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# SENATE BILL No. 465

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 10-13-3; IC 29-3; IC 31-9-2; IC 31-19; IC 31-25-4; IC 31-27; IC 31-30-1; IC 31-33; IC 31-34; IC 31-35; IC 31-37-19-6.5.

**Synopsis:** Department of child services. Makes changes to the laws concerning: (1) criminal history background check requirements and fees concerning the department of child services; (2) guardianship of a minor; (3) regulation of child caring institutions, foster family homes, including therapeutic and special needs foster family homes, group homes, and child placing agencies; (4) adoption; (5) incentive payments to counties for enforcing and collecting child support; (6) juvenile court jurisdiction; (7) child abuse and neglect reporting and investigation; (8) disclosure of certain reports regarding the fatality or near fatality of a child; (9) local and statewide child fatality review teams; (10) the child protection index; (11) placement of a child in need of services; (12) notification requirements regarding proceedings on motions for child testimony by closed circuit television; and (13) placement of a child that is a delinquent child. Repeals a provision requiring the department of child services to collect and document information surrounding deaths of children reviewed by the statewide child fatality review committee.

**Effective:** July 1, 2011.

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January 13, 2011, read first time and referred to Committee on Judiciary.

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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. 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 10-13-3-16.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2011]: **Sec. 16.5. As used in this chapter,**  
4 **"qualified medical practitioner" means the following:**

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

9 SECTION 2. IC 10-13-3-27.5, AS AMENDED BY P.L.138-2007,  
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2011]: Sec. 27.5. (a) If:

- 12 (1) exigent circumstances require the emergency placement of a  
13 child; and
- 14 (2) the department will be unable to obtain criminal history  
15 information from the Interstate Identification Index before the  
16 emergency placement is scheduled to occur;
- 17 upon request of the department of child services established by



1 IC 31-25-1-1, a caseworker, or a juvenile probation officer, the  
 2 department may conduct a national name based criminal history record  
 3 check of each individual who is at least eighteen (18) years of age and  
 4 who is currently residing in the location designated as the out-of-home  
 5 placement at the time the child will reside in the location. ~~The~~  
 6 ~~department shall promptly transmit a copy of the report it receives from~~  
 7 ~~the Interstate Identification Index to the agency or person that~~  
 8 ~~submitted a request under this section:~~

9 (b) **Except as provided in subsections (e) and (f)**, not later than  
 10 seventy-two (72) hours after the department of child services, the  
 11 caseworker, or the juvenile probation officer receives the results of the  
 12 national name based criminal history record check, the department of  
 13 child services, the caseworker, or the juvenile probation officer shall  
 14 provide the department with a complete set of fingerprints for each  
 15 individual who is at least eighteen (18) years of age and who is  
 16 currently residing in the location designated as the out-of-home  
 17 placement at the time the child will be placed in the location. **Except**  
 18 **as provided in subsections (e) and (f)**, the department shall:

- 19 (1) use fingerprint identification to positively identify each  
 20 individual whose fingerprints are provided to the department  
 21 under this subsection; or  
 22 (2) submit the fingerprints to the Federal Bureau of Investigation  
 23 not later than fifteen (15) calendar days after the date on which  
 24 the national name based criminal history record check was  
 25 conducted.

26 **Except as provided in subsections (e) and (f)**, the child shall be  
 27 removed from the location designated as the out-of-home placement if  
 28 an individual who is at least eighteen (18) years of age and who is  
 29 currently residing in the location designated as the out-of-home  
 30 placement at the time the child will reside in the location fails to  
 31 provide a complete set of fingerprints to the department of child  
 32 services, the caseworker, or the juvenile probation officer.

33 (c) The department and the person or agency that provided  
 34 fingerprints shall comply with all requirements of 42 U.S.C. 5119a and  
 35 any other applicable federal law or regulation regarding:

- 36 (1) notification to the subject of the check; and  
 37 (2) the use of the results obtained based on the check of the  
 38 person's fingerprints.

39 (d) If an out-of-home placement is denied as the result of a national  
 40 name based criminal history record check, an individual who is the  
 41 subject of the name based criminal history record check may contest  
 42 the denial by submitting to the department of child services, the

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1 caseworker, or the juvenile probation officer:  
 2 (1) a complete set of the individual's fingerprints; and  
 3 (2) written authorization permitting the department of child  
 4 services, the caseworker, or the juvenile probation officer to  
 5 forward the fingerprints to the department for submission to the  
 6 Federal Bureau of Investigation;  
 7 not later than five (5) days after the out-of-home placement is denied.  
 8 ~~(e) The:~~  
 9 ~~(1) department; and~~  
 10 ~~(2) Federal Bureau of Investigation;~~  
 11 may charge a reasonable fee for processing a national name based  
 12 criminal history record check. The department shall adopt rules under  
 13 IC 4-22-2 to establish a reasonable fee for processing a national name  
 14 based criminal history record check and for collecting fees owed under  
 15 this subsection.  
 16 ~~(f) The:~~  
 17 ~~(1) department of child services; for an out-of-home placement~~  
 18 ~~arranged by a caseworker or the department of child services; or~~  
 19 ~~(2) juvenile court; for an out-of-home placement ordered by the~~  
 20 ~~juvenile court;~~  
 21 shall pay the fee described in subsection (e); arrange for fingerprinting;  
 22 and pay the costs of fingerprinting; if any.  
 23 **(e) Fingerprints are not required to be provided under**  
 24 **subsection (b) if:**  
 25 **(1) the individual for whom the fingerprints are required has**  
 26 **a physical disability that prevents fingerprinting;**  
 27 **(2) a person trained to take fingerprints or a qualified medical**  
 28 **practitioner verifies that the individual described in**  
 29 **subdivision (1) has a disabling condition that prevents**  
 30 **fingerprinting; and**  
 31 **(3) the verification described under subdivision (2) is provided**  
 32 **to the department.**  
 33 **(f) Fingerprints are not required to be provided under**  
 34 **subsection (b) if:**  
 35 **(1) as a result of age, occupation, or otherwise, the individual**  
 36 **for whom the fingerprints are required has low quality**  
 37 **fingerprints that prevent fingerprint results from being**  
 38 **obtained; and**  
 39 **(2) the fingerprint impressions of the individual described**  
 40 **under subdivision (1) have been rejected by the national crime**  
 41 **information data bases.**  
 42 **(g) The department shall promptly transmit a copy of the report**

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1 **it receives from the Interstate Identification Index to the agency or**  
 2 **person that submitted a request under this section.**

3 SECTION 3. IC 10-13-3-39, AS AMENDED BY P.L.3-2008,  
 4 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2011]: Sec. 39. (a) The department is designated as the  
 6 authorized agency to receive requests for, process, and disseminate the  
 7 results of national criminal history background checks that comply with  
 8 this section and 42 U.S.C. 5119a.

9 (b) A qualified entity may contact the department to request a  
 10 national criminal history background check on any of the following  
 11 persons:

12 (1) A person who seeks to be or is employed with the qualified  
 13 entity. A request under this subdivision must be made not later  
 14 than three (3) months after the person is initially employed by the  
 15 qualified entity.

16 (2) A person who seeks to volunteer or is a volunteer with the  
 17 qualified entity. A request under this subdivision must be made  
 18 not later than three (3) months after the person initially volunteers  
 19 with the qualified entity.

20 (3) A person for whom a national criminal history background  
 21 check is required under any law relating to the licensing of a  
 22 home, center, or other facility for purposes of day care or  
 23 residential care of children.

24 (4) A person for whom a national criminal history background  
 25 check is required for purposes of placement of a child in a foster  
 26 family home, a prospective adoptive home, or the home of a  
 27 relative or other caretaker, or for purposes of a report concerning  
 28 an adoption as required by IC 31-19-8.

29 (c) **Subject to section 39.5 of this chapter**, a qualified entity must  
 30 submit a request under subsection (b) in the form required by the  
 31 department and provide a set of the person's fingerprints and any  
 32 required fees with the request.

33 (d) If a qualified entity makes a request in conformity with  
 34 subsection (b), the department shall submit the set of fingerprints  
 35 provided with the request to the Federal Bureau of Investigation for a  
 36 national criminal history background check. The department shall  
 37 respond to the request in conformity with:

38 (1) the requirements of 42 U.S.C. 5119a; and

39 (2) the regulations prescribed by the Attorney General of the  
 40 United States under 42 U.S.C. 5119a.

