

HOUSE BILL No. 1132

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-17.2.

Synopsis: Expenses of meeting child care requirements. Amends certain child care statutes to specify that expenses of criminal history and drug testing requirements are not paid by the state. (The introduced version of this bill was prepared by the board for coordination of child care regulation.)

Effective: July 1, 2004.

Budak, Crawford

January 13, 2004, read first time and referred to Committee on Human Affairs.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1132



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-17.2-3.5-12, AS AMENDED BY P.L.18-2003,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 12. (a) A provider shall, at ~~the provider's or~~
4 ~~individual's~~ **no expense to the state**, maintain and make available to
5 the division upon request a copy of a limited criminal history for:
6 (1) the provider, if the provider is an individual;
7 (2) if the provider operates a child care program in the provider's
8 home, any individual who resides with the provider and who is:
9 (A) at least eighteen (18) years of age; or
10 (B) less than eighteen (18) years of age but has previously
11 been waived from juvenile court to adult court; and
12 (3) any individual who:
13 (A) is employed; or
14 (B) volunteers;
15 as a caregiver at the facility where the provider operates a child
16 care program.
17 A provider shall apply for a limited criminal history for an individual



1 described in subdivision (3) before the individual is employed or
 2 allowed to volunteer as a caregiver.

3 (b) In addition to the requirement under subsection (a), a provider
 4 shall report to the division any:

5 (1) police investigations;
 6 (2) arrests; and
 7 (3) criminal convictions;
 8 not listed on a limited criminal history obtained under subsection (a)
 9 regarding any of the persons listed in subsection (a).

10 (c) A provider that meets the other eligibility requirements of this
 11 chapter is temporarily eligible to receive voucher payments until the
 12 provider receives the limited criminal history required under subsection
 13 (a) from the state police department if:

14 (1) the provider:

15 (A) has applied for the limited criminal history required under
 16 subsection (a); and
 17 (B) obtains a local criminal history for the individuals
 18 described in subsection (a) from each individual's local law
 19 enforcement agency before the individual is employed or
 20 allowed to volunteer as a caregiver; and

21 (2) the local criminal history does not reveal that an individual
 22 has been convicted of a:

23 (A) felony;
 24 (B) misdemeanor related to the health or safety of a child;
 25 (C) misdemeanor for operating a child care center without a
 26 license under IC 12-17.2-4-35; or
 27 (D) misdemeanor for operating a child care home without a
 28 license under IC 12-17.2-5-35.

29 (d) A provider is ineligible to receive a voucher payment if an
 30 individual for whom a limited criminal history is required under this
 31 section has been convicted of a:

32 (1) felony;
 33 (2) misdemeanor related to the health or safety of a child;
 34 (3) misdemeanor for operating a child care center without a
 35 license under IC 12-17.2-4-35; or
 36 (4) misdemeanor for operating a child care home without a
 37 license under IC 12-17.2-5-35;

38 until the individual is dismissed from employment or volunteer service
 39 at the facility where the provider operates a child care program or no
 40 longer resides with the provider.

41 (e) A provider shall maintain a written policy requiring an
 42 individual for whom a limited criminal history is required under this

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1 section to report any criminal convictions of the individual to the
2 provider.

3 SECTION 2. IC 12-17.2-3.5-12.1, AS AMENDED BY P.L.18-2003,
4 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2004]: Sec. 12.1. (a) A provider shall, at ~~the provider's or~~
6 ~~individual's~~ **no expense to the state**, maintain and make available to
7 the division upon request a copy of drug testing results for:

- 8 (1) the provider, if the provider is an individual;
 - 9 (2) if the provider operates a child care program in the provider's
10 home, any individual who resides with the provider and who is at
11 least eighteen (18) years of age; and
 - 12 (3) an individual who:
 - 13 (A) is employed; or
 - 14 (B) volunteers;
- 15 as a caregiver at the facility where the provider operates a child
16 care program.

17 The drug testing results for an individual described in subdivision (3)
18 must be obtained before the individual is employed or allowed to
19 volunteer as a caregiver.

20 (b) A provider that is not a child care ministry or a child care center
21 shall maintain a written policy specifying the following:

- 22 (1) That the:
 - 23 (A) use of:
 - 24 (i) tobacco;
 - 25 (ii) alcohol; or
 - 26 (iii) a potentially toxic substance in a manner other than the
27 substance's intended purpose; and
 - 28 (B) use or possession of an illegal substance;
- 29 is prohibited in the facility where the provider operates a child
30 care program when child care is being provided.

31 (2) That drug testing of individuals who serve as caregivers will
32 be:

- 33 (A) performed on a random basis, based on a protocol
34 established or approved by the division; and
- 35 (B) required if an individual is suspected of noncompliance
36 with the requirements specified under subdivision (1).

