



April 8, 2011

**ENGROSSED
SENATE BILL No. 465**

DIGEST OF SB 465 (Updated April 6, 2011 3:26 pm - DI 107)

Citations Affected: IC 12-18; IC 29-3; IC 31-9; IC 31-14; IC 31-17; IC 31-19; IC 31-25; IC 31-27; IC 31-30; IC 31-33; IC 31-34; IC 31-35; IC 31-37; IC 35-40; IC 35-50.

Synopsis: Department of child services. Makes changes to the laws concerning: (1) guardianship of a minor; (2) regulation of child caring institutions, foster family homes, including therapeutic and special needs foster family homes, group homes, and child placing agencies; (3) adoption; (4) incentive payments to counties for enforcing and collecting child support; (5) juvenile court jurisdiction; (6) child abuse and neglect reporting and investigation; (7) the child protection index; (8) placement of a child in need of services; (9) notification
(Continued next page)

Effective: July 1, 2011.

**Lawson C, Becker, Randolph,
Lanane**

(HOUSE SPONSORS — MCNAMARA, VANDENBURGH, NOE)

January 13, 2011, read first time and referred to Committee on Judiciary.
February 14, 2011, amended, reported favorably — Do Pass.
February 15, 2011, read second time, amended, ordered engrossed.
February 16, 2011, engrossed.
February 17, 2011, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Family, Children and Human Affairs.
April 8, 2011, amended, reported — Do Pass.

**C
o
p
y**



Digest Continued

requirements regarding proceedings on motions for child testimony by closed circuit television; and (10) placement of a child that is a delinquent child. Provides that a county domestic violence fatality review team shall review cases in which a person who committed suicide was a victim of an act of domestic violence. Permits a court to require a noncustodial parent who has been convicted of certain crimes of domestic violence to require the parent to attend a batterer's intervention program certified by the Indiana coalition against domestic violence as a condition of receiving unsupervised visitation time. Requires that a batterer's intervention program to which a court may order a person to attend must be certified by the Indiana coalition against domestic violence.

**C
o
p
y**



April 8, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 465

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 12-18-8-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A county may
3 establish a county domestic violence fatality review team for the
4 purpose of reviewing a death resulting from **or in connection with**
5 domestic violence. The team shall review only those deaths in which:
6 (1) the person who commits the act of domestic violence resulting
7 in death:
8 (†) (A) is charged with a criminal offense that results in final
9 judgment; or
10 (‡) (B) is deceased; **or**
11 (2) **the manner of death is suicide, and the deceased individual**
12 **was a victim of an act of domestic violence.**
13 (b) The legislative body (as defined in IC 36-1-2-9) of a county must
14 determine by majority vote if the county will establish a local domestic
15 violence fatality review team.
16 (c) If a county elects not to establish a county domestic violence
17 fatality review team, the county may join with one (1) or more other

ES 465—LS 7221/DI 110+



C
O
P
Y

1 counties that have not established a county domestic violence fatality
2 review team and form a regional domestic violence fatality review
3 team.

4 (d) To establish a regional domestic violence fatality review team
5 as described in subsection (c), the legislative body of each county
6 comprising the region must cast a majority of votes in favor of
7 establishing a regional domestic violence fatality review team.

8 SECTION 2. IC 29-3-5-1, AS AMENDED BY P.L.6-2010,
9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 1. (a) Any person may file a petition for the
11 appointment of a person to serve as guardian for an incapacitated
12 person or minor under this chapter or to have a protective order issued
13 under IC 29-3-4. The petition must state the following:

14 (1) The name, age, residence, and post office address of the
15 alleged incapacitated person or minor for whom the guardian is
16 sought to be appointed or the protective order issued.

17 (2) The nature of the incapacity.

18 (3) The approximate value and description of the property of the
19 incapacitated person or minor, including any compensation,
20 pension, insurance, or allowance to which the incapacitated
21 person or minor may be entitled.

22 (4) If a limited guardianship is sought, the particular limitations
23 requested.

24 (5) Whether a protective order has been issued or a guardian has
25 been appointed or is acting for the incapacitated person or minor
26 in any state.

27 (6) The residence and post office address of the proposed
28 guardian or person to carry out the protective order and the
29 relationship to the alleged incapacitated person of:

30 (A) the proposed guardian; or

31 (B) the person proposed to carry out the protective order.

32 (7) The names and addresses, as far as known or as can
33 reasonably be ascertained, of the persons most closely related by
34 blood or marriage to the person for whom the guardian is sought
35 to be appointed or the protective order is issued.

36 (8) The name and address of the person or institution having the
37 care and custody of the person for whom the guardian is sought
38 to be appointed or the protective order is issued.

39 (9) The names and addresses of any other incapacitated persons
40 or minors for whom the proposed guardian or person to carry out
41 the protective order is acting if the proposed guardian or person
42 is an individual.

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(10) The reasons the appointment of a guardian or issuance of a protective order is sought and the interest of the petitioner in the appointment or issuance.

(11) The name and business address of the attorney who is to represent the guardian or person to carry out the protective order.

(12) Whether a child in need of services petition or a program of informal adjustment has been filed regarding the minor for whom a guardianship is being sought, and, if so, whether the case regarding the minor is open at the time the guardianship petition is filed.

(b) Notice of a petition under this section for the appointment of a guardian or the issuance of a protective order and the hearing on the petition shall be given under IC 29-3-6.

(c) After the filing of a petition, the court shall set a date for a hearing on the issues raised by the petition. Unless an alleged incapacitated person is already represented by counsel, the court may appoint an attorney to represent the incapacitated person.

(d) A person alleged to be an incapacitated person must be present at the hearing on the issues raised by the petition and any response to the petition unless the court determines by evidence that:

(1) it is impossible or impractical for the alleged incapacitated person to be present due to the alleged incapacitated person's disappearance, absence from the state, or similar circumstance;

(2) it is not in the alleged incapacitated person's best interest to be present because of a threat to the health or safety of the alleged incapacitated person as determined by the court;

(3) the incapacitated person has knowingly and voluntarily consented to the appointment of a guardian or the issuance of a protective order and at the time of such consent the incapacitated person was not incapacitated as a result of a mental condition that would prevent that person from knowingly and voluntarily consenting; or

(4) the incapacitated person has knowingly and voluntarily waived notice of the hearing and at the time of such waiver the incapacitated person was not incapacitated as a result of a mental condition that would prevent that person from making a knowing and voluntary waiver of notice.

(e) A person alleged to be an incapacitated person may present evidence and cross-examine witnesses at the hearing. The issues raised by the petition and any response to the petition shall be determined by a jury if a jury is requested no later than seventy-two (72) hours prior to the original date and time set for the hearing on the petition.

C
o
p
y



1 However, in no event may a request for a jury trial be made after thirty
2 (30) days have passed following the service of notice of a petition.

3 (f) Any person may apply for permission to participate in the
4 proceeding, and the court may grant the request with or without hearing
5 upon determining that the best interest of the alleged incapacitated
6 person or minor will be served by permitting the applicant's
7 participation. The court may attach appropriate conditions to the
8 permission to participate.

9 (g) **A court shall notify the department of child services of a**
10 **hearing regarding the guardianship of a minor under this section**
11 **if a:**

12 (1) **child in need of services petition has been filed regarding**
13 **the minor; or**

14 (2) **program of informal adjustment involving the minor is**
15 **pending.**

16 **The department of child services may participate in a hearing**
17 **regarding the guardianship of a minor described in this subsection.**

18 SECTION 3. IC 29-3-8-9 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2011]: **Sec. 9. (a) A probate or juvenile court may include in its**
21 **order creating a guardianship of a minor the following:**

22 (1) **A requirement that the minor must reside with the**
23 **guardian until the guardianship is terminated or modified.**

24 (2) **Any terms and conditions that a parent must meet in order**
25 **to seek modification or termination of the guardianship.**

26 (b) **Except as provided in IC 29-3-12, if an order creating a**
27 **guardianship contains terms and conditions described in**
28 **subsection (a)(2), the court may modify or terminate the**
29 **guardianship only if the parent:**

30 (1) **complies with the terms and conditions; and**

31 (2) **proves the parent's current fitness to assume all parental**
32 **obligations by a preponderance of the evidence.**

33 (c) **If:**

34 (1) **a petition is filed for modification, resignation, or removal**
35 **of the guardian or termination of the guardianship before the**
36 **parent complies with the court ordered terms and conditions**
37 **described in subsection (a)(2); and**

38 (2) **the minor:**

39 (A) **was the subject of a petition alleging the child to be a**
40 **child in need of services; or**

41 (B) **is participating in a program of informal adjustment;**
42 **the court shall refer the petition to the department of child services**

C
O
P
Y



1 for the department of child services to determine the placement of
2 the child in accordance with the best interests of the child.

3 (d) A court shall notify the department of child services:

4 (1) if:

5 (A) the court appoints a guardian for a minor who:

6 (i) was the subject of a petition alleging the minor to be
7 a child in need of services; or

8 (ii) is participating in a program of informal adjustment;
9 and

10 (B) a petition to modify or terminate the guardianship of
11 the minor or a petition regarding the death, resignation, or
12 removal of the guardian is filed; and

13 (2) of any hearings related to the petitions described under
14 subdivision (1)(B).

15 (e) If a minor was the subject of a petition alleging the minor to
16 be a child in need of services or is participating in a program of
17 informal adjustment, the court shall do the following at a hearing
18 regarding a petition filed under this section:

19 (1) Consider the position of the department of child services.

20 (2) If requested by the department of child services, allow the
21 department of child services to present evidence regarding:

22 (A) whether the guardianship should be modified or
23 terminated;

24 (B) the fitness of the parent to provide for the care and
25 supervision of the minor at the time of the hearing;

26 (C) the appropriate care and placement of the child; and

27 (D) the best interests of the child.

28 SECTION 4. IC 31-9-2-10.9 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2011]: Sec. 10.9. "Case", for purposes of IC 31-33-18-1.5, has the
31 meaning set forth in IC 31-33-18-1.5(d).

32 SECTION 5. IC 31-9-2-22.5, AS AMENDED BY P.L.138-2007,
33 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2011]: Sec. 22.5. "Conduct a criminal history check", for
35 purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34,
36 IC 31-37, and IC 31-39-2-13.5, means to

37 (1) request: the state police department to:

38 (A) release or allow inspection of a limited criminal history (as
39 defined in IC 10-13-3-11) and juvenile history data (as defined
40 in IC 10-13-4-4) concerning a person who is at least fourteen
41 (14) years of age and who is:

42 (i) for purposes of IC 31-19, IC 31-26, IC 31-33, IC 31-34,

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

and IC 31-37, currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; or

(ii) for purposes of IC 31-27-4-5, a resident of the applicant's household who is at least fourteen (14) years of age; and

~~(B)~~ **(A) the state police department to conduct a:**

(i) fingerprint based criminal history background check of both national and state records data bases concerning a person who is at least eighteen (18) years of age in accordance with IC 10-13-3-27 and IC 10-13-3-39; or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person who is at least eighteen (18) years of age as described in clause (A) as provided by IC 10-13-3-27.5; or

(B) if an individual has:

(i) a physical disability that prevents fingerprinting and a person approved by the department who is trained to take fingerprints or a qualified medical practitioner (as defined in IC 31-9-2-100.5) verifies that the individual has a disabling condition that prevents fingerprinting; or

(ii) low quality fingerprints, as a result of age, occupation, or otherwise, that prevent fingerprint results from being obtained and the individual's fingerprints have been rejected the required number of times by automated fingerprint classification equipment or rejected by a person designated by the Indiana state police department to examine and classify fingerprints;

the state police department to conduct a national name based criminal history record check (as defined in IC 10-13-3-12.5) or request the state police department to release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and the state police in every state the individual has resided in the past five (5) years to release or allow inspection of the state's criminal history;

(2) collect each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision ~~(1)(A)~~; **who is fourteen (14) years of age or older**, or a person for whom a fingerprint based criminal history background check is required under IC 31, resided within the previous five (5) years; and

C
O
P
Y



1 (3) request information concerning any substantiated report of
 2 child abuse or neglect relating to a person ~~described in~~
 3 ~~subdivision (1)(A)~~ **who is fourteen (14) years of age or older**
 4 that is contained in a national registry of substantiated cases of
 5 child abuse or neglect that is established and maintained by the
 6 United States Department of Health and Human Services, to the
 7 extent that the information is accessible under 42 U.S.C. 16990
 8 and any applicable regulations or policies of the Department of
 9 Health and Human Services.

10 SECTION 6. IC 31-9-2-10.9 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2011]: **Sec. 10.9. "Contact", for purposes of IC 31-33-18-1.5, has**
 13 **the meaning set forth in IC 31-33-18-1.5(d).**

14 SECTION 7. IC 31-9-2-31, AS AMENDED BY P.L.124-2007,
 15 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2011]: Sec. 31. (a) "Custodian", for purposes of the juvenile
 17 law, means a person with whom a child resides.

18 (b) "Custodian", for purposes of IC 31-34-1, includes any person
 19 who is:

- 20 (1) a license applicant or licensee of:
 - 21 (A) a foster home or residential child care facility that is
 - 22 required to be licensed or is licensed under IC 31-27;
 - 23 (B) a child care center that is required to be licensed or is
 - 24 licensed under IC 12-17.2-4; or
 - 25 (C) a child care home that is required to be licensed or is
 - 26 licensed under IC 12-17.2-5;
- 27 (2) a person who is responsible for care, supervision, or welfare
- 28 of children while providing services as an owner, operator,
- 29 director, manager, supervisor, employee, or volunteer at:
 - 30 (A) a home, center, or facility described in subdivision (1);
 - 31 (B) a child care ministry, as defined in IC 12-7-2-28.8, that is
 - 32 exempt from licensing requirements and is registered or
 - 33 required to be registered under IC 12-17.2-6;
 - 34 (C) a home, center, or facility of a child care provider, as
 - 35 defined in IC 12-7-2-149.1(4);
 - 36 (D) a home, center, or facility that is the location of a program
 - 37 that provides child care, as defined in section 16.3 of this
 - 38 chapter, to serve migrant children and that is exempt from
 - 39 licensing under IC 12-17.2-2-8(6), whether or not the program
 - 40 is certified as described in IC 12-17.2-2-9; or
 - 41 (E) a school, as defined in section 113.5 of this chapter;
- 42 (3) a child caregiver, as defined in section 16.4 of this chapter;

C
o
p
y



- 1 (4) a member of the household of the child's noncustodial parent;
- 2 or
- 3 (5) an individual who has **or intends to have** direct contact, on a
- 4 regular and continuing basis, with a child for whom **the**
- 5 **individual provides** care and supervision. ~~is provided as~~
- 6 ~~described in this subsection.~~

7 SECTION 8. IC 31-9-2-88 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 88. (a) "Parent", for
 9 purposes of the juvenile law, means a biological or an adoptive parent.
 10 Unless otherwise specified, the term includes both parents, regardless
 11 of their marital status.

12 (b) "Parent", for purposes of IC 31-34-1, IC 31-34-8,
 13 IC 31-34-16, IC 31-34-19, IC 31-34-20 and IC 31-35-2, includes an
 14 **alleged father.**

15 SECTION 9. IC 31-9-2-100.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2011]: Sec. 100.5. "**Qualified medical**
 18 **practitioner**", for purposes of IC 31-9-2 means the following:

- 19 (1) **A physician licensed under IC 25-22.5.**
- 20 (2) **A physician assistant licensed under IC 25-27.5.**
- 21 (3) **A physical therapist licensed under IC 25-27.**
- 22 (4) **An advanced practice nurse licensed under IC 25-23.**
- 23 (5) **A chiropractor licensed under IC 25-10.**
- 24 (6) **A psychologist licensed under IC 25-33.**

25 SECTION 10. IC 31-9-2-129.5, AS AMENDED BY P.L.143-2008,
 26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2011]: Sec. 129.5. "Therapeutic foster family home", for
 28 purposes of IC 31-27, means a foster family home:

- 29 (1) that provides care to:
 - 30 (A) a child; or
 - 31 (B) an individual at least eighteen (18) but less than
 - 32 twenty-one (21) years of age receiving foster care for older
 - 33 youth under IC 31-28-5.7-1;
 - 34 who is seriously emotionally disturbed or developmentally
 - 35 ~~disabled~~; **has serious emotional disturbances, significant**
 - 36 **behavioral health needs and functional impairments, or**
 - 37 **developmental or physical disabilities;**
- 38 (2) in which the child or individual receives treatment in a family
- 39 home through an integrated array of services supervised and
- 40 supported by qualified program staff from:
 - 41 (A) ~~the office of the secretary of family and social services;~~
 - 42 **department of child services;**

COPY



- 1 (B) a managed care provider that contracts with the division of
- 2 mental health and addiction; or
- 3 (C) a licensed child placing agency; and
- 4 (3) that meets the additional requirements of IC 31-27-4-2.

5 SECTION 11. IC 31-14-14-5, AS AMENDED BY P.L.68-2005,
 6 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2011]: Sec. 5. (a) This section applies if a court finds that a
 8 noncustodial parent has been convicted of a crime involving domestic
 9 or family violence that was witnessed or heard by the noncustodial
 10 parent's child.

11 (b) There is created a rebuttable presumption that the court shall
 12 order that the noncustodial parent's parenting time with the child must
 13 be supervised:

- 14 (1) for at least one (1) year and not more than two (2) years
- 15 immediately following the crime involving domestic or family
- 16 violence; or
- 17 (2) until the child becomes emancipated;
- 18 whichever occurs first.

19 (c) **As a condition of granting the noncustodial parent**
 20 **unsupervised parenting time, the court may require the**
 21 **noncustodial parent to complete a batterer's intervention program**
 22 **certified by the Indiana coalition against domestic violence.**

23 SECTION 12. IC 31-17-2-8.3, AS AMENDED BY P.L.68-2005,
 24 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2011]: Sec. 8.3. (a) This section applies if a court finds that a
 26 noncustodial parent has been convicted of a crime involving domestic
 27 or family violence that was witnessed or heard by the noncustodial
 28 parent's child.

29 (b) There is created a rebuttable presumption that the court shall
 30 order that the noncustodial parent's parenting time with the child must
 31 be supervised:

- 32 (1) for at least one (1) year and not more than two (2) years
- 33 immediately following the crime involving domestic or family
- 34 violence; or
- 35 (2) until the child becomes emancipated;
- 36 whichever occurs first.