41 (e) Subsection (f):

42 (1) applies to a qualified entity that:

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- 1 (A) is not a school corporation or a special education  
 2 cooperative; or  
 3 (B) is a school corporation or a special education cooperative  
 4 and seeks a national criminal history background check for a  
 5 volunteer; and  
 6 (2) does not apply to a qualified entity that is a:  
 7 (A) home health agency licensed under IC 16-27-1; or  
 8 (B) personal services agency licensed under IC 16-27-4.  
 9 (f) After receiving the results of a national criminal history  
 10 background check from the Federal Bureau of Investigation, the  
 11 department shall make a determination whether the person who is the  
 12 subject of a request has been convicted of:  
 13 (1) an offense described in IC 20-26-5-11;  
 14 (2) in the case of a foster family home, an offense described in  
 15 IC 31-27-4-13(a);  
 16 (3) in the case of a prospective adoptive home, an offense  
 17 described in IC 31-19-11-1(c);  
 18 (4) any other felony; or  
 19 (5) any misdemeanor;  
 20 and convey the determination to the requesting qualified entity.  
 21 (g) This subsection applies to a qualified entity that:  
 22 (1) is a school corporation or a special education cooperative; and  
 23 (2) seeks a national criminal history background check to  
 24 determine whether to employ or continue the employment of a  
 25 certificated employee or a noncertificated employee of a school  
 26 corporation or an equivalent position with a special education  
 27 cooperative.  
 28 After receiving the results of a national criminal history background  
 29 check from the Federal Bureau of Investigation, the department may  
 30 exchange identification records concerning convictions for offenses  
 31 described in IC 20-26-5-11 with the school corporation or special  
 32 education cooperative solely for purposes of making an employment  
 33 determination. The exchange may be made only for the official use of  
 34 the officials with authority to make the employment determination. The  
 35 exchange is subject to the restrictions on dissemination imposed under  
 36 P.L.92-544, (86 Stat. 1115) (1972).  
 37 (h) This subsection applies to a qualified entity (as defined in  
 38 IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After  
 39 receiving the results of a national criminal history background check  
 40 from the Federal Bureau of Investigation, the department shall provide  
 41 a copy to the public agency. Except as permitted by federal law, the  
 42 public agency may not share the information contained in the national

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1 criminal history background check with a private agency.

2 (i) This subsection applies to a qualified entity that is a:

3 (1) home health agency licensed under IC 16-27-1; or

4 (2) personal services agency licensed under IC 16-27-4.

5 After receiving the results of a national criminal history background  
6 check from the Federal Bureau of Investigation, the department shall  
7 make a determination whether the applicant has been convicted of an  
8 offense described in IC 16-27-2-5(a) and convey the determination to  
9 the requesting qualified entity.

10 SECTION 4. IC 10-13-3-39.5 IS ADDED TO THE INDIANA  
11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2011]: **Sec. 39.5. The department may not**  
13 **charge a fee for responding to a request for a national criminal**  
14 **history background check or a national name based criminal**  
15 **history record check by the department of child services if the**  
16 **request is part of a background investigation of an applicant for**  
17 **purposes of placement of a child in:**

18 (1) a foster family home;

19 (2) a prospective adoptive home; or

20 (3) the home of a relative or other caretaker.

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

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

30 (2) The nature of the incapacity.

31 (3) The approximate value and description of the property of the  
32 incapacitated person or minor, including any compensation,  
33 pension, insurance, or allowance to which the incapacitated  
34 person or minor may be entitled.

35 (4) If a limited guardianship is sought, the particular limitations  
36 requested.

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

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

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- 1 (A) the proposed guardian; or
- 2 (B) the person proposed to carry out the protective order.
- 3 (7) The names and addresses, as far as known or as can
- 4 reasonably be ascertained, of the persons most closely related by
- 5 blood or marriage to the person for whom the guardian is sought
- 6 to be appointed or the protective order is issued.
- 7 (8) The name and address of the person or institution having the
- 8 care and custody of the person for whom the guardian is sought
- 9 to be appointed or the protective order is issued.
- 10 (9) The names and addresses of any other incapacitated persons
- 11 or minors for whom the proposed guardian or person to carry out
- 12 the protective order is acting if the proposed guardian or person
- 13 is an individual.
- 14 (10) The reasons the appointment of a guardian or issuance of a
- 15 protective order is sought and the interest of the petitioner in the
- 16 appointment or issuance.
- 17 (11) The name and business address of the attorney who is to
- 18 represent the guardian or person to carry out the protective order.
- 19 **(12) Whether a child in need of services petition or a program**
- 20 **of informal adjustment has been filed regarding the minor for**
- 21 **whom a guardianship is being sought, and, if so, whether the**
- 22 **case regarding the minor is open at the time the guardianship**
- 23 **petition is filed.**
- 24 (b) Notice of a petition under this section for the appointment of a
- 25 guardian or the issuance of a protective order and the hearing on the
- 26 petition shall be given under IC 29-3-6.
- 27 (c) After the filing of a petition, the court shall set a date for a
- 28 hearing on the issues raised by the petition. Unless an alleged
- 29 incapacitated person is already represented by counsel, the court may
- 30 appoint an attorney to represent the incapacitated person.
- 31 (d) A person alleged to be an incapacitated person must be present
- 32 at the hearing on the issues raised by the petition and any response to
- 33 the petition unless the court determines by evidence that:
- 34 (1) it is impossible or impractical for the alleged incapacitated
- 35 person to be present due to the alleged incapacitated person's
- 36 disappearance, absence from the state, or similar circumstance;
- 37 (2) it is not in the alleged incapacitated person's best interest to be
- 38 present because of a threat to the health or safety of the alleged
- 39 incapacitated person as determined by the court;
- 40 (3) the incapacitated person has knowingly and voluntarily
- 41 consented to the appointment of a guardian or the issuance of a
- 42 protective order and at the time of such consent the incapacitated

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1 person was not incapacitated as a result of a mental condition that  
 2 would prevent that person from knowingly and voluntarily  
 3 consenting; or  
 4 (4) the incapacitated person has knowingly and voluntarily  
 5 waived notice of the hearing and at the time of such waiver the  
 6 incapacitated person was not incapacitated as a result of a mental  
 7 condition that would prevent that person from making a knowing  
 8 and voluntary waiver of notice.

9 (e) A person alleged to be an incapacitated person may present  
 10 evidence and cross-examine witnesses at the hearing. The issues raised  
 11 by the petition and any response to the petition shall be determined by  
 12 a jury if a jury is requested no later than seventy-two (72) hours prior  
 13 to the original date and time set for the hearing on the petition.  
 14 However, in no event may a request for a jury trial be made after thirty  
 15 (30) days have passed following the service of notice of a petition.

16 (f) Any person may apply for permission to participate in the  
 17 proceeding, and the court may grant the request with or without hearing  
 18 upon determining that the best interest of the alleged incapacitated  
 19 person or minor will be served by permitting the applicant's  
 20 participation. The court may attach appropriate conditions to the  
 21 permission to participate.

22 (g) **A court shall notify the department of child services of a  
 23 hearing regarding the guardianship of a minor under this section  
 24 if a:**

- 25 (1) **child in need of services petition has been filed regarding**
- 26 **the minor; or**
- 27 (2) **program of informal adjustment involving the minor is**
- 28 **pending.**

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

31 SECTION 6. IC 29-3-8-9 IS ADDED TO THE INDIANA CODE  
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 33 1, 2011]: **Sec. 9. (a) A probate or juvenile court may include in its**  
 34 **order creating a guardianship of a minor the following:**

- 35 (1) **A requirement that the minor must reside with the**
- 36 **guardian until the guardianship is terminated or modified.**
- 37 (2) **Any terms and conditions that a parent must meet in order**
- 38 **to seek modification or termination of the guardianship.**

