

IC 12-17.2-6

Chapter 6. Regulation of Child Care Ministries

IC 12-17.2-6-1

Licensure of ministries

Sec. 1. A child care ministry is exempt from licensure under this article if the child care ministry complies with this chapter. However, a child care ministry may apply for licensure. If a license is issued to the child care ministry, the child care ministry shall comply with state laws and rules governing licensure of the type of facility that the ministry operates.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-2

Operation of unlicensed ministries

Sec. 2. An unlicensed child care ministry under section 1 of this chapter may not operate unless the child care ministry has registered with and met the requirements of the division and the division of fire and building safety. Registration forms shall be provided by the division and the division of fire and building safety.

As added by P.L.1-1993, SEC.141. Amended by P.L.1-2006, SEC.193.

IC 12-17.2-6-3

Registration of licensed ministries

Sec. 3. The operator of a licensed child care ministry under section 1 of this chapter shall register under section 2 of this chapter at least ninety (90) days before the expiration of the child care ministry's license or ninety (90) days before surrendering the license.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-4

Inspection of unlicensed ministries by division

Sec. 4. (a) The division shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection described in subsection (a):

- (1) at least semiannually; and
- (2) additionally as determined necessary by the division, but not more than four (4) inspections per year per child care ministry.

As added by P.L.1-1993, SEC.141. Amended by P.L.16-2006, SEC.6.

IC 12-17.2-6-5

Rules for fire prevention and inspection of unlicensed ministries

Sec. 5. (a) As used in this section, "primary use of the building" means the occupancy classification that is:

- (1) most closely related to the intended use of the building; and
- (2) determined by the rules of the fire prevention and building

safety commission in effect at the time that the child care ministry is first registered.

(b) The state fire marshal shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the requirements of subsection (c).

(c) Except as provided in the following, a registered child care ministry shall comply with all rules of the fire prevention and building safety commission applicable to the primary use of the building:

(1) A registered child care ministry with an occupant load of at least fifty (50) shall do either of the following:

(A) Install and maintain a fire alarm system in compliance with the rules of the fire prevention and building safety commission.

(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.

(2) Each registered child care ministry with an occupant load of less than fifty (50) shall do either of the following:

(A) Install and maintain in good operating condition at least one (1) battery operated smoke detector in each room and corridor used by the ministry.

(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.

(3) Each registered child care ministry shall comply with the rules of the fire prevention and building safety commission concerning fire drills.

For purposes of this subsection, occupant load is determined by dividing the total square footage of the area used by the child care ministry by thirty-five (35) and rounding any result that is not a whole number up to the next whole number.

(d) The state fire marshal shall make an inspection of a child care ministry registered under section 2 of this chapter at least annually.

(e) During an inspection, the state fire marshal shall inspect the structure in which the child care ministry is conducted for fire safety and life safety with respect to the structure's primary use.

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.2; P.L.1-2006, SEC.194.

IC 12-17.2-6-6

Inspection notices for unlicensed ministries

Sec. 6. Upon the completion of the inspections required under this chapter, a notice signed by the inspectors from the division and the division of fire and building safety shall be issued to the operator of each child care ministry found to be in compliance. The notice shall

be placed in a conspicuous place in the child care ministry, and must be in substantially the following form:

"THIS UNLICENSED REGISTERED CHILD CARE MINISTRY has been inspected and complies with state rules concerning health and sanitation in child care ministries.

DATE _____

SIGNATURE _____

DIVISION OF FAMILY RESOURCES

THIS UNLICENSED REGISTERED CHILD CARE MINISTRY has been inspected and complies with state law concerning fire safety and life safety.

DATE _____

SIGNATURE _____

DIVISION OF FIRE AND BUILDING SAFETY".

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.3; P.L.1-2006, SEC.195; P.L.145-2006, SEC.104.

IC 12-17.2-6-7

Notice to parents and guardians by unlicensed ministries

Sec. 7. The operator of a child care ministry registered under section 2 of this chapter shall provide a notice to the parent or guardian of a child enrolled in the child care ministry. The notice must be signed by the parent or guardian when the child is enrolled in the child care ministry and must be kept on file at the child care ministry until two (2) years after the last day the child attends the child care ministry. This notice must be maintained by the child care ministry and made available to the division upon request. The notice must be in the following form:

"I understand that this child care ministry is not licensed under the laws of Indiana. However, I understand that this child care ministry must comply with the state rules concerning sanitation and fire and life safety for the primary use of the structure in which it is conducted. I understand that it is my responsibility to ensure that the nutritional and health needs of my child are met while my child is at the child care ministry.

SIGNATURE _____".

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-8

Liability for injuries to children

Sec. 8. A child care ministry is not absolved from liability for injury to a child while the child is at the child care ministry if the cause of the injury is negligence or intentional wrongdoing on the part of the child care ministry or an employee of the child care ministry.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-9

Loss of exemption for violation of chapter

Sec. 9. A child care ministry is not exempt under section 1 of this

chapter if the operator or an employee of the child care ministry violates this chapter.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-10

Advertising requirements for exempt ministries

Sec. 10. A child care ministry that is exempt from licensing under this chapter must clearly state in all of its paid promotional advertising that the child care ministry is providing child care as an extension of the ministry's church or religious ministry. A child care ministry that is exempt from licensing under this chapter must be referred to in all of its paid promotional advertising as a child care ministry.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-11

Immunization of children

Sec. 11. (a) The parent or guardian of a child shall, when the child is enrolled in a child care ministry, provide the child care ministry with proof that the child has received the required immunizations against the following:

- (1) Diphtheria.
- (2) Whooping cough.
- (3) Tetanus.
- (4) Measles.
- (5) Rubella.
- (6) Poliomyelitis.
- (7) Mumps.