37 (c) **As a condition of granting the noncustodial parent**
 38 **unsupervised parenting time, the court may require the**
 39 **noncustodial parent to complete a batterer's intervention program**
 40 **certified by the Indiana coalition against domestic violence.**

41 SECTION 13. IC 31-19-2-12, AS AMENDED BY P.L.131-2009,
 42 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C
o
p
y



1 JULY 1, 2011]: Sec. 12. As soon as a petition for adoption is found to
2 be in proper form, the clerk of the court shall forward one (1) copy of
3 the petition for adoption to

4 ~~(1)~~ a licensed child placing agency as described in IC 31-19-7-1,
5 with preference to be given to the agency, if any, sponsoring the
6 adoption, as shown by the petition for adoption. ~~and~~

7 ~~(2) the department.~~

8 SECTION 14. IC 31-19-8-6, AS AMENDED BY P.L.131-2009,
9 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 6. (a) The report required by section 5 of this
11 chapter must, to the extent possible, include the following:

- 12 (1) The former environment and antecedents of the child.
- 13 (2) The fitness of the child for adoption.
- 14 (3) The suitability of the proposed home for the child.

15 (b) The report may not contain any of the following:

- 16 (1) Information concerning the financial condition of the
- 17 **prospective** adoptive parents.
- 18 (2) A recommendation that a request for a subsidy be denied in
- 19 whole or in part due to the financial condition of the **prospective**
- 20 adoptive parents.

21 (c) The criminal history information required under IC 31-19-2-7.5
22 must accompany the report.

23 SECTION 15. IC 31-19-9-2, AS AMENDED BY P.L.21-2010,
24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2011]: Sec. 2. (a) The consent to adoption may be executed at
26 any time after the birth of the child, either in the presence of:

- 27 (1) the court;
- 28 (2) a notary public or other person authorized to take
- 29 acknowledgments; or
- 30 (3) an authorized agent of:
 - 31 (A) the department;
 - 32 (B) a county office of family and children; or
 - 33 (C) a licensed child placing agency.

34 (b) The child's mother may not execute a consent to adoption before
35 the birth of the child.

36 (c) The child's father may execute a consent to adoption before the
37 birth of the child if the consent to adoption:

- 38 (1) is in writing;
- 39 (2) is signed by the child's father in the presence of a notary
- 40 public; and
- 41 (3) contains an acknowledgment that:
 - 42 (A) the consent to adoption is irrevocable; and

C
O
P
Y



1 (B) the child's father will not receive notice of the adoption
 2 proceedings.
 3 (d) A child's father who consents to the adoption of the child under
 4 subsection (c) may not challenge or contest the child's adoption.
 5 (e) **Except as provided in subsection (f) or (g)**, a person who
 6 executes a written consent to the adoption of a child may not execute
 7 a second or subsequent written consent to have another person adopt
 8 the child unless one (1) or more of the following apply:
 9 (1) Each original petitioner provides a written statement that the
 10 petitioner is not adopting the child.
 11 (2) The person consenting to the adoption has been permitted to
 12 withdraw the first consent to adoption under IC 31-19-10.
 13 (3) The court dismisses the petition for adoption filed by the
 14 original petitioner or petitioners for adoption based upon a
 15 showing, by clear and convincing evidence, that it is not in the
 16 best interests of the child that the petition for adoption be granted.
 17 (4) The court denies the petition to adopt the child filed by the
 18 original petitioner or petitioners for adoption.
 19 **(f) The department may execute more than one (1) written**
 20 **consent to the adoption of a child if the department determines that**
 21 **the execution of more than one (1) written consent is in the best**
 22 **interests of the child.**
 23 **(g) The parents of a child who is a ward of the department may**
 24 **execute a second or subsequent consent if:**
 25 **(1) the court with jurisdiction over the child in need of**
 26 **services determines that adoption by the person to whom**
 27 **consents were originally signed is not in the child's best**
 28 **interest; or**
 29 **(2) if the child's placement with the person who has petitioned**
 30 **or intends to petition to adopt the child is disrupted.**
 31 SECTION 16. IC 31-19-11-1, AS AMENDED BY P.L.21-2010,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2011]: Sec. 1. (a) Whenever the court has heard the evidence
 34 and finds that:
 35 (1) the adoption requested is in the best interest of the child;
 36 (2) the petitioner or petitioners for adoption are of sufficient
 37 ability to rear the child and furnish suitable support and
 38 education;
 39 (3) the report of the investigation and recommendation under
 40 IC 31-19-8-5 has been filed;
 41 (4) the attorney or agency arranging an adoption has filed with the
 42 court an affidavit prepared by the state department of health under

C
O
P
Y



1 IC 31-19-5-16 indicating whether a man is entitled to notice of the
 2 adoption because the man has registered with the putative father
 3 registry in accordance with IC 31-19-5;
 4 (5) proper notice arising under subdivision (4), if notice is
 5 necessary, of the adoption has been given;
 6 (6) the attorney or agency has filed with the court an affidavit
 7 prepared by the state department of health under:
 8 (A) IC 31-19-6 indicating whether a record of a paternity
 9 determination; or
 10 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
 11 executed under IC 16-37-2-2.1;
 12 has been filed in relation to the child;
 13 (7) proper consent, if consent is necessary, to the adoption has
 14 been given;
 15 (8) the petitioner for adoption is not prohibited from adopting the
 16 child as the result of an inappropriate criminal history described
 17 in subsection (c) or (d); and
 18 (9) the person, licensed child placing agency, or county office of
 19 family and children that has placed the child for adoption has
 20 provided the documents and other information required under
 21 IC 31-19-17 to the prospective adoptive parents;
 22 the court shall grant the petition for adoption and enter an adoption
 23 decree.
 24 (b) A court may not grant an adoption unless the state department
 25 of health's affidavit under IC 31-19-5-16 is filed with the court as
 26 provided under subsection (a)(4).
 27 (c) ~~A conviction of a felony or a misdemeanor related to the health~~
 28 ~~and safety of a child~~ **juvenile adjudication for an act listed in**
 29 **subdivisions (1) through (20) that would be a felony if committed**
 30 **by an adult, a conviction of a misdemeanor related to the health**
 31 **and safety of a child, or a conviction of a felony not listed in**
 32 **subdivisions (1) through (20) by a petitioner for adoption is a**
 33 **permissible basis for the court to deny the petition for adoption. In**
 34 **addition, the court may not grant an adoption if a petitioner for**
 35 **adoption has been convicted of any of the felonies** ~~or convicted of an~~
 36 ~~attempt or conspiracy to commit any of the felonies;~~ described as
 37 follows:
 38 (1) Murder (IC 35-42-1-1).
 39 (2) Causing suicide (IC 35-42-1-2).
 40 (3) Assisting suicide (IC 35-42-1-2.5).
 41 (4) Voluntary manslaughter (IC 35-42-1-3).
 42 (5) Reckless homicide (IC 35-42-1-5).

C
o
p
y



- 1 (6) Battery as a felony (IC 35-42-2-1).
- 2 (7) Domestic battery (IC 35-42-2-1.3).
- 3 (8) Aggravated battery (IC 35-42-2-1.5).
- 4 (9) Kidnapping (IC 35-42-3-2).
- 5 (10) Criminal confinement (IC 35-42-3-3).
- 6 (11) A felony sex offense under IC 35-42-4.
- 7 (12) Carjacking (IC 35-42-5-2).
- 8 (13) Arson (IC 35-43-1-1).
- 9 (14) Incest (IC 35-46-1-3).
- 10 (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and
- 11 IC 35-46-1-4(a)(2)).
- 12 (16) Child selling (IC 35-46-1-4(d)).
- 13 (17) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- 14 (18) A felony relating to controlled substances under IC 35-48-4.
- 15 (19) An offense relating to material or a performance that is
- 16 harmful to minors or obscene under IC 35-49-3.
- 17 (20) A felony under the laws of another jurisdiction, including a
- 18 military court, that is substantially equivalent to any of the
- 19 offenses listed in subdivisions (1) through (19).

20 However, the court is not prohibited from granting an adoption based
 21 upon a felony conviction under subdivision (6), **(10)**, (12), (13), (17),
 22 or (18), or its equivalent under subdivision (20), if the ~~offense was not~~
 23 **committed date of the conviction did not occur** within the
 24 immediately preceding five (5) year period.

25 (d) A court may not grant an adoption if the petitioner is a sex or
 26 violent offender (as defined in IC 11-8-8-5) or a sexually violent
 27 predator (as defined in IC 35-38-1-7.5).

28 SECTION 17. IC 31-19-17-2, AS AMENDED BY P.L.58-2009,
 29 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2011]: Sec. 2. A person, a licensed child placing agency, or a
 31 county office of family and children placing a child for adoption shall
 32 prepare or cause to be prepared a report summarizing the available
 33 medical, psychological, and educational records of the person or
 34 agency concerning the birth parents. The person, agency, or county
 35 office shall exclude from this report information that would identify the
 36 birth parents unless the **prospective** adoptive parents know the identity
 37 of the birth parents. The person, agency, or county office shall give the
 38 report to:

- 39 (1) the **prospective** adoptive parents:
- 40 (A) at the time the home study or evaluation concerning the
- 41 suitability of the proposed home for the child is commenced;
- 42 (B) as soon as practical after the **prospective** adoptive parents

COPY



- 1 are matched with the birth mother; or
- 2 (C) with the consent of the **prospective** adoptive parents, not
- 3 more than thirty (30) days after the child is placed with the
- 4 **prospective** adoptive parents; and
- 5 (2) upon request and without information that would identify the
- 6 birth parents unless an adoptee already knows the identity of the
- 7 birth parents, an adoptee who:
- 8 (A) is at least twenty-one (21) years of age; and
- 9 (B) provides proof of identification.

10 SECTION 18. IC 31-19-17-3, AS AMENDED BY P.L.1-2010,
 11 SECTION 124, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2011]: Sec. 3. The person, licensed child
 13 placing agency, or county office shall:

- 14 (1) exclude information that would identify the birth parents
- 15 unless the **prospective** adoptive parent **or the adoptive parent**
- 16 under subdivision (2)(A) or an adoptee under subdivision (2)(B)
- 17 who requests the information knows the identity of the birth
- 18 parents; and
- 19 (2) release all available social, medical, psychological, and
- 20 educational records concerning the child to:
- 21 (A) the **prospective** adoptive **parent or the adoptive** parent;
- 22 and
- 23 (B) upon request, an adoptee who:
- 24 (i) is at least twenty-one (21) years of age; and
- 25 (ii) provides proof of identification.

26 SECTION 19. IC 31-19-17-4, AS AMENDED BY P.L.131-2009,
 27 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2011]: Sec. 4. The person, licensed child placing agency, or
 29 county office shall provide:

- 30 (1) the **prospective** adoptive **parent or the adoptive** parent; and
- 31 (2) upon request, an adoptee who:
- 32 (A) is at least twenty-one (21) years of age; and
- 33 (B) provides proof of identification;

34 with a summary of other existing social, medical, psychological, and
 35 educational records concerning the child of which the person, agency,
 36 or county office has knowledge but does not have possession. If
 37 requested by ~~an~~ a **prospective** adoptive parent, **an adoptive parent**, or
 38 an adoptee, the person, agency, or county office shall attempt to
 39 provide the **prospective** adoptive parent, **the adoptive parent**, or the
 40 adoptee with a copy of any social, medical, psychological, or
 41 educational record that is not in the possession of the person, agency,
 42 or county office, after identifying information has been excluded.

COPY



1 SECTION 20. IC 31-25-4-23, AS AMENDED BY P.L.1-2007,
2 SECTION 198, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) Subject to subsection (d),
4 the Title IV-D agency shall provide incentive payments to counties for
5 enforcing and collecting the support rights that have been assigned to
6 the state. The incentive payments shall be made by the Title IV-D
7 agency directly to the county and deposited in the county treasury for
8 distribution on a quarterly basis and in the following manner:

9 (1) Twenty-two and two-tenths percent (22.2%) of the incentive
10 payments shall be distributed to ~~the county general fund.~~ **the Title**
11 **IV-D incentive fund established in accordance with section**
12 **23.5 of this chapter by each county that receives payments**
13 **under this subdivision.**

14 (2) Thirty-three and four-tenths percent (33.4%) of the incentive
15 payments shall be distributed to the operating budget of the
16 prosecuting attorney.

17 (3) Twenty-two and two-tenths percent (22.2%) of the incentive
18 payments shall be distributed to the operating budget of the circuit
19 court clerk.

20 (b) Notwithstanding IC 36-2-5-2(b), distribution from the county
21 treasury under subsection (a) shall be made without the necessity of
22 first obtaining an appropriation from the county fiscal body.

23 (c) The amount that a county receives and the terms under which the
24 incentive payment is paid must be in accordance with relevant federal
25 statutes and the federal regulations promulgated under the statutes.
26 However, amounts received as incentive payments may not, without the
27 approval of the county fiscal body, be used to increase or supplement
28 the salary of an elected official. The amounts received as incentive
29 payments must be used to supplement, rather than take the place of,
30 other funds used for Title IV-D program activities.

31 (d) The Title IV-D agency shall retain twenty-two and two-tenths
32 percent (22.2%) of the incentive payments described in subsection (a).

33 SECTION 21. IC 31-25-4-23.5 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2011]: **Sec. 23.5. (a) Each county that**
36 **receives payments under section 23(a)(1) of this chapter shall**
37 **establish a Title IV-D incentive fund.**

38 **(b) The incentive payments under section 23(a)(1) of this**
39 **chapter shall be paid into the fund.**

40 **(c) Money in the fund may be used only for child support**
41 **enforcement purposes.**

42 **(d) Money in the fund does not revert to any other fund.**

C
o
p
y



1 SECTION 22. IC 31-27-2-4, AS AMENDED BY P.L.131-2009,
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 4. (a) The department shall adopt rules under
4 IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning
5 the licensing and inspection of child caring institutions, foster family
6 homes, group homes, and child placing agencies after consultation with
7 the following:

- 8 (1) State department of health.
- 9 (2) Fire prevention and building safety commission.

10 (b) The rules adopted under subsection (a) shall be applied by the
11 department and state fire marshal in the licensing and inspection of
12 applicants for a license and licensees under this article.

13 (c) The rules adopted under IC 4-22-2 must establish minimum
14 standards for the care and treatment of children in a secure private
15 facility.

16 (d) The rules described in subsection (c) must include standards
17 governing the following:

- 18 (1) Admission criteria.
- 19 (2) General physical and environmental conditions.
- 20 (3) Services and programs to be provided to confined children.
- 21 (4) Procedures for ongoing monitoring and discharge planning.
- 22 (5) Procedures for the care and control of confined persons that
23 are necessary to ensure the health, safety, and treatment of
24 confined children.

25 (e) The department shall license a facility as a ~~private~~ secure
26 **private** facility if the facility:

- 27 (1) meets the minimum standards required under subsection (c);
- 28 (2) provides a continuum of care and services; and
- 29 (3) is:

- 30 (A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or
- 31 (B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;
32 regardless of the facility's duration of or previous licensure as a child
33 caring institution.

34 (f) A waiver of the rules may not be granted for treatment and
35 reporting requirements.

36 SECTION 23. IC 31-27-3-3, AS AMENDED BY P.L.138-2007,
37 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2011]: Sec. 3. (a) An applicant must apply for a child caring
39 institution license on forms provided by the department.

40 (b) An applicant must submit the required information as part of the
41 application.

42 (c) The applicant must submit with the application a statement

C
o
p
y



- 1 attesting the following:
- 2 (1) That the applicant has not been convicted of:
- 3 (A) a felony; or
- 4 (B) a misdemeanor relating to the health and safety of
- 5 children.
- 6 (2) That the applicant has not been charged with:
- 7 (A) a felony; or
- 8 (B) a misdemeanor relating to the health and safety of
- 9 children;
- 10 during the pendency of the application.
- 11 (d) The department, on behalf of an applicant, or, at the discretion
- 12 of the department, an applicant, shall conduct a criminal history check
- 13 of the following:
- 14 (1) Each individual who is an applicant.
- 15 (2) The director or manager of a facility where children will be
- 16 placed.
- 17 (3) An employee or a volunteer of the applicant who has or will
- 18 have direct contact on a regular and continuing basis with a child
- 19 who is or will be placed in a facility operated by the applicant.
- 20 (e) If the applicant conducts a criminal history check under
- 21 subsection (d), the applicant shall:
- 22 (1) maintain records of the information it receives concerning
- 23 each individual who is the subject of a criminal history check; and
- 24 (2) submit to the department a copy of the information it receives
- 25 concerning each person described in subsection (d)(1) through
- 26 (d)(3).
- 27 (f) If the department conducts a criminal history check on behalf of
- 28 an applicant under subsection (d), the department shall:
- 29 (1) determine whether the subject of a national fingerprint based
- 30 criminal history check has a record of: ~~a conviction for:~~
- 31 (A) a **conviction for a** felony; ~~or~~
- 32 (B) a **conviction for a** misdemeanor relating to the health and
- 33 safety of a child; **or**
- 34 (C) a **juvenile adjudication for an act listed in**
- 35 **IC 31-27-4-13(a) that, if committed by an adult, would be**
- 36 **a felony;**
- 37 (2) notify the applicant of the determination under subdivision (1)
- 38 without identifying a specific offense or other identifying
- 39 information concerning a conviction **or juvenile adjudication**
- 40 contained in the national criminal history record information;
- 41 (3) submit to the applicant a copy of any state limited criminal
- 42 history report that the department receives on behalf of any person

C
O
P
Y



1 described in subsection (d); and
2 (4) maintain a record of every report and all information the
3 department receives concerning a person described in subsection
4 (d).

5 (g) Except as provided in subsection (h), a criminal history check
6 described in subsection (d) is required only at the time an application
7 for a new license or the renewal of an existing license is submitted.

8 (h) A criminal history check of a person described in subsection
9 (d)(2) or (d)(3) must be completed on or before the date the person is
10 employed or assigned as a volunteer. However, a fingerprint based
11 criminal history background check under IC 31-9-2-22.5(1)(B) for a
12 person described in subsection (d)(3) must be completed not later than
13 the conclusion of the first ninety (90) days of employment in or
14 assignment of a volunteer to a position described in subsection (d)(3).
15 If a person described in this subsection has been the subject of a
16 criminal history check (as described in IC 31-9-2-22.5) that was
17 conducted not more than one (1) year before the date the license
18 application is submitted to the department, a new criminal history
19 check of that person is not required.

20 (i) An applicant or licensee may provisionally employ an individual
21 or assign a volunteer described in subsection (d)(3) for whom a
22 criminal history check is required under subsection (d)(3) during the
23 period after the process of requesting fingerprint based criminal history
24 background check information has been initiated by or on behalf of the
25 applicant or licensee but before the determination is obtained by or
26 communicated to the applicant or licensee. If the determination is not
27 received by not later than the ninety (90) days after the effective date
28 of hire or volunteer assignment, the employee or volunteer relationship
29 must be terminated or suspended until a determination is received. An
30 employee or volunteer whose determination has not yet been received
31 may not have direct contact with a child who is or will be placed at a
32 facility operated by the applicant or licensee unless the direct contact
33 occurs only in the presence of a volunteer or employee of the applicant
34 or licensee who has been the subject of a completed and approved
35 criminal history check. In determining whether to provisionally hire or
36 assign as a volunteer an individual described in subsection (d)(3), the
37 applicant or licensee shall consider the following:

- 38 (1) The training time required by an employee or a volunteer.
- 39 (2) The safety and security of the children under the supervision
40 of the applicant or licensee.
- 41 (3) The safety and security of the other staff and volunteers
42 working under the supervision of the applicant or licensee.