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

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1 (1) complies with the terms and conditions; and  
 2 (2) proves the parent's current fitness to assume all parental  
 3 obligations by a preponderance of the evidence.  
 4 (c) If:  
 5 (1) a petition is filed for modification, resignation, or removal  
 6 of the guardian or termination of the guardianship before the  
 7 parent complies with the court ordered terms and conditions  
 8 described in subsection (a)(2); and  
 9 (2) the minor:  
 10 (A) was the subject of a petition alleging the child to be a  
 11 child in need of services; or  
 12 (B) is participating in a program of informal adjustment;  
 13 the court shall refer the petition to the department of child services  
 14 for the department of child services to determine the placement of  
 15 the child in accordance with the best interests of the child.  
 16 (d) A court shall notify the department of child services:  
 17 (1) if:  
 18 (A) the court appoints a guardian for a minor who:  
 19 (i) was the subject of a petition alleging the minor to be  
 20 a child in need of services; or  
 21 (ii) is participating in a program of informal adjustment;  
 22 and  
 23 (B) a petition to modify or terminate the guardianship of  
 24 the minor or a petition regarding the death, resignation, or  
 25 removal of the guardian is filed; and  
 26 (2) of any hearings related to the petitions described under  
 27 subdivision (1)(B).  
 28 (e) If a minor was the subject of a petition alleging the minor to  
 29 be a child in need of services or is participating in a program of  
 30 informal adjustment, the court shall do the following at a hearing  
 31 regarding a petition filed under this section:  
 32 (1) Consider the position of the department of child services.  
 33 (2) If requested by the department of child services, allow the  
 34 department of child services to present evidence regarding:  
 35 (A) whether the guardianship should be modified or  
 36 terminated;  
 37 (B) the fitness of the parent to provide for the care and  
 38 supervision of the minor at the time of the hearing;  
 39 (C) the appropriate care and placement of the child; and  
 40 (D) the best interests of the child.  
 41 SECTION 7. IC 31-9-2-10.9 IS ADDED TO THE INDIANA CODE  
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2011]: **Sec. 10.9. "Case", for purposes of IC 31-33-18-1.5, has the**  
2 **meaning set forth in IC 31-33-18-1.5(d).**

3 SECTION 8. IC 31-9-2-22.5, AS AMENDED BY P.L.138-2007,  
4 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2011]: Sec. 22.5. "Conduct a criminal history check", for  
6 purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34,  
7 IC 31-37, and IC 31-39-2-13.5, means to

8 (1) request: ~~the state police department to:~~  
9 (A) ~~release or allow inspection of a limited criminal history (as~~  
10 ~~defined in IC 10-13-3-11) and juvenile history data (as defined~~  
11 ~~in IC 10-13-4-4) concerning a person who is at least fourteen~~  
12 ~~(14) years of age and who is:~~

13 (i) ~~for purposes of IC 31-19, IC 31-26, IC 31-33, IC 31-34,~~  
14 ~~and IC 31-37, currently residing in a location designated by~~  
15 ~~the department of child services or by a juvenile court as the~~  
16 ~~out-of-home placement for a child at the time the child will~~  
17 ~~reside in the location; or~~

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

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

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

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

29 ~~(B) if an individual has:~~

30 (i) ~~a physical disability that prevents fingerprinting and~~  
31 ~~a person trained to take fingerprints or a qualified~~  
32 ~~medical practitioner (as defined in IC 10-13-3-16.5)~~  
33 ~~verifies that the individual has a disabling condition that~~  
34 ~~prevents fingerprinting; or~~

35 (ii) ~~low quality fingerprints, as a result of age,~~  
36 ~~occupation, or otherwise, that prevent fingerprint results~~  
37 ~~from being obtained and the individual's fingerprints~~  
38 ~~have been rejected by the national crime information~~  
39 ~~data bases;~~

40 ~~the state police department to conduct a national name~~  
41 ~~based criminal history record check (as defined in~~  
42 ~~IC 10-13-3-12.5) or request the state police department to~~

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**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), 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

(3) request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible under 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.

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

SECTION 10. IC 31-9-2-31, AS AMENDED BY P.L.124-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

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

- (1) a license applicant or licensee of:
  - (A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;
  - (B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or
  - (C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5;
- (2) a person who is responsible for care, supervision, or welfare of children while providing services as an owner, operator, director, manager, supervisor, employee, or volunteer at:
  - (A) a home, center, or facility described in subdivision (1);
  - (B) a child care ministry, as defined in IC 12-7-2-28.8, that is exempt from licensing requirements and is registered or required to be registered under IC 12-17.2-6;

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- 1 (C) a home, center, or facility of a child care provider, as
- 2 defined in IC 12-7-2-149.1(4);
- 3 (D) a home, center, or facility that is the location of a program
- 4 that provides child care, as defined in section 16.3 of this
- 5 chapter, to serve migrant children and that is exempt from
- 6 licensing under IC 12-17.2-2-8(6), whether or not the program
- 7 is certified as described in IC 12-17.2-2-9; or
- 8 (E) a school, as defined in section 113.5 of this chapter;
- 9 (3) a child caregiver, as defined in section 16.4 of this chapter;
- 10 (4) a member of the household of the child's noncustodial parent;
- 11 or
- 12 (5) an individual who has **or intends to have** direct contact, on a
- 13 regular and continuing basis, with a child for whom **the**
- 14 **individual provides** care and supervision. ~~is provided as~~
- 15 ~~described in this subsection.~~

16 SECTION 11. IC 31-9-2-103.6, AS ADDED BY P.L.146-2008,  
 17 SECTION 549, IS AMENDED TO READ AS FOLLOWS  
 18 [EFFECTIVE JULY 1, 2011]: Sec. 103.6. "Region", for purposes of  
 19 this title, refers to an area in Indiana designated as a region by the  
 20 department. However, for purposes of:

- 21 (1) IC 31-25-2-20, the term refers to a region established under
- 22 IC 31-25-2-20; ~~and~~
- 23 (2) IC 31-26-6, the term refers to a service region established
- 24 under IC 31-26-6-3; ~~and~~
- 25 **(3) IC 31-33-24, the term refers to a region established under**
- 26 **IC 31-33-24-5.5.**

27 SECTION 12. IC 31-9-2-129.5, AS AMENDED BY P.L.143-2008,  
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2011]: Sec. 129.5. "Therapeutic foster family home", for  
 30 purposes of IC 31-27, means a foster family home:

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

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- 1 (A) ~~the office of the secretary of family and social services;~~
- 2 **department of child services;**
- 3 (B) a managed care provider that contracts with the division of
- 4 mental health and addiction; or
- 5 (C) a licensed child placing agency; and
- 6 (3) that meets the additional requirements of IC 31-27-4-2.

7 SECTION 13. IC 31-19-2-12, AS AMENDED BY P.L.131-2009,  
 8 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2011]: Sec. 12. As soon as a petition for adoption is found to  
 10 be in proper form, the clerk of the court shall forward one (1) copy of  
 11 the petition for adoption to

- 12 ~~(1)~~ a licensed child placing agency as described in IC 31-19-7-1,
- 13 with preference to be given to the agency, if any, sponsoring the
- 14 adoption, as shown by the petition for adoption. ~~and~~
- 15 ~~(2) the department.~~

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

- 20 (1) The former environment and antecedents of the child.
- 21 (2) The fitness of the child for adoption.
- 22 (3) The suitability of the proposed home for the child.
- 23 (b) The report may not contain any of the following:
- 24 (1) Information concerning the financial condition of the
- 25 **prospective** adoptive parents.
- 26 (2) A recommendation that a request for a subsidy be denied in
- 27 whole or in part due to the financial condition of the **prospective**
- 28 adoptive parents.
- 29 (c) The criminal history information required under IC 31-19-2-7.5
- 30 must accompany the report.

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

- 35 (1) the court;
- 36 (2) a notary public or other person authorized to take
- 37 acknowledgments; or
- 38 (3) an authorized agent of:
- 39 (A) the department;
- 40 (B) a county office of family and children; or
- 41 (C) a licensed child placing agency.
- 42 (b) The child's mother may not execute a consent to adoption before

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1 the birth of the child.

2 (c) The child's father may execute a consent to adoption before the

3 birth of the child if the consent to adoption:

4 (1) is in writing;

5 (2) is signed by the child's father in the presence of a notary

6 public; and

7 (3) contains an acknowledgment that:

8 (A) the consent to adoption is irrevocable; and

9 (B) the child's father will not receive notice of the adoption

10 proceedings.

11 (d) A child's father who consents to the adoption of the child under

12 subsection (c) may not challenge or contest the child's adoption.

13 (e) **Except as provided in subsection (f)**, a person who executes a

14 written consent to the adoption of a child may not execute a second or

15 subsequent written consent to have another person adopt the child

16 unless one (1) or more of the following apply:

17 (1) Each original petitioner provides a written statement that the

18 petitioner is not adopting the child.

19 (2) The person consenting to the adoption has been permitted to

20 withdraw the first consent to adoption under IC 31-19-10.

21 (3) The court dismisses the petition for adoption filed by the

22 original petitioner or petitioners for adoption based upon a

23 showing, by clear and convincing evidence, that it is not in the

24 best interests of the child that the petition for adoption be granted.

25 (4) The court denies the petition to adopt the child filed by the

26 original petitioner or petitioners for adoption.

