

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR EHB 1194**

**Citations Affected:** IC 10-13-3-6; IC 12-7-2; IC 12-13-15.1; IC 12-14-25.5-3; IC 31-9-2-29.7; IC 31-9-2-58.5; IC 31-33; IC 31-34; IC 31-37-17-6.1; IC 31-37-19; IC 31-39-2-13.5; IC 34-30-2-44.1.

**Synopsis:** Child abuse. Conference committee report for EHB 1194. Provides that a child protective services child abuse or neglect report may conclude that abuse or neglect is indicated. (Current law allows only substantiated and unsubstantiated findings.) Provides that criminal history checks are required of certain individuals. Requires the local child protection service to provide training to caseworkers concerning the statutory and constitutional rights of persons subject to investigation. Establishes the statewide child fatality review team to investigate fatalities involving children. Requires the disclosure of information relevant to establishing the facts and circumstances concerning the death of a child determined to be the result of abuse, abandonment, or neglect if this information has been redacted by a juvenile court to exclude irrelevant information, including identifying information. Specifies that information concerning caseworkers and employees of certain social service agencies is not to be redacted. Provides that the juvenile court has 30 days to redact the record. **(This conference committee report does the following: Provides that a court may place a child in the home of a person having a substantiated report of abuse or neglect, or in the home of a person who has committed certain crimes or delinquent acts, if the court makes a written finding that the placement is in the best interest of the child, and that the conviction, adjudication, or substantiated report is not relevant to the person's present ability to care for a child, and specifies certain factors that the court must consider in its order. Prohibits a court from placing a child in a home with a person who has committed specified felonies or juvenile offenses.)**

**Effective:** July 1, 2004.

## CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1194 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION
- 3 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 4 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency"
- 5 means any agency or department of any level of government whose
- 6 principal function is:
  - 7 (1) the apprehension, prosecution, adjudication, incarceration,
  - 8 probation, rehabilitation, or representation of criminal offenders;
  - 9 (2) the location of parents with child support obligations under 42
  - 10 U.S.C. 653;
  - 11 (3) the licensing and regulating of riverboat gambling operations; or
  - 12 (4) the licensing and regulating of pari-mutuel horse racing
  - 13 operations.
- 14 (b) The term includes the following:
  - 15 (1) The office of the attorney general.
  - 16 (2) The Medicaid fraud control unit, for the purpose of
  - 17 investigating offenses involving Medicaid.
  - 18 (3) A nongovernmental entity that performs as its principal function
  - 19 the:
    - 20 (A) apprehension, prosecution, adjudication, incarceration, or
    - 21 rehabilitation of criminal offenders;

- 1 (B) location of parents with child support obligations under 42  
 2 U.S.C. 653;  
 3 (C) licensing and regulating of riverboat gambling operations; or  
 4 (D) licensing and regulating of pari-mutuel horse racing  
 5 operations;

6 under a contract with an agency or department of any level of  
 7 government.

8 **(4) The division of family and children or a juvenile probation**  
 9 **officer conducting a criminal history check (as defined in**  
 10 **IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37**  
 11 **to determine the appropriateness of an out-of-home**  
 12 **placement for a:**

- 13 **(A) child at imminent risk of placement;**  
 14 **(B) child in need of services; or**  
 15 **(C) delinquent child.**

16 SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001,  
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2004]: Sec. 28. "Child" means the following:

19 (1) For purposes of IC 12-13-15, the meaning set forth in  
 20 IC 12-13-15-1.

21 **(2) For purposes of IC 12-13-15.1, the meaning set forth in**  
 22 **IC 12-13-15.1-1.**

23 **(3) For purposes of IC 12-17.2 and IC 12-17.4, an individual who**  
 24 **is less than eighteen (18) years of age.**

25 ~~(3)~~ **(4) For purposes of IC 12-26, the meaning set forth in**  
 26 **IC 31-9-2-13(d).**

27 SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001,  
 28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2004]: Sec. 76.7. **(a) "Emergency medical services", for**  
 30 **purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.**

31 **(b) "Emergency medical services", for purposes of**  
 32 **IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.**

33 SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001,  
 34 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2004]: Sec. 124.5. **(a) "Local child fatality review team", for**  
 36 **purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.**

37 **(b) "Local child fatality review team", for purposes of**  
 38 **IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.**

39 SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001,  
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2004]: Sec. 129.5. **(a) "Mental health provider", for purposes**  
 42 **of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.**

43 **(b) "Mental health provider", for purposes of IC 12-13-15.1, has**  
 44 **the meaning set forth in IC 12-13-15.1-4.**

45 SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE  
 46 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 47 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee",**  
 48 **for purposes of IC 12-13-15.1, has the meaning set forth in**

1 **IC 12-13-15.1-5.**

2 SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2004]: **Sec. 6.5. A local child fatality review team may request**  
5 **that the statewide child fatality review committee make a fatality**  
6 **review of a child from the area served by the local child fatality**  
7 **review team if a majority of the members of a local child fatality**  
8 **review team vote to make the request.**

9 SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE  
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2004]:

12 **Chapter 15.1. Statewide Child Fatality Review Committee**

13 **Sec. 1. As used in this chapter, "child" means an individual less**  
14 **than eighteen (18) years of age.**

15 **Sec. 2. As used in this chapter, "emergency medical services"**  
16 **means emergency ambulance services or other services, including**  
17 **extrication and rescue services, provided to an individual in need**  
18 **of immediate medical care in order to prevent loss of life or**  
19 **aggravation of physiological or psychological illness or injury.**

20 **Sec. 3. As used in this chapter, "local child fatality review team"**  
21 **refers to a county or regional child fatality review team**  
22 **established under IC 12-13-15.**

23 **Sec. 4. As used in this chapter, "mental health provider" means**  
24 **any of the following:**

25 (1) A registered nurse or licensed practical nurse licensed  
26 under IC 25-23.

27 (2) A clinical social worker licensed under IC 25-23.6-5.

28 (3) A marriage and family therapist licensed under  
29 IC 25-23.6-8.

30 (4) A psychologist licensed under IC 25-33.

31 (5) A school psychologist licensed by the Indiana state board  
32 of education.

33 **Sec. 5. As used in this chapter, "statewide child fatality review**  
34 **committee" refers to the statewide child fatality review committee**  
35 **established by section 6 of this chapter.**

36 **Sec. 6. (a) The statewide child fatality review committee is**  
37 **established for the purpose of reviewing a child's death that is:**

38 (1) sudden;

39 (2) unexpected; or

40 (3) unexplained;

41 **if the county where the child died does not have a local child**  
42 **fatality review team or if the local child fatality review team**  
43 **requests a review of the child's death by the statewide committee.**

44 (b) The statewide child fatality review committee may also  
45 review the death of a child upon request by an individual.

46 (c) A request submitted under subsection (b) must set forth:

47 (1) the name of the child;

- 1 (2) the age of the child;
- 2 (3) the county where the child died;
- 3 (4) whether a local child fatality review team reviewed the
- 4 death; and
- 5 (5) the cause of death of the deceased child.