C
o
p
y



- 1 (4) The staffing concerns of the applicant or licensee.
- 2 (5) Any other factor relating to the safety and security of the
- 3 applicant's or licensee's operations.
- 4 (j) The department shall, at the applicant's request, inform the
- 5 applicant whether the department has or does not have a record of the
- 6 person who is the subject of a criminal history background check and
- 7 if the department has identified the person as an alleged perpetrator of
- 8 abuse or neglect. The department may not provide to the applicant any
- 9 details or personally identifying information contained in any child
- 10 protective services investigation report.
- 11 (k) A person who is the subject of a criminal history check
- 12 conducted in accordance with this section may request the state police
- 13 department to provide the person with a copy of any state or national
- 14 criminal history report concerning the person.
- 15 SECTION 24. IC 31-27-3-5, AS AMENDED BY P.L.138-2007,
- 16 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2011]: Sec. 5. (a) The following constitute sufficient grounds
- 18 for a denial of a license application:
- 19 (1) A determination by the department of child abuse or neglect
- 20 by:
- 21 (A) the applicant; **or**
- 22 (B) an employee **or a volunteer** of the applicant who has
- 23 direct contact, on a regular and continuous basis, with children
- 24 who are under the direct supervision of the applicant. **or**
- 25 ~~(C) a volunteer of the applicant who has direct contact, on a~~
- 26 ~~regular and continuous basis, with children who are under the~~
- 27 ~~direct supervision of the applicant.~~
- 28 (2) A criminal conviction of the applicant, or the director or
- 29 manager of a facility where children will be placed by the
- 30 applicant, of:
- 31 (A) a felony;
- 32 (B) a misdemeanor related to the health and safety of a child;
- 33 (C) a misdemeanor for operating a child caring institution,
- 34 foster family home, group home, or child placing agency
- 35 without a license under this article (or IC 12-17.4 before its
- 36 repeal); or
- 37 (D) a misdemeanor for operating a child care center or child
- 38 care home without a license under IC 12-17.2.
- 39 (3) A determination by the department that the applicant made
- 40 false statements in the applicant's application for licensure.
- 41 (4) A determination by the department that the applicant made
- 42 false statements in the records required by the department.

C
O
P
Y



1 (5) A determination by the department that:
 2 (A) the applicant; or
 3 (B) **an employee or a volunteer of the applicant who has**
 4 **direct contact, on a regular and continuous basis, with**
 5 **children who are under the direct supervision of the**
 6 **applicant;**
 7 previously operated a home or facility without a license required
 8 under any applicable provision of this article (or IC 12-17.4
 9 before its repeal) or IC 12-17.2.
 10 (6) **A juvenile adjudication of the applicant for an act listed in**
 11 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
 12 **felony.**
 13 (b) An application for a license may also be denied if an employee
 14 or a volunteer of the applicant who has direct contact on a regular and
 15 continuous basis with children who are under the direct supervision of
 16 the applicant has ~~been convicted of~~ **had** any of the following:
 17 (1) A **conviction of a** felony described in IC 31-27-4-13(a).
 18 (2) **A conviction of** any other felony or a misdemeanor relating to
 19 the health and safety of a child, unless the applicant is granted a
 20 waiver by the department to employ or assign the person as a
 21 volunteer in a position described in this subsection.
 22 (3) **A juvenile adjudication for an act listed in**
 23 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
 24 **felony, unless the applicant is granted a waiver by the**
 25 **department to employ or assign the person as a volunteer in**
 26 **a position described in this subsection.**
 27 (c) In determining whether to grant a waiver under subsection (b),
 28 the department shall consider the following factors:
 29 (1) The length of time that has passed since the disqualifying
 30 conviction.
 31 (2) The severity, nature, and circumstances of the offense.
 32 (3) Evidence of rehabilitation.
 33 (4) The duties and qualifications required for the proposed
 34 employment positions or volunteer assignment.
 35 (d) Notwithstanding subsection (a) or (b), if:
 36 (1) a license application could be denied due to a criminal
 37 conviction of, or a determination of child abuse or neglect by, an
 38 employee or a volunteer of the applicant; and
 39 (2) the department determines that the employee or volunteer has
 40 been dismissed by the applicant;
 41 the criminal conviction of, or determination of child abuse or neglect
 42 by, the former employee or former volunteer does not constitute a

C
o
p
y



1 sufficient basis for the denial of a license application.

2 (e) The department may adopt rules to implement this section.

3 SECTION 25. IC 31-27-3-31, AS AMENDED BY P.L.138-2007,
4 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 31. (a) The following constitute sufficient grounds
6 for revocation of a license:

7 (1) A determination by the department of child abuse or neglect
8 by:

9 (A) the licensee; **or**

10 (B) an employee **or a volunteer** of the licensee who has direct
11 contact, on a regular and continuous basis, with children who
12 are under the direct supervision of the licensee. **or**

13 ~~(C) a volunteer of the licensee who has direct contact, on a~~
14 ~~regular and continuous basis, with children who are under the~~
15 ~~direct supervision of the licensee.~~

16 (2) A criminal conviction of the licensee, or the director or
17 manager of a facility where children will be placed by the
18 licensee, of any of the following:

19 (A) A felony.

20 (B) A misdemeanor related to the health or safety of a child.

21 (C) A misdemeanor for operating a child caring institution,
22 foster family home, group home, or child placing agency
23 without a license under this article (or IC 12-17.4 before its
24 repeal).

25 (D) A misdemeanor for operating a child care center or child
26 care home without a license under IC 12-17.2.

27 (3) A determination by the department that the licensee made
28 false statements in the licensee's application for licensure.

29 (4) A determination by the department that the licensee made
30 false statements in the records required by the department.

31 (5) A determination by the department that:

32 (A) the licensee; **or**

33 (B) **an employee or a volunteer of the licensee who has**
34 **direct contact, on a regular and continuous basis, with**
35 **children who are under the direct supervision of the**
36 **licensee;**

37 previously operated a home or facility without a license required
38 under any applicable provision of this article (or IC 12-17.4
39 before its repeal) or IC 12-17.2.

40 (6) **A juvenile adjudication of a licensee for an act listed in**
41 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
42 **felony.**

C
O
P
Y



1 (b) A license may also be revoked if an employee or volunteer of the
2 licensee who has direct contact on a regular and continuous basis with
3 children who are under the direct supervision of the licensee has ~~been~~
4 ~~convicted of~~ **had** any of the following:

- 5 (1) A **conviction of a** felony described in IC 31-27-4-13(a).
- 6 (2) **A conviction of** any other felony or a misdemeanor relating to
7 the health and safety of a child, unless the licensee is granted a
8 waiver by the department to employ or assign the person as a
9 volunteer in a position described in this subsection.
- 10 **(3) A juvenile adjudication for an act listed in**
11 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
12 **felony, unless the licensee is granted a waiver by the**
13 **department to employ or assign the person as a volunteer in**
14 **a position described in this subsection.**

15 (c) In determining whether to grant a waiver under subsection (b),
16 the department shall consider the following factors:

- 17 (1) The length of time that has passed since the disqualifying
18 conviction.
- 19 (2) The severity, nature, and circumstances of the offense.
- 20 (3) Evidence of rehabilitation.
- 21 (4) The duties and qualifications required for the proposed
22 employment positions or volunteer assignment.

23 (d) Notwithstanding subsection (a) or (b), if:

- 24 (1) a license could be revoked due to a criminal conviction of, or
25 a determination of child abuse or neglect by, an employee or a
26 volunteer of the licensee; and
- 27 (2) the department determines that the employee or volunteer has
28 been dismissed by the licensee within a reasonable time after the
29 licensee became aware of the conviction or determination;

30 the criminal conviction of, or determination of child abuse or neglect
31 by, the former employee or former volunteer does not constitute a
32 sufficient basis for the revocation of a license.

33 (e) The department may adopt rules to implement this section.

34 SECTION 26. IC 31-27-4-2, AS AMENDED BY P.L.131-2009,
35 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2011]: Sec. 2. (a) A person may not operate a therapeutic
37 foster family home without a license issued under this article.

38 (b) The state or a political subdivision of the state may not operate
39 a therapeutic foster family home without a license issued under this
40 article.

41 (c) The department may issue a license only for a therapeutic foster
42 family home that meets:

C
O
P
Y



- 1 (1) all the licensing requirements of a foster family home; and
 2 (2) the additional requirements described in this section.
- 3 (d) An applicant for a therapeutic foster family home license must
 4 do the following:
- 5 (1) Be licensed as a foster parent under **this chapter and 465**
 6 **IAC 2-1-1 et seq.**
- 7 (2) Participate in preservice training that includes:
- 8 (A) preservice training to be licensed as a foster parent under
 9 465 IAC 2-1-1 et seq.; and
- 10 (B) additional preservice training in therapeutic foster care.
- 11 (e) A person who is issued a license to operate a therapeutic foster
 12 family home shall, within one (1) year after meeting the training
 13 requirements of subsection (d)(2) and, annually thereafter, participate
 14 in training that includes:
- 15 (1) training as required in order to be licensed as a foster parent
 16 under 465 IAC 2-1-1 et seq.; and
- 17 (2) additional training in order to be licensed as a therapeutic
 18 foster parent under this chapter.
- 19 (f) An operator of a therapeutic foster family home may not provide
 20 supervision and care in a therapeutic foster family home to more than
 21 ~~two (2)~~ **four (4)** children at the same time, ~~not~~ including the
 22 children for whom the applicant or operator is a parent, stepparent,
 23 guardian, custodian, or other relative, **and only two (2) of the children**
 24 **may be foster children.** The department may grant an exception to this
 25 subsection whenever the placement of siblings in the same therapeutic
 26 foster family home is desirable, ~~or in the best interests of the foster~~
 27 ~~children residing in the home.~~ **the foster child has an established,**
 28 **meaningful relationship with the therapeutic foster parent, or it is**
 29 **otherwise in the foster child's best interests.**
- 30 (g) ~~An operator of a therapeutic foster family home that has a~~
 31 ~~therapeutic foster child placed with the therapeutic foster family~~
 32 ~~home may not accept a placement of a child who is not a~~
 33 ~~therapeutic foster child unless the child who is not a therapeutic~~
 34 ~~foster child is a sibling of the therapeutic foster child who is placed~~
 35 ~~with the therapeutic foster family home or it is in the best interests~~
 36 ~~of the child being placed.~~
- 37 (g) **(h)** A therapeutic foster family home may provide care for an
 38 individual receiving foster care for older youth under IC 31-28-5.7-1
 39 if the individual is no longer under the care and supervision of a
 40 juvenile court.
- 41 (h) **(i)** An individual who receives foster care for older youth under
 42 IC 31-28-5.7-1 in a therapeutic foster family home shall not be

C
 O
 P
 Y



1 considered in determining whether the therapeutic foster family home
2 meets or exceeds the limit set forth in subsection (f).

3 ~~(i)~~ **(j)** The department shall adopt rules under IC 4-22-2, including
4 emergency rules under IC 4-22-2-37.1, necessary to carry out this
5 section, including rules governing the number of hours of training
6 required under subsections (d) and (e).

7 **(k) If a therapeutic foster family home does not meet the**
8 **requirements under subsection (f) or (g) on July 1, 2011, any foster**
9 **child placed in the home prior to July 1, 2011, may remain placed.**
10 **However, a new placement of a child may not be made in violation**
11 **of this section.**

12 SECTION 27. IC 31-27-4-3, AS AMENDED BY P.L.131-2009,
13 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2011]: Sec. 3. (a) A person may not operate a special needs
15 foster family home without a license issued under this article.

16 (b) The state or a political subdivision of the state may not operate
17 a special needs foster family home without a license issued under this
18 article.

19 (c) The department may only issue a license for a special needs
20 foster family home that meets:

- 21 (1) all the licensing requirements of a foster family home; and
22 (2) the additional requirements described in this section.

23 (d) An applicant for a special needs foster family home license must
24 be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes
25 participating in preservice training.

26 (e) A person who is issued a license to operate a special needs foster
27 family home shall, within one (1) year after meeting the training
28 requirements of subsection (d) and, annually thereafter, participate in
29 training that includes:

- 30 (1) training as required in order to be licensed as a foster parent
31 under 465 IAC 2-1-1 et seq.; and
32 (2) additional training that includes specialized training to meet
33 the child's or individual's specific needs.

34 (f) An operator of a special needs foster family home may not
35 provide supervision and care as a special needs foster family home if
36 more than:

- 37 (1) ~~eight (8)~~ **five (5)** individuals, each of whom:
38 (A) is less than eighteen (18) years of age; or
39 (B) is at least eighteen (18) years of age and is receiving care
40 and supervision under an order of a juvenile court; or
41 (2) four (4) individuals less than six (6) years of age;

42 including the children or individuals for whom the provider is a parent,

C
O
P
Y



1 stepparent, guardian, custodian, or other relative, receive care and
 2 supervision in the home at the same time. Not more than four (4) of the
 3 ~~eight (8)~~ **five (5)** individuals described in subdivision (1) may be less
 4 than six (6) years of age. The department may grant an exception to this
 5 section whenever the department determines that the placement of
 6 siblings in the same special needs foster home is desirable, **the foster**
 7 **child has an established, meaningful relationship with the foster**
 8 **parents, or it is otherwise in the foster child's best interests.**

9 (g) An individual who receives foster care for older youth under
 10 IC 31-28-5.7-1 in a special needs foster family home shall not be
 11 considered in determining whether the special needs foster family
 12 home meets or exceeds the limit set forth in subsection (f)(1).

13 (h) The department shall consider the specific needs of each special
 14 needs foster child or individual whenever the department determines
 15 the appropriate number of children or individuals to place in the special
 16 needs foster home under subsection (f). The department may require a
 17 special needs foster family home to provide care and supervision to less
 18 than the maximum number of children or individuals allowed under
 19 subsection (f) upon consideration of the specific needs of a special
 20 needs foster child or individual.

21 (i) A special needs foster family home may provide care for an
 22 individual receiving foster care for older youth under IC 31-28-5.7-1
 23 if the individual is no longer under the care and supervision of a
 24 juvenile court.

25 (j) The department shall adopt rules under IC 4-22-2, including
 26 emergency rules under IC 4-22-2-37.1, necessary to carry out this
 27 section, including rules governing the number of hours of training
 28 required under subsection (e).

29 **(k) If a special needs foster family home does not meet the**
 30 **requirements under subsection (f) on July 1, 2011, any foster child**
 31 **placed in the home prior to July 1, 2011 may remain placed.**
 32 **However, a new placement of a child may not be made in violation**
 33 **of this section.**

34 SECTION 28. IC 31-27-4-5, AS AMENDED BY P.L.138-2007,
 35 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2011]: Sec. 5. (a) An applicant must apply for a foster family
 37 home license on forms provided by the department.

38 (b) An applicant must submit the required information as part of the
 39 application.

40 (c) An applicant must submit with the application a statement
 41 attesting the following:

42 (1) ~~That~~ **Whether** the applicant has ~~not~~ been convicted of:

C
O
P
Y



- 1 (A) a felony; or
- 2 (B) a misdemeanor relating to the health and safety of
- 3 children.
- 4 (2) ~~That~~ **Whether** the applicant has ~~not~~ been charged with:
- 5 (A) a felony; or
- 6 (B) a misdemeanor relating to the health and safety of
- 7 children;
- 8 during the pendency of the application.
- 9 (d) An applicant shall submit the necessary information, forms, or
- 10 consents for the department to conduct a criminal history check for
- 11 each individual who is an applicant.
- 12 (e) The department or, at the discretion of the department, an
- 13 applicant, shall conduct a criminal history check of:
- 14 (1) the applicant's employees and volunteers who have or will
- 15 have direct contact, on a regular and continuing basis, with
- 16 children who are or will be under the direct supervision of the
- 17 applicant; and
- 18 (2) all household members who are at least fourteen (14) years of
- 19 age.
- 20 (f) If the applicant conducts criminal history checks under
- 21 subsection (e), the applicant shall maintain records of the information
- 22 received concerning each individual subject of a criminal history
- 23 check.
- 24 (g) If the department conducts a criminal history check on behalf of
- 25 an applicant under subsection (e), the department shall:
- 26 (1) make a determination whether the subject of a national
- 27 fingerprint based criminal history check has a record of: ~~a~~
- 28 ~~conviction for:~~
- 29 (A) **a conviction for** a felony; ~~or~~
- 30 (B) **a conviction for** a misdemeanor relating to the health and
- 31 safety of a child; ~~or~~
- 32 (C) **a juvenile adjudication for an act listed in section 13(a)**
- 33 **of this chapter that, if committed by an adult, would be a**
- 34 **felony;**
- 35 (2) notify the applicant of the determination under subdivision (1)
- 36 without identifying a specific offense or other identifying
- 37 information concerning a conviction **or juvenile adjudication**
- 38 contained in the national criminal history record information;
- 39 (3) submit to the applicant a copy of any state limited criminal
- 40 history report that the department receives on behalf of any person
- 41 described in subsection (e); and
- 42 (4) maintain a record of every report and all information the

COPY



1 department receives concerning a person described in subsection
2 (e).

3 (h) Except as provided in subsection (i), a criminal history check
4 described in subsection (e) is required only at the time an application
5 for a new license or the renewal of an existing license is submitted.

6 (i) With the exception of a fingerprint based criminal history
7 background check under IC 31-9-2-22.5(1)(B) for a person described
8 in subsection (e)(1), a criminal history check concerning a person
9 described in subsection (e) must be completed on or before the date on
10 which the subject of the check is first employed or assigned as a
11 volunteer in a position described in subsection (e)(1) or first becomes
12 a resident of the applicant's household as described in subsection
13 (e)(2). A fingerprint based criminal history background check under
14 IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must
15 be completed not later than the conclusion of the first ninety (90) days
16 of employment in or assignment of a volunteer. However, if a person
17 described in this subsection has been the subject of a criminal history
18 check that was conducted not more than one (1) year before the date
19 the license application is submitted to the department, a new criminal
20 history check of that person is not required.