27 **(f) The department may execute more than one (1) written**

28 **consent to the adoption of a child if the department determines that**

29 **the execution of more than one (1) written consent is in the best**

30 **interests of the child.**

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

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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 that would be~~  
 29 **a felony listed in subdivisions (1) through (20) if committed by an**  
 30 **adult, a conviction of a misdemeanor related to the health and**  
 31 **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).

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- 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

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

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

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

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

41 SECTION 20. IC 31-25-4-23, AS AMENDED BY P.L.1-2007,  
 42 SECTION 198, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) Subject to subsection (d),  
2 the Title IV-D agency shall provide incentive payments to counties for  
3 enforcing and collecting the support rights that have been assigned to  
4 the state. The incentive payments shall be made by the Title IV-D  
5 agency directly to the county and deposited in the county treasury for  
6 distribution on a quarterly basis and in the following manner:

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

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

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

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

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

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

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

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

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

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

41 SECTION 22. IC 31-27-2-4, AS AMENDED BY P.L.131-2009,  
42 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2011]: Sec. 4. (a) The department shall adopt rules under  
2 IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning  
3 the licensing and inspection of child caring institutions, foster family  
4 homes, group homes, and child placing agencies after consultation with  
5 the following:

- 6 (1) State department of health.
- 7 (2) Fire prevention and building safety commission.
- 8 (b) The rules adopted under subsection (a) shall be applied by the  
9 department and state fire marshal in the licensing and inspection of  
10 applicants for a license and licensees under this article.

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

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

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

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

- 25 (1) meets the minimum standards required under subsection (c);
  - 26 (2) provides a continuum of care and services; and
  - 27 (3) is:
    - 28 (A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or
    - 29 (B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;
- 30 regardless of the facility's duration of or previous licensure as a child  
31 caring institution.

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

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

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

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

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

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- 1 (A) a felony; or  
 2 (B) a misdemeanor relating to the health and safety of  
 3 children.  
 4 (2) That 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) The department, on behalf of an applicant, or, at the discretion  
 10 of the department, an applicant, shall conduct a criminal history check  
 11 of the following:  
 12 (1) Each individual who is an applicant.  
 13 (2) The director or manager of a facility where children will be  
 14 placed.  
 15 (3) An employee or a volunteer of the applicant who has or will  
 16 have direct contact on a regular and continuing basis with a child  
 17 who is or will be placed in a facility operated by the applicant.  
 18 (e) If the applicant conducts a criminal history check under  
 19 subsection (d), the applicant shall:  
 20 (1) maintain records of the information it receives concerning  
 21 each individual who is the subject of a criminal history check; and  
 22 (2) submit to the department a copy of the information it receives  
 23 concerning each person described in subsection (d)(1) through  
 24 (d)(3).  
 25 (f) If the department conducts a criminal history check on behalf of  
 26 an applicant under subsection (d), the department shall:  
 27 (1) determine whether the subject of a national fingerprint based  
 28 criminal history check has a record of: ~~a 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 that, if committed by**  
 33 **an adult, would be a felony listed in IC 31-27-4-13(a);**  
 34 (2) notify the applicant of the determination under subdivision (1)  
 35 without identifying a specific offense or other identifying  
 36 information concerning a conviction **or juvenile adjudication**  
 37 contained in the national criminal history record information;  
 38 (3) submit to the applicant a copy of any state limited criminal  
 39 history report that the department receives on behalf of any person  
 40 described in subsection (d); and  
 41 (4) maintain a record of every report and all information the  
 42 department receives concerning a person described in subsection

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(d).

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

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

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

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

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1 (j) The department shall, at the applicant's request, inform the  
 2 applicant whether the department has or does not have a record of the  
 3 person who is the subject of a criminal history background check and  
 4 if the department has identified the person as an alleged perpetrator of  
 5 abuse or neglect. The department may not provide to the applicant any  
 6 details or personally identifying information contained in any child  
 7 protective services investigation report.

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

12 SECTION 24. IC 31-27-3-5, AS AMENDED BY P.L.138-2007,  
 13 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2011]: Sec. 5. (a) The following constitute sufficient grounds  
 15 for a denial of a license application:

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

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

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

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

25 (2) A criminal conviction of the applicant, or the director or  
 26 manager of a facility where children will be placed by the  
 27 applicant, of:

28 (A) a felony;

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

30 (C) a misdemeanor for operating a child caring institution,  
 31 foster family home, group home, or child placing agency  
 32 without a license under this article (or IC 12-17.4 before its  
 33 repeal); or

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

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

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

40 (5) A determination by the department that:

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

42 (B) **an employee or a volunteer of the applicant who has**

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**direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant;**

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

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

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

- (1) A **conviction of a** felony described in IC 31-27-4-13(a).
- (2) **A conviction of** any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

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

(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 (a) or (b), if:

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

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

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

SECTION 25. IC 31-27-3-31, AS AMENDED BY P.L.138-2007,

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1 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2011]: Sec. 31. (a) The following constitute sufficient grounds  
3 for revocation of a license:

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

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

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

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

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

16 (A) A felony.

17 (B) A misdemeanor related to the health or 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 licensee made  
25 false statements in the licensee's application for licensure.

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

28 (5) A determination by the department that:

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

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

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 a licensee for an act that, if**  
38 **committed by an adult, would be a felony listed in**  
39 **IC 31-27-4-13(a).**

40 (b) A license may also be revoked if an employee or volunteer of the  
41 licensee who has direct contact on a regular and continuous basis with  
42 children who are under the direct supervision of the licensee has ~~been~~

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~~convicted of had~~ any of the following:

- (1) A **conviction of a** felony described in IC 31-27-4-13(a).
- (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.
- (3) **A juvenile adjudication for an act that, if committed by an adult, would be a felony listed in IC 31-27-4-13(a), 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.**

(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 (a) or (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; and
- (2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

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

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

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

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

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

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

(d) An applicant for a therapeutic foster family home license must

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- 1 do the following:
- 2 (1) Be licensed as a foster parent under **this chapter and 465**
- 3 **IAC 2-1-1 et seq.**
- 4 (2) Participate in preservice training that includes:
- 5 (A) preservice training to be licensed as a foster parent under
- 6 465 IAC 2-1-1 et seq.; and
- 7 (B) additional preservice training in therapeutic foster care.
- 8 **(3) Except as provided in subsection (e), have at least six (6)**
- 9 **months of experience providing care to foster children,**
- 10 **consisting of one (1) or more placements.**
- 11 **(e) The department may grant a license under this section to a**
- 12 **foster parent who does not satisfy the requirement in subsection**
- 13 **(d)(3) if the department determines that the foster parent:**
- 14 **(1) has an established, meaningful relationship with the**
- 15 **therapeutic foster child; or**
- 16 **(2) has at least one (1) year of experience working in the child**
- 17 **welfare field.**
- 18 ~~(e)~~ **(f)** A person who is issued a license to operate a therapeutic
- 19 foster family home shall, within one (1) year after meeting the training
- 20 requirements of subsection (d)(2) and, annually thereafter, participate
- 21 in training that includes:
- 22 (1) training as required in order to be licensed as a foster parent
- 23 under 465 IAC 2-1-1 et seq.; and
- 24 (2) additional training in order to be licensed as a therapeutic
- 25 foster parent under this chapter.
- 26 ~~(f)~~ **(g)** An operator of a therapeutic foster family home may not
- 27 provide supervision and care in a therapeutic foster family home to
- 28 more than ~~two (2)~~ **four (4)** children at the same time, ~~not~~
- 29 including the children for whom the applicant or operator is a parent,
- 30 stepparent, guardian, custodian, or other relative, **and only two (2) of**
- 31 **the children may be foster children.** The department may grant an
- 32 exception to this subsection whenever the placement of siblings in the
- 33 same therapeutic foster family home is desirable or ~~in the best interests~~
- 34 ~~of the foster children residing in the home.~~ **the foster child has an**
- 35 **established, meaningful relationship with the therapeutic foster**
- 36 **parent.**
- 37 **(h) An operator of a therapeutic foster family home that has a**
- 38 **therapeutic foster child placed with the therapeutic foster family**
- 39 **home may not accept a placement of a child who is not a**
- 40 **therapeutic foster child unless the child who is not a therapeutic**
- 41 **foster child is a sibling of the therapeutic foster child who is placed**
- 42 **with the therapeutic foster family home.**

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1           ~~(g)~~ **(i)** A therapeutic foster family home may provide care for an  
 2 individual receiving foster care for older youth under IC 31-28-5.7-1  
 3 if the individual is no longer under the care and supervision of a  
 4 juvenile court.