6 **Sec. 7. A child fatality review conducted by the statewide child**  
 7 **fatality review committee under this chapter must consist of**  
 8 **determining:**

- 9 (1) whether similar future deaths could be prevented; and
- 10 (2) agencies or resources that should be involved to
- 11 adequately prevent future deaths of children.

12 **Sec. 8. The statewide child fatality review committee consists of**  
 13 **the following members appointed by the governor:**

- 14 (1) a coroner or deputy coroner;
- 15 (2) a representative from:
  - 16 (A) the state department of health established by
  - 17 IC 16-19-1-1;
  - 18 (B) a local health department established under IC 16-20-2;
  - 19 or
  - 20 (C) a multiple county health department established under
  - 21 IC 16-20-3;
- 22 (3) a pediatrician;
- 23 (4) a representative of law enforcement;
- 24 (5) a representative from an emergency medical services
- 25 provider;
- 26 (6) a director of an office of family and children;
- 27 (7) a representative of a prosecuting attorney;
- 28 (8) a pathologist with forensic experience who is licensed to
- 29 practice medicine in Indiana;
- 30 (9) a mental health provider;
- 31 (10) a representative of a child abuse prevention program; and
- 32 (11) a representative of the department of education.

33 **Sec. 9. (a) The chairperson of the statewide child fatality review**  
 34 **committee shall be selected by the governor.**

35 **(b) The statewide child fatality review committee shall meet at**  
 36 **the call of the chairperson.**

37 **(c) The statewide child fatality review committee chairperson**  
 38 **shall determine the agenda for each meeting.**

39 **Sec. 10. (a) Except as provided in subsection (b), meetings of the**  
 40 **statewide child fatality review committee are open to the public.**

41 **(b) Except as provided in subsection (d), a meeting of the**  
 42 **statewide child fatality review committee that involves:**

- 43 (1) confidential records; or
- 44 (2) identifying information regarding the death of a child that
- 45 is confidential under state or federal law;

46 **shall be held as an executive session.**

47 **(c) If a meeting is held as an executive session under subsection**

1 (b), each individual who:

2 (1) attends the meeting; and

3 (2) is not a member of the statewide child fatality review  
4 committee;

5 shall sign a confidentiality statement prepared by the division. The  
6 statewide child fatality review committee shall keep all  
7 confidentiality statements signed under this subsection.

8 (d) A majority of the members of the statewide child fatality  
9 review committee may vote to disclose any report or part of a  
10 report regarding a fatality review to the public if the information  
11 is in the general public interest as determined by the statewide  
12 child fatality review committee.

13 Sec. 11. Members of the statewide child fatality review  
14 committee and individuals who attend a meeting of the statewide  
15 child fatality review team as an invitee of the chairperson:

16 (1) may discuss among themselves confidential matters that  
17 are before the statewide child fatality review committee;

18 (2) are bound by all applicable laws regarding the  
19 confidentiality of matters reviewed by the statewide child  
20 fatality review committee; and

21 (3) except when acting:

22 (A) with malice;

23 (B) in bad faith; or

24 (C) with gross negligence;

25 are immune from any civil or criminal liability that might  
26 otherwise be imposed as a result of communicating among  
27 themselves about confidential matters that are before the  
28 statewide child fatality review committee.

29 Sec. 12. The division shall provide training to the statewide child  
30 fatality review committee.

31 Sec. 13. (a) The division shall collect and document information  
32 surrounding the deaths of children reviewed by the statewide child  
33 fatality review committee. The division shall develop a data  
34 collection form that includes:

35 (1) identifying and nonidentifying information;

36 (2) information regarding the circumstances surrounding a  
37 death;

38 (3) factors contributing to a death; and

39 (4) findings and recommendations.

40 (b) The data collection form developed under this section must  
41 also be provided to:

42 (1) the appropriate community child protection team  
43 established under IC 31-33-3; and

44 (2) the appropriate:

45 (A) local health department established under IC 16-20-2;

46 or

47 (B) multiple county health department established under

1           **IC 16-20-3.**

2           **Sec. 14. The affirmative votes of the voting members of a**  
 3 **majority of the statewide child fatality review committee are**  
 4 **required for the committee to take action on any measure.**

5           **Sec. 15. The expenses of the statewide child fatality review**  
 6 **committee shall be paid from funds appropriated to the division.**

7           **Sec. 16. The testimony of a member of the statewide child**  
 8 **fatality review committee is not admissible as evidence concerning**  
 9 **an investigation by the statewide child fatality review committee.**

10          SECTION 9. IC 12-14-25.5-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Family  
 12 preservation services may provide:

- 13           (1) comprehensive, coordinated, flexible, and accessible services;  
 14           (2) intervention as early as possible with emphasis on establishing  
 15           a safe and nurturing environment;  
 16           (3) services to families who have members placed in care settings  
 17           outside the nuclear family; **and**  
 18           (4) planning options for temporary placement outside the family if  
 19           it would endanger the child to remain in the home.

20          **(b) Unless authorized by a juvenile court, family preservation**  
 21 **services may not include a temporary out-of-home placement if a**  
 22 **person who:**

- 23           (1) **is currently residing in the location designated as the**  
 24 **out-of-home placement; or**  
 25           (2) **in the reasonable belief of family preservation services is**  
 26 **expected to be residing in the location designated as the**  
 27 **out-of-home placement during the time the child at imminent**  
 28 **risk of placement would be placed in the location;**

29 **has committed an act resulting in a substantiated report of child**  
 30 **abuse or neglect or has a juvenile adjudication or a conviction for**  
 31 **a felony listed in IC 12-17.4-4-11.**

32          **(c) Before placing a child at imminent risk of placement in a**  
 33 **temporary out-of-home placement, the county office of family and**  
 34 **children shall conduct a criminal history check (as defined in**  
 35 **IC 31-9-2-29.7) for each person described in subsection (b)(1) and**  
 36 **(b)(2). However, the county office of family and children is not**  
 37 **required to conduct a criminal history check under this section if**  
 38 **the temporary out-of-home placement is made to an entity or**  
 39 **facility that is not a residence (as defined in IC 3-5-2-42.5) or that**  
 40 **is licensed by the state.**

41          SECTION 10. IC 31-9-2-29.7 IS ADDED TO THE INDIANACODE  
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 43 1, 2004]: **Sec. 29.7. "Criminal history check", for purposes of**  
 44 **IC 31-34 and IC 31-37, means a report consisting of:**

- 45           (1) **criminal history data (as defined in IC 10-13-3-5);**  
 46           (2) **each substantiated report of child abuse or neglect**  
 47 **reported in a jurisdiction where the county office of family and**

1           **children has reason to believe the subject resided; and**  
 2           **(3) each adjudication for a delinquent act described in**  
 3           **IC 31-37-1-2 reported in a jurisdiction where the county office**  
 4           **of family and children has reason to believe the subject**  
 5           **resided.**

6           SECTION 11. IC 31-9-2-58.5 IS ADDED TO THE INDIANA CODE  
 7           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8           1, 2004]: **Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12,**  
 9           **means facts obtained during an investigation of suspected child**  
 10          **abuse or neglect that:**