21 (j) An applicant or a licensee described in subsection (e)(1) may
22 provisionally employ an individual or assign a volunteer for whom a
23 criminal history check is required during the period after the process of
24 requesting fingerprint based criminal history background check
25 information has been initiated by or on behalf of the applicant or
26 licensee but before the determination is obtained by or communicated
27 to the applicant or licensee. If the determination is not received by not
28 later than ninety (90) days after the effective date of hire or volunteer
29 assignment, the employee or volunteer relationship must be terminated
30 or suspended until a determination is received. An employee or
31 volunteer whose determination has not yet been received may not have
32 direct contact with a child who is or will be placed at a facility operated
33 by the applicant or licensee unless the direct contact occurs only in the
34 presence of a volunteer or employee of the applicant or licensee who
35 has been the subject of a completed and approved criminal history
36 check. In determining whether to provisionally hire or assign as a
37 volunteer an individual described in subsection (e)(1), the applicant or
38 licensee shall consider the following:

- 39 (1) The training time required by an employee or a volunteer.
40 (2) The safety and security of the children under the supervision
41 of the applicant or licensee.
42 (3) The safety and security of the other staff and volunteers

**C
O
P
Y**



- 1 working under the supervision of the applicant or licensee.
- 2 (4) The staffing concerns of the applicant or licensee.
- 3 (5) Any other factor relating to the safety and security of the
- 4 applicant's or licensee's operations.
- 5 (k) The department shall, at the applicant's request, inform the
- 6 applicant whether the department has or does not have a record of the
- 7 person who is the subject of a criminal history background check and
- 8 if the department has identified the person as an alleged perpetrator of
- 9 abuse or neglect. The department may not provide to the applicant any
- 10 details or personally identifying information contained in any child
- 11 protective investigation report.
- 12 (l) A person who is the subject of a criminal history check
- 13 conducted in accordance with this section may request the state police
- 14 department to provide the person with a copy of any state or national
- 15 criminal history report concerning the person.
- 16 SECTION 29. IC 31-27-4-6, AS AMENDED BY P.L.138-2007,
- 17 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2011]: Sec. 6. (a) The following constitute sufficient grounds
- 19 for a denial of a license application:
- 20 (1) A determination by the department of child abuse or neglect
- 21 by:
- 22 (A) the applicant;
- 23 (B) an employee **or a volunteer** of the applicant who has
- 24 direct contact, on a regular and continuous basis, with children
- 25 who are under the direct supervision of the applicant; **or**
- 26 ~~(C) a volunteer of the applicant who has direct contact, on a~~
- 27 ~~regular and continuous basis, with children who are under the~~
- 28 ~~direct supervision of the applicant; or~~
- 29 ~~(D) (C) a person residing in the applicant's residence. who is~~
- 30 ~~at least eighteen (18) years of age.~~
- 31 (2) A criminal conviction of the applicant of any of the following:
- 32 (A) a felony;
- 33 (B) a misdemeanor related to the health and safety of a child;
- 34 (C) a misdemeanor for operating a child care center or child
- 35 care home without a license under IC 12-17.2-5; or
- 36 (D) a misdemeanor for operating a foster family home without
- 37 a license under ~~of~~ this chapter (or IC 12-17.4-4 before its
- 38 repeal).
- 39 (3) A determination by the department that the applicant made
- 40 false statements in the applicant's application for licensure.
- 41 (4) A determination by the department that the applicant made
- 42 false statements in the records required by the department.

COPY



- 1 (5) A determination by the department that:
- 2 (A) the applicant;
- 3 (B) **an employee or a volunteer of the applicant who has**
- 4 **direct contact, on a regular and continuous basis, with**
- 5 **children who are under the direct supervision of the**
- 6 **applicant; or**
- 7 (C) **a person residing in the applicant's residence;**
- 8 previously operated a
- 9 (A) child care center or child care home without a license
- 10 under IC 12-17.2-5 or
- 11 (B) a foster family home without a license under this chapter
- 12 (or IC 12-17.4-4 before its repeal).
- 13 (6) **A juvenile adjudication of the applicant for an act listed in**
- 14 **section 13(a) of this chapter that, if committed by an adult,**
- 15 **would be a felony.**
- 16 (b) An application for a license may also be denied if an individual
- 17 who resides in the residence of the applicant or an employee or
- 18 volunteer of the applicant who has direct contact on a regular and
- 19 continuous basis with children who are under the direct supervision of
- 20 the applicant has ~~been convicted of~~ **had** any of the following:
- 21 (1) A **conviction of a** felony described in IC 31-27-4-13(a).
- 22 (2) **A conviction of** any other felony or a misdemeanor relating to
- 23 the health and safety of a child, unless the applicant is granted a
- 24 waiver by the department to employ or assign the person as a
- 25 volunteer in a position described in this subsection or to permit
- 26 the individual to reside in the applicant's residence.
- 27 (3) **A juvenile adjudication for an act listed in section 13(a) of**
- 28 **this chapter that, if committed by an adult, would be a felony,**
- 29 **unless the applicant is granted a waiver by the department to:**
- 30 (A) **employ or assign the person as a volunteer in a position**
- 31 **described in this subsection; or**
- 32 (B) **permit the individual to reside in the applicant's**
- 33 **residence.**
- 34 (c) In determining whether to grant a waiver under subsection (b),
- 35 the department shall consider the following factors:
- 36 (1) The length of time that has passed since the disqualifying
- 37 conviction.
- 38 (2) The severity, nature, and circumstances of the offense.
- 39 (3) Evidence of rehabilitation.
- 40 (4) The duties and qualifications required for the proposed
- 41 employment positions or volunteer assignment.
- 42 (5) The nature and extent of unsupervised contact with children

COPY



1 residing in the home.

2 (d) Notwithstanding subsection (a) or (b), if:

3 (1) a license application could be denied due to a criminal

4 conviction of, or a determination of child abuse or neglect by, an

5 employee, a volunteer, or a person residing in the residence of the

6 applicant; and

7 (2) the department determines that the employee or volunteer has

8 been dismissed by the applicant or that the person residing in the

9 residence no longer resides there;

10 the criminal conviction of, or determination of child abuse or neglect

11 by, the former employee, former volunteer, or former household

12 resident does not constitute a sufficient basis for the denial of a license

13 application.

14 (e) The department may adopt rules to implement this section.

15 SECTION 30. IC 31-27-4-8, AS AMENDED BY P.L.143-2008,

16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

17 JULY 1, 2011]: Sec. 8. (a) An applicant may not provide supervision

18 and care as a foster family home if more than:

19 (1) ~~eight (8)~~ **five (5)** individuals, each of whom:

20 (A) is less than eighteen (18) years of age; or

21 (B) is at least eighteen (18) years of age and is receiving care

22 and supervision under an order of a juvenile court; or

23 (2) four (4) individuals less than six (6) years of age;

24 including the children or individuals for whom the provider is a parent,

25 stepparent, guardian, custodian, or other relative, receive care and

26 supervision at the facility at the same time.

27 (b) Not more than four (4) of the ~~eight (8)~~ **five (5)** individuals in

28 subsection (a)(1) may be less than six (6) years of age.

29 (c) The department may grant an exception to this section whenever

30 the department determines that:

31 **(1) the placement of siblings in the same foster family home is**

32 **desirable;**

33 **(2) a foster child has an established, meaningful relationship**

34 **with the foster parents; or**

35 **(3) it is otherwise in the foster child's best interests.**

36 (d) An individual who receives foster care for older youth under

37 IC 31-28-5.7-1 in a foster family home shall not be considered in

38 determining whether the foster family home meets or exceeds the limit

39 set forth in subsection (a)(1).

40 **(e) If a foster family home does not meet the requirements**

41 **under subsection (a) on July 1, 2011, any foster child placed in the**

42 **home prior to July 1, 2011 may remain placed. However, a new**

C
o
p
y



1 **placement of a child may not be made in violation of this section.**

2 SECTION 31. IC 31-27-4-13, AS AMENDED BY P.L.138-2007,
3 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 13. (a) The department shall deny a license when
5 an applicant fails to meet the requirements for a license. The
6 department shall deny a license to an applicant who has been convicted
7 of any of the following felonies:

- 8 (1) Murder (IC 35-42-1-1).
9 (2) Causing suicide (IC 35-42-1-2).
10 (3) Assisting suicide (IC 35-42-1-2.5).
11 (4) Voluntary manslaughter (IC 35-42-1-3).
12 (5) Reckless homicide (IC 35-42-1-5).
13 (6) Battery (IC 35-42-2-1) **within the past five (5) years.**
14 (7) Domestic battery (IC 35-42-2-1.3).
15 (8) Aggravated battery (IC 35-42-2-1.5).
16 (9) Kidnapping (IC 35-42-3-2).
17 (10) Criminal confinement (IC 35-42-3-3) **within the past five**
18 **(5) years.**
19 (11) A felony sex offense under IC 35-42-4.
20 (12) Carjacking (IC 35-42-5-2) **within the past five (5) years.**
21 (13) Arson (IC 35-43-1-1) **within the past five (5) years.**
22 (14) Incest (IC 35-46-1-3).
23 (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and
24 IC 35-46-1-4(a)(2)).
25 (16) Child selling (IC 35-46-1-4(d)).
26 (17) A felony involving a weapon under IC 35-47 or IC 35-47.5
27 **within the past five (5) years.**
28 (18) A felony relating to controlled substances under IC 35-48-4
29 **within the past five (5) years.**
30 (19) An offense relating to material or a performance that is
31 harmful to minors or obscene under IC 35-49-3.
32 (20) A felony that is substantially equivalent to a felony listed in
33 subdivisions (1) through (19) for which the conviction was
34 entered in another state.

35 **(b)** The department may deny a license to an applicant who:

- 36 **(1)** has been convicted of a felony that is not listed in ~~this~~
37 subsection **(a)**; **or**
38 **(2)** has had a juvenile adjudication for an act listed in
39 subsection **(a)** that, if committed by an adult, would be a
40 felony.

41 ~~(b)~~ **(c)** The department shall send written notice by certified mail
42 that the application has been denied and give the reasons for the denial.

C
O
P
Y



1 ~~(c)~~ **(d)** An administrative hearing concerning the denial of a license
2 shall be provided upon written request by the applicant. The request
3 must be made not more than thirty (30) days after receiving the written
4 notice under subsection ~~(b)~~: **(c)**.

5 ~~(d)~~ **(e)** An administrative hearing shall be held not more than sixty
6 (60) days after receiving a written request.

7 ~~(e)~~ **(f)** An administrative hearing shall be held in accordance with
8 IC 4-21.5-3.

9 ~~(f)~~ **(g)** The department shall issue a decision not more than sixty
10 (60) days after the conclusion of a hearing.

11 SECTION 32. IC 31-27-4-32, AS AMENDED BY P.L.138-2007,
12 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2011]: Sec. 32. (a) The following constitute sufficient grounds
14 for revocation of a license:

15 (1) A determination by the department of child abuse or neglect
16 by:

- 17 (A) the licensee;
- 18 (B) an employee **or a volunteer** of the licensee who has direct
19 contact, on a regular and continuous basis, with children who
20 are under the direct supervision of the licensee; **or**
- 21 ~~(C) a volunteer of the licensee who has direct contact, on a~~
22 ~~regular and continuous basis, with children who are under the~~
23 ~~direct supervision of the licensee; or~~
- 24 ~~(D)~~ **(C)** a person at least eighteen (18) years of age who is
25 residing in the home of the licensee.

26 (2) A criminal conviction of the licensee for any of the following:

- 27 (A) A felony.
- 28 (B) A misdemeanor related to the health or safety of a child.
- 29 (C) A misdemeanor for operating a child care center or child
30 care home without a license under IC 12-17.2-5.
- 31 (D) A misdemeanor for operating a foster family home without
32 a license under this chapter (or IC 12-17.4-4 before its repeal).

33 (3) A determination by the department that the licensee made
34 false statements in the licensee's application for licensure.

35 (4) A determination by the department that the licensee made
36 false statements in the records required by the department.

37 (5) A determination by the department that:

- 38 (A) the licensee;
- 39 **(B) an employee or a volunteer of the licensee who has**
40 **direct contact, on a regular and continuous basis, with**
41 **children who are under the direct supervision of the**
42 **licensee; or**

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(C) a person residing in the licensee's residence;
previously operated a
~~(A)~~ child care center or child care home without a license
under IC 12-17.2-5 or
~~(B)~~ a foster family home without a license under this chapter
(or IC 12-17.4-4 before its repeal).

**(6) A juvenile adjudication of the licensee for an act listed in
section 13(a) of this chapter that, if committed by an adult,
would be a felony.**

(b) A license may also be revoked if an individual who resides in the
residence of the licensee or an employee or volunteer of the licensee
who has direct contact on a regular and continuous basis with children
who are under the direct supervision of the licensee has ~~been convicted~~
of had any of the following:

(1) A **conviction of a** felony described in ~~IC 31-27-4-13(a).~~
section 13(a) of this chapter.

(2) A **conviction of** any other felony or a misdemeanor relating to
the health and safety of a child, unless the licensee is granted a
waiver by the department to employ or assign the person as a
volunteer in a position described in this subsection or to permit
the individual to reside in the licensee's residence.

**(3) A juvenile adjudication for an act listed in section 13(a) of
this chapter that, if committed by an adult, would be a felony,
unless the licensee is granted a waiver by the department to:**

**(A) employ or assign the individual as a volunteer in a
position described in this subsection; or**

**(B) permit the individual to reside in the licensee's
residence.**

(c) In determining whether to grant a waiver under subsection (b),
the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying
conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed
employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) a license could be revoked due to a criminal conviction of, or
a determination of child abuse or neglect by, an employee or a
volunteer of the licensee or an individual residing in the residence
of the licensee; and

(2) the department determines that the employee or volunteer has

C
o
p
y



1 been dismissed by the licensee within a reasonable time after the
 2 licensee became aware of the conviction or that the individual no
 3 longer resides in the licensee's residence;
 4 the criminal conviction of, or determination of child abuse or neglect
 5 by, the former employee, former volunteer, or former household
 6 resident does not constitute a sufficient basis for the revocation of a
 7 license.

8 (e) The department may adopt rules to implement this section.

9 SECTION 33. IC 31-27-4-33, AS ADDED BY P.L.146-2006,
 10 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2011]: Sec. 33. (a) A licensee shall operate a foster family
 12 home in compliance with the rules established under this article and is
 13 subject to the disciplinary sanctions under subsection (b) if the
 14 department finds that the licensee has violated this article or a rule
 15 adopted under this article.

16 (b) After complying with the procedural provisions in sections 22
 17 through 25 of this chapter, the department may revoke the license when
 18 the department finds that a licensee has committed a violation under
 19 subsection (a). However, the department shall permanently revoke the
 20 license of a licensee who has been convicted of any of the felonies
 21 described in section ~~13(a)(1) through 13(a)(19)~~ **13(a)** of this chapter.
 22 The department may permanently revoke the license of a person who
 23 has been convicted of a felony that is not described in section ~~13(a)(1)~~
 24 through ~~13(a)(19)~~ **13(a)** of this chapter.

25 SECTION 34. IC 31-27-5-4, AS AMENDED BY P.L.138-2007,
 26 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2011]: Sec. 4. (a) An applicant must apply for a group home
 28 license on forms provided by the department.

29 (b) An applicant must submit the required information as part of the
 30 application.

31 (c) An applicant must submit with the application a statement
 32 attesting the following:

33 (1) That the applicant has not been convicted of:

34 (A) a felony; or

35 (B) a misdemeanor relating to the health and safety of
 36 children.

37 (2) That the applicant has not been charged with:

38 (A) a felony; or

39 (B) a misdemeanor relating to the health and safety of
 40 children;

41 during the pendency of the application.

42 (d) The department on behalf of an applicant, or, at the discretion of

C
O
P
Y



1 the department, an applicant, shall conduct a criminal history check of
2 the following:

3 (1) Each individual who is an applicant.

4 (2) The director or manager of a facility where children will be
5 placed.

6 (3) An employee or a volunteer of the applicant who has or will
7 have direct contact on a regular and continuing basis with a child
8 who is or will be placed in a facility operated by the applicant.

9 (e) If the applicant conducts a criminal history check under
10 subsection (d), the applicant shall:

11 (1) maintain records of the information it receives concerning
12 each individual who is the subject of a criminal history check; and

13 (2) submit to the department a copy of the information the
14 applicant receives concerning each person described in subsection
15 (d)(1) through (d)(3).

16 (f) If the department conducts a criminal history check on behalf of
17 an applicant under subsection (d), the department shall:

18 (1) determine whether the subject of a national fingerprint based
19 criminal history check has a record of a: ~~conviction for:~~

20 (A) **conviction for** a felony; ~~or~~

21 (B) **conviction for** a misdemeanor relating to the health and
22 safety of a child; ~~or~~

23 (C) **juvenile adjudication for an act listed in**
24 **IC 31-27-4-13(a) that, if committed by an adult, would be**
25 **a felony;**

26 (2) notify the applicant of the determination under subdivision (1)
27 without identifying a specific offense or other identifying
28 information concerning a conviction **or juvenile adjudication**
29 contained in the national criminal history record information;

30 (3) submit to the applicant a copy of any state limited criminal
31 history report that the department receives on behalf of any person
32 described in subsection (d); and

33 (4) maintain a record of every report and all information it
34 receives concerning a person described in subsection (d).

35 (g) Except as provided in subsection (h), a criminal history check
36 described in subsection (d) is required only at the time an application
37 for a new license or the renewal of an existing license is submitted.

38 (h) A criminal history check of a person described in subsection
39 (d)(2) or (d)(3) must be completed on or before the date on which the
40 subject of the check is employed or assigned as a volunteer. However,
41 a fingerprint based criminal history background check under
42 IC 31-9-2-22.5(1)(B) for a person described in subsection (d) must be

C
O
P
Y



1 completed not later than the conclusion of the first ninety (90) days of
 2 employment in or assignment of a volunteer to a position described in
 3 subsection (d). If a person described in this subsection has been the
 4 subject of a criminal history check (as described in IC 31-9-2-22.5) that
 5 was conducted not more than one (1) year before the date the license
 6 application is submitted to the department, a new criminal history
 7 check of that person is not required.

8 (i) An applicant or licensee may provisionally employ an individual
 9 or assign a volunteer described in subsection (d)(3) for whom a
 10 criminal history check is required during the period after the process of
 11 requesting fingerprint based criminal history background check
 12 information has been initiated by or on behalf of the applicant or
 13 licensee but before the determination is obtained by or communicated
 14 to the applicant or licensee. If the determination is not received within
 15 ninety (90) days after the effective date of hire or volunteer assignment,
 16 the employee or volunteer relationship must be terminated or
 17 suspended until a determination is received. An employee or volunteer
 18 whose determination has not yet been received may not have direct
 19 contact with a child who is or will be placed at a facility operated by
 20 the applicant or licensee unless the direct contact occurs only in the
 21 presence of a volunteer or employee of the applicant or licensee who
 22 has been the subject of a completed and approved criminal history
 23 check. In determining whether to provisionally hire or assign as a
 24 volunteer an individual described in subsection (d)(3), the applicant or
 25 licensee shall consider the following:

- 26 (1) The training time required by an employee or a volunteer.
- 27 (2) The safety and security of the children under the supervision
 28 of the applicant or licensee.
- 29 (3) The safety and security of the other staff and volunteers
 30 working under the supervision of the applicant or licensee.
- 31 (4) The staffing concerns of the applicant or licensee.
- 32 (5) Any other factor relating to the safety and security of the
 33 applicant's or licensee's operations.