5           ~~(h)~~ **(j)** An individual who receives foster care for older youth under  
 6 IC 31-28-5.7-1 in a therapeutic foster family home shall not be  
 7 considered in determining whether the therapeutic foster family home  
 8 meets or exceeds the limit set forth in subsection ~~(f)~~: **(g)**.

9           ~~(i)~~ **(k)** The department shall adopt rules under IC 4-22-2, including  
 10 emergency rules under IC 4-22-2-37.1, necessary to carry out this  
 11 section, including rules governing the number of hours of training  
 12 required under subsections (d) and ~~(e)~~: **(f)**.

13           **(l) A therapeutic foster family home that, on July 1, 2011, does**  
 14 **not meet the requirements under subsection (g) or (h) has until**  
 15 **July 1, 2012, to meet the requirements. If a child was placed in a**  
 16 **therapeutic foster family home before July 1, 2011, the child may**  
 17 **remain in the home only until July 1, 2012, unless the department**  
 18 **approves extending the time the child may remain in the**  
 19 **therapeutic foster family home. However, a new placement of a**  
 20 **child may not be made in violation of this section.**

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

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

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

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

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

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

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

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1 (f) An operator of a special needs foster family home may not  
 2 provide supervision and care as a special needs foster family home if  
 3 more than:

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

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

6 (B) is at least eighteen (18) years of age and is receiving care  
 7 and supervision under an order of a juvenile court; or

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

9 including the children or individuals for whom the provider is a parent,  
 10 stepparent, guardian, custodian, or other relative, receive care and  
 11 supervision in the home at the same time. Not more than four (4) of the  
 12 ~~eight (8)~~ **five (5)** individuals described in subdivision (1) may be less  
 13 than six (6) years of age. The department may grant an exception to this  
 14 section whenever the department determines that the placement of  
 15 siblings in the same special needs foster home is desirable **or the**  
 16 **foster child has an established, meaningful relationship with the**  
 17 **foster parents.**

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

22 (h) The department shall consider the specific needs of each special  
 23 needs foster child or individual whenever the department determines  
 24 the appropriate number of children or individuals to place in the special  
 25 needs foster home under subsection (f). The department may require a  
 26 special needs foster family home to provide care and supervision to less  
 27 than the maximum number of children or individuals allowed under  
 28 subsection (f) upon consideration of the specific needs of a special  
 29 needs foster child or individual.

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

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

38 **(k) A special needs foster family home that, on July 1, 2011, does**  
 39 **not meet the requirements under subsection (f) has until July 1,**  
 40 **2012, to meet the requirements. If a child was placed in a special**  
 41 **needs foster family home before July 1, 2011, the child may remain**  
 42 **in the home only until July 1, 2012, unless the department approves**

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1 **extending the time that the child may remain in the special needs**  
 2 **foster family home. However, a new placement of a child may not**  
 3 **be made in violation of this section.**

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

8 (b) An applicant must submit the required information as part of the  
 9 application.

10 (c) An applicant must submit with the application a statement  
 11 attesting the following:

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

13 (A) a felony; or

14 (B) a misdemeanor relating to the health and safety of  
 15 children.

16 (2) ~~That Whether~~ the applicant has ~~not~~ been charged with:

17 (A) a felony; or

18 (B) a misdemeanor relating to the health and safety of  
 19 children;

20 during the pendency of the application.

21 (d) An applicant shall submit the necessary information, forms, or  
 22 consents for the department to conduct a criminal history check for  
 23 each individual who is an applicant.

24 (e) The department or, at the discretion of the department, an  
 25 applicant, shall conduct a criminal history check of:

26 (1) the applicant's employees and volunteers who have or will  
 27 have direct contact, on a regular and continuing basis, with  
 28 children who are or will be under the direct supervision of the  
 29 applicant; and

30 (2) all household members who are at least fourteen (14) years of  
 31 age.

32 (f) If the applicant conducts criminal history checks under  
 33 subsection (e), the applicant shall maintain records of the information  
 34 received concerning each individual subject of a criminal history  
 35 check.

36 (g) If the department conducts a criminal history check on behalf of  
 37 an applicant under subsection (e), the department shall:

38 (1) make a determination whether the subject of a national  
 39 fingerprint based criminal history check has a record of: ~~a~~  
 40 ~~conviction for:~~

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

42 (B) **a conviction for** a misdemeanor relating to the health and

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1 safety of a child; or  
 2 **(C) a juvenile adjudication for an act that, if committed by**  
 3 **an adult, would be a felony listed in section 13(a) of this**  
 4 **chapter;**  
 5 (2) notify the applicant of the determination under subdivision (1)  
 6 without identifying a specific offense or other identifying  
 7 information concerning a conviction or juvenile adjudication  
 8 contained in the national criminal history record information;  
 9 (3) submit to the applicant a copy of any state limited criminal  
 10 history report that the department receives on behalf of any person  
 11 described in subsection (e); and  
 12 (4) maintain a record of every report and all information the  
 13 department receives concerning a person described in subsection  
 14 (e).  
 15 (h) Except as provided in subsection (i), a criminal history check  
 16 described in subsection (e) is required only at the time an application  
 17 for a new license or the renewal of an existing license is submitted.  
 18 (i) With the exception of a fingerprint based criminal history  
 19 background check under IC 31-9-2-22.5(1)(B) for a person described  
 20 in subsection (e)(1), a criminal history check concerning a person  
 21 described in subsection (e) must be completed on or before the date on  
 22 which the subject of the check is first employed or assigned as a  
 23 volunteer in a position described in subsection (e)(1) or first becomes  
 24 a resident of the applicant's household as described in subsection  
 25 (e)(2). A fingerprint based criminal history background check under  
 26 IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must  
 27 be completed not later than the conclusion of the first ninety (90) days  
 28 of employment in or assignment of a volunteer. However, if a person  
 29 described in this subsection has been the subject of a criminal history  
 30 check that was conducted not more than one (1) year before the date  
 31 the license application is submitted to the department, a new criminal  
 32 history check of that person is not required.  
 33 (j) An applicant or a licensee described in subsection (e)(1) may  
 34 provisionally employ an individual or assign a volunteer for whom a  
 35 criminal history check is required during the period after the process of  
 36 requesting fingerprint based criminal history background check  
 37 information has been initiated by or on behalf of the applicant or  
 38 licensee but before the determination is obtained by or communicated  
 39 to the applicant or licensee. If the determination is not received by not  
 40 later than ninety (90) days after the effective date of hire or volunteer  
 41 assignment, the employee or volunteer relationship must be terminated  
 42 or suspended until a determination is received. An employee or

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1 volunteer whose determination has not yet been received may not have  
2 direct contact with a child who is or will be placed at a facility operated  
3 by the applicant or licensee unless the direct contact occurs only in the  
4 presence of a volunteer or employee of the applicant or licensee who  
5 has been the subject of a completed and approved criminal history  
6 check. In determining whether to provisionally hire or assign as a  
7 volunteer an individual described in subsection (e)(1), the applicant or  
8 licensee shall consider the following:

- 9 (1) The training time required by an employee or a volunteer.
- 10 (2) The safety and security of the children under the supervision
- 11 of the applicant or licensee.
- 12 (3) The safety and security of the other staff and volunteers
- 13 working under the supervision of the applicant or licensee.
- 14 (4) The staffing concerns of the applicant or licensee.
- 15 (5) Any other factor relating to the safety and security of the
- 16 applicant's or licensee's operations.

17 (k) The department shall, at the applicant's request, inform the  
18 applicant whether the department has or does not have a record of the  
19 person who is the subject of a criminal history background check and  
20 if the department has identified the person as an alleged perpetrator of  
21 abuse or neglect. The department may not provide to the applicant any  
22 details or personally identifying information contained in any child  
23 protective investigation report.

24 (l) A person who is the subject of a criminal history check  
25 conducted in accordance with this section may request the state police  
26 department to provide the person with a copy of any state or national  
27 criminal history report concerning the person.

28 SECTION 29. IC 31-27-4-6, AS AMENDED BY P.L.138-2007,  
29 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2011]: Sec. 6. (a) The following constitute sufficient grounds  
31 for a denial of a license application:

- 32 (1) A determination by the department of child abuse or neglect
- 33 by:
  - 34 (A) the applicant;
  - 35 (B) an employee **or a volunteer** of the applicant who has
  - 36 direct contact, on a regular and continuous basis, with children
  - 37 who are under the direct supervision of the applicant; **or**
  - 38 ~~(C) a volunteer of the applicant who has direct contact, on a~~
  - 39 ~~regular and continuous basis, with children who are under the~~
  - 40 ~~direct supervision of the applicant; or~~
  - 41 ~~(D) (C) a person residing in the applicant's residence. who is~~
  - 42 ~~at least eighteen (18) years of age.~~

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

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**described in this subsection; or**  
**(B) permit the individual to reside in the applicant'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.
- (5) The nature and extent of unsupervised contact with children residing in the home.