11          **(1) provide:**

12           **(A) significant indications that a child may be at risk for**  
 13           **abuse or neglect; or**

14           **(B) evidence that abuse or neglect previously occurred; and**

15          **(2) cannot be classified as substantiated or unsubstantiated.**

16          SECTION 12. IC 31-33-2-2 IS AMENDED TO READ AS  
 17          FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2. The local child**  
 18          **protection service:**

19           **(1) must have sufficient qualified and trained staff to fulfill the**  
 20           **purpose of this article; and**

21           **(2) must be organized to maximize the continuity of responsibility,**  
 22           **care, and service of individual caseworkers toward individual**  
 23           **children and families;**

24           **(3) must provide training to representatives of the child**  
 25           **protective services system regarding the legal duties of the**  
 26           **representatives, which may consist of various methods of**  
 27           **informing the representatives of their duties, in order to**  
 28           **protect the legal rights and safety of children and families**  
 29           **from the initial time of contact during the investigation**  
 30           **through treatment; and**

31           **(4) must provide training to representatives of the child**  
 32           **protective services system regarding the constitutional rights**  
 33           **of the child's family, including a child's guardian or custodian,**  
 34           **that is the subject of an investigation of child abuse or neglect**  
 35           **consistent with the Fourth Amendment to the United States**  
 36           **Constitution and Article I, Section 11 of the Constitution of**  
 37           **the State of Indiana.**

38          SECTION 13. IC 31-33-8-12 IS AMENDED TO READ AS  
 39          FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) Upon completion**  
 40          **of an investigation, the local child protection service shall classify**  
 41          **reports as substantiated, indicated, or unsubstantiated.**

42           **(b) Except as provided in subsection (c), a local child protection**  
 43           **service shall expunge investigation records one (1) year after a**  
 44           **report has been classified as indicated under subsection (a).**

45           **(c) If a local child protection service has:**

46           **(1) classified a report under subsection (a) as indicated; and**

47           **(2) not expunged the report under subsection (b);**

48          **and the subject of the report is the subject of a subsequent report,**

1 **the one (1) year period in subsection (b) is tolled for one (1) year**  
 2 **after the date of the subsequent report.**

3 SECTION 14. IC 31-33-18-1 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a) Except as**  
 5 **provided in section 1.5 of this chapter**, the following are confidential:

6 (1) Reports made under this article (or IC 31-6-11 before its  
 7 repeal).

8 (2) Any other information obtained, reports written, or photographs  
 9 taken concerning the reports in the possession of:

10 (A) the division of family and children;

11 (B) the county office of family and children; or

12 (C) the local child protection service.

13 **(b) Except as provided in section 1.5 of this chapter, all records**  
 14 **held by:**

15 (1) **the division of family and children;**

16 (2) **a county office of family and children;**

17 (3) **a local child protection service;**

18 (4) **a local child fatality review team established under**  
 19 **IC 12-13-15; or**

20 (5) **the statewide child fatality review committee established**  
 21 **under IC 12-13-15.1-6;**

22 **regarding the death of a child determined to be a result of abuse,**  
 23 **abandonment, or neglect are confidential and may not be**  
 24 **disclosed.**

25 SECTION 15. IC 31-33-18-1.5 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2004]: Sec. 1.5. **(a) This section applies to records held by:**

28 (1) **the division of family and children;**

29 (2) **a county office of family and children;**

30 (3) **a local child protection service;**

31 (4) **a local child fatality review team established under**  
 32 **IC 12-13-15; or**

33 (5) **the statewide child fatality review committee established**  
 34 **under IC 12-13-15.1-6;**

35 **regarding the death of a child determined to be a result of abuse,**  
 36 **abandonment, or neglect.**

37 **(b) As used in this section, "identifying information" means**  
 38 **information that identifies an individual, including an individual's:**

39 (1) **name, address, date of birth, occupation, place of**  
 40 **employment, employer identification number, mother's**  
 41 **maiden name, Social Security number, or any identification**  
 42 **number issued by a governmental entity;**

43 (2) **unique biometric data, including the individual's**  
 44 **fingerprint, voice print, or retina or iris image;**

45 (3) **unique electronic identification number, address, or**  
 46 **routing code;**

47 (4) **telecommunication identifying information; or**

1           **(5) telecommunication access device, including a card, a plate,**  
 2           **a code, a telephone number, an account number, a personal**  
 3           **identification number, an electronic serial number, a mobile**  
 4           **identification number, or another telecommunications service**  
 5           **or device or means of account access.**

6           **(c) Unless information in a record is otherwise confidential**  
 7           **under state or federal law, a record described in subsection (a)**  
 8           **that has been redacted in accordance with this section is not**  
 9           **confidential and may be disclosed to any person who requests the**  
 10           **record. The person requesting the record may be required to pay**  
 11           **the reasonable expenses of copying the record.**

12           **(d) When a person requests a record described in subsection (a),**  
 13           **the entity having control of the record shall immediately transmit**  
 14           **a copy of the record to the court exercising juvenile jurisdiction in**  
 15           **the county in which the death of the child occurred. However, if**  
 16           **the court requests that the entity having control of a record**  
 17           **transmit the original record, the entity shall transmit the original**  
 18           **record.**

19           **(e) Upon receipt of the record described in subsection (a), the**  
 20           **court shall, within thirty (30) days, redact the record to exclude**  
 21           **identifying information of a person or other information not**  
 22           **relevant to establishing the facts and circumstances leading to the**  
 23           **death of the child. However, the court shall not redact the record**  
 24           **to exclude information that relates to an employee of the division**  
 25           **of family and children, an employee of a county office of family**  
 26           **and children, or an employee of a local child protection service.**

27           **(f) The court shall disclose the record redacted in accordance**  
 28           **with subsection (e) to any person who requests the record, if the**  
 29           **person has paid:**

30               **(1) to the entity having control of the record, the reasonable**  
 31               **expenses of copying under IC 5-14-3-8; and**

32               **(2) to the court, the reasonable expenses of copying the**  
 33               **record.**

34           **(g) The court's determination under subsection (e) that certain**  
 35           **identifying information or other information is not relevant to**  
 36           **establishing the facts and circumstances leading to the death of a**  
 37           **child is not admissible in a criminal proceeding or civil action.**

38           **SECTION 16. IC 31-33-18-2 IS AMENDED TO READ AS**  
 39           **FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other**  
 40           **material described in ~~section 1~~ section 1(a) of this chapter and the**  
 41           **unredacted reports and other material described in section 1(b) of**  
 42           **this chapter shall be made available only to the following:**

43               **(1) Persons authorized by this article.**

44               **(2) A legally mandated public or private child protective agency**  
 45               **investigating a report of child abuse or neglect or treating a child or**  
 46               **family that is the subject of a report or record.**