34 (j) The department shall, at the applicant's request, inform the
 35 applicant as to whether the department has or does not have a record of
 36 the person who is the subject of a criminal history background check
 37 and whether the department has identified the person as an alleged
 38 perpetrator of abuse or neglect. The department may not provide to the
 39 applicant any details or personally identifying information contained
 40 in any child protective services investigation report.

41 (k) A person who is the subject of a criminal history check
 42 conducted in accordance with this section may request the state police

C
O
P
Y



1 department to provide the person with a copy of any state or national
2 criminal history report concerning the person.

3 SECTION 35. IC 31-27-5-6, AS AMENDED BY P.L.138-2007,
4 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 6. (a) The following constitute sufficient grounds
6 for a denial of a license application:

7 (1) A determination by the department of child abuse or neglect
8 by:

9 (A) the applicant; **or**

10 (B) an employee **or a volunteer** of the applicant who has
11 direct contact, on a regular and continuous basis, with children
12 who are under the direct supervision of the applicant. **or**

13 ~~(C) a volunteer of the applicant who has direct contact, on a~~
14 ~~regular and continuous basis, with children who are under the~~
15 ~~direct supervision of the applicant.~~

16 (2) A criminal conviction of the applicant, or the director or
17 manager of a facility where children will be placed by the
18 applicant, for any of the following:

19 (A) A felony.

20 (B) A misdemeanor related to the health and safety of a child.

21 (C) A misdemeanor for operating a child caring institution,
22 foster family home, group home, or child placing agency
23 without a license under this article (or IC 12-17.4 before its
24 repeal).

25 (D) A misdemeanor for operating a child care center or child
26 care home without a license under IC 12-17.2.

27 (3) A determination by the department that the applicant made
28 false statements in the applicant's application for licensure.

29 (4) A determination by the department that the applicant made
30 false statements in the records required by the department.

31 (5) A determination by the department that:

32 (A) the applicant; **or**

33 (B) **an employee or a volunteer of the applicant who has**
34 **direct contact, on a regular and continuous basis, with**
35 **children who are under the direct supervision of the**
36 **applicant;**

37 previously operated a home or facility without a license required
38 under any applicable provision of this article (or IC 12-17.4
39 before its repeal) or IC 12-17.2.

40 (6) **A juvenile adjudication of the applicant for an act listed in**
41 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
42 **felony.**

C
O
P
Y



1 (b) An application for a license may also be denied if an employee
2 or volunteer of the applicant who has direct contact on a regular and
3 continuous basis with children who are under the direct supervision of
4 the applicant has ~~been convicted of~~ **had** any of the following:

- 5 (1) **A conviction of** a felony described in IC 31-27-4-13(a).
- 6 (2) **A conviction of** any other felony or a misdemeanor relating to
7 the health and safety of a child, unless the applicant is granted a
8 waiver by the department to employ or assign the person as a
9 volunteer in a position described in this subsection.
- 10 (3) **A juvenile adjudication for an act listed in**
11 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
12 **felony, unless the applicant is granted a waiver by the**
13 **department to employ or assign the person as a volunteer in**
14 **a position described in this subsection.**

15 (c) In determining whether to grant a waiver under subsection (b),
16 the department shall consider the following factors:

- 17 (1) The length of time that has passed since the disqualifying
18 conviction.
- 19 (2) The severity, nature, and circumstances of the offense.
- 20 (3) Evidence of rehabilitation.
- 21 (4) The duties and qualifications required for the proposed
22 employment positions or volunteer assignment.

23 (d) Notwithstanding subsection (a) or (b), if:

- 24 (1) a license application could be denied due to a criminal
25 conviction of, or a determination of child abuse or neglect by, an
26 employee or a volunteer of the applicant; and
- 27 (2) the department determines that the employee or volunteer has
28 been dismissed by the applicant;

29 the criminal conviction of, or determination of child abuse or neglect
30 by, the former employee or former volunteer does not constitute a
31 sufficient basis for the denial of a license application.

32 (e) The department may adopt rules to implement this section.

33 SECTION 36. IC 31-27-5-31, AS AMENDED BY P.L.138-2007,
34 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2011]: Sec. 31. (a) The following constitute sufficient grounds
36 for revocation of a license:

- 37 (1) A determination by the department of child abuse or neglect
38 by:
39 (A) the licensee; **or**
40 (B) an employee **or a volunteer** of the licensee who has direct
41 contact, on a regular and continuous basis, with children who
42 are under the direct supervision of the licensee. **or**

C
o
p
y



- 1 ~~(C)~~ a volunteer of the licensee who has direct contact, on a
- 2 regular and continuous basis, with children who are under the
- 3 direct supervision of the licensee.
- 4 (2) A criminal conviction of the licensee, or the director or
- 5 manager of a facility where children will be placed by the
- 6 licensee, for any of the following:
- 7 (A) A felony.
- 8 (B) A misdemeanor related to the health or safety of a child.
- 9 (C) A misdemeanor for operating a child caring institution,
- 10 foster family home, group home, or child placing agency
- 11 without a license under this article (or IC 12-17.4 before its
- 12 repeal).
- 13 (D) A misdemeanor for operating a child care center or child
- 14 care home without a license under IC 12-17.2.
- 15 (3) A determination by the department that the licensee made
- 16 false statements in the licensee's application for licensure.
- 17 (4) A determination by the department that the licensee made
- 18 false statements in the records required by the department.
- 19 (5) A determination by the department that:
- 20 (A) the licensee; or
- 21 **(B) an employee or volunteer of the licensee who has direct**
- 22 **contact, on a regular and continuous basis, with children**
- 23 **who are under the direct supervision of the licensee;**
- 24 previously operated a home or facility without a license required
- 25 under any applicable provision of this article (or IC 12-17.4
- 26 before its repeal) or IC 12-17.2.
- 27 **(6) A juvenile adjudication of the licensee for an act listed in**
- 28 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
- 29 **felony.**
- 30 (b) A license may also be revoked if an employee or volunteer of the
- 31 licensee who has direct contact on a regular and continuous basis with
- 32 children who are under the direct supervision of the licensee has ~~been~~
- 33 ~~convicted of had~~ any of the following:
- 34 (1) **A conviction of** a felony described in IC 31-27-4-13(a).
- 35 (2) **A conviction of** any other felony or a misdemeanor relating to
- 36 the health and safety of a child, unless the licensee is granted a
- 37 waiver by the department to employ or assign the person as a
- 38 volunteer in a position described in this subsection.
- 39 (3) **A juvenile adjudication for an act listed in**
- 40 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
- 41 **felony, unless the licensee is granted a waiver by the**
- 42 **department to employ or assign the person as a volunteer in**

COPY



- 1 **a position described in this subsection.**
- 2 (c) In determining whether to grant a waiver under subsection (b),
- 3 the department shall consider the following factors:
- 4 (1) The length of time that has passed since the disqualifying
- 5 conviction.
- 6 (2) The severity, nature, and circumstances of the offense.
- 7 (3) Evidence of rehabilitation.
- 8 (4) The duties and qualifications required for the proposed
- 9 employment positions or volunteer assignment.
- 10 (d) Notwithstanding subsection (a) or (b), if:
- 11 (1) a license could be revoked due to a criminal conviction of, or
- 12 a determination of child abuse or neglect by, an employee or a
- 13 volunteer of the licensee; and
- 14 (2) the department determines that the employee or volunteer has
- 15 been dismissed by the licensee within a reasonable time after the
- 16 licensee became aware of the conviction;
- 17 the criminal conviction of, or determination of child abuse or neglect
- 18 by, the former employee or former volunteer does not constitute a
- 19 sufficient basis for the revocation of a license.
- 20 (e) The department may adopt rules to implement this section.
- 21 SECTION 37. IC 31-27-6-2, AS AMENDED BY P.L.138-2007,
- 22 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2011]: Sec. 2. (a) An applicant must apply for a child placing
- 24 agency license on forms provided by the department.
- 25 (b) An applicant must submit the required information as part of the
- 26 application.
- 27 (c) The applicant must submit with the application a statement
- 28 attesting the following:
- 29 (1) That the applicant has not been convicted of:
- 30 (A) a felony; or
- 31 (B) a misdemeanor relating to the health and safety of
- 32 children.
- 33 (2) That the applicant has not been charged with:
- 34 (A) a felony; or
- 35 (B) a misdemeanor relating to the health and safety of
- 36 children;
- 37 during the pendency of the application.
- 38 (d) The department on behalf of an applicant, or, at the discretion of
- 39 the department, an applicant, shall conduct a criminal history check of
- 40 the following:
- 41 (1) Each individual who is an applicant.
- 42 (2) The director or manager of a facility where children will be

C
O
P
Y



- 1 placed.
- 2 (3) An employee or a volunteer of the applicant who has or will
- 3 have direct contact on a regular and continuing basis with a child
- 4 who is or will be placed in a facility operated by the applicant.
- 5 (e) If the applicant conducts a criminal history check under
- 6 subsection (d), the applicant shall:
- 7 (1) maintain records of the information it receives concerning
- 8 each individual who is the subject of a criminal history check; and
- 9 (2) submit to the department a copy of the information it receives
- 10 concerning each person described in subsection (d)(1) through
- 11 (d)(3).
- 12 (f) If the department conducts a criminal history check on behalf of
- 13 an applicant under subsection (d), the department shall:
- 14 (1) determine whether the subject of a national fingerprint based
- 15 criminal history check has a record of a: ~~conviction for:~~
- 16 (A) **conviction for** a felony; ~~or~~
- 17 (B) **conviction for** a misdemeanor relating to the health and
- 18 safety of a child; **or**
- 19 (C) **juvenile adjudication for an act listed in**
- 20 **IC 31-27-4-13(a) that, if committed by an adult, would be**
- 21 **a felony;**
- 22 (2) notify the applicant of the determination under subdivision (1)
- 23 without identifying a specific offense or other identifying
- 24 information concerning a conviction **or juvenile adjudication**
- 25 contained in the national criminal history record information;
- 26 (3) submit to the applicant a copy of any state limited criminal
- 27 history report that the department receives on behalf of any person
- 28 described in subsection (d); and
- 29 (4) maintain a record of every report and all information the
- 30 department receives concerning a person described in subsection
- 31 (d).
- 32 (g) Except as provided in subsection (h), a criminal history check
- 33 described in subsection (d) is required only at the time an application
- 34 for a new license or the renewal of an existing license is submitted.
- 35 (h) A criminal history background check of a person described in
- 36 subsection (d)(2) or (d)(3) must be completed on or before the date on
- 37 which the subject of the check is employed or assigned as a volunteer.
- 38 However, a fingerprint based criminal history background check under
- 39 IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must
- 40 be completed not later than the conclusion of the first ninety (90) days
- 41 of employment in or assignment of a volunteer to a position described
- 42 in subsection (d)(3). If a person described in this subsection has been

C
O
P
Y



1 the subject of a criminal history background check (as described in
2 IC 31-9-2-22.5) that was conducted not more than one (1) year before
3 the date the license application is submitted to the department, a new
4 criminal history check of that person is not required.

5 (i) An applicant or a licensee may provisionally employ a
6 individual or assign a volunteer described in subsection (d)(3) for
7 whom a criminal history background check is required during the
8 period after the process of requesting fingerprint based criminal history
9 background check information has been initiated by or on behalf of the
10 applicant or licensee but before the determination is obtained by or
11 communicated to the applicant or licensee. If the determination is not
12 received within ninety (90) days after the effective date of hire or
13 volunteer assignment, the employee or volunteer relationship must be
14 terminated or suspended until a determination is received. An
15 employee or a volunteer whose determination has not yet been received
16 may not have direct contact with a child who is or will be placed at a
17 facility operated by the applicant or licensee unless the direct contact
18 occurs only in the presence of a volunteer or an employee of the
19 applicant or licensee who has been the subject of a completed and
20 approved criminal history background check. In determining whether
21 to provisionally hire or assign as a volunteer an individual described in
22 subsection (d)(3), the applicant or licensee shall consider the following:

- 23 (1) The training time required by an employee or a volunteer.
- 24 (2) The safety and security of the children under the supervision
25 of the applicant or licensee.
- 26 (3) The safety and security of the other staff and volunteers
27 working under the supervision of the applicant or licensee.
- 28 (4) The staffing concerns of the applicant or licensee.
- 29 (5) Any other factor relating to the safety and security of the
30 applicant's or licensee's operations.

31 (j) The department shall, at the applicant's request, inform the
32 applicant whether the department has or does not have a record of the
33 person who is the subject of a criminal history background check and
34 if the department has identified the person as an alleged perpetrator of
35 abuse or neglect. The department may not provide to the applicant any
36 details or personally identifying information contained in any child
37 protective investigation report.

38 (k) A person who is the subject of a criminal history check
39 conducted in accordance with this section may request the state police
40 department to provide the person with a copy of any state or national
41 criminal history report concerning the person.

42 SECTION 38. IC 31-27-6-3, AS AMENDED BY P.L.138-2007,

**C
O
P
Y**



1 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2011]: Sec. 3. (a) The following constitute sufficient grounds
3 for denial of a license application:

4 (1) A determination by the department of child abuse or neglect
5 by:

6 (A) the applicant; **or**

7 (B) an employee **or a volunteer** of the applicant who has
8 direct contact, on a regular and continuous basis, with children
9 who are under the direct supervision of the applicant. **or**

10 ~~(C) a volunteer of the applicant who has direct contact, on a~~
11 ~~regular and continuous basis, with children who are under the~~
12 ~~direct supervision of the applicant.~~

13 (2) A criminal conviction of the applicant, or the director or
14 manager of a facility where children will be placed by the
15 licensee, for any of the following:

16 (A) A felony.

17 (B) A misdemeanor related to the health and safety of a child.

18 (C) A misdemeanor for operating a child caring institution,
19 foster family home, group home, or child placing agency
20 without a license under this article (or IC 12-17.4 before its
21 repeal).

22 (D) A misdemeanor for operating a child care center or child
23 care home without a license under IC 12-17.2.

24 (3) A determination by the department that the applicant made
25 false statements in the applicant's application for licensure.

26 (4) A determination by the department that the applicant made
27 false statements in the records required by the department.

28 (5) A determination by the department that:

29 (A) the applicant; **or**

30 **(B) an employee or a volunteer of the applicant who has**
31 **direct contact, on a regular and continuous basis, with**
32 **children who are under the direct supervision of the**
33 **applicant;**

34 previously operated a home or facility without a license required
35 under any applicable provision of this article (or IC 12-17.4
36 before its repeal) or IC 12-17.2.

37 **(6) A juvenile adjudication of the applicant for an act listed in**
38 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
39 **felony.**

40 (b) An application for a license may also be denied if an employee
41 or volunteer of the applicant who has direct contact on a regular and
42 continuous basis with children who are under the direct supervision of

C
o
p
y



1 the applicant has ~~been convicted of~~ **had** any of the following:

2 (1) **A conviction of** a felony described in IC 31-27-4-13(a).

3 (2) **A conviction of** any other felony or a misdemeanor relating to
4 the health and safety of a child, unless the applicant is granted a
5 waiver by the department to employ or assign the person as a
6 volunteer in a position described in this subsection.

7 **(3) A juvenile adjudication for an act listed in**
8 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
9 **felony, unless the applicant is granted a waiver by the**
10 **department to employ or assign the person as a volunteer in**
11 **a position described in this subsection.**

12 (c) In determining whether to grant a waiver under subsection (b),
13 the department shall consider the following factors:

14 (1) The length of time that has passed since the disqualifying
15 conviction.

16 (2) The severity, nature, and circumstances of the offense.

17 (3) Evidence of rehabilitation.

18 (4) The duties and qualifications required for the proposed
19 employment positions or volunteer assignment.

20 (d) Notwithstanding subsection (a) or (b), if:

21 (1) a license application could be denied due to a criminal
22 conviction of, or a determination of child abuse or neglect by, an
23 employee or a volunteer of the applicant; and

24 (2) the department determines that the employee or volunteer has
25 been dismissed by the applicant;

26 the criminal conviction of, or determination of child abuse or neglect
27 by, the former employee or former volunteer does not constitute a
28 sufficient basis for the denial of a license application.

29 (e) The department may adopt rules to implement this section.

30 SECTION 39. IC 31-27-6-28, AS AMENDED BY P.L.138-2007,
31 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2011]: Sec. 28. (a) The following constitute sufficient grounds
33 for revocation of a license:

34 (1) A determination by the department of child abuse or neglect
35 (as defined in IC 31-9-2-14) by:

36 (A) the licensee; **or**

37 (B) an employee **or a volunteer** of the licensee who has direct
38 contact, on a regular and continuous basis, with children who
39 are under the direct supervision of the licensee. **or**

40 ~~(C) a volunteer of the licensee who has direct contact, on a~~
41 ~~regular and continuous basis, with children who are under the~~
42 ~~direct supervision of the licensee.~~

C
O
P
Y



1 (2) A criminal conviction of the licensee, or the director or
 2 manager of a facility where children will be placed by the
 3 licensee, for any of the following:

4 (A) A felony.

5 (B) A misdemeanor related to the health or safety of a child.

6 (C) A misdemeanor for operating a child caring institution,
 7 foster family home, group home, or child placing agency
 8 without a license under this article (or IC 12-17.4 before its
 9 repeal).

10 (D) A misdemeanor for operating a child care center or child
 11 care home without a license under IC 12-17.2.

12 (3) A determination by the department that the licensee made
 13 false statements in the licensee's application for licensure.

14 (4) A determination by the department that the licensee made
 15 false statements in the records required by the department.

16 (5) A determination by the department that:

17 (A) the licensee; or

18 **(B) an employee or a volunteer of the licensee who has**
 19 **direct contact, on a regular and continuous basis, with**
 20 **children who are under the direct supervision of the**
 21 **licensee;**

22 previously operated a home or facility without a license required
 23 under any applicable provision of this article (or IC 12-17.4
 24 before its repeal) or IC 12-17.2.

25 **(6) A juvenile adjudication of a licensee for an act listed in**
 26 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
 27 **felony.**

28 (b) A license may also be revoked if an employee or volunteer of the
 29 licensee who has direct contact on a regular and continuous basis with
 30 children who are under the direct supervision of the licensee has ~~been~~
 31 ~~convicted of~~ **had** any of the following:

32 (1) **A conviction of** a felony described in IC 31-27-4-13(a).

33 (2) **A conviction of** any other felony or a misdemeanor relating to
 34 the health and safety of a child, unless the licensee is granted a
 35 waiver by the department to employ or assign the person as a
 36 volunteer in a position described in this subsection.