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

- (1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee, a volunteer, or a person residing in the residence of the applicant; and
- (2) the department determines that the employee or volunteer has been dismissed by the applicant or that the person residing in the residence no longer resides there;

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

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

SECTION 30. IC 31-27-4-8, AS AMENDED BY P.L.143-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

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

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the ~~eight (8)~~ **five (5)** individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that:

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1 (1) the placement of siblings in the same foster family home is  
2 desirable; or

3 (2) a foster child has an established, meaningful relationship  
4 with the foster parents.

5 (d) An individual who receives foster care for older youth under  
6 IC 31-28-5.7-1 in a foster family home shall not be considered in  
7 determining whether the foster family home meets or exceeds the limit  
8 set forth in subsection (a)(1).

9 (e) **A foster family home that, on July 1, 2011, does not meet the**  
10 **requirements under subsection (a) or (b) has until July 1, 2012, to**  
11 **meet the requirements. If a child was placed in a foster family**  
12 **home before July 1, 2011, the child may remain in the home only**  
13 **until July 1, 2012, unless the department approves extending the**  
14 **time that the child may remain in the foster family home. However,**  
15 **a new placement of a child may not be made in violation of this**  
16 **section.**

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

- 23 (1) Murder (IC 35-42-1-1).  
24 (2) Causing suicide (IC 35-42-1-2).  
25 (3) Assisting suicide (IC 35-42-1-2.5).  
26 (4) Voluntary manslaughter (IC 35-42-1-3).  
27 (5) Reckless homicide (IC 35-42-1-5).  
28 (6) Battery (IC 35-42-2-1) **within the past five (5) years.**  
29 (7) Domestic battery (IC 35-42-2-1.3).  
30 (8) Aggravated battery (IC 35-42-2-1.5).  
31 (9) Kidnapping (IC 35-42-3-2).  
32 (10) Criminal confinement (IC 35-42-3-3) **within the past five**  
33 **(5) years.**  
34 (11) A felony sex offense under IC 35-42-4.  
35 (12) Carjacking (IC 35-42-5-2) **within the past five (5) years.**  
36 (13) Arson (IC 35-43-1-1) **within the past five (5) years.**  
37 (14) Incest (IC 35-46-1-3).  
38 (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and  
39 IC 35-46-1-4(a)(2)).  
40 (16) Child selling (IC 35-46-1-4(d)).  
41 (17) A felony involving a weapon under IC 35-47 or IC 35-47.5  
42 **within the past five (5) years.**

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- 1 (18) A felony relating to controlled substances under IC 35-48-4  
 2 **within the past five (5) years.**
- 3 (19) An offense relating to material or a performance that is  
 4 harmful to minors or obscene under IC 35-49-3.
- 5 (20) A felony that is substantially equivalent to a felony listed in  
 6 subdivisions (1) through (19) for which the conviction was  
 7 entered in another state.
- 8 **(b)** The department may deny a license to an applicant who:  
 9 **(1)** has been convicted of a felony that is not listed in ~~this~~  
 10 subsection **(a)**; **or**  
 11 **(2) has had a juvenile adjudication for an act that, if**  
 12 **committed by an adult, would be a felony that is listed in**  
 13 **subsection (a).**
- 14 ~~(b)~~ **(c)** The department shall send written notice by certified mail  
 15 that the application has been denied and give the reasons for the denial.
- 16 ~~(c)~~ **(d)** An administrative hearing concerning the denial of a license  
 17 shall be provided upon written request by the applicant. The request  
 18 must be made not more than thirty (30) days after receiving the written  
 19 notice under subsection ~~(b)~~: **(c)**.
- 20 ~~(d)~~ **(e)** An administrative hearing shall be held not more than sixty  
 21 (60) days after receiving a written request.
- 22 ~~(e)~~ **(f)** An administrative hearing shall be held in accordance with  
 23 IC 4-21.5-3.
- 24 ~~(f)~~ **(g)** The department shall issue a decision not more than sixty  
 25 (60) days after the conclusion of a hearing.
- 26 SECTION 32. IC 31-27-4-32, AS AMENDED BY P.L.138-2007,  
 27 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2011]: Sec. 32. (a) The following constitute sufficient grounds  
 29 for revocation of a license:  
 30 (1) A determination by the department of child abuse or neglect  
 31 by:  
 32 (A) the licensee;  
 33 (B) an employee **or a volunteer** of the licensee who has direct  
 34 contact, on a regular and continuous basis, with children who  
 35 are under the direct supervision of the licensee; **or**  
 36 ~~(C) a volunteer of the licensee who has direct contact, on a~~  
 37 ~~regular and continuous basis, with children who are under the~~  
 38 ~~direct supervision of the licensee; or~~  
 39 ~~(D) (C) a person at least eighteen (18) years of age who is~~  
 40 ~~residing in the home of the licensee.~~  
 41 (2) A criminal conviction of the licensee for any of the following:  
 42 (A) A felony.

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

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**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 been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or that the individual no longer resides in the licensee's residence;

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

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

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

(b) After complying with the procedural provisions in sections 22 through 25 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a). However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section ~~13(a)(1) through 13(a)(9)~~ **13(a)** of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section ~~13(a)(1) through 13(a)(9)~~ **13(a)** of this chapter.

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

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

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1 information concerning a conviction **or juvenile adjudication**  
 2 contained in the national criminal history record information;  
 3 (3) submit to the applicant a copy of any state limited criminal  
 4 history report that the department receives on behalf of any person  
 5 described in subsection (d); and  
 6 (4) maintain a record of every report and all information it  
 7 receives concerning a person described in subsection (d).

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

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

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

- 41 (1) The training time required by an employee or a volunteer.
- 42 (2) The safety and security of the children under the supervision

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1 of the applicant or licensee.

2 (3) The safety and security of the other staff and volunteers  
3 working under the supervision of the applicant or licensee.

4 (4) The staffing concerns of the applicant or licensee.

5 (5) Any other factor relating to the safety and security of the  
6 applicant's or licensee's operations.

7 (j) The department shall, at the applicant's request, inform the  
8 applicant as to whether the department has or does not have a record of  
9 the person who is the subject of a criminal history background check  
10 and whether the department has identified the person as an alleged  
11 perpetrator of abuse or neglect. The department may not provide to the  
12 applicant any details or personally identifying information contained  
13 in any child protective services investigation report.

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

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

22 (1) A determination by the department of child abuse or neglect  
23 by:

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

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

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

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

34 (A) A felony.

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

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

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

42 (3) A determination by the department that the applicant made

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1 false statements in the applicant's application for licensure.

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

4 (5) A determination by the department that:

5 (A) the applicant; or

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

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

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

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

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

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

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

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

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

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

35 (3) Evidence of rehabilitation.

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

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

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

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

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1           been dismissed by the applicant;  
 2 the criminal conviction of, or determination of child abuse or neglect  
 3 by, the former employee or former volunteer does not constitute a  
 4 sufficient basis for the denial of a license application.

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

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

10           (1) A determination by the department of child abuse or neglect  
 11 by:

12           (A) the licensee; **or**

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

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

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

22           (A) A felony.

