Reports, which is the automated database and repository for reports of child abuse.

“Subjects of a report of child abuse” mean any of the following: (441 IAC 175.21(232,235A))

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

NOTE: A putative father, a stepparent, or a paramour is not automatically a subject of a report of child abuse unless the person meets one or more of criteria above.

“Unduly” means improper or unjust, or excessive. (441 IAC 175.21(232,235A))

“Unsafe” means one or more signs of present or impending danger have been identified, and either:

- ◆ The child’s vulnerability or the caretaker’s protective capacities do not offset the impending danger of maltreatment, or
- ◆ The caretaker has refused access to the child.

NOTE: Removal sanctioned by court order or voluntary placement agreement for placement into foster care is the only controlling safety intervention possible.

Sexual Abuse by Omission vs. Denial of Critical Care

“Sexual abuse by omission” means a caretaker allowing, or failing to protect a child from, the commission of a sexual offense by another caretaker or by a person the caretaker should have reasonably known would be likely to sexually abuse a child.

- ◆ If a sexual offense has already occurred through the caretaker’s omission, then the appropriate allegation is sexual abuse by omission.
- ◆ If the child has been exposed to danger of sexual abuse through the caretaker’s omission, but no abuse has yet occurred, then the appropriate allegation is denial of critical care by failure to provide proper supervision.

Children Age 16 or Older

When a child who is 16 years of age or older, has no a mental or physical disability, and is able to give consent engages in consensual sexual activity with a person aged 18 or older, reject the allegation of sexual abuse because the sexual activity is not considered to result from the acts or omissions of the person responsible for the child’s care.

If the child is unable to give consent, consider the reported activity as an allegation of denial of critical care by the caretaker of the child.

Topic 8: Criteria for Accepting an Allegation of Denial of Critical Care

Link to [Procedure](#)

For a situation to be assessed as denial of critical care, there must be a reasonable belief of the following:

- ◆ A circumstance exists or has occurred which indicates a failure to provide food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary to a child **and**
- ◆ The circumstance places a child's health and welfare at risk **and**
- ◆ The circumstance has been caused as the result of acts or omissions of the person responsible for the child's care.

The standard for accepting or rejecting an allegation of child abuse requires the Department to make a determination as to whether the report constitutes an allegation of child abuse as defined in section 238.68.

Use the care standard "adequate for the child's health and welfare" in accepting or rejecting a report of child abuse regarding failure to provide food, shelter, clothing, medical or mental health treatment, supervision, or other care to a child. There are eight subcategories of denial of critical care:

- ◆ [Failure to provide adequate food and nutrition](#)
- ◆ [Failure to provide adequate shelter](#)
- ◆ [Failure to provide adequate clothing](#)
- ◆ [Failure to provide adequate health care](#)
- ◆ [Failure to provide adequate mental health care](#)
- ◆ [Failure to emotional needs of the child](#)
- ◆ [Failure to provide proper supervision](#)
- ◆ [Failure to provide respond to infant's life-threatening condition](#)

The reporter may not know other factors, such as the family's income and religious affiliation, at the time of intake. For intake purposes, it is not necessary to know whether the family has sufficient funds to provide for the adequate care of the children or is failing to provide medical care due to religious beliefs.

Referrals involving illegal drugs other than methamphetamine generally should be rejected if, after careful questioning:

- ◆ You determine that the **only** allegation is:
 - The presence of drugs in the home or another environment, or
 - Usage of drugs by the caretaker, AND
- ◆ You cannot reasonably infer that:
 - The child has access to the drugs, or
 - The caretaker uses in the presence of the child, or
 - The usage is impairing the caretaker's ability to provide adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child's health and welfare.

In child protective intake, decision-making should always err on the side of safety.

CINA Intake

If the reported circumstances indicate that a child is imminently likely to be abused or neglected, accept the intake for a CINA assessment.

A CINA assessment intake may be accepted if allegations fall within the grounds for a child in need of assistance petition established at Iowa Code sections 232.2 and 232.6.