37 **(3) A juvenile adjudication for an act listed in**
 38 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
 39 **felony, unless the licensee is granted a waiver by the**
 40 **department to employ or assign the person as a volunteer in**
 41 **a position described in this subsection.**

42 (c) In determining whether to grant a waiver under subsection (b),

C
O
P
Y



- 1 the department shall consider the following factors:
- 2 (1) The length of time that has passed since the disqualifying
- 3 conviction.
- 4 (2) The severity, nature, and circumstances of the offense.
- 5 (3) Evidence of rehabilitation.
- 6 (4) The duties and qualifications required for the proposed
- 7 employment positions or volunteer assignment.
- 8 (d) Notwithstanding subsection (a) or (b), if:
- 9 (1) a license could be revoked due to a criminal conviction of, or
- 10 a determination of child abuse or neglect by, an employee or a
- 11 volunteer of the licensee; and
- 12 (2) the department determines that the employee or volunteer has
- 13 been dismissed by the licensee within a reasonable time after the
- 14 licensee became aware of the conviction or determination;
- 15 the criminal conviction of, or determination of child abuse or neglect
- 16 by, the former employee or former volunteer does not constitute a
- 17 sufficient basis for the revocation of a license.
- 18 (e) The department may adopt rules to implement this section.
- 19 SECTION 40. IC 31-30-1-6, AS AMENDED BY P.L.145-2006,
- 20 SECTION 275, IS AMENDED TO READ AS FOLLOWS
- 21 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Subject to subsections (b) and
- 22 (c), this article does not prohibit a probate court from exercising its
- 23 jurisdiction over guardianship of a person who is less than eighteen
- 24 (18) years of age.
- 25 (b) If allegations in the petition for guardianship or allegations
- 26 produced at guardianship proceedings indicate that the person for
- 27 whom the guardianship is requested meets the definition of a child in
- 28 need of services under IC 31-34-1, the probate court on its own motion
- 29 or at the request of a party shall:
- 30 (1) send the petition for guardianship or the record of
- 31 guardianship ~~proceedings; or both; to the prosecuting attorney or~~
- 32 ~~the attorney~~ for the department of child services; and
- 33 (2) direct ~~the prosecuting attorney or the attorney~~ for the
- 34 department of child services to initiate an ~~investigation and~~
- 35 ~~proceedings in the juvenile court~~ **assessment** to determine
- 36 whether the person for whom the guardianship is requested is a
- 37 child in need of services.
- 38 (c) The probate court retains jurisdiction over the matter until the
- 39 juvenile court authorizes the filing of a petition under IC 31-34-9.
- 40 **(d) If a juvenile court:**
- 41 **(1) issues an order establishing or modifying a guardianship**
- 42 **of a minor; and**

C
O
P
Y



1 **(2) requests additional proceedings regarding the**
 2 **guardianship of the minor;**
 3 **the probate court that retains jurisdiction over the case or another**
 4 **appropriate court shall conduct additional proceedings.**

5 SECTION 41. IC 31-30-1-12 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Subject to
 7 subsection (b), a court having jurisdiction under IC 31-17-2 of a child
 8 custody, **parenting time, or child support** proceeding in a marriage
 9 dissolution has concurrent original jurisdiction with the juvenile court
 10 for the purpose of modifying custody of a child who is under the
 11 jurisdiction of the juvenile court because:

12 (1) the child is the subject of a child in need of services
 13 proceeding;

14 (2) the child is the subject of a juvenile delinquency proceeding
 15 that does not involve an act described under IC 31-37-1-2; or

16 (3) the child is the subject of a paternity proceeding.

17 (b) Whenever the court having child custody jurisdiction under
 18 IC 31-17-2 in a marriage dissolution modifies child custody as
 19 provided by this section, the modification is effective only when the
 20 juvenile court:

21 (1) enters an order approving the child custody modification; or

22 (2) terminates the child in need of services proceeding, the
 23 juvenile delinquency proceeding, or the paternity proceeding.

24 **(c) If a juvenile court:**

25 (1) **modifies child custody, child support, or parenting time;**
 26 **and**

27 (2) **terminates a child in need of services proceeding or a**
 28 **juvenile delinquency proceeding regarding the child;**

29 **the court having concurrent original jurisdiction under subsection**
 30 **(a) shall assume or reassume primary jurisdiction of the case to**
 31 **address all issues.**

32 **(d) A court that assumes or reassumes jurisdiction of a case**
 33 **under subsection (c) may modify child custody, child support, or**
 34 **parenting time in accordance with applicable modification statutes.**

35 **(e) An order modifying child custody, child support, or**
 36 **parenting time issued under this section survives the termination**
 37 **of the child in need of services proceeding or the juvenile**
 38 **delinquency proceeding until the court having concurrent or**
 39 **original jurisdiction assumes primary jurisdiction and modifies the**
 40 **order.**

41 SECTION 42. IC 31-30-1-13 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Subject to

C
O
P
Y



1 subsection (b), a court having jurisdiction under IC 31-14 of a child
 2 custody proceeding in a paternity proceeding has concurrent original
 3 jurisdiction with another juvenile court for the purpose of modifying
 4 custody of a child who is under the jurisdiction of the other juvenile
 5 court because:

6 (1) the child is the subject of a child in need of services
 7 proceeding; or

8 (2) the child is the subject of a juvenile delinquency proceeding
 9 that does not involve an act described under IC 31-37-1-2.

10 (b) Whenever the court having child custody jurisdiction under
 11 IC 31-14 in a paternity proceeding modifies child custody as provided
 12 by this section, the modification is effective only when the juvenile
 13 court with jurisdiction over the child in need of services proceeding or
 14 juvenile delinquency proceeding:

15 (1) enters an order approving the child custody modification; or

16 (2) terminates the child in need of services proceeding or the
 17 juvenile delinquency proceeding.

18 **(c) If a juvenile court:**

19 **(1) establishes or modifies paternity of a child; and**

20 **(2) terminates a child in need of services proceeding or a**
 21 **juvenile delinquency proceeding regarding the child;**

22 **the court having concurrent original jurisdiction under subsection**
 23 **(a) shall assume or reassume primary jurisdiction of the case to**
 24 **address all other issues.**

25 **(d) An order establishing or modifying paternity of a child by a**
 26 **juvenile court survives the termination of the child in need of**
 27 **services proceeding or the juvenile delinquency proceeding.**

28 SECTION 43. IC 31-33-3-5, AS AMENDED BY P.L.234-2005,
 29 SECTION 104, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2011]: Sec. 5. The community child protection
 31 team

32 ~~(1) shall provide diagnostic and prognostic services for the~~
 33 ~~department or the juvenile court; and~~

34 ~~(2) may recommend to the department that a petition be filed in~~
 35 ~~the juvenile court on behalf of the subject child if the team~~
 36 ~~believes this would best serve the interests of the child.~~

37 SECTION 44. IC 31-33-7-8, AS AMENDED BY P.L.131-2009,
 38 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2011]: Sec. 8. (a) This section applies if the department
 40 receives a report of suspected child abuse or neglect from:

41 (1) a hospital;

42 (2) a community mental health center;

C
o
p
y



- 1 (3) a managed care provider (as defined in IC 12-7-2-127(b));
- 2 (4) a referring physician;
- 3 (5) a dentist;
- 4 (6) a licensed psychologist; or
- 5 (7) a school;
- 6 **(8) a child caring institution licensed under IC 31-27;**
- 7 **(9) a group home licensed under IC 31-27 or IC 12-28-4;**
- 8 **(10) a secure private facility; or**
- 9 **(11) a child placing agency (as defined in IC 31-9-2-17.5).**
- 10 (b) Not later than thirty (30) days after the date the department
- 11 ~~receives~~ **initiates an assessment or investigation of** a report of
- 12 suspected child abuse or neglect from a person described in subsection
- 13 (a), the department shall send a report to:
- 14 (1) the administrator of the hospital;
- 15 (2) the community mental health center;
- 16 (3) the managed care provider;
- 17 (4) the referring physician;
- 18 (5) the dentist; or
- 19 (6) the principal of the school;
- 20 **(7) a licensed psychologist;**
- 21 **(8) a child caring institution licensed under IC 31-27;**
- 22 **(9) a group home licensed under IC 31-27 or IC 12-28-4;**
- 23 **(10) a secure private facility; or**
- 24 **(11) a child placing agency (as defined in IC 31-9-2-17.5).**
- 25 The report must contain the items listed in subsection ~~(c)~~ (d) that are
- 26 known at the time the report is sent.
- 27 ~~(c)~~ Not later than ninety (90) days after the date the department
- 28 receives a report of suspected child abuse or neglect, the department
- 29 shall send a report that contains any additional items listed in
- 30 subsection ~~(c)~~ that were not covered in the prior report if available.
- 31 ~~(d)~~ (c) The administrator, director, referring physician, dentist,
- 32 licensed psychologist, or principal may appoint a designee to receive
- 33 the report.
- 34 ~~(e)~~ (d) A report made by the department under this section must
- 35 contain the following information:
- 36 (1) The name of the alleged victim of child abuse or neglect.
- 37 (2) The name of the alleged perpetrator and the alleged
- 38 perpetrator's relationship to the alleged victim.
- 39 (3) Whether the ~~case~~ **assessment** is closed.
- 40 ~~(4) Whether information concerning the case has been expunged;~~
- 41 ~~(5) The name of any agency to which the alleged victim has been~~
- 42 ~~referred.~~

COPY



- 1 ~~(6)~~ (4) Whether the department has made an assessment of the
- 2 case and has not taken any further action.
- 3 ~~(7)~~ Whether a substantiated case of child abuse or neglect was
- 4 informally adjusted.
- 5 ~~(8)~~ Whether the alleged victim was referred to the juvenile court
- 6 as a child in need of services.
- 7 ~~(9)~~ Whether the alleged victim was returned to the victim's home.
- 8 ~~(10)~~ Whether the alleged victim was placed in residential care
- 9 outside the victim's home.
- 10 ~~(11)~~ Whether a wardship was established for the alleged victim.
- 11 ~~(12)~~ Whether criminal action is pending or has been brought
- 12 against the alleged perpetrator.
- 13 ~~(13)~~ A brief description of any casework plan that has been
- 14 developed by the department.
- 15 ~~(14)~~ (5) The caseworker's name and telephone number.
- 16 ~~(15)~~ (6) The date the report is prepared.
- 17 ~~(16)~~ (7) Other information that the department may prescribe.
- 18 ~~(f)~~ (e) A report made under this section:
- 19 (1) is confidential; and
- 20 (2) may be made available only to:
- 21 (A) the agencies named in this section; and
- 22 (B) the persons and agencies listed in IC 31-33-18-2.
- 23 SECTION 45. IC 31-33-8-7, AS AMENDED BY P.L.131-2009,
- 24 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2011]: Sec. 7. (a) The department's assessment, to the extent
- 26 that is reasonably possible, must include the following:
- 27 (1) The nature, extent, and cause of the known or suspected child
- 28 abuse or neglect.
- 29 (2) The identity of the person allegedly responsible for the child
- 30 abuse or neglect.
- 31 (3) The names and conditions of other children in the home.
- 32 (4) An evaluation of the parent, guardian, custodian or person
- 33 responsible for the care of the child.
- 34 (5) The home environment and the relationship of the child to the
- 35 parent, guardian, or custodian or other persons responsible for the
- 36 child's care.
- 37 (6) All other data considered pertinent.
- 38 (b) The assessment may include the following:
- 39 (1) A visit to the child's home.
- 40 (2) An interview with the subject child.
- 41 (3) A physical, psychological, or psychiatric examination of any
- 42 child in the home.

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (c) If:
 - (1) admission to the home, the school, or any other place that the child may be; or
 - (2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

(d) If a custodial parent, a guardian, or a custodian of a child refuses to allow the department to interview the child after the caseworker has attempted to obtain the consent of the custodial parent, guardian, or custodian to interview the child, the department may petition a court to order the custodial parent, guardian, or custodian to make the child available to be interviewed by the caseworker.

- (e) If the court finds that:
 - (1) a custodial parent, a guardian, or a custodian has been informed of the hearing on a petition described under subsection (d); and
 - (2) the department has made reasonable and unsuccessful efforts to obtain the consent of the custodial parent, guardian, or custodian to interview the child;

the court shall specify in the order the efforts the department made to obtain the consent of the custodial parent, guardian, or custodian and may grant the motion to interview the child, either with or without the custodial parent, guardian, or custodian being present.

SECTION 46. IC 31-33-18-1.5, AS AMENDED BY P.L.182-2009(ss), SECTION 379, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) This section applies to records held by:

- ~~(1) the division of family resources;~~
- ~~(2) (1) a county office;~~
- ~~(3) (2) the department;~~
- ~~(4) (3) a local child fatality review team established under IC 31-33-24;~~
- ~~(5) (4) the statewide child fatality review committee established under IC 31-33-25; or~~
- ~~(6) (5) the department of child services ombudsman established by IC 4-13-19-3;~~

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

C
O
P
Y



- 1 (b) For purposes of subsection (a), a child's death or near fatality
- 2 may have been the result of abuse, abandonment, or neglect if:
- 3 (1) an entity described in subsection (a) determines that the child's
- 4 death or near fatality is the result of abuse, abandonment, or
- 5 neglect; or
- 6 (2) a prosecuting attorney files:
- 7 (A) an indictment or information; or
- 8 (B) a complaint alleging the commission of a delinquent act;
- 9 that, if proven, would cause a reasonable person to believe that
- 10 the child's death or near fatality may have been the result of
- 11 abuse, abandonment, or neglect.

12 Upon the request of any person, or upon its own motion, the court
 13 exercising juvenile jurisdiction in the county in which the child's death
 14 or near fatality occurred shall determine whether the allegations
 15 contained in the indictment, information, or complaint described in
 16 subdivision (2), if proven, would cause a reasonable person to believe
 17 that the child's death or near fatality may have been the result of abuse,
 18 abandonment, or neglect.

19 **(c) If the juvenile court finds that the child's death or near**
 20 **fatality was the result of abuse, abandonment, or neglect, the court**
 21 **shall make written findings and provide a copy of the findings and**
 22 **the indictment, information, or complaint described under**
 23 **subsection (b)(2) to the department.**

- 24 (d) As used in this section:
- 25 (1) "case" means:
- 26 (A) any intake report generated by the department;
- 27 (B) any investigation or assessment conducted by the
- 28 department; or
- 29 (C) ongoing involvement between the department and a
- 30 child or family that is the result of:
- 31 (i) a program of informal adjustment; or
- 32 (ii) a child in need of services action;
- 33 for which related records and documents have not been
- 34 expunged as required by law or by a court at the time the
- 35 department is notified of a fatality or near fatality;
- 36 (2) "contact" means in person communication about a case in
- 37 which:
- 38 (A) the child who is the victim of a fatality or near fatality
- 39 is alleged to be a victim; or
- 40 (B) the perpetrator of the fatality or near fatality is alleged
- 41 to be the perpetrator;
- 42 (3) "identifying information" means information that identifies

C
O
P
Y



1 an individual, including an individual's:
 2 (A) name, address, date of birth, occupation, place of
 3 employment, and telephone number;
 4 (B) employer identification number, mother's maiden name,
 5 Social Security number, or any identification number issued by
 6 a governmental entity;
 7 (C) unique biometric data, including the individual's
 8 fingerprint, voice print, or retina or iris image;
 9 (D) unique electronic identification number, address, or
 10 routing code;
 11 (E) telecommunication identifying information; or
 12 (F) telecommunication access device, including a card, a plate,
 13 a code, an account number, a personal identification number,
 14 an electronic serial number, a mobile identification number, or
 15 another telecommunications service or device or means of
 16 account access; and
 17 ~~(2)~~ **(4)** "near fatality" has the meaning set forth in 42 U.S.C.
 18 5106a.
 19 ~~(d)~~ **(e)** Unless information in a record is otherwise confidential
 20 under state or federal law, a record described in subsection (a) that has
 21 been redacted in accordance with this section is not confidential and
 22 may be disclosed to any person who requests the record. The person
 23 requesting the record may be required to pay the reasonable expenses
 24 of copying the record.
 25 ~~(e)~~ **(f)** When a person requests a record described in subsection (a),
 26 the entity having control of the record shall immediately transmit a
 27 copy of the record to the court exercising juvenile jurisdiction in the
 28 county in which the death or near fatality of the child occurred.
 29 However, if the court requests that the entity having control of a record
 30 transmit the original record, the entity shall transmit the original record.
 31 ~~(f)~~ **(g)** Upon receipt of the record described in subsection (a), the
 32 court shall, within thirty (30) days, redact the record to exclude:
 33 (1) identifying information described in subsection ~~(c)(1)(B)~~
 34 **(d)(3)(B)** through ~~(c)(1)(F)~~ **(d)(3)(F)** of a person; and
 35 (2) all identifying information of a child less than eighteen (18)
 36 years of age.
 37 ~~(g)~~ **(h)** The court shall disclose the record redacted in accordance
 38 with subsection ~~(f)~~ **(g)** to any person who requests the record, if the
 39 person has paid:
 40 (1) to the entity having control of the record, the reasonable
 41 expenses of copying under IC 5-14-3-8; and
 42 (2) to the court, the reasonable expenses of copying the record.

COPY



1 ~~(h)~~ (i) The data and information in a record disclosed under this
2 section must include the following:

3 (1) A summary of the report of abuse or neglect and a factual
4 description of the contents of the report.

5 (2) The date of birth and gender of the child.

6 (3) The cause of the fatality or near fatality, if the cause has been
7 determined.

8 (4) Whether the department ~~or the office of the secretary of family~~
9 ~~and social services~~ had any contact with the child or a member of
10 ~~the child's family or household~~ **the perpetrator** before the fatality
11 or near fatality, and, if the department ~~or the office of the~~
12 ~~secretary of family and social services~~ had contact, the following:

13 (A) The frequency of the contact ~~or communication~~ with the
14 child or a member of the child's family or household ~~the~~
15 **perpetrator** before the fatality or near fatality and the date on
16 which the last contact ~~or communication~~ occurred before the
17 fatality or near fatality.

18 (B) A summary of the status of the child's case at the time of
19 the fatality or near fatality, including:

20 (i) whether the child's case was closed by the department ~~or~~
21 ~~the office of the secretary of family and social services~~
22 before the fatality or near fatality; and

23 (ii) if the child's case was closed as described under item (i),
24 the **date of closure and the** reasons that the case was
25 closed.

26 ~~(i)~~ (j) The court's determination under subsection ~~(f)~~ (g) that certain
27 identifying information or other information is not relevant to
28 establishing the facts and circumstances leading to the death or near
29 fatality of a child is not admissible in a criminal proceeding or civil
30 action.

31 SECTION 47. IC 31-33-26-5, AS AMENDED BY
32 P.L.182-2009(ss), SECTION 383, IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. ~~(a)~~ Subject to the
34 accessibility to files provided in subsection (b), at least ten ~~(10)~~ levels
35 of security for confidentiality in the index must be maintained.