47               **(3) A police or other law enforcement agency, prosecuting**

- 1 attorney, or coroner in the case of the death of a child who is  
2 investigating a report of a child who may be a victim of child abuse  
3 or neglect.
- 4 (4) A physician who has before the physician a child whom the  
5 physician reasonably suspects may be a victim of child abuse or  
6 neglect.
- 7 (5) An individual legally authorized to place a child in protective  
8 custody if:
- 9 (A) the individual has before the individual a child whom the  
10 individual reasonably suspects may be a victim of abuse or  
11 neglect; and
- 12 (B) the individual requires the information in the report or record  
13 to determine whether to place the child in protective custody;
- 14 (6) An agency having the legal responsibility or authorization to  
15 care for, treat, or supervise a child who is the subject of a report  
16 or record or a parent, guardian, custodian, or other person who is  
17 responsible for the child's welfare.
- 18 (7) An individual named in the report or record who is alleged to be  
19 abused or neglected or, if the individual named in the report is a  
20 child or is otherwise incompetent, the individual's guardian ad litem  
21 or the individual's court appointed special advocate, or both.
- 22 (8) Each parent, guardian, custodian, or other person responsible  
23 for the welfare of a child named in a report or record and an  
24 attorney of the person described under this subdivision, with  
25 protection for the identity of reporters and other appropriate  
26 individuals.
- 27 (9) A court, **for redaction of the record in accordance with**  
28 **section 1.5 of this chapter, or** upon the court's finding that  
29 access to the records may be necessary for determination of an  
30 issue before the court. However, **except for disclosure of a**  
31 **redacted record in accordance with section 1.5 of this chapter,**  
32 access is limited to in camera inspection unless the court  
33 determines that public disclosure of the information contained in the  
34 records is necessary for the resolution of an issue then pending  
35 before the court.
- 36 (10) A grand jury upon the grand jury's determination that access  
37 to the records is necessary in the conduct of the grand jury's  
38 official business.
- 39 (11) An appropriate state or local official responsible for the child  
40 protective service or legislation carrying out the official's official  
41 functions.
- 42 (12) A foster care review board established by a juvenile court  
43 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the  
44 court's determination that access to the records is necessary to  
45 enable the foster care review board to carry out the board's  
46 purpose under IC 31-34-21.
- 47 (13) The community child protection team appointed under  
48 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to  
49 enable the team to carry out the team's purpose under IC 31-33-3.
- 50 (14) A person about whom a report has been made, with protection

- 1 for the identity of:
- 2 (A) any person reporting known or suspected child abuse or
- 3 neglect; and
- 4 (B) any other person if the person or agency making the
- 5 information available finds that disclosure of the information
- 6 would be likely to endanger the life or safety of the person.

7 **(15) An employee of the division of family and children, a**

8 **caseworker, or a juvenile probation officer conducting a**

9 **criminal history check under IC 12-14-25.5-3, IC 31-34, or**

10 **IC 31-37 to determine the appropriateness of an out-of-home**

11 **placement for a:**

- 12 (A) child at imminent risk of placement;
- 13 (B) child in need of services; or
- 14 (C) delinquent child.

15 **The results of a criminal history check conducted under this**

16 **subdivision must be disclosed to a court determining the**

17 **placement of a child described in clauses (A) through (C).**

18 **(16) A local child fatality review team established under**

19 **IC 12-13-15-6.**

20 **(17) The statewide child fatality review committee established**

21 **by IC 12-13-15.1-6.**

22 SECTION 17. IC 31-33-22-2 IS AMENDED TO READ AS

23 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) An individual who

24 ~~(1)~~ knowingly requests, obtains, or seeks to obtain child abuse or

25 neglect information under false pretenses ~~or~~

26 ~~(2)~~ knowingly falsifies child abuse or neglect information or

27 records;

28 commits a Class B misdemeanor.

29 **(b) A person who knowingly or intentionally:**

30 **(1) falsifies child abuse or neglect information or records; or**

31 **(2) obstructs or interferes with a child abuse investigation,**

32 **including an investigation conducted by a local child fatality**

33 **review team or the statewide child fatality review committee;**

34 **commits obstruction of a child abuse investigation, a Class A**

35 **misdemeanor.**

36 SECTION 18. IC 31-34-4-2 IS AMENDED TO READ AS

37 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged

38 to be a child in need of services is taken into custody under an order of

39 the court under this chapter, the court shall consider placing the child

40 with a suitable and willing blood or adoptive relative caretaker, including

41 a grandparent, an aunt, an uncle, or an adult sibling, before considering

42 any other out-of-home placement.

43 (b) Before placing a child in need of services with a blood relative or

44 an adoptive relative caretaker, the court may order the division of family

45 and children to:

- 46 (1) complete a home study of the relative's home; and
- 47 (2) provide the court with a placement recommendation.

48 **(c) Except as provided in subsection (e), before placing a child in**

1 need of services in an out-of-home placement, including  
 2 placement with a blood or an adoptive relative caretaker, the  
 3 court shall order the division of family and children to conduct a  
 4 criminal history check of each person who is:

5 (1) currently residing in the location designated as the  
 6 out-of-home placement; or

7 (2) in the reasonable belief of the division of family and  
 8 children, expected to be residing in the location designated as  
 9 the out-of-home placement during the time the child would be  
 10 placed in the location.

11 (d) Except as provided in subsection (f), a court may not order  
 12 an out-of-home placement if a person described in subsection  
 13 (c)(1) or (c)(2) has:

14 (1) committed an act resulting in a substantiated report of  
 15 child abuse or neglect; or

16 (2) been convicted of a felony listed in IC 12-17.4-4-11 or had  
 17 a juvenile adjudication for an act that would be a felony listed  
 18 in IC 12-17.4-4-11 if committed by an adult.

19 (e) The court is not required to order the division of family and  
 20 children to conduct a criminal history check under subsection (c)  
 21 if the court orders an out-of-home placement to an entity or a  
 22 facility that is not a residence (as defined in IC 3-5-2-42.5) or that  
 23 is licensed by the state.

24 (f) A court may order an out-of-home placement if:

25 (1) a person described in subsection (c)(1) or (c)(2) has:

26 (A) committed an act resulting in a substantiated report of  
 27 child abuse or neglect; or

28 (B) been convicted or had a juvenile adjudication for:

29 (i) reckless homicide (IC 35-42-1-5);

30 (ii) battery (IC 35-42-2-1) as a Class C or D felony;

31 (iii) criminal confinement (IC 35-42-3-3) as a Class C or  
 32 D felony;

33 (iv) arson (IC 35-43-1-1) as a Class C or D felony;

34 (v) a felony involving a weapon under IC 35-47 or  
 35 IC 35-47.5 as a Class C or D felony;

36 (vi) a felony relating to controlled substances under  
 37 IC 35-48-4 as a Class C or D felony; or

38 (vii) a felony that is substantially equivalent to a felony  
 39 listed in items (i) through (vi) for which the conviction was  
 40 entered in another state; and

41 (2) the court makes a written finding that the person's  
 42 commission of the offense, delinquent act, or act of abuse or  
 43 neglect described in subdivision (1) is not relevant to the  
 44 person's present ability to care for a child, and that the  
 45 placement is in the best interest of the child.