(b) A child enrolled in a child care ministry may not be required to undergo an immunization required under this section if the parents object for religious reasons. The objection must be:

- (1) made in writing;
- (2) signed by the child's parent or guardian; and
- (3) delivered to the child care ministry.

(c) If a physician certifies that a particular immunization required by this section is or may be detrimental to the child's health, the requirements of this section for that particular immunization are inapplicable to that child until the immunization is found to be no longer detrimental to the child's health.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-12

Registration fees of division

Sec. 12. (a) The division shall charge a child care ministry a fifty dollar (\$50) fee for processing a registration under section 2 of this chapter.

(b) The division shall deposit the fees collected under subsection (a) in the division of family resources child care fund established by IC 12-17.2-2-3.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006,

SEC.106.

IC 12-17.2-6-13

Registration fees of fire marshal

Sec. 13. (a) The state fire marshal shall charge a child care ministry a fifty dollar (\$50) fee for processing a registration under section 2 of this chapter.

(b) The state fire marshal shall deposit the fees collected under subsection (a) in the fire and building services fund established by IC 22-12-6-1.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-14 Version a

National criminal history background check; individuals prohibited from employment or volunteering; meet certain requirements by July 1, 2014

Note: This version of section amended by P.L.287-2013, SEC.16. See also following version of this section amended by P.L.158-2013, SEC.179, effective 7-1-2014.

Sec. 14. (a) The child care ministry must do the following:

(1) Subject to subsection (c), require, at no expense to the state, an employee or a volunteer who has direct contact with a child who is receiving child care from the child care ministry to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(2) Report to the division any:

- (A) police investigations;
- (B) arrests; and
- (C) criminal convictions;

of which the operator or director of the child care ministry is aware regarding an employee or volunteer described in subdivision (1).

(3) Refrain from employing, or allowing to serve as a volunteer, an individual who has direct contact with a child who is receiving child care from the child care ministry and who:

(A) has been convicted of a felony:

- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) has been convicted of a misdemeanor related to the health or safety of a child;

(C) has been convicted of a misdemeanor under IC 12-17.2-4-35 for operating a child care center without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly

related to jeopardizing the health or safety of a child;
(D) has been convicted of a misdemeanor under IC 12-17.2-5-35 for operating a child care home without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
(E) is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33, or under a substantially similar provision in another jurisdiction.

(b) A child care ministry shall require an individual described in subsection (a)(1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(c) A child care ministry that is registered under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a)(1) not later than July 1, 2014.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.22 and P.L.61-1993, SEC.12; P.L.124-2007, SEC.7; P.L.287-2013, SEC.16.

IC 12-17.2-6-14 Version b

Criminal history checks; individuals prohibited from employment or volunteering

Note: This version of section amended by P.L.158-2013, SEC.179, effective 7-1-2014. See also preceding version of this section amended by P.L.287-2013, SEC.16.

Sec. 14. A child care ministry must do the following:

- (1) Conduct a criminal history check of the child care ministry's employees and volunteers.
- (2) Refrain from employing, or allowing to serve as a volunteer, an individual who:
 - (A) has been convicted of any of the following felonies:
 - (i) Murder (IC 35-42-1-1).
 - (ii) Causing suicide (IC 35-42-1-2).
 - (iii) Assisting suicide (IC 35-42-1-2.5).
 - (iv) Voluntary manslaughter (IC 35-42-1-3).
 - (v) Reckless homicide (IC 35-42-1-5).
 - (vi) Battery (IC 35-42-2-1).
 - (vii) Aggravated battery (IC 35-42-2-1.5).
 - (viii) Kidnapping (IC 35-42-3-2).
 - (ix) Criminal confinement (IC 35-42-3-3).
 - (x) A felony sex offense under IC 35-42-4.
 - (xi) Carjacking (IC 35-42-5-2) (repealed) (for a crime committed before July 1, 2014).
 - (xii) Arson (IC 35-43-1-1).
 - (xiii) Incest (IC 35-46-1-3).
 - (xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
 - (xv) Child selling (IC 35-46-1-4(d)).

(xvi) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(xvii) A felony relating to controlled substances under IC 35-48-4.

(xviii) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(xix) A felony that is substantially equivalent to a felony listed in items (i) through (xviii) for which the conviction was entered in another state.

(B) has been convicted of a misdemeanor related to the health or safety of a child; or

(C) is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33.

(3) Maintain records of each criminal history check.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.22 and P.L.61-1993, SEC.12; P.L.124-2007, SEC.7; P.L.158-2013, SEC.179.

IC 12-17.2-6-15

Unscheduled visits by parents and guardians

Sec. 15. Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time a child care ministry is in operation.

As added by P.L.1-1993, SEC.141.