SENATE BILL No. 56

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-21.5-2-6; IC 12-7-2-149.1; IC 12-17.2.

Synopsis: Child care regulation. Makes various statutory changes making certain health and safety requirements applying to child care providers consistent, including criminal history checks, drug testing, caregiver education and supervision, nutrition, immunizations, fire and hazardous materials safety, and administrative procedures for noncompliance. Makes technical changes. (The introduced version of this bill was prepared by the committee on child care.)

Effective: July 1, 2011.

Holdman

January 5, 2011, read first time and referred to Committee on Health and Provider Services.

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Introduced

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.

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SENATE BILL No. 56

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

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

SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. This article does not apply to the formulation, issuance, or administrative review (but does apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7, ~~and~~ IC 12-17.2-5-18.7, **and IC 12-17.2-6-22,** determinations by the division of family resources and the department of child services.

(2) Determinations by the alcohol and tobacco commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

SECTION 2. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 149.1. "Provider" means the following:

(1) For purposes of IC 12-10-7, the meaning set forth in

IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17.6.

(3) Except as provided in ~~subdivision~~ **subdivisions** (4) **and (5),** for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(4) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(5) For purposes of IC 12-17.2-2-10, the following:

(A) A person described in subdivision (4).

(B) A child care center licensed under IC 12-17.2-4.

(C) A child care home licensed under IC 12-17.2-5.

(D) A child care ministry registered under IC 12-17.2-6.

SECTION 3. IC 12-17.2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The division shall adopt rules under IC 4-22-2 concerning the licensing and inspection of child care centers and child care homes after consultation with the following:

(1) State department of health.

(2) Fire prevention and building safety commission.

(3) The ~~board.~~ **committee on child care established by IC 12-17.2-3.3-2.**

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

SECTION 4. IC 12-17.2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The division shall adopt rules under IC 4-22-2 to govern the **registration and** inspection of child care ministries under this article **after consultation with the following:**

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(1) The state department of health.

(2) The fire prevention and building safety commission.

(3) The committee on child care established by IC 12-17.2-3.3-2.

The rules must provide standards for **food, health, safety, and** sanitation.

(b) A child care ministry shall comply with rules established by the division for child care ministries.

(c) The rules adopted under subsection (a) shall be applied by the division and state fire marshal in the registration and inspection of applicants for registration and of registrants.

SECTION 5. IC 12-17.2-2-10, AS AMENDED BY P.L.145-2006, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The division may grant a variance or waiver of a rule governing ~~child care centers, or child care homes.~~ **a provider.** A variance or waiver granted under this section must promote statewide practices and must protect the rights of persons affected by this article.

(b) The division may grant a variance to a rule if ~~an applicant for~~ a ~~license or a licensee under this chapter~~ **provider** does the following:

(1) Submits to the division a written request for the variance in the form and manner specified by the division.

(2) Documents that compliance with an alternative method of compliance approved by the division will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the variance, as determined by the division.

(c) A variance granted under subsection (b) must be conditioned upon compliance with the alternative method approved by the division. Noncompliance constitutes the violation of a rule of the division and may be the basis for revoking the variance.

(d) The division may grant a waiver of a rule if ~~an applicant for~~ a ~~license or a licensee under this chapter~~ **provider** does the following:

(1) Submits to the division a written request for the waiver in the form and manner specified by the division.

(2) Documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the division.

(3) Documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the division after the waiver is granted, as determined by the division.

(4) Documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety,

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or welfare of a child receiving services from the applicant for the waiver, as determined by the division.

(e) Except for a variance or waiver of a rule governing child care homes, a variance or waiver of a rule under this section that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission is not effective until the variance or waiver is approved by the fire prevention and building safety commission.

SECTION 6. IC 12-17.2-3.5-1, AS AMENDED BY P.L.124-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, **except as provided in section 4(b) of this chapter,** a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter unless the child care provider is found to be in violation of this chapter.

(b) If a school age child care program that is:

(1) described in IC 12-17.2-2-8(10); and

(2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

SECTION 7. IC 12-17.2-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. **(a)** A provider who:

(1) has been convicted of a:

(A) felony;

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

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

(2) employs or otherwise allows an individual who has been convicted of a crime specified under subdivision (1) to:

(A) serve as a caregiver to a child in the provider's care; or

(B) reside with the provider, if the provider operates a child care program in the provider's home; or

(3) fails to meet the requirements set forth in sections 5 through 12.1 of this chapter;

is ineligible to receive a voucher payment.