36 ~~(b)~~ The index must have a comprehensive system of limited access
37 to information as follows:

38 (1) The index must be accessed only by the entry of an operator
39 identification number and a password:

40 (2) A child welfare caseworker must be allowed to access only:

41 (A) cases that are assigned to the caseworker; and

42 (B) other cases or investigations that involve:

C
O
P
Y



- 1 (i) a family member of a child; or
 2 (ii) a child;
 3 who is the subject of a case described in clause (A);
 4 (3) A child welfare supervisor may access only the following:
 5 (A) Cases assigned to the supervisor;
 6 (B) Cases assigned to a caseworker who reports to the
 7 supervisor;
 8 (C) Other cases or investigations that involve:
 9 (i) a family member of a child; or
 10 (ii) a child;
 11 who is the subject of a case described in clause (A) or (B);
 12 (D) Cases that are unassigned.
 13 (4) To preserve confidentiality in the workplace, child welfare
 14 managers, as designated by the department, may access any case,
 15 except restricted cases involving:
 16 (A) a state employee; or
 17 (B) the immediate family member of a state employee;
 18 who has access to the index. Access to restricted information
 19 under this subdivision may be obtained only if an additional level
 20 of security is implemented.
 21 (5) Access to records of authorized users, including passwords, is
 22 restricted to:
 23 (A) users designated by the department as administrators; and
 24 (B) the administrator's level of access as determined by the
 25 department.
 26 (6) Ancillary programs that may be designed for the index may
 27 not be executed in a manner that would circumvent the index's
 28 log-on security measures.
 29 (7) Certain index functions must be accessible only to index
 30 operators with specified levels of authorization as determined by
 31 the department.
 32 (8) Files containing passwords must be encrypted.
 33 (9) There must be two (2) additional levels of security for
 34 confidentiality as determined by the department.
 35 (10)
 36 **(a) The department shall establish access restrictions in order**
 37 **to maintain the security and confidentiality of the index as required**
 38 **by this chapter.**
 39 **(b) The department of child services ombudsman established by**
 40 **IC 4-13-19-3 shall have read only access to the index concerning:**
 41 **(A) (1) children who are the subject of complaints filed with; or**
 42 **(B) (2) cases being investigated by;**

C
O
P
Y



1 the department of child services ombudsman. The office of the
2 department of child services ombudsman shall not have access to any
3 information related to cases or information that involves the
4 ombudsman or any member of the ombudsman's immediate family.

5 SECTION 48. IC 31-33-26-9, AS ADDED BY P.L.138-2007,
6 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2011]: Sec. 9. (a) Except as provided in sections 11 and 12 of
8 this chapter, the department shall conduct an administrative hearing
9 upon a request made under section 8 of this chapter.

10 (b) At the administrative hearing, the department must prove by a
11 preponderance of credible evidence that the perpetrator is responsible
12 for the child's abuse or neglect.

13 (c) During an administrative hearing under this section, the
14 administrative hearing officer shall consider hearsay evidence to be
15 competent evidence and may not exclude hearsay based on the
16 technical rules of evidence. ~~However, a determination may not be~~
17 ~~based solely on evidence that is hearsay.~~ **If not objected to, the**
18 **hearsay evidence may form the basis for an order. However, if the**
19 **evidence is properly objected to and does not fall within a**
20 **recognized exception to the hearsay rule, the resulting order may**
21 **not be based solely upon the hearsay evidence.**

22 (d) If the department fails to carry the burden of proof under
23 subsection (b), the department shall amend or expunge the report as
24 ordered by the administrative hearing officer within the period
25 provided under section 15 of this chapter.

26 (e) The department shall maintain the confidentiality of an abuse or
27 a neglect report during the administrative process.

28 (f) The administrative hearing shall be closed.

29 (g) The administrative files shall be closed and not disclosed to the
30 public.

31 SECTION 49. IC 31-34-4-2, AS AMENDED BY P.L.146-2008,
32 SECTION 578, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) If a child alleged to be a child
34 in need of services is taken into custody under an order of the court
35 under this chapter and the court orders out-of-home placement, the
36 department is responsible for that placement and care and must
37 consider placing the child with a:

- 38 (1) suitable and willing blood or an adoptive relative caretaker,
39 including a grandparent, an aunt, an uncle, or an adult sibling;
40 (2) de facto custodian; or
41 (3) stepparent;
42 before considering any other out-of-home placement.

C
o
p
y



1 (b) Before the department places a child in need of services with a
 2 blood relative or an adoptive relative caretaker, a de facto custodian, or
 3 a stepparent, the department shall complete an evaluation based on a
 4 home visit of the relative's home.

5 (c) Except as provided in subsection (e), before placing a child in
 6 need of services in an out-of-home placement, including placement
 7 with a blood or an adoptive relative caretaker, a de facto custodian, or
 8 a stepparent, the department shall conduct a criminal history check of
 9 each person who is currently residing in the location designated as the
 10 out-of-home placement.

11 (d) Except as provided in subsection (f), the department may not
 12 make an out-of-home placement if a person described in subsection (c)
 13 has:

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

16 (2) been convicted of a felony listed in IC 31-27-4-13 or had a
 17 juvenile adjudication for an act that would be a felony listed in
 18 IC 31-27-4-13 if committed by an adult.

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

23 (f) A court may order or the department may approve an
 24 out-of-home placement if:

25 (1) a person described in subsection (c) 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 of:~~

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

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

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

33 **(iii) carjacking (IC 35-42-5-2) as a 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 **if the conviction did not occur within the past five (5)**

C
O
P
Y



1 years; or
2 (C) had a juvenile adjudication for an act listed in
3 IC 31-27-4-13(a) that, if committed by an adult, would be
4 a felony; and

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

10 However, a court or the department may not make an out-of-home
11 placement if the person has been convicted of a felony listed in
12 IC 31-27-4-13 that is not specifically excluded under subdivision
13 (1)(B). or has a juvenile adjudication for an act that would be a felony
14 listed in IC 31-27-4-13 if committed by an adult that is not specifically
15 excluded under subdivision (1)(B):

16 (g) In making its written finding considering the placement under
17 subsection (f), the court or the department shall consider the
18 following:

- 19 (1) The length of time since the person committed the offense,
20 delinquent act, or abuse or neglect.
- 21 (2) The severity of the offense, delinquent act, or abuse or neglect.
- 22 (3) Evidence of the person's rehabilitation, including the person's
23 cooperation with a treatment plan, if applicable.

24 SECTION 50. IC 31-34-20-1.5, AS AMENDED BY P.L.146-2008,
25 SECTION 603, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) Except as provided in
27 subsection (d), the juvenile court may not enter a dispositional decree
28 approving or ordering placement of a child in another home under
29 section 1(a)(3) of this chapter or awarding wardship to the department
30 that will place the child in another home under section 1(a)(4) of this
31 chapter if a person who is currently residing in the home in which the
32 child would be placed under section 1(a)(3) or 1(a)(4) of this chapter
33 has committed an act resulting in a substantiated report of child abuse
34 or neglect, has a juvenile adjudication for an act that would be a felony
35 listed in IC 31-27-4-13 if committed by an adult, or has a conviction for
36 a felony listed in IC 31-27-4-13.

37 (b) The department or caseworker who prepared the predispositional
38 report shall conduct a criminal history check (as defined in
39 IC 31-9-2-22.5) to determine if a person described in subsection (a) has
40 committed an act resulting in a substantiated report of child abuse or
41 neglect, has a juvenile adjudication for an act that would be a felony
42 listed in IC 31-27-4-13 if committed by an adult, or has a conviction for

C
o
p
y



1 a felony listed in IC 31-27-4-13. However, the department or
 2 caseworker is not required to conduct a criminal history check under
 3 this section if criminal history information under IC 31-34-4-2 or
 4 IC 31-34-18-6.1 establishes whether a person described in subsection
 5 (a) has committed an act resulting in a substantiated report of child
 6 abuse or neglect, has a juvenile adjudication for an act that would be
 7 a felony listed in ~~IC 31-27-4-13~~ **IC 31-27-4-13(a)** if committed by an
 8 adult, or has a conviction for a felony listed in ~~IC 31-27-4-13~~.
 9 **IC 31-27-4-13(a).**

10 (c) The department or caseworker is not required to conduct a
 11 criminal history check under this section if:

12 (1) the department or caseworker is considering only an
 13 out-of-home placement to an entity or a facility that:

- 14 (A) is not a residence (as defined in IC 3-5-2-42.5); or
 15 (B) is licensed by the state; or

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

18 (d) A juvenile court may enter a dispositional decree that approves
 19 placement of a child in another home or award wardship to the
 20 department that will place the child in a home with a person described
 21 in subsection (a) if:

22 (1) the person described in subsection (a) has:

23 (A) committed an act resulting in a substantiated report of
 24 child abuse or neglect; ~~or~~

25 (B) been convicted ~~or had a juvenile adjudication for~~ of:

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

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

28 (iii) ~~(ii) criminal confinement (IC 35-42-3-3) as a Class C or~~
 29 ~~D felony;~~

30 **(iii) carjacking (IC 35-42-5-2) as a felony;**

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

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

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

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

39 **if the conviction did not occur within the past five (5)**
 40 **years; or**

41 **(C) had a juvenile adjudication for an act listed in**
 42 **IC 31-27-4-13(a) that, if committed by an adult, would be**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

a felony; and

(2) ~~the court makes a written finding that~~ the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and ~~that the dispositional decree~~ placing a child in another home or awarding wardship to a ~~county office the~~ **department** is in the best interest of the child.

However, a court may not enter a dispositional decree that approves placement of a child in another home or awards wardship to the department if the person has been convicted of a felony listed in ~~IC 31-27-4-13~~ **IC 31-27-4-13(a)** that is not specifically excluded under subdivision (1)(B). ~~or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B):~~

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

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 51. IC 31-34-21-5.8, AS AMENDED BY P.L.145-2006, SECTION 321, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.8. (a) This section applies only if a court has approved a permanency plan for a child under section ~~7(b)(4)~~ **7(b)(5)** of this chapter.

(b) If the continuation of reasonable efforts to preserve and reunify a child in need of services with the child's family is inconsistent with the child's permanency plan, the department shall make reasonable efforts to:

- (1) with court approval place the child in an out-of-home placement in accordance with the permanency plan; and
- (2) complete whatever steps are necessary to finalize the permanent placement of the child in a timely manner.

(c) This subsection applies whenever the child's approved permanency plan under section 7 of this chapter is placement of the child for adoption or another planned, permanent living arrangement. Periodic progress reports, case reviews, and postdispositional hearings to determine whether or the extent to which the following have occurred are not required:

- (1) Whether reasonable efforts have been made to eliminate the

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

need for removal of the child from the child's home or to make it possible for the child to safely return to the child's home.

(2) Whether the child is placed in close proximity to the home of the child's parent, guardian, or custodian.

SECTION 52. IC 31-34-21-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.7. (a) If the juvenile court approves a permanency plan under section 7 of this chapter that provides for the appointment of a guardian for a child, the juvenile court may appoint a guardian of the person and administer a guardianship for the child under IC 29-3.

(b) If a guardianship of the person proceeding for the child is pending in a probate court, the probate court shall transfer the proceeding to the juvenile court.

(c) In creating a guardianship of a minor, a probate or juvenile court may include in an order the requirements and terms and conditions described in IC 29-3-8-9(a).

(d) If the juvenile court closes a child in need of services case after creating a guardianship, the juvenile court order creating the guardianship survives the closure of the child in need of services case.

(e) If the juvenile court closes the child in need of services case after creating a guardianship, the probate court may assume or reassume jurisdiction of the guardianship and take further action as necessary.

SECTION 53. IC 31-35-2-6.5, AS AMENDED BY P.L.145-2006, SECTION 328, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.

(b) At least ten (10) days before a hearing on a petition or motion under this chapter:

- (1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or
- (2) the person or entity who filed a motion to dismiss the petition to terminate the parent-child relationship under section 4.5(d) of this chapter;

shall send notice of the review to the persons listed in subsections (c) and (d).

(c) Except as provided in subsection (h), the following persons shall receive notice of a hearing on a petition or motion filed under this chapter:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

child's parent, guardian, or custodian.

(3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

- (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office or the department;
- (B) the court having jurisdiction in the adoption case has determined under an applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
- (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2, has been filed under IC 31-35 and is pending.

(4) Any other person who:

- (A) the department has knowledge is currently providing care for the child; and
- (B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.

(5) Any other suitable relative or person who the department knows has had a significant or caretaking relationship to the child.

(6) Any other party to the child in need of services proceeding.

(d) At least ten (10) days before a hearing on a petition or motion under this chapter, the department shall provide notice of the hearing to the child's foster parent by:

- (1) certified mail; or
- (2) face to face contact by the department caseworker.

(e) The court shall provide to a person described in subsection (c) or (d) an opportunity to be heard and make recommendations to the court at the hearing. The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (c) or (d) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsections (c) and (d), may be made a part of the court record.

(f) The court shall continue the hearing if, at the time of the hearing, the department has not provided the court with signed verification from the foster parent, as obtained through subsection (d), that the foster parent has been notified of the hearing at least five (5) business days before the hearing. However, the court is not required to continue the hearing if the child's foster parent appears for the hearing.

C
o
p
y



1 (g) A person described in subsection (c)(2) through ~~(c)(4)~~ (c)(5) or
2 subsection (d) does not become a party to a proceeding under this
3 chapter as the result of the person's right to notice and the opportunity
4 to be heard under this section.

5 (h) If the parent of an abandoned child does not disclose the parent's
6 name as allowed by IC 31-34-2.5-1(c), the parent is not required to be
7 notified of a hearing described in subsection (c).

8 SECTION 54. IC 31-35-5-4, AS AMENDED BY P.L.145-2006,
9 SECTION 334, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2011]: Sec. 4. The court may not make an order
11 under section 2 or 3 of this chapter unless:

12 (1) the testimony to be taken is the testimony of a child who at the
13 time of the trial is:

- 14 (A) less than fourteen (14) years of age; or
- 15 (B) at least fourteen (14) years of age but less than eighteen
16 (18) years of age and has a disability attributable to an
17 impairment of general intellectual functioning or adaptive
18 behavior that:

- 19 (i) is likely to continue indefinitely;
- 20 (ii) constitutes a substantial impairment of the child's ability
21 to function normally in society; and
- 22 (iii) reflects the child's need for a combination and sequence
23 of special, interdisciplinary, or generic care, treatment, or
24 other services that are of lifelong or extended duration and
25 are individually planned and coordinated; and

26 (C) found by the court to be a child who should be permitted
27 to testify outside the courtroom because:

- 28 (i) a psychiatrist, physician, or psychologist has certified that
29 the child's testifying in the courtroom creates a substantial
30 likelihood of emotional or mental harm to the child;
- 31 (ii) a physician has certified that the child cannot be present
32 in the courtroom for medical reasons; or
- 33 (iii) evidence has been introduced concerning the effect of
34 the child's testifying in the courtroom and the court finds
35 that it is more likely than not that the child's testifying in the
36 courtroom creates a substantial likelihood of emotional or
37 mental harm to the child;

38 (2) the prosecuting attorney or the attorney for the department has
39 informed the parties and their attorneys by written notice of the
40 intention to have the child testify outside the courtroom; and

41 (3) the prosecuting attorney or the attorney for the department
42 informed the parties and their attorneys under subdivision (2) at

C
o
p
y



1 least ~~twenty (20)~~ **seven (7)** days before the proceedings to give
 2 the parties and their attorneys a fair opportunity to prepare a
 3 response before the proceedings to the motion of the prosecuting
 4 attorney or the motion of the attorney for the department to permit
 5 the child to testify outside the courtroom.

6 SECTION 55. IC 31-37-19-6.5, AS AMENDED BY P.L.146-2008,
 7 SECTION 652, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) Except as provided in
 9 subsection (d), the juvenile court may not enter a dispositional decree
 10 approving placement of a child in another home under section 1(3) or
 11 6(b)(2)(D) of this chapter or awarding wardship to a person or facility
 12 that results in a placement with a person under section 1(4) or
 13 6(b)(2)(E) of this chapter if a person who is currently residing in the
 14 home in which the child would be placed under section 1(3), 1(4),
 15 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting
 16 in a substantiated report of child abuse or neglect, has a juvenile
 17 adjudication for an act that would be a felony listed in IC 31-27-4-13
 18 if committed by an adult, or has a conviction for a felony listed in
 19 IC 31-27-4-13.

20 (b) The juvenile probation officer who prepared the predispositional
 21 report shall conduct a criminal history check (as defined in
 22 IC 31-9-2-22.5) to determine if a person described in subsection (a) has
 23 committed an act resulting in a substantiated report of child abuse or
 24 neglect, has a juvenile adjudication for an act that would be a felony
 25 listed in IC 31-27-4-13 if committed by an adult, or has a conviction for
 26 a felony listed in IC 31-27-4-13. However, the probation officer is not
 27 required to conduct a criminal history check under this section if
 28 criminal history information obtained under IC 31-37-17-6.1
 29 establishes whether a person described in subsection (a) has committed
 30 an act resulting in a substantiated report of child abuse or neglect, has
 31 a juvenile adjudication for an act that would be a felony listed in
 32 IC 31-27-4-13 if committed by an adult, or has a conviction for a felony
 33 listed in IC 31-27-4-13.