46 However, a court may not order an out-of-home placement if the  
 47 person has been convicted of a felony listed in IC 12-17.4-4-11

1 that is not specifically excluded under subdivision (1)(B), or has a  
 2 juvenile adjudication for an act that would be a felony listed in  
 3 IC 12-17.4-4-11 if committed by an adult that is not specifically  
 4 excluded under subdivision (1)(B) .

5 (g) In making its written finding under subsection (f), the court  
 6 shall consider the following:

7 (1) The length of time since the person committed the offense,  
 8 delinquent act, or abuse or neglect.

9 (2) The severity of the offense, delinquent act, or abuse or  
 10 neglect.

11 (3) Evidence of the person's rehabilitation, including the  
 12 person's cooperation with a treatment plan, if applicable.

13 SECTION 19. IC 31-34-18-6.1 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. (a) The  
 15 predispositional report prepared by a probation officer or caseworker  
 16 shall include the following information:

17 (1) A description of all dispositional options considered in preparing  
 18 the report.

19 (2) An evaluation of each of the options considered in relation to  
 20 the plan of care, treatment, rehabilitation, or placement  
 21 recommended under the guidelines described in section 4 of this  
 22 chapter.

23 (3) The name, occupation and position, and any relationship to the  
 24 child of each person with whom the preparer of the report  
 25 conferred as provided in section 1.1 of this chapter.

26 (b) If a probation officer or a caseworker is considering an  
 27 out-of-home placement, including placement with a blood or an  
 28 adoptive relative caretaker, the probation officer or caseworker  
 29 shall conduct a criminal history check for each person who:

30 (1) is currently residing in the location designated as the  
 31 out-of-home placement; or

32 (2) in the reasonable belief of the probation officer or  
 33 caseworker, is expected to be residing in the location  
 34 designated as the out-of-home placement during the time the  
 35 child would be placed in the location.

36 The results of the criminal history check must be included in the  
 37 predispositional report.

38 (c) A probation officer or caseworker is not required to conduct  
 39 a criminal history check under this section if:

40 (1) the probation officer or caseworker is considering only an  
 41 out-of-home placement to an entity or facility that:

42 (A) is not a residence (as defined in IC 3-5-2-42.5); or

43 (B) is licensed by the state; or

44 (2) placement under this section is undetermined at the time  
 45 the predispositional report is prepared.

46 SECTION 20. IC 31-34-19-7 IS AMENDED TO READ AS  
 47 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as  
 48 provided in subsection (d), a court may not enter a dispositional

1 decree under subsection (b) if a person who is:

2 (1) currently residing in the location designated as the  
3 out-of-home placement; or

4 (2) reasonably expected to be residing in the location  
5 designated as the out-of-home placement during the time the  
6 child would be placed in the location;

7 has committed an act resulting in a substantiated report of child  
8 abuse or neglect, has a juvenile adjudication for an act that would  
9 be a felony listed in IC 12-17.4-4-11 if committed by an adult, or  
10 has a conviction for a felony listed in IC 12-17.4-4-11. If a  
11 criminal history check has not been conducted before a  
12 dispositional decree is entered under this section, the court shall  
13 order the probation officer or caseworker who prepared the  
14 predispositional report to conduct a criminal history check in the  
15 manner set forth in IC 31-34-18-6.1.

16 (b) In addition to the factors under section 6 of this chapter, if the  
17 court enters a dispositional decree regarding a child in need of services  
18 that includes an out-of-home placement, the court shall consider  
19 whether the child should be placed with the child's suitable and willing  
20 blood or adoptive relative caretaker, including a grandparent, an aunt,  
21 an uncle, or an adult sibling, before considering other out-of-home  
22 placements for the child.

23 (c) The court is not required to order a probation officer or  
24 caseworker to conduct a criminal history check under subsection  
25 (a) if the court orders an out-of-home placement to an entity or  
26 a facility that is not a residence (as defined in IC 3-5-2-42.5) or  
27 that is licensed by the state.

28 (d) A court may enter a dispositional decree under subsection (b)  
29 if:

30 (1) a person described in subsection (a)(1) or (a)(2) has:

31 (A) committed an act resulting in a substantiated report of  
32 child abuse or neglect; or

33 (B) been convicted or had a juvenile adjudication for:

34 (i) reckless homicide (IC 35-42-1-5);

35 (ii) battery (IC 35-42-2-1) as a Class C or D felony;

36 (iii) criminal confinement (IC 35-42-3-3) as a Class C or  
37 D felony;

38 (iv) arson (IC 35-43-1-1) as a Class C or D felony;

39 (v) a felony involving a weapon under IC 35-47 or  
40 IC 35-47.5 as a Class C or D felony;

41 (vi) a felony relating to controlled substances under  
42 IC 35-48-4 as a Class C or D felony; or

43 (vii) a felony that is substantially equivalent to a felony  
44 listed in items (i) through (vi) for which the conviction was  
45 entered in another state; and

46 (2) the court makes a written finding that the person's  
47 commission of the offense, delinquent act, or act of abuse or

1           neglect described in subdivision (1) is not relevant to the  
2           person's present ability to care for a child, and the  
3           dispositional decree is in the best interest of the child.

4           **However, a court may not enter a dispositional decree if the**  
5           **person has been convicted of a felony listed in IC 12-17.4-4-11**  
6           **that is not specifically excluded under subdivision (1)(B), or has a**  
7           **juvenile adjudication for an act that would be a felony listed in**  
8           **IC 12-17.4-4-11 if committed by an adult that is not specifically**  
9           **excluded under subdivision (1)(B).**

10          **(e) In making its written finding under subsection (d), the court**  
11          **shall consider the following:**

12           **(1) The length of time since the person committed the offense,**  
13           **delinquent act, or act that resulted in the conviction,**  
14           **adjudication, or substantiated report of abuse or neglect.**

15           **(2) The severity of the offense, delinquent act, or abuse or**  
16           **neglect.**

17           **(3) Evidence of the person's rehabilitation, including the**  
18           **person's cooperation with a treatment plan, if applicable.**

19          SECTION 21. IC 31-34-20-1 IS AMENDED TO READ AS  
20          FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section**  
21          **1.5 of this chapter,** if a child is a child in need of services, the juvenile  
22          court may enter one (1) or more of the following dispositional decrees:

23           (1) Order supervision of the child by the probation department or  
24           the county office of family and children.

25           (2) Order the child to receive outpatient treatment:

26           (A) at a social service agency or a psychological, a psychiatric,  
27           a medical, or an educational facility; or

28           (B) from an individual practitioner.

29           (3) Remove the child from the child's home and place the child in  
30           another home or shelter care facility. Placement under this  
31           subdivision includes authorization to control and discipline the child.

32           (4) Award wardship to a person or shelter care facility. Wardship  
33           under this subdivision does not include the right to consent to the  
34           child's adoption.

35           (5) Partially or completely emancipate the child under section 6 of  
36           this chapter.

37           (6) Order:

38           (A) the child; or

39           (B) the child's parent, guardian, or custodian;

40           to receive family services.

41           (7) Order a person who is a party to refrain from direct or indirect  
42           contact with the child.