(b) A provider whose license under IC 12-17.2-4 or IC 12-17.2-5

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is revoked or denied is ineligible to receive a voucher payment, regardless of whether the provider meets the requirements set forth in sections 5 through 12.1 of this chapter, until the license is reinstated or granted.

SECTION 8. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.1. (a) This section applies to the following:

(1) A provider, if the provider is an individual.

(2) If a provider operates a child care program in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age.

(3) An individual who:

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where a provider operates a child care program.

(b) If information used by the division under ~~IC 31-33-17-6(7)~~ **IC 31-33-26-16(a)(10)** indicates that an individual described in subsection (a) has been named as ~~an alleged~~ **a** perpetrator, the following are ineligible to receive a voucher payment:

(1) The individual.

(2) A provider in whose home the individual resides if the provider operates a child care program in the provider's home.

(3) A provider that:

(A) employs the individual; or

(B) allows the individual to volunteer;

as a caregiver at the facility where the provider operates a child care program.

SECTION 9. IC 12-17.2-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a)** A provider shall have:

(1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and

(2) hot and cold running water;

in the area of the facility where the provider operates a child care program.

(b) A provider shall:

(1) provide appropriately timed, nutritionally balanced meals and snacks in sufficient quantities to meet the needs of each child; and

(2) maintain availability of drinking water at all times.

SECTION 10. IC 12-17.2-3.5-8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

(b) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a facility where a provider operates a child care program shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(c) The following apply to a caregiver at a facility where a provider operates a child care program:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the facility.

(2) The provider shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The provider shall train the caregiver in universal precautions.

SECTION 11. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Except as provided in subsection (f), a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a:

(1) national criminal history for:

(A) the provider, if the provider is an individual; or

(B) the director of the facility where the provider operates a child care program, if the provider is not an individual; and

(2) limited criminal history for:

~~(1)~~ **(A)** the provider, if the provider is an individual;

~~(2)~~ **(B)** if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:

~~(A)~~ **(i)** at least eighteen (18) years of age; or

~~(B)~~ **(ii)** less than eighteen (18) years of age but has previously been waived from juvenile court to adult court;

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and

~~(3)~~ **(C)** any individual who:

~~(A)~~ **(i)** is employed; or

~~(B)~~ **(ii)** volunteers;

as a caregiver at the facility where the provider operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision ~~(3)~~ **(2)(C)** before the individual is employed or allowed to volunteer as a caregiver.

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

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

not listed on a **national or** limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

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

(1) the provider:

(A) has applied for the **national criminal history and** limited criminal history required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and

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

(A) felony;

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

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

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

(1) felony;

(2) misdemeanor related to the health or safety of a child;

(3) misdemeanor for operating a child care center without a

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license under IC 12-17.2-4-35; or

(4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

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

(e) A provider shall maintain a written policy requiring an individual for whom a **national or** limited criminal history is required under this section to report any criminal convictions of the individual to the provider.

(f) The state police department may not charge a church or religious society any fees or costs for responding to a request for a release of a **national or** limited criminal history record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

SECTION 12. IC 12-17.2-4-2, AS AMENDED BY P.L.145-2006, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A license may be issued only if a child care center is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A license may be issued only if the child care center is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care center shall be present at all times when a child is in the care of a child care center.

(e) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care center shall maintain current certification in first aid applicable to all age groups of children cared for by the child care center.

(f) The following apply to a caregiver at a child care center:

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(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the child care center.

(2) The child care center shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The child care center shall train the caregiver in universal precautions.

~~(f)~~ **(g)** Upon request, the county office of family and children shall provide, within forty-eight (48) hours, excluding weekends and holidays, copies of substantiated noncompliances and other substantiated complaints filed with the division of family resources concerning a licensed child care center.

SECTION 13. IC 12-17.2-5-18.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18.2. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care home shall be present at all times when a child is in the care of a child care home.

(b) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care home shall maintain current certification in first aid applicable to all age groups of children cared for by the child care home.

(c) The following apply to a caregiver at a child care home:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the child care home.

(2) The child care home shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The child care home shall train the caregiver in universal precautions.

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SECTION 14. IC 12-17.2-6-2, AS AMENDED BY P.L.1-2006, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. **(a)** An unlicensed child care ministry under section 1 of this chapter may not operate unless the child care ministry has registered with and met the requirements of the:

(1) division, **as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10;** and ~~the~~

(2) division of fire and building safety, **as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.**

Registration forms shall be provided by the division and the division of fire and building safety.