34 (c) The juvenile probation officer is not required to conduct a
 35 criminal history check under this section if:

- 36 (1) the probation officer is considering only an out-of-home
 37 placement to an entity or a facility that:
 38 (A) is not a residence (as defined in IC 3-5-2-42.5); or
 39 (B) is licensed by the state; or
 40 (2) placement under this section is undetermined at the time the
 41 predispositional report is prepared.
 42 (d) The juvenile court may enter a dispositional decree approving

C
O
P
Y



1 placement of a child in another home under section 1(3) or 6(b)(2)(D)
2 of this chapter or awarding wardship to a person or facility that results
3 in a placement with a person under section 1(4) or 6(b)(2)(E) of this
4 chapter if:

- 5 (1) a person described in subsection (a) has:
 - 6 (A) committed an act resulting in a substantiated report of
 - 7 child abuse or neglect; ~~or~~
 - 8 (B) been convicted ~~or had a juvenile adjudication for of:~~
 - 9 (i) ~~reckless homicide (IC 35-42-1-5);~~
 - 10 (ii) ~~(i) battery (IC 35-42-2-1) as a Class C or D felony;~~
 - 11 (iii) ~~(ii) criminal confinement (IC 35-42-3-3) as a Class C or~~
 - 12 ~~D felony;~~
 - 13 **(iii) carjacking (IC 35-42-5-2) as a felony;**
 - 14 (iv) arson (IC 35-43-1-1) as a Class C or D felony;
 - 15 (v) a felony involving a weapon under IC 35-47 or
 - 16 IC 35-47.5; as a Class C or D felony;
 - 17 (vi) a felony relating to controlled substances under
 - 18 IC 35-48-4; as a Class C or D felony; or
 - 19 (vii) a felony that is substantially equivalent to a felony
 - 20 listed in items (i) through (vi) for which the conviction was
 - 21 entered in another state; ~~and~~
 - 22 **if the conviction did not occur within the past five (5)**
 - 23 **years; or**
 - 24 **(C) had a juvenile adjudication for an act listed in**
 - 25 **IC 31-27-4-13(a) that, if committed by an adult, would be**
 - 26 **a felony; and**

27 (2) ~~the court makes a written finding that~~ the person's commission
28 of the offense, delinquent act, or act of abuse or neglect described
29 in subdivision (1) is not relevant to the person's present ability to
30 care for a child, and ~~that entry of a dispositional decree placing~~
31 ~~the child in another home is in the best interest of the child.~~

32 However, a court may not enter a dispositional decree placing a child
33 in another home under section 1(3) or 6(b)(2)(D) of this chapter or
34 awarding wardship to a person or facility under this subsection if a
35 person with whom the child is or will be placed has been convicted of
36 a felony listed in IC 31-27-4-13 that is not specifically excluded under
37 subdivision (1)(B). ~~or has a juvenile adjudication for an act that would~~
38 ~~be a felony listed in IC 31-27-4-13 if committed by an adult that is not~~
39 ~~specifically excluded under subdivision (1)(B).~~

40 (e) In ~~making its written finding~~ **considering the placement** under
41 subsection (d), the court shall consider the following:

- 42 (1) The length of time since the person committed the offense,

C
o
p
y



1 delinquent act, or act that resulted in the substantiated report of
 2 abuse or neglect.
 3 (2) The severity of the offense, delinquent act, or abuse or neglect.
 4 (3) Evidence of the person's rehabilitation, including the person's
 5 cooperation with a treatment plan, if applicable.
 6 SECTION 56. IC 35-40-7-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Upon request of a
 8 victim, the office of the prosecuting attorney having jurisdiction or a
 9 law enforcement agency having custody of a person accused of a crime
 10 against the victim shall notify the victim of the scheduling of a bond
 11 hearing, the escape or death of a person accused of committing a crime
 12 against the victim, release of a person convicted of a crime against the
 13 victim to a work release program, or any other type of postarrest release
 14 of a person convicted of a crime **or charged with a crime** against the
 15 victim.
 16 SECTION 57. IC 35-40-10-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A victim shall
 18 provide to and maintain with the agency that is responsible for
 19 providing notice to the victim a request for notice on a form that is
 20 provided by that agency. The form must include a telephone number,
 21 **electronic mail address**, and **mailing** address for the victim. If the
 22 victim fails to keep the victim's telephone number and address current,
 23 the agency may withdraw the victim's request for notice.
 24 (b) A victim may restore a request for notice of subsequent
 25 proceedings by filing, on a request form provided by an agency, the
 26 victim's current telephone number, **electronic mail address**, and
 27 **mailing** address.
 28 SECTION 58. IC 35-40-12-4 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section
 30 applies if the victim is an entity other than an individual.
 31 (b) A request for notice under IC 35-40-10 must identify the name,
 32 **electronic mail address**, and ~~the~~ mailing address of the person who is
 33 to receive notices and consultations on behalf of the entity.
 34 SECTION 59. IC 35-50-9-1, AS ADDED BY P.L.94-2010,
 35 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2011]: Sec. 1. (a) At the time of sentencing for a person
 37 convicted of domestic battery under IC 35-42-2-1.3 or a crime that
 38 involved domestic abuse, neglect, or violence, the court may require
 39 the person to complete a batterer's intervention program approved by
 40 the court.
 41 (b) The person convicted of domestic battery or another crime
 42 described in subsection (a) shall pay all expenses of the batterer's

C
O
P
Y



1 intervention program.

2 (c) The batterer's intervention program must be a ~~certified an~~
3 intervention program **certified by the Indiana coalition against**
4 **domestic violence.**

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 465, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

Page 6, delete lines 1 through 20, begin a new paragraph and insert:

"SECTION 1. IC 12-18-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A county may establish a county domestic violence fatality review team for the purpose of reviewing a death resulting from **or in connection with** domestic violence. The team shall review only those deaths in which:

(1) the person who commits the act of domestic violence resulting in death:

(1) (A) is charged with a criminal offense that results in final judgment; or

(2) (B) is deceased; **or**

(2) **the manner of death is suicide, and the deceased individual was a victim of an act of domestic violence.**

(b) The legislative body (as defined in IC 36-1-2-9) of a county must determine by majority vote if the county will establish a local domestic violence fatality review team.

(c) If a county elects not to establish a county domestic violence fatality review team, the county may join with one (1) or more other counties that have not established a county domestic violence fatality review team and form a regional domestic violence fatality review team.

(d) To establish a regional domestic violence fatality review team as described in subsection (c), the legislative body of each county comprising the region must cast a majority of votes in favor of establishing a regional domestic violence fatality review team."

Page 10, line 31, after "person" insert "**approved by the department who is**".

Page 10, line 38, after "rejected" insert "**the required number of times**".

Page 10, line 38, delete "the national crime information" and insert "**automated fingerprint classification equipment or rejected by a person designated by the department to examine and classify fingerprints**";

Page 10, delete line 39.

Page 11, line 8, strike "described in subdivision (1)(A)," and insert

C
O
P
Y



"who is fourteen (14) years of age or older,".

Page 11, line 12, strike "described in" and insert **"who is fourteen (14) years of age or older"**.

Page 11, line 13, strike "subdivision (1)(A)".

Page 12, between lines 15 and 16, begin a new paragraph and insert:
"SECTION 8. IC 31-9-2-100.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 100.5. "Qualified medical practitioner", for purposes of IC 31-9-2 means the following:**

- (1) A physician licensed under IC 25-22.5.**
- (2) A physician assistant licensed under IC 25-27.5.**
- (3) A physical therapist licensed under IC 25-27.**
- (4) An advanced practice nurse licensed under IC 25-23.**
- (5) A chiropractor licensed under IC 25-10.**
- (6) A psychologist licensed under IC 25-33."**

Page 13, between lines 6 and 7, begin a new paragraph and insert:
"SECTION 14. IC 31-14-14-5, AS AMENDED BY P.L.68-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) This section applies if a court finds that a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child.

(b) There is created a rebuttable presumption that the court shall order that the noncustodial parent's parenting time with the child must be supervised:

- (1) for at least one (1) year and not more than two (2) years immediately following the crime involving domestic or family violence; or
- (2) until the child becomes emancipated;

whichever occurs first.

(c) As a condition of granting the noncustodial parent unsupervised parenting time, the court may require the noncustodial parent to complete a batterer's intervention program certified by the Indiana coalition against domestic violence.

SECTION 15. IC 31-17-2-8.3, AS AMENDED BY P.L.68-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.3. (a) This section applies if a court finds that a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child.

(b) There is created a rebuttable presumption that the court shall order that the noncustodial parent's parenting time with the child must

C
O
P
Y



be supervised:

(1) for at least one (1) year and not more than two (2) years immediately following the crime involving domestic or family violence; or

(2) until the child becomes emancipated;

whichever occurs first.

(c) As a condition of granting the noncustodial parent unsupervised parenting time, the court may require the noncustodial parent to complete a batterer's intervention program certified by the Indiana coalition against domestic violence."

Page 14, line 13, after "(f)" insert "**or (g)**".

Page 14, between lines 30 and 31, begin a new paragraph and insert:

"(g) The parents of a child who is a ward of the department may execute a second or subsequent consent if:

(1) the court with jurisdiction over the child in need of services determines that adoption by the person to whom consents were originally signed is not in the child's best interest; or

(2) if the child's placement with the person who has petitioned or intends to petition to adopt the child is disrupted."

Page 17, line 15, after "parent" insert "**or the adoptive parent**".

Page 17, line 20, after "adoptive" insert "**parent or the adoptive**".

Page 17, line 28, after "adoptive" insert "**parent or the adoptive**".

Page 17, line 35, strike "an" and insert "**a**".

Page 17, line 35, after "parent" insert "**, an adoptive parent,**".

Page 17, line 37, after "parent" insert "**, the adoptive parent,**".

Page 26, delete lines 8 through 17.

Page 26, line 18, reset in roman "(e)".

Page 26, line 18, delete "(f)".

Page 26, line 26, reset in roman "(f)".

Page 26, line 26, delete "(g)".

Page 26, line 33, after "desirable" insert ",".

Page 26, line 33, strike "or".

Page 26, line 36, delete "parent." and insert "**parent, or it is otherwise in the foster child's best interests.**".

Page 26, line 37, delete "(h)" and insert "**(g)**".

Page 26, line 42, after "home" insert "**unless it is in the best interests of the child being placed**".

Page 27, line 1, delete "(i)" and insert "**(h)**".

Page 27, line 5, delete "(j)" and insert "**(i)**".

Page 27, line 8, reset in roman "(f)".

Page 27, line 8, delete "(g)".

C
O
P
Y



Page 27, line 9, delete "(k)" and insert "(j)".

Page 27, line 12, reset in roman "(e)".

Page 27, line 12, delete "(f)".

Page 27, delete lines 13 through 18.

Page 27, line 19, delete "therapeutic foster family home.", begin a new paragraph and insert:

"(k) If a therapeutic foster family home does not meet the requirements under subsections (f) or (g) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed."

Page 28, line 15, delete "or" and insert ",".

Page 28, line 17, delete "parents." and insert **"parents, or it is otherwise in the foster child's best interests."**

Page 28, delete lines 38 through 42.

Page 29, delete line 1.

Page 29, line 2, delete "foster family home.", begin a new paragraph and insert:

"(k) If a special needs foster family home does not meet the requirements under subsection (f) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed."

Page 34, line 2, delete "or".

Page 34, line 4, delete "." and insert "; or

(3) it is otherwise in the foster child's best interests."

Page 34, delete lines 9 through 13.

Page 34, line 14, delete "time that the child may remain in the foster family home.", begin a new paragraph and insert:

"(e) If a foster family home does not meet the requirements under subsection (a) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed."

Page 52, line 32, strike "or".

Page 52, line 33, delete "." and insert ";

(7) a licensed psychologist;

(8) a child caring institution licensed under IC 31-27;

(9) a group home licensed under IC 31-27 or IC 12-28-4;

(10) a secure private facility; or

(11) a child placing agency (as defined in IC 31-9-2-17.5)."

Page 53, line 6, strike "case" and insert "assessment".

Page 53, strike lines 7 through 9.

Page 53, line 10, strike "(6)" and insert "(4)".

Page 53, strike lines 12 through 23.

Page 53, line 24, strike "(14)" and insert "(5)".

Page 53, line 25 strike "(15)" and insert "(6)".

C
O
P
Y



Page 53, line 26 strike "(16)" and insert "(7)".

Page 59, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 49. IC 31-33-25-7, AS AMENDED BY P.L.225-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of determining:

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

(b) In conducting the child fatality review under subsection (a), the statewide child fatality review committee shall review every record concerning the deceased child that is held by:

- (1) the department of child services; or
- (2) a local child fatality review team.

(c) If the statewide child fatality review committee requests records from a hospital, physician, coroner, or mental health professional regarding a death that the statewide child fatality review committee is investigating, the hospital, physician, coroner, or mental health professional shall provide the requested records, subject to IC 34-30-15, to the statewide child fatality review committee.

(d) After reviewing records provided by the department of child services, the statewide child fatality review committee may prepare and submit a fatality report containing findings and recommendations to the department of child services.

SECTION 50. IC 31-33-25-13, AS AMENDED BY P.L.225-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) The department shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The department shall develop a data collection form that includes:

- (1) identifying and nonidentifying information;
- (2) information regarding the circumstances surrounding a death;
- (3) factors contributing to a death; and
- (4) findings and recommendations.

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

- (1) the appropriate community child protection team established under IC 31-33-3;
- (2) the appropriate:
 - (A) local health department established under IC 16-20-2; or
 - (B) multiple county health department established under

C
O
P
Y



IC 16-20-3; and

(3) the appropriate coroner and the pathologist who performed the autopsy on the child.

(c) If the department has received a fatality report containing findings and recommendations from the statewide child fatality review committee under section 7(d) of this chapter, the department shall include this report in the documentation collected under subsection (a)."

Page 75, between lines 26 and 27, begin a new paragraph and insert: "SECTION 69. IC 35-40-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime **or charged with a crime** against the victim.

SECTION 70. IC 35-40-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A victim shall provide to and maintain with the agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency. The form must include a telephone number, **electronic mail address**, and **mailing** address for the victim. If the victim fails to keep the victim's telephone number and address current, the agency may withdraw the victim's request for notice.

(b) A victim may restore a request for notice of subsequent proceedings by filing, on a request form provided by an agency, the victim's current telephone number, **electronic mail address**, and **mailing** address.

SECTION 71. IC 35-40-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section applies if the victim is an entity other than an individual.

(b) A request for notice under IC 35-40-10 must identify the name, **electronic mail address**, and ~~the~~ mailing address of the person who is to receive notices and consultations on behalf of the entity.

SECTION 72. IC 35-50-9-1, AS ADDED BY P.L.94-2010, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) At the time of sentencing for a person convicted of domestic battery under IC 35-42-2-1.3 or a crime that involved domestic abuse, neglect, or violence, the court may require

C
o
p
y



the person to complete a batterer's intervention program approved by the court.

(b) The person convicted of domestic battery or another crime described in subsection (a) shall pay all expenses of the batterer's intervention program.

(c) The batterer's intervention program must be a **certified an intervention program certified by the Indiana coalition against domestic violence.**"

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 465 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 465 be amended to read as follows:

- Page 8, delete lines 17 through 27.
- Page 54, delete lines 32 through 42.
- Delete pages 55 through 61.
- Page 62, delete lines 1 through 5.
- Page 74, delete lines 24 through 25.
- Renumber all SECTIONS consecutively.

(Reference is to SB 465 as printed February 14, 2011.)

LAWSON C

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Senate Bill 465, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, line 20, delete "IC 10-13-3-6.5)" and insert "**IC 31-9-2-100.5)**".

ES 465—LS 7221/DI 110+



C
O
P
Y

Page 6, line 27, after "the" insert **"Indiana state police"**.

Page 8, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 8. IC 31-9-2-88 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 88. (a) "Parent", for purposes of the juvenile law, means a biological or an adoptive parent. Unless otherwise specified, the term includes both parents, regardless of their marital status.

(b) "Parent", for purposes of IC 31-34-1, IC 31-34-8, IC 31-34-16, IC 31-34-19, IC 31-34-20 and IC 31-35-2, includes an alleged father."

Page 12, line 20, after "act" insert **"listed in subdivisions (1) through (20)"**.

Page 12, line 21, delete "listed in subdivisions (1) through (20)".

Page 17, line 26, after "act" insert **"listed in IC 31-27-4-13(a)"**.

Page 17, line 27, delete "felony listed in IC 31-27-4-13(a);" and insert **"felony;"**.

Page 20, line 1, after "act" insert **"listed in IC 31-27-4-13(a)"**.

Page 20, line 2, delete "listed in" and insert ".".

Page 20, delete line 3.

Page 20, line 13, after "act" insert **"listed in IC 31-27-4-13(a)"**.

Page 20, line 14, delete "listed in IC 31-27-4-13(a)".

Page 21, line 31, after "act" insert **"listed in IC 31-27-4-13(a)"**.

Page 21, line 32, delete "listed in" and insert ".".

Page 21, delete line 33.

Page 22, line 1, after "act" insert **"listed in IC 31-27-4-13(a)"**.

Page 22, line 2, delete "listed in IC 31-27-4-13(a)".

Page 23, line 26, delete "unless" and insert **"or"**.

Page 23, line 41, delete "subsections" and insert **"subsection"**.

Page 26, line 23, after "act" insert **"listed in section 13(a) of this chapter"**.

Page 26, line 24, delete "listed in section 13(a) of this" and insert ";

Page 26, delete line 25.

Page 28, line 28, strike "of".

Page 28, line 35, delete "or".

Page 29, line 4, after "act" insert **"listed in section 13(a) of this chapter"**.

Page 29, line 5, delete "felony listed in section" and insert **"felony."**.

Page 29, delete line 6.

Page 29, line 18, after "act" insert **"listed in section 13(a) of this chapter"**.

Page 29, line 19, delete "felony listed in section 13(a) of this

C
o
p
y



chapter," and insert "**felony**".

Page 31, line 29, after "act" insert "**listed in subsection (a)**".

Page 31, line 30, delete "felony that is listed in" and insert "**felony**".

Page 31, delete line 31.

Page 32, line 40, after "act" insert "**listed in section 13(a) of this chapter**".

Page 32, line 41, delete "felony listed in section" and insert "**felony**".

Page 32, delete line 42.

Page 33, line 13, after "act" insert "**listed in section 13(a) of this chapter**".

Page 33, line 14, delete "felony listed in section 13(a) of this chapter," and insert "**felony**".

Page 35, line 14, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 35, line 15, delete "felony that is listed in" and insert "**felony**";".

Page 35, delete line 16.

Page 37, line 31, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 37, line 32, delete "felony listed in" and insert "**felony**".

Page 37, delete line 33.

Page 38, line 1, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 38, line 2, delete "listed in IC 31-24-4-13(a)".

Page 39, line 18, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 39, line 19, delete "felony listed in" and insert "**felony**".

Page 39, delete line 20.

Page 39, line 30, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 39, line 31, delete "felony listed in IC 31-27-4-13(a)," and insert "**felony**".

Page 41, line 10, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 41, line 11, delete "felony listed in IC 31-27-4-13(a);" and insert "**felony**";".

Page 43, line 27, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 43, line 28, delete "felony listed in" and insert "**felony**".

Page 43, delete line 29.

Page 43, line 39, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 43, line 40, delete "felony listed in IC 31-27-4-13(a)," and insert "**felony**".

Page 45, line 15, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 45, line 16, delete "felony listed in" and insert "**felony**".

Page 45, delete line 17.

Page 45, line 27, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 45, line 28, delete "felony listed in IC 31-27-4-13(a)," and insert "**felony**".

C
O
P
Y



Page 55, line 31, beginning with "(A)" begin a new line block indented.

Page 55, line 33, beginning with "(B)" begin a new line block indented.

Page 55, line 34, beginning with "the department" begin a new line blocked left.

Page 57, line 36, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 57, line 37, delete "felony listed in" and insert "**felony;**".

Page 57, line 38, delete "IC 31-27-4-13(a);".

Page 59, line 33, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 59, line 34, delete "felony listed in" and insert "**felony;**".

Page 59, line 35, delete "IC 31-27-4-13(a);".

Page 65, line 16, after "act" insert "**listed in IC 31-27-4-13(a)**".

Page 65, line 17, delete "felony listed in" and insert "**felony;**".

Page 65, line 18, delete "IC 31-27-4-13(a);".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 465 as reprinted February 16, 2011.)

NOE, Chair

Committee Vote: yeas 9, nays 0.

C
o
p
y