43          SECTION 22. IC 31-34-20-1.5 IS ADDED TO THE INDIANA  
44          CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
45          JULY 1, 2004]: **Sec. 1.5. (a) Except as provided in subsection (c),**  
46          **the juvenile court may not enter a dispositional decree placing a**  
47          **child in another home under section 1(3) of this chapter or**  
48          **awarding wardship to a county office of family and children that**

1 will place the child with a person under section 1(4) of this chapter  
2 if a person who is:

3 (1) currently residing in the home in which the child would be  
4 placed under section 1(3) or 1(4) of this chapter; or

5 (2) reasonably expected to be residing in the home in which  
6 the child would be placed under section 1(3) or 1(4) of this  
7 chapter during the time the child would be placed in the home;  
8 has committed an act resulting in a substantiated report of child  
9 abuse or neglect, has a juvenile adjudication for an act that would  
10 be a felony listed in IC 12-17.4-4-11 if committed by an adult, or  
11 has a conviction for a felony listed in IC 12-17.4-4-11.

12 (b) The juvenile court shall order the probation officer or  
13 caseworker who prepared the predispositional report to conduct a  
14 criminal history check to determine if a person described in  
15 subsection (a)(1) or (a)(2) has committed an act resulting in a  
16 substantiated report of child abuse or neglect has a juvenile  
17 adjudication for an act that would be a felony listed in  
18 IC 12-17.4-4-11 if committed by an adult, or has a conviction for  
19 a felony listed in IC 12-17.4-4-11. However, the juvenile court is  
20 not required to order a criminal history check under this section  
21 if criminal history information under IC 31-34-4-2,  
22 IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person  
23 described in subsection (a)(1) or (a)(2) has committed an act  
24 resulting in a substantiated report of child abuse or neglect, has  
25 a juvenile adjudication for an act that would be a felony listed in  
26 IC 12-17.4-4-11 if committed by an adult, or has a conviction for  
27 a felony listed in IC 12-17.4-4-11.

28 (c) A court may enter a dispositional decree placing a child in  
29 another home or award wardship to a county office of family and  
30 children if:

31 (1) a person described in subsection (a)(1) or (a)(2) has:

32 (A) committed an act resulting in a substantiated report of  
33 child abuse or neglect; or

34 (B) been convicted or had a juvenile adjudication for:

35 (i) reckless homicide (IC 35-42-1-5);

36 (ii) battery (IC 35-42-2-1) as a Class C or D felony;

37 (iii) criminal confinement (IC 35-42-3-3) as a Class C or  
38 D felony;

39 (iv) arson (IC 35-43-1-1) as a Class C or D felony;

40 (v) a felony involving a weapon under IC 35-47 or  
41 IC 35-47.5 as a Class C or D felony;

42 (vi) a felony relating to controlled substances under  
43 IC 35-48-4 as a Class C or D felony; or

44 (vii) a felony that is substantially equivalent to a felony  
45 listed in items (i) through (vi) for which the conviction was  
46 entered in another state; and

47 (2) the court makes a written finding that the person's

1           **commission of the offense, delinquent act, or act of abuse or**  
 2           **neglect described in subdivision (1) is not relevant to the**  
 3           **person's present ability to care for a child, and that the**  
 4           **dispositional decree placing a child in another home or**  
 5           **awarding wardship to a county office of family and children is**  
 6           **in the best interest of the child.**

7           **However, a court may not enter a dispositional decree placing a**  
 8           **child in another home or award wardship to a county office of**  
 9           **family and children if the person has been convicted of a felony**  
 10           **listed in IC 12-17.4-4-11 that is not specifically excluded under**  
 11           **subdivision (1)(B), or has a juvenile adjudication for an act that**  
 12           **would be a felony listed in IC 12-17.4-4-11 if committed by an**  
 13           **adult that is not specifically excluded under subdivision (1)(B) .**

14           **(d) In making its written finding under subsection (c), the court**  
 15           **shall consider the following:**

16           **(1) The length of time since the person committed the offense,**  
 17           **delinquent act, or act that resulted in the substantiated report**  
 18           **of abuse or neglect.**

19           **(2) The severity of the offense, delinquent act, or abuse or**  
 20           **neglect.**

21           **(3) Evidence of the person's rehabilitation, including the**  
 22           **person's cooperation with a treatment plan, if applicable.**

23           **SECTION 23. IC 31-34-21-7.5 IS AMENDED TO READ AS**  
 24           **FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) Except as**  
 25           **provided in subsection (d), the juvenile court may not approve a**  
 26           **permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a**  
 27           **person who is:**

28           **(1) currently residing with a person described in subsection**  
 29           **(c)(1)(D) or (c)(1)(E); or**

30           **(2) reasonably expected to be residing with a person described**  
 31           **in subsection (c)(1)(D) or (c)(1)(E) during the time the child**  
 32           **would be placed in the location;**

33           **has committed an act resulting in a substantiated report of child**  
 34           **abuse or neglect, has a juvenile adjudication for an act that would**  
 35           **be a felony listed in IC 12-17.4-4-11 if committed by an adult, or**  
 36           **has a conviction for a felony listed in IC 12-17.4-4-11.**

37           **(b) The juvenile court shall order the probation officer or**  
 38           **caseworker who prepared the predispositional report to conduct a**  
 39           **criminal history check to determine if a person described in**  
 40           **subsection (a)(1) or (a)(2) has committed an act resulting in a**  
 41           **substantiated report of child abuse or neglect, has a juvenile**  
 42           **adjudication for an act that would be a felony listed in**  
 43           **IC 12-17.4-4-11 if committed by an adult, or has a conviction for**  
 44           **a felony listed in IC 12-17.4-4-11. However, the juvenile court is**  
 45           **not required to order a criminal history check under this section**  
 46           **if criminal history information under IC 31-34-4-2,**  
 47           **IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes**

1 **whether a person described in subsection (a)(1) or (a)(2) has**  
 2 **committed an act resulting in a substantiated report of child abuse**  
 3 **or neglect, has a juvenile adjudication for an act that would be a**  
 4 **felony listed in IC 12-17.4-4-11 if committed by an adult, or has a**  
 5 **conviction for a felony listed in IC 12-17.4-4-11.**

6 **(c) A permanency plan under this chapter includes the following:**

7 (1) The intended permanent or long term arrangements for care and  
 8 custody of the child that may include any of the following  
 9 arrangements that the court considers most appropriate and  
 10 consistent with the best interests of the child:

11 (A) Return to or continuation of existing custodial care within the  
 12 home of the child's parent, guardian, or custodian or placement  
 13 of the child with the child's noncustodial parent.

14 (B) Initiation of a proceeding by the agency or appropriate person  
 15 for termination of the parent-child relationship under IC 31-35.

16 (C) Placement of the child for adoption.

17 (D) Placement of the child with a responsible person, including:

18 (i) an adult sibling;

19 (ii) a grandparent;

20 (iii) an aunt;

21 (iv) an uncle; or

22 (v) ~~other~~ **another** relative;

23 who is able and willing to act as the child's permanent custodian  
 24 and carry out the responsibilities required by the permanency  
 25 plan.