(b) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsection (a).

SECTION 15. IC 12-17.2-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. ~~(a) The parent or guardian of a child shall, when the child is enrolled in a child care ministry, provide the child care ministry with proof that the child has received the required immunizations against the following:~~

~~(1) Diphtheria.~~

~~(2) Whooping cough.~~

~~(3) Tetanus.~~

~~(4) Measles.~~

~~(5) Rubella.~~

~~(6) Poliomyelitis.~~

~~(7) Mumps.~~

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

~~(1) made in writing;~~

~~(2) signed by the child's parent or guardian; and~~

~~(3) delivered to the child care ministry.~~

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

(a) A child care ministry shall maintain and annually update

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documentation provided by the physician of each child who is cared for by the child care ministry verifying that the child has received complete, age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine, unless the child has a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete, age appropriate immunizations.

(b) A child care ministry complies with subsection (a) if:

(1) a child's parent:

(A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection;

(2) the child's physician provides documentation of a medical reason the child should not be immunized; or

(3) the child's physician provides documentation that the child is currently in the process of receiving complete, age appropriate immunizations;

and the child care ministry maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 16. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. The child care ministry must do the following:

(1) Conduct a:

(A) national criminal history check of the operator or director of the child care ministry; and

(B) criminal history check of the child care ministry's employees and volunteers.

(2) Refrain from employing, or allowing to serve as a volunteer, an individual who:

(A) has been convicted of ~~any of the following felonies:~~

~~(i) Murder (IC 35-42-1-1).~~

~~(ii) Causing suicide (IC 35-42-1-2).~~

~~(iii) Assisting suicide (IC 35-42-1-2.5).~~

~~(iv) Voluntary manslaughter (IC 35-42-1-3).~~

~~(v) Reckless homicide (IC 35-42-1-5).~~

~~(vi) Battery (IC 35-42-2-1).~~

~~(vii) Aggravated battery (IC 35-42-2-1.5).~~

~~(viii) Kidnapping (IC 35-42-3-2).~~

~~(ix) Criminal confinement (IC 35-42-3-3).~~

~~(x) A felony sex offense under IC 35-42-4.~~

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~~(xi) Carjacking (IC 35-42-5-2).~~
~~(xii) Arson (IC 35-43-1-1).~~
~~(xiii) Incest (IC 35-46-1-3).~~
~~(xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).~~
~~(xv) Child selling (IC 35-46-1-4(d)).~~
~~(xvi) A felony involving a weapon under IC 35-47 or IC 35-47.5.~~
~~(xvii) A felony relating to controlled substances under IC 35-48-4.~~
~~(xviii) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.~~
~~(xix) A felony that is substantially equivalent to a felony listed in items (i) through (xviii) for which the conviction was entered in another state.~~ **a felony;**

(B) has been convicted of a misdemeanor:

(i) related to the health or safety of a child;

(ii) for operating a child care center without a license under IC 12-17.2-4-35; or

(iii) for operating a child care home without a license under IC 12-17.2-5-35; or

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

(3) Maintain records of each criminal history check.

SECTION 17. IC 12-17.2-6-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 14.5. (a) A child care ministry shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for an individual who:**

(1) is employed; or

(2) volunteers;

as a caregiver at the child care ministry. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care ministry shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

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(B) use or possession of alcohol or an illegal substance;
is prohibited in the child care ministry when child care is being provided.
(2) That drug testing of individuals who serve as caregivers at the child care ministry will be:
(A) performed based on a protocol established or approved by the division; and
(B) required if an individual is suspected of noncompliance with subdivision (1).
(c) If:
(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or
(2) an individual refuses to submit to a drug test;
the child care ministry shall immediately suspend or terminate the individual's employment or volunteer service.
(d) A child care ministry that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation of the individual and drug testing results for the individual that are negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).
(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.
(f) A child care ministry that does not comply with this section is subject to:
(1) denial of an application for a registration; or
(2) suspension or revocation of the child care ministry's registration;
under this chapter.
SECTION 18. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16. (a) A child care ministry shall have:**
(1) at least one (1) working telephone; and
(2) emergency contact information for each child in the care of the child care ministry;
available to employees of the child care ministry at all times.
(b) A child care ministry shall:
(1) provide appropriately timed, nutritionally balanced meals and snacks in sufficient quantities to meet the needs of each

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child; and

(2) maintain availability of drinking water at all times.