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

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

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

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

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

34           (5) A determination by the department that:

35           (A) the licensee; **or**

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

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

42           (6) **A juvenile adjudication of the licensee for an act that, if**

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1           **committed by an adult, would be a felony listed in**  
 2           **IC 31-27-4-13(a).**  
 3           (b) A license may also be revoked if an employee or volunteer of the  
 4 licensee who has direct contact on a regular and continuous basis with  
 5 children who are under the direct supervision of the licensee has ~~been~~  
 6 ~~convicted of had~~ any of the following:  
 7           (1) **A conviction of** a felony described in IC 31-27-4-13(a).  
 8           (2) **A conviction of** any other felony or a misdemeanor relating to  
 9 the health and safety of a child, unless the licensee is granted a  
 10 waiver by the department to employ or assign the person as a  
 11 volunteer in a position described in this subsection.  
 12           **(3) A juvenile adjudication for an act that, if committed by an**  
 13 **adult, would be a felony listed in IC 31-27-4-13(a), unless the**  
 14 **licensee is granted a waiver by the department to employ or**  
 15 **assign the person as a volunteer in a position described in this**  
 16 **subsection.**  
 17           (c) In determining whether to grant a waiver under subsection (b),  
 18 the department shall consider the following factors:  
 19           (1) The length of time that has passed since the disqualifying  
 20 conviction.  
 21           (2) The severity, nature, and circumstances of the offense.  
 22           (3) Evidence of rehabilitation.  
 23           (4) The duties and qualifications required for the proposed  
 24 employment positions or volunteer assignment.  
 25           (d) Notwithstanding subsection (a) or (b), if:  
 26           (1) a license could be revoked due to a criminal conviction of, or  
 27 a determination of child abuse or neglect by, an employee or a  
 28 volunteer of the licensee; and  
 29           (2) the department determines that the employee or volunteer has  
 30 been dismissed by the licensee within a reasonable time after the  
 31 licensee became aware of the conviction;  
 32 the criminal conviction of, or determination of child abuse or neglect  
 33 by, the former employee or former volunteer does not constitute a  
 34 sufficient basis for the revocation of a license.  
 35           (e) The department may adopt rules to implement this section.  
 36           SECTION 37. IC 31-27-6-2, AS AMENDED BY P.L.138-2007,  
 37 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2011]: Sec. 2. (a) An applicant must apply for a child placing  
 39 agency 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

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- 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 of
- 12 the department, an applicant, shall conduct a criminal history check of
- 13 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) ~~conviction for~~ a felony; ~~or~~
- 32 (B) ~~conviction for~~ a misdemeanor relating to the health and
- 33 safety of a child; ~~or~~
- 34 (C) **juvenile adjudication for an act that, if committed by**
- 35 **an adult, would be a felony listed in IC 31-27-4-13(a);**
- 36 (2) notify the applicant of the determination under subdivision (1)
- 37 without identifying a specific offense or other identifying
- 38 information concerning a conviction **or juvenile adjudication**
- 39 contained in the national criminal history record information;
- 40 (3) submit to the applicant a copy of any state limited criminal
- 41 history report that the department receives on behalf of any person
- 42 described in subsection (d); and

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

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

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

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

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

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1 (5) Any other factor relating to the safety and security of the  
2 applicant's or licensee's operations.

3 (j) The department shall, at the applicant's request, inform the  
4 applicant whether the department has or does not have a record of the  
5 person who is the subject of a criminal history background check and  
6 if the department has identified the person as an alleged perpetrator of  
7 abuse or neglect. The department may not provide to the applicant any  
8 details or personally identifying information contained in any child  
9 protective investigation report.

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

14 SECTION 38. IC 31-27-6-3, AS AMENDED BY P.L.138-2007,  
15 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2011]: Sec. 3. (a) The following constitute sufficient grounds  
17 for denial of a license application:

18 (1) A determination by the department of child abuse or neglect  
19 by:

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

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

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

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

30 (A) A felony.

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

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

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

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

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

42 (5) A determination by the department that:

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

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

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

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

(A) the licensee; **or**

(B) an employee **or a 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. ~~or~~

~~(C) a 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.~~

(2) A criminal conviction of the licensee, or the director or  
manager of a facility where children will be placed by the  
licensee, for 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 caring institution,  
foster family home, group home, or child placing agency  
without a license under this article (or IC 12-17.4 before its  
repeal).

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

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

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

(5) A determination by the department that:

(A) the licensee; **or**

**(B) an employee or a 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;**

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

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

(b) A license may also be revoked if an employee or volunteer of the

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1 licensee who has direct contact on a regular and continuous basis with  
2 children who are under the direct supervision of the licensee has ~~been~~  
3 ~~convicted of had~~ any of the following:

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

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

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

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

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

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 revocation of a license.

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

33 SECTION 40. IC 31-30-1-6, AS AMENDED BY P.L.145-2006,  
34 SECTION 275, IS AMENDED TO READ AS FOLLOWS  
35 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Subject to subsections (b) and  
36 (c), this article does not prohibit a probate court from exercising its  
37 jurisdiction over guardianship of a person who is less than eighteen  
38 (18) years of age.

39 (b) If allegations in the petition for guardianship or allegations  
40 produced at guardianship proceedings indicate that the person for  
41 whom the guardianship is requested meets the definition of a child in  
42 need of services under IC 31-34-1, the probate court on its own motion

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1 or at the request of a party shall:

2 (1) send the petition for guardianship or the record of  
3 guardianship ~~proceedings; or both, to the prosecuting attorney or~~  
4 ~~the attorney~~ for the department of child services; and

5 (2) direct ~~the prosecuting attorney or the attorney~~ for the  
6 department of child services to initiate an ~~investigation and~~  
7 ~~proceedings in the juvenile court~~ **assessment** to determine  
8 whether the person for whom the guardianship is requested is a  
9 child in need of services.

10 (c) The probate court retains jurisdiction over the matter until the  
11 juvenile court authorizes the filing of a petition under IC 31-34-9.

12 **(d) If a juvenile court:**

13 **(1) issues an order establishing or modifying a guardianship**  
14 **of a minor; and**

15 **(2) requests additional proceedings regarding the**  
16 **guardianship of the minor;**

17 **the probate court that retains jurisdiction over the case or another**  
18 **appropriate court shall conduct additional proceedings.**

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

26 (1) the child is the subject of a child in need of services  
27 proceeding;

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

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

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

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

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

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

39 **(1) modifies child custody, child support, or parenting time;**  
40 **and**

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

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1 the court having concurrent original jurisdiction under subsection  
2 (a) shall assume or reassume primary jurisdiction of the case to  
3 address all issues.

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

7 (e) An order modifying child custody, child support, or  
8 parenting time issued under this section survives the termination  
9 of the child in need of services proceeding or the juvenile  
10 delinquency proceeding until the court having concurrent or  
11 original jurisdiction assumes primary jurisdiction and modifies the  
12 order.

13 SECTION 42. IC 31-30-1-13 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Subject to  
15 subsection (b), a court having jurisdiction under IC 31-14 of a child  
16 custody proceeding in a paternity proceeding has concurrent original  
17 jurisdiction with another juvenile court for the purpose of modifying  
18 custody of a child who is under the jurisdiction of the other juvenile  
19 court because:

- 20 (1) the child is the subject of a child in need of services  
21 proceeding; or
- 22 (2) the child is the subject of a juvenile delinquency proceeding  
23 that does not involve an act described under IC 31-37-1-2.

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

- 29 (1) enters an order approving the child custody modification; or
- 30 (2) terminates the child in need of services proceeding or the  
31 juvenile delinquency proceeding.

32 (c) If a juvenile court:  
33 (1) establishes or modifies paternity of a child; and  
34 (2) terminates a child in need of services proceeding or a  
35 juvenile delinquency proceeding regarding the child;  
36 the court having concurrent original jurisdiction under subsection  
37 (a) shall assume or reassume primary jurisdiction of the case to  
38 address all other issues.

39 (d) An order establishing or modifying paternity of a child by a  
40 juvenile court survives the termination of the child in need of  
41 services proceeding or the juvenile delinquency proceeding.

42 SECTION 43. IC 31-33-3-5, AS AMENDED BY P.L.234-2005,

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1 SECTION 104, IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2011]: Sec. 5. The community child protection  
3 team

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

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

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

- 13 (1) a hospital;
- 14 (2) a community mental health center;
- 15 (3) a managed care provider (as defined in IC 12-7-2-127(b));
- 16 (4) a referring physician;
- 17 (5) a dentist;
- 18 (6) a licensed psychologist; or
- 19 (7) a school;
- 20 **(8) a child caring institution licensed under IC 31-27;**
- 21 **(9) a group home licensed under IC 31-27 or IC 12-28-4;**
- 22 **(10) a secure private facility; or**
- 23 **(11) a child placing agency (as defined in IC 31-9-2-17.5).**

24 (b) Not later than thirty (30) days after the date the department  
25 receives initiates an assessment or investigation of a report of  
26 suspected child abuse or neglect from a person described in subsection  
27 (a), the department shall send a report to:

- 28 (1) the administrator of the hospital;
- 29 (2) the community mental health center;
- 30 (3) the managed care provider;
- 31 (4) the referring physician;
- 32 (5) the dentist; or
- 33 (6) the principal of the school.

34 The report must contain the items listed in subsection ~~(e)~~ (d) that are  
35 known at the time the report is sent.

36 ~~(e)~~ Not later than ninety (90) days after the date the department  
37 receives a report of suspected child abuse or neglect, the department  
38 shall send a report that contains any additional items listed in  
39 subsection (e) that were not covered in the prior report if available.

40 ~~(d)~~ (c) The administrator, director, referring physician, dentist,  
41 licensed psychologist, or principal may appoint a designee to receive  
42 the report.