26 (E) Appointment of a legal guardian. The legal guardian appointed  
 27 under this section is a caretaker in a judicially created relationship  
 28 between the child and caretaker that is intended to be permanent  
 29 and self-sustaining as evidenced by the transfer to the caretaker  
 30 of the following parental rights with respect to the child:

31 (i) Care, custody, and control of the child.

32 (ii) Decision making concerning the child's upbringing.

33 (F) Placement of the child in another planned, permanent living  
 34 arrangement.

35 (2) A time schedule for implementing the applicable provisions of  
 36 the permanency plan.

37 (3) Provisions for temporary or interim arrangements for care and  
 38 custody of the child, pending completion of implementation of the  
 39 permanency plan.

40 (4) Other items required to be included in a case plan under  
 41 IC 31-34-15 or federal law, consistent with the permanent or long  
 42 term arrangements described by the permanency plan.

43 **(d) A juvenile court may approve a permanency plan if:**

44 **(1) a person described in subsection (a)(1) or (a)(2) has:**

45 **(A) committed an act resulting in a substantiated report of**  
 46 **child abuse or neglect; or**

47 **(B) been convicted or had a juvenile adjudication for:**

48 **(i) reckless homicide (IC 35-42-1-5);**

49 **(ii) battery (IC 35-42-2-1) as a Class C or D felony;**

- 1           (iii) criminal confinement (IC 35-42-3-3) as a Class C or  
 2           D felony;  
 3           (iv) arson (IC 35-43-1-1) as a Class C or D felony;  
 4           (v) a felony involving a weapon under IC 35-47 or  
 5           IC 35-47.5 as a Class C or D felony;  
 6           (vi) a felony relating to controlled substances under  
 7           IC 35-48-4 as a Class C or D felony; or  
 8           (vii) a felony that is substantially equivalent to a felony  
 9           listed in items (i) through (vi) for which the conviction was  
 10          entered in another state; and

- 11          (2) the court makes a written finding that the person's  
 12          commission of the offense, delinquent act, or act of abuse or  
 13          neglect described in subdivision (1) is not relevant to the  
 14          person's present ability to care for a child, and that approval  
 15          of the permanency plan is in the best interest of the child.

16          However, a court may not approve a permanency plan if the  
 17          person has been convicted of a felony listed in IC 12-17.4-4-11  
 18          that is not specifically excluded under subdivision (1)(B), or has a  
 19          juvenile adjudication for an act that would be a felony listed in  
 20          IC 12-17.4-4-11 if committed by an adult that is not specifically  
 21          excluded under subdivision (1)(B) .

22          (e) In making its written finding under subsection (d), the court  
 23          shall consider the following:

24               (1) The length of time since the person committed the offense,  
 25               delinquent act, or act that resulted in the substantiated report  
 26               of abuse or neglect.

27               (2) The severity of the offense, delinquent act, or abuse or  
 28               neglect.

29               (3) Evidence of the person's rehabilitation, including the  
 30               person's cooperation with a treatment plan, if applicable.

31          SECTION 24. IC 31-37-17-6.1 IS AMENDED TO READ AS  
 32          FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. (a) The  
 33          predispositional report prepared by a probation officer or caseworker  
 34          shall include the following information:

35               (1) A description of all dispositional options considered in preparing  
 36               the report.

37               (2) An evaluation of each of the options considered in relation to  
 38               the plan of care, treatment, rehabilitation, or placement  
 39               recommended under the guidelines described in section 4 of this  
 40               chapter.

41               (3) The name, occupation and position, and any relationship to the  
 42               child of each person with whom the preparer of the report  
 43               conferred as provided in section 1.1 of this chapter.

44          (b) If a probation officer or a caseworker is considering an  
 45          out-of-home placement, including placement with a blood or an  
 46          adoptive relative caretaker, the probation officer or caseworker  
 47          must conduct a criminal history check for each person who:

48               (1) is currently residing in the location designated as the

1 out-of-home placement; or

2 (2) in the reasonable belief of the probation officer or  
3 caseworker, is expected to be residing in the location  
4 designated as the out-of-home placement during the time the  
5 child would be placed in the location.

6 The results of the criminal history check must be included in the  
7 predispositional report.

8 (c) A probation officer or caseworker is not required to conduct  
9 a criminal history check under this section if:

10 (1) the probation officer or caseworker is considering only an  
11 out-of-home placement to an entity or a facility that:

12 (A) is not a residence (as defined in IC 3-5-2-42.5); or

13 (B) is licensed by the state; or

14 (2) placement under this section is undetermined at the time  
15 the predispositional report is prepared.

16 SECTION 25. IC 31-37-19-1 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section**  
18 **6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2,  
19 the juvenile court may enter one (1) or more of the following  
20 dispositional decrees:

21 (1) Order supervision of the child by the probation department or  
22 the county office of family and children.

23 (2) Order the child to receive outpatient treatment:

24 (A) at a social service agency or a psychological, a psychiatric,  
25 a medical, or an educational facility; or

26 (B) from an individual practitioner.

27 (3) Remove the child from the child's home and place the child in  
28 another home or shelter care facility. Placement under this  
29 subdivision includes authorization to control and discipline the child.

30 (4) Award wardship to a person or shelter care facility. Wardship  
31 under this subdivision does not include the right to consent to the  
32 child's adoption.

33 (5) Partially or completely emancipate the child under section 27 of  
34 this chapter.

35 (6) Order:

36 (A) the child; or

37 (B) the child's parent, guardian, or custodian;

38 to receive family services.

39 (7) Order a person who is a party to refrain from direct or indirect  
40 contact with the child.

41 SECTION 26. IC 31-37-19-6, AS AMENDED BY P.L.1-2003,  
42 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
43 JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent  
44 child under IC 31-37-1.

45 (b) Except as provided in section 10 of this chapter **and subject to**  
46 **section 6.5 of this chapter**, the juvenile court may:

47 (1) enter any dispositional decree specified in section 5 of this  
48 chapter; and

49 (2) take any of the following actions:

- 1 (A) Award wardship to:  
 2 (i) the department of correction for housing in a correctional  
 3 facility for children; or  
 4 (ii) a community based correctional facility for children.  
 5 Wardship under this subdivision does not include the right to  
 6 consent to the child's adoption.
- 7 (B) If the child is less than seventeen (17) years of age, order  
 8 confinement in a juvenile detention facility for not more than the  
 9 lesser of:  
 10 (i) ninety (90) days; or  
 11 (ii) the maximum term of imprisonment that could have been  
 12 imposed on the child if the child had been convicted as an adult  
 13 offender for the act that the child committed under IC 31-37-1  
 14 (or IC 31-6-4-1(b)(1) before its repeal).
- 15 (C) If the child is at least seventeen (17) years of age, order  
 16 confinement in a juvenile detention facility for not more than the  
 17 lesser of:  
 18 (i) one hundred twenty (120) days; or  
 19 (ii) the maximum term of imprisonment that could have been  
 20 imposed on the child if the child had been convicted as an adult  
 21 offender for the act that the child committed under IC 31-37-1  
 22 (or IC 31-6-4-1(b)(1) before its repeal).
- 23 (D) Remove the child from the child's home and place the child  
 24 in another home or shelter care facility. Placement under this  
 25 subdivision includes authorization to control and discipline the  
 26 child.
- 27 (E) Award wardship to a person or shelter care facility. Wardship  
 28 under this subdivision does not include the right to consent to the  
 29 child's adoption.
- 30 (F) Place the child in a secure private facility for children licensed  
 31 under the laws of a state. Placement under this subdivision  
 32 includes authorization to control and discipline the child.
- 33 (G) Order a person who is a respondent in a proceeding under  
 34 IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from  
 35 direct or indirect contact with the child.
- 36 SECTION 27. IC 31-37-19-6.5 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2004]: **Sec. 6.5. (a) Except as provided in subsection (c),  
 39 the juvenile court may not enter a dispositional decree placing a  
 40 child in another home under section 1(3) or 6(b)(2)(D) of this  
 41 chapter or awarding wardship to the county office of family and  
 42 children that results in a placement with a person under section  
 43 1(4) or 6(b)(2)(E) of this chapter if a person who is:**  
 44 **(1) currently residing in the home in which the child would be  
 45 placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this  
 46 chapter; or**  
 47 **(2) reasonably expected to be residing in the home in which  
 48 the child would be placed under section 1(3), 1(4), 6(b)(2)(D),  
 49 or 6(b)(2)(E) of this chapter during the time the child would be**

1 placed in the home;  
 2 has committed an act resulting in a substantiated report of child  
 3 abuse or neglect, has a juvenile adjudication for an act that would  
 4 be a felony listed in IC 12-17.4-4-11 if committed by an adult, or  
 5 has a conviction for a felony listed in IC 12-17.4-4-11.

6 (b) The juvenile court shall order the probation officer or  
 7 caseworker who prepared the predispositional report to conduct a  
 8 criminal history check to determine if a person described in  
 9 subsection (a)(1) or (a)(2) has committed an act resulting in a  
 10 substantiated report of child abuse or neglect, has a juvenile  
 11 adjudication for an act that would be a felony listed in  
 12 IC 12-17.4-4-11 if committed by an adult, or has a conviction for  
 13 a felony listed in IC 12-17.4-4-11. However, the juvenile court is  
 14 not required to order a criminal history check under this section  
 15 if criminal history information under IC 31-37-17-6.1 establishes  
 16 whether a person described in subsection (a)(1) or (a)(2) has  
 17 committed an act resulting in a substantiated report of child abuse  
 18 or neglect, has a juvenile adjudication for an act that would be a  
 19 felony listed in IC 12-17.4-4-11 if committed by an adult, or has a  
 20 conviction for a felony listed in IC 12-17.4-4-11.

21 (c) The juvenile court may enter a dispositional decree placing  
 22 a child in another home under section 1(3) or 6(b)(2)(D) of this  
 23 chapter or awarding wardship to the county office of family and  
 24 children that results in a placement with a person under section  
 25 1(4) or 6(b)(2)(E) of this chapter if:

- 26 (1) a person described in subsection (a)(1) or (a)(2) has:  
 27 (A) committed an act resulting in a substantiated report of  
 28 child abuse or neglect; or  
 29 (B) been convicted or had a juvenile adjudication for:  
 30 (i) reckless homicide (IC 35-42-1-5);  
 31 (ii) battery (IC 35-42-2-1) as a Class C or D felony;  
 32 (iii) criminal confinement (IC 35-42-3-3) as a Class C or  
 33 D felony;  
 34 (iv) arson (IC 35-43-1-1) as a Class C or D felony;  
 35 (v) a felony involving a weapon under IC 35-47 or  
 36 IC 35-47.5 as a Class C or D felony;  
 37 (vi) a felony relating to controlled substances under  
 38 IC 35-48-4 as a Class C or D felony; or  
 39 (vii) a felony that is substantially equivalent to a felony  
 40 listed in items (i) through (vi) for which the conviction was  
 41 entered in another state; and  
 42 (2) the court makes a written finding that the person's  
 43 commission of the offense, delinquent act, or act of abuse or  
 44 neglect described in subdivision (1) is not relevant to the  
 45 person's present ability to care for a child, and that entry of  
 46 a dispositional decree placing the child in another home is in  
 47 the best interest of the child.

1 However, a court may not enter a dispositional decree placing a  
 2 child in another home under section 1(3) or 6(b)(2)(D) of this  
 3 chapter or awarding wardship to the county office of family and  
 4 children if the person has been convicted of a felony listed in  
 5 IC 12-17.4-4-11 that is not specifically excluded under subdivision  
 6 (1)(B), or has a juvenile adjudication for an act that would be a  
 7 felony listed in IC 12-17.4-4-11 if committed by an adult that is  
 8 not specifically excluded under subdivision (1)(B) .

9 (d) In making its written finding under subsection (c), the court  
 10 shall consider the following:

11 (1) The length of time since the person committed the offense,  
 12 delinquent act, or act that resulted in the substantiated report  
 13 of abuse or neglect.

14 (2) The severity of the offense, delinquent act, or abuse or  
 15 neglect.

16 (3) Evidence of the person's rehabilitation, including the  
 17 person's cooperation with a treatment plan, if applicable.

18 SECTION 28. IC 31-37-19-17.4 IS ADDED TO THE INDIANA  
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2004]: Sec. 17.4. (a) This section applies if a child is a  
 21 delinquent child under IC 31-37-1 due to the commission of a  
 22 delinquent act that, if committed by an adult, would be a sex crime  
 23 listed in IC 35-38-1-7.1(e).

24 (b) The juvenile court may, in addition to any other order or  
 25 decree the court makes under this chapter, order:

26 (1) the child; and

27 (2) the child's parent or guardian;

28 to receive psychological counseling as directed by the court.

29 SECTION 29. IC 31-39-2-13.5 IS ADDED TO THE INDIANA  
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2004]: Sec. 13.5. The records of the juvenile court are  
 32 available without a court order to an employee of the division of  
 33 family and children, a caseworker, or a juvenile probation officer  
 34 conducting a criminal history check under IC 12-14-25.5-3,  
 35 IC 31-34, or IC 31-37 to determine the appropriateness of an  
 36 out-of-home placement for a:

37 (1) child at imminent risk of placement;

38 (2) child in need of services; or

39 (3) delinquent child.

40 SECTION 30. IC 34-30-2-44.1 IS ADDED TO THE INDIANA  
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2004]: Sec. 44.1. IC 12-13-15.1-11 (Concerning members  
 43 of the statewide child fatality review committee and persons who  
 44 attend a meeting of the statewide child fatality review committee  
 45 as invitees of the chairperson).

(Reference is to EHB 1194 as reprinted February 26, 2004.)



**Conference Committee Report**  
**on**  
**Engrossed House Bill 1194**

**S**igned by:

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Representative Avery  
Chairperson

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Senator Dillon

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Representative Budak

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Senator Broden

**House Conferees**

**Senate Conferees**