(c) A child care ministry must have at least one (1) exit that:

(1) does not require passage through a:

(A) garage; or

(B) storage area;

where hazardous materials are stored;

(2) is not a window;

(3) is not blocked; and

(4) is operable from the inside without the use of a key or any special knowledge.

(d) A child care ministry shall:

(1) conduct monthly documented fire drills:

(A) in accordance with the rules of the fire prevention and building safety commission; and

(B) that include complete evacuation of all:

(i) children; and

(ii) adults who provide child care;

in the child care ministry;

(2) maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period, including:

(A) the date and time of the fire drill;

(B) the name of the individual who conducted the fire drill;

(C) the weather conditions at the time of the fire drill; and

(D) the amount of time required to fully evacuate the child care ministry; and

(3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:

(A) on each floor; and

(B) in the kitchen area;

of the child care ministry.

(e) A child care ministry shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the child care ministry's care:

(1) Firearms and ammunition.

(2) Poisons, chemicals, medications, bleach, and cleaning materials.

(f) A child care ministry shall have:

(1) working smoke detectors that meet the child care home or child care center licensing standards adopted by rule for smoke detectors in the type of facility that the child care

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ministry operates; and

(2) hot and cold running water;

in the area of the child care ministry where children are cared for.

SECTION 19. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 17. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a child care ministry shall be present at all times when a child is in the care of the child care ministry.**

(b) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care ministry shall maintain current certification in first aid applicable to all age groups of children cared for by the child care ministry.

(c) The following apply to a caregiver at a child care ministry:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the child care ministry.

(2) The child care ministry shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The child care ministry shall train the caregiver in universal precautions.

(d) A child care ministry shall ensure that a child in the child care ministry's care is continually supervised by a caregiver.

SECTION 20. IC 12-17.2-6-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 18. (a) The division may grant a probationary registration to a child care ministry that is temporarily unable to comply with a rule if:**

(1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the child care ministry;

(2) the child care ministry files a plan with the division or the state fire marshal to correct the areas of noncompliance within the probationary period; and

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(3) the division or state fire marshal approves the plan.

(b) A probationary registration is valid for not more than six (6) months. The division may extend a probationary registration for one (1) additional period of six (6) months.

(c) A registration is invalidated when a probationary registration is issued.

(d) When the probationary registration expires, the division shall reinstate the original registration or revoke the registration.

(e) Upon receipt of a probationary registration, the child care ministry shall return to the division the previously issued registration.

(f) The division shall:

(1) upon issuing a probationary registration under this section, provide written notice to the child care ministry that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary registration under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care ministry of the:

(A) issuance of the probationary registration; and

(B) reason for the issuance of the probationary registration.

SECTION 21. IC 12-17.2-6-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 19. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a child care ministry.**

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or other temporary order under IC 4-21.5-4 requiring the child care ministry to immediately cease operation; and

(2) contact the parent or guardian of each child in the care of the child care ministry to inform the parent or guardian:

(A) that the division has issued an order to require the child care ministry to cease operation; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 21 through 23 of this chapter.

(c) An emergency or other temporary order issued by an

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employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

SECTION 22. IC 12-17.2-6-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 20. Except as provided in section 19 or 30 of this chapter, the division shall give a child care ministry thirty (30) calendar days written notice by certified mail of an enforcement action against the child care ministry. The child care ministry shall also be provided an opportunity for an informal meeting with the division. The child care ministry must request the meeting within ten (10) working days after receipt of the certified notice.**

SECTION 23. IC 12-17.2-6-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 21. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care ministry. The request must be made within thirty (30) calendar days after the child care ministry receives an order or notice under section 19 or 20 of this chapter. The written request must be made separately from an informal meeting request made under section 20 of this chapter.**

(b) The administrative hearing shall be held within sixty (60) calendar days after the division receives the written request.

SECTION 24. IC 12-17.2-6-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 22. A hearing requested under section 21 of this chapter shall be held in accordance with IC 4-21.5-3.**

SECTION 25. IC 12-17.2-6-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 23. The division shall issue a decision within sixty (60) calendar days after the conclusion of a hearing held under section 21 of this chapter.**

SECTION 26. IC 12-17.2-6-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 24. If a child care ministry's registration is suspended, the child care ministry shall cease operation and may not display the registration.**

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SECTION 27. IC 12-17.2-6-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 25. To reinstate a suspended registration, the following must occur:**

(1) The child care ministry must, within thirty (30) days after receiving notice of the suspension, submit a plan of corrective action to the division for approval.