37 (c) A provider that is a child care ministry or a child care center
38 shall maintain a written policy specifying the following:

- 39 (1) That the:
 - 40 (A) use of:
 - 41 (i) tobacco; or
 - 42 (ii) a potentially toxic substance in a manner other than the

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- 1 substance's intended purpose; and
 2 (B) use or possession of alcohol or an illegal substance;
 3 is prohibited in the facility where the provider operates a child
 4 care program when child care is being provided.
 5 (2) That drug testing of individuals who serve as caregivers will
 6 be:
 7 (A) performed on a random basis, based on a protocol
 8 established or approved by the division; and
 9 (B) required if an individual is suspected of noncompliance
 10 with the requirements specified under subdivision (1).
 11 (d) If:
 12 (1) the drug testing results obtained under subsection (a), (b), or
 13 (c) indicate the presence of a prohibited substance described in
 14 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or
 15 (c)(1)(B); or
 16 (2) an individual refuses to submit to a drug test;
 17 the provider is ineligible to receive a voucher payment until the
 18 individual is suspended or terminated from employment or volunteer
 19 service at the facility or no longer resides with the provider.
 20 (e) A provider that suspends an individual described in subsection
 21 (d) shall maintain a written policy providing for reinstatement of the
 22 individual following rehabilitation and drug testing results that are
 23 negative for a prohibited substance described in subsection
 24 (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).
 25 (f) Drug testing results obtained under this section are confidential
 26 and may not be disclosed for any purpose other than the purpose
 27 described in this section.
 28 SECTION 3. IC 12-17.2-4-3.5, AS ADDED BY P.L.18-2003,
 29 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2004]: Sec. 3.5. (a) A child care center shall, at ~~the child care~~
 31 ~~center's or individual's~~ **no expense to the state**, maintain and make
 32 available to the division upon request a copy of drug testing results for
 33 an individual who:
 34 (1) is employed; or
 35 (2) volunteers;
 36 as a caregiver at the child care center. The drug testing results required
 37 under this subsection must be obtained before the individual is
 38 employed or allowed to volunteer as a caregiver.
 39 (b) A child care center shall maintain a written policy specifying the
 40 following:
 41 (1) That the:
 42 (A) use of:

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1 (i) tobacco; or
 2 (ii) a potentially toxic substance in a manner other than the
 3 substance's intended purpose; and
 4 (B) use or possession of alcohol or an illegal substance;
 5 is prohibited in the child care center when child care is being
 6 provided.
 7 (2) That drug testing of individuals who serve as caregivers at the
 8 child care center will be:
 9 (A) performed on a random basis, based on a protocol
 10 established or approved by the division; and
 11 (B) required if an individual is suspected of noncompliance
 12 with the requirements specified under subdivision (1).
 13 (c) If:
 14 (1) the drug testing results obtained under subsection (a) or (b)
 15 indicate the presence of a prohibited substance described in
 16 subsection (b)(1)(A)(ii) or (b)(1)(B); or
 17 (2) an individual refuses to submit to a drug test;
 18 the child care center shall immediately suspend or terminate the
 19 individual's employment or volunteer service.
 20 (d) A child care center that suspends an individual described in
 21 subsection (c) shall maintain a written policy providing for
 22 reinstatement of the individual following rehabilitation and drug testing
 23 results that are negative for a prohibited substance described in
 24 subsection (b)(1)(A)(ii) or (b)(1)(B).
 25 (e) Drug testing results obtained under this section are confidential
 26 and may not be disclosed for any purpose other than the purpose
 27 described in this section.
 28 (f) A child care center that does not comply with this section is
 29 subject to:
 30 (1) denial of an application for a license; or
 31 (2) suspension or revocation of a license issued;
 32 under this chapter.
 33 SECTION 4. IC 12-17.2-5-3.5, AS ADDED BY P.L.18-2003,
 34 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2004]: Sec. 3.5. (a) A child care home shall, at ~~the child care~~
 36 ~~home's or individual's~~ **no expense to the state**, maintain and make
 37 available to the division upon request a copy of drug testing results for:
 38 (1) the provider;
 39 (2) an individual who resides with the provider and who is at least
 40 eighteen (18) years of age; and
 41 (3) an individual who:
 42 (A) is employed; or

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1 (B) volunteers;
 2 as a caregiver at the child care home.
 3 The drug testing results for an individual described in subdivision (3)
 4 must be obtained before the individual is employed or allowed to
 5 volunteer as a caregiver.

6 (b) A child care home shall maintain a written policy specifying the
 7 following:

8 (1) That the:
 9 (A) use of:
 10 (i) tobacco;
 11 (ii) alcohol; or
 12 (iii) a potentially toxic substance in a manner other than the
 13 substance's intended purpose; and

14 (B) use or possession of an illegal substance;
 15 is prohibited in the child care home when child care is being
 16 provided.

17 (2) That drug testing of individuals who serve as caregivers at the
 18 child care home will be:

19 (A) performed on a random basis, based on a protocol
 20 established or approved by the division; and

21 (B) required if an individual is suspected of noncompliance
 22 with the requirements specified under subdivision (1).

23 (c) If:

24 (1) the drug testing results obtained under subsection (a) or (b)
 25 indicate the presence of a prohibited substance described in
 26 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or

27 (2) an individual refuses to submit to a drug test;
 28 the child care home shall immediately suspend or terminate the
 29 individual's employment or volunteer service.

30 (d) A child care home that suspends an individual described in
 31 subsection (c) shall maintain a written policy providing for
 32 reinstatement of the individual following rehabilitation and drug testing
 33 results that are negative for a prohibited substance described in
 34 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

35 (e) Drug testing results obtained under this section are confidential
 36 and may not be disclosed for any purpose other than the purpose
 37 described in this section.

38 (f) A child care home that does not comply with this section is
 39 subject to:

40 (1) denial of an application for a license; or

41 (2) suspension or revocation of a license issued;

42 under this chapter.

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