(2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the registration.

(3) The division must approve the plan.

SECTION 28. IC 12-17.2-6-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 26. Following the suspension of a child care ministry's registration, the division shall do one (1) of the following:**

(1) Reinstate the registration.

(2) Revoke the registration.

(3) Issue to the child care ministry a new registration.

(4) Deny the child care ministry's reapplication for a registration.

SECTION 29. IC 12-17.2-6-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 27. A child care ministry shall cease operation when the registration of the child care ministry is revoked.**

SECTION 30. IC 12-17.2-6-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 28. (a) After a child care ministry's registration is revoked or suspended, the division shall publish notice of the revocation or suspension under IC 5-3-1 and notify in writing each person responsible for a child in the care of the child care ministry that the registration has been revoked or suspended.**

(b) The written notice shall be sent to the last known address of each person responsible for a child in the care of the child care ministry and shall state that the registration of the child care ministry has been revoked or suspended.

SECTION 31. IC 12-17.2-6-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 29. A final decision of the division made after a hearing under this chapter is subject to judicial**

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review under IC 4-21.5-5.

SECTION 32. IC 12-17.2-6-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 30. (a) The division shall investigate a report of an unregistered child care ministry and report the division's findings to the attorney general and to the division's attorney and the prosecuting attorney in the county where the child care ministry is located.**

(b) The attorney general or the division's attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child care ministry if there is reasonable cause to believe that:

(A) the child care ministry is operating without a registration required under this article; or

(B) a child care ministry's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child care ministry is operating without a registration required under this article.

(c) The division may provide for the removal of children from a child care ministry described in subsection (b).

(d) A child care ministry subject to injunctive relief under this section is entitled to an informal meeting with the division after the injunctive relief is ordered.

(e) The civil penalties collected under this section shall be deposited in the division of family resources child care fund established by IC 12-17.2-2-3.

(f) Section 35 of this chapter does not apply to the civil penalties imposed under this section.

SECTION 33. IC 12-17.2-6-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 31. A court order granted under section 30(b)(2)(A) of this chapter expires when the child care ministry is issued a registration.**

SECTION 34. IC 12-17.2-6-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2011]: **Sec. 32. A court order granted under section 30(b)(2)(B) of this chapter expires upon the later of the following:**

(1) Sixty (60) calendar days after the order is issued.

(2) When a final division decision is issued under sections 21 through 23 of this chapter if notice of an enforcement action is issued under section 20 of this chapter.

SECTION 35. IC 12-17.2-6-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 33. (a) The following constitute sufficient grounds for revocation of a registration:**

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

(A) the operator or director of the child care ministry;

(B) an employee of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry; or

(C) a volunteer of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry.

(2) A criminal conviction of an employee of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry, or a volunteer of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry, of any of the following:

(A) A felony.

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

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(3) A determination by the division that the child care ministry made false statements in the child care ministry's application for registration.

(4) A determination by the division that the child care ministry made false statements in the records required by the division.

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(5) A determination by the division that the child care ministry previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under IC 12-17.2-5.

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

(1) a registration is revoked due to a criminal conviction of an employee or a volunteer of the child care ministry; and

(2) the division determines that the employee or volunteer has been dismissed by the child care ministry;

the criminal conviction of the former employee or former volunteer does not require revocation of the child care ministry's registration.

SECTION 36. IC 12-17.2-6-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 34. (a) A child care ministry shall operate in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the child care ministry has violated this article.**

(b) The division may impose any of the following sanctions when the division finds that a child care ministry has committed a violation under subsection (a):

(1) After complying with the procedural provisions in sections 20 through 23 of this chapter:

(A) suspend the child care ministry's registration for not more than six (6) months; or

(B) revoke the child care ministry's registration.

(2) Seek civil remedies under section 30 of this chapter.

SECTION 37. IC 12-17.2-6-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 35. (a) In addition to the other penalties imposed under this chapter, the division may impose a civil penalty of not more than one thousand dollars ($1,000) for a violation of this article.**

(b) The division shall deposit the civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

SECTION 38. IC 12-17.2-6-36 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 36. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.**

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SECTION 39. IC 12-17.2-6-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 37. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect in a child care ministry.**

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or neglect occurred at the child care ministry.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care ministry is substantiated, the department shall send a copy of its report to the appropriate office of the division.

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