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

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- 1 (5) The home environment and the relationship of the child to the
- 2 parent, guardian, or custodian or other persons responsible for the
- 3 child's care.
- 4 (6) All other data considered pertinent.
- 5 (b) The assessment may include the following:
- 6 (1) A visit to the child's home.
- 7 (2) An interview with the subject child.
- 8 (3) A physical, psychological, or psychiatric examination of any
- 9 child in the home.
- 10 (c) If:
- 11 (1) admission to the home, the school, or any other place that the
- 12 child may be; or
- 13 (2) permission of the parent, guardian, custodian, or other persons
- 14 responsible for the child for the physical, psychological, or
- 15 psychiatric examination;
- 16 under subsection (b) cannot be obtained, the juvenile court, upon good
- 17 cause shown, shall follow the procedures under IC 31-32-12.
- 18 **(d) If a custodial parent, a guardian, or a custodian of a child**
- 19 **refuses to allow the department to interview the child after the**
- 20 **caseworker has attempted to obtain the consent of the custodial**
- 21 **parent, guardian, or custodian to interview the child, the**
- 22 **department may petition a court to order the custodial parent,**
- 23 **guardian, or custodian to make the child available to be**
- 24 **interviewed by the caseworker.**
- 25 **(e) If the court finds that:**
- 26 **(1) a custodial parent, a guardian, or a custodian has been**
- 27 **informed of the hearing on a petition described under**
- 28 **subsection (d); and**
- 29 **(2) the department has made reasonable and unsuccessful**
- 30 **efforts to obtain the consent of the custodial parent, guardian,**
- 31 **or custodian to interview the child;**
- 32 **the court shall specify in the order the efforts the department made**
- 33 **to obtain the consent of the custodial parent, guardian, or**
- 34 **custodian and may grant the motion to interview the child, either**
- 35 **with or without the custodial parent, guardian, or custodian being**
- 36 **present.**
- 37 SECTION 46. IC 31-33-18-1.5, AS AMENDED BY
- 38 P.L.182-2009(ss), SECTION 379, IS AMENDED TO READ AS
- 39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) This section
- 40 applies to records held by:
- 41 ~~(1) the division of family resources;~~
- 42 ~~(2) (1) a county office;~~

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

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

10           (b) For purposes of subsection (a), a child's death or near fatality  
 11 may have been the result of abuse, abandonment, or neglect if:

- 12           (1) an entity described in subsection (a) determines that the child's
- 13           death or near fatality is the result of abuse, abandonment, or
- 14           neglect; or
- 15           (2) a prosecuting attorney files:
  - 16           (A) an indictment or information; or
  - 17           (B) a complaint alleging the commission of a delinquent act;
  - 18           that, if proven, would cause a reasonable person to believe that
  - 19           the child's death or near fatality may have been the result of
  - 20           abuse, abandonment, or neglect.

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

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

- 33           ~~(c)~~ **(d)** As used in this section:
  - 34           **(1) "case" means:**
    - 35           **(A) any intake report generated by the department;**
    - 36           **(B) any investigation or assessment conducted by the**
    - 37           **department; or**
    - 38           **(C) ongoing involvement between the department and a**
    - 39           **child or family that is the result of:**
      - 40           **(i) a program of informal adjustment; or**
      - 41           **(ii) a child in need of services action;**
    - 42           **for which related records and documents have not been**

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

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- 1            ~~(d)(3)(B)~~ through ~~(c)(1)(F)~~ **(d)(3)(F)** of a person; and
- 2            (2) all identifying information of a child less than eighteen (18)
- 3            years of age.
- 4            ~~(g)~~ **(h)** The court shall disclose the record redacted in accordance
- 5            with subsection ~~(f)~~ **(g)** to any person who requests the record, if the
- 6            person has paid:
- 7                (1) to the entity having control of the record, the reasonable
- 8                expenses of copying under IC 5-14-3-8; and
- 9                (2) to the court, the reasonable expenses of copying the record.
- 10          ~~(h)~~ **(i)** The data and information in a record disclosed under this
- 11          section must include the following:
- 12                (1) A summary of the report of abuse or neglect and a factual
- 13                description of the contents of the report.
- 14                (2) The date of birth and gender of the child.
- 15                (3) The cause of the fatality or near fatality, if the cause has been
- 16                determined.
- 17                (4) Whether the department ~~or the office of the secretary of family~~
- 18                ~~and social services~~ had any contact with the child or a ~~member of~~
- 19                ~~the child's family or household~~ **the perpetrator** before the fatality
- 20                or near fatality, and, if the department ~~or the office of the~~
- 21                ~~secretary of family and social services~~ had contact, the following:
- 22                    (A) The frequency of the contact ~~or communication~~ with the
- 23                    child or a ~~member of the child's family or household~~ **the**
- 24                    **perpetrator** before the fatality or near fatality and the date on
- 25                    which the last contact ~~or communication~~ occurred before the
- 26                    fatality or near fatality.
- 27                    (B) A summary of the status of the child's case at the time of
- 28                    the fatality or near fatality, including:
- 29                        (i) whether the child's case was closed by the department ~~or~~
- 30                        ~~the office of the secretary of family and social services~~
- 31                        before the fatality or near fatality; and
- 32                        (ii) if the child's case was closed as described under item (i),
- 33                        the **date of closure and the** reasons that the case was
- 34                        closed.
- 35          ~~(i)~~ **(j)** The court's determination under subsection ~~(f)~~ **(g)** that certain
- 36          identifying information or other information is not relevant to
- 37          establishing the facts and circumstances leading to the death or near
- 38          fatality of a child is not admissible in a criminal proceeding or civil
- 39          action.
- 40          SECTION 47. IC 31-33-24-1, AS ADDED BY P.L.145-2006,
- 41          SECTION 287, IS AMENDED TO READ AS FOLLOWS
- 42          [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this chapter, "child"

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1 means an individual less than ~~sixteen (16)~~ **eighteen (18)** years of age.

2 SECTION 48. IC 31-33-24-3, AS ADDED BY P.L.145-2006,  
3 SECTION 287, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter, "local  
5 child fatality review team" refers to a ~~county~~ or regional child fatality  
6 review team established under this chapter.

7 SECTION 49. IC 31-33-24-5.5 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2011]: **Sec. 5.5. (a) The department shall**  
10 **establish geographic regions for purposes of this chapter.**

11 **(b) The regions under subsection (a) may consist of one (1) or**  
12 **more counties.**

13 **(c) If the department has established regions of county or**  
14 **counties to carry out other duties of the department, the regions**  
15 **that the department establishes under subsection (a) shall be the**  
16 **same regions the department has established to carry out the**  
17 **department's other duties.**

18 SECTION 50. IC 31-33-24-6, AS ADDED BY P.L.145-2006,  
19 SECTION 287, IS AMENDED TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) ~~A county may~~ **The**  
21 **department shall** establish a ~~county local~~ child fatality review team ~~to~~  
22 **in each region. The local child fatality review team shall** review the  
23 death of a child that is:

- 24 (1) sudden;  
25 (2) unexpected; or  
26 (3) unexplained;  
27 **(4) assessed by the department for alleged abuse or neglect**  
28 **that resulted in the fatality; or**  
29 **(5) determined by a coroner in the region served by the local**  
30 **child fatality review team to be the result of a homicide,**  
31 **suicide, or accident.**

32 **(b) The legislative body of a county (as defined in IC 36-1-2-9) must**  
33 **determine by majority vote whether the county will establish a local**  
34 **child fatality review team.**

35 **(c) If a county elects not to establish a county child fatality review**  
36 **team, the county may join with one (1) or more other counties that have**  
37 **not established a county child fatality review team and form a regional**  
38 **child fatality review team.**

39 **(d) To establish a regional child fatality review team as described in**  
40 **subsection (c), the legislative body of each county comprising the**  
41 **region must cast a majority of votes in favor of establishing a regional**  
42 **child fatality review team.**

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1 (b) In conducting a child fatality review under subsection (a),  
2 the local child fatality review team shall review every record  
3 concerning the deceased child that is held by:

- 4 (1) the department; or
- 5 (2) the local child fatality review team.

6 (c) Subject to IC 34-30-15, if the local child fatality review team  
7 requests records from a hospital, physician, coroner, law  
8 enforcement officer, or mental health professional regarding a  
9 death that the local child fatality review team is investigating, the  
10 hospital, physician, coroner, law enforcement officer, or mental  
11 health professional shall provide the requested records to the local  
12 child fatality review team.

13 SECTION 51. IC 31-33-24-7, AS AMENDED BY P.L.225-2007,  
14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2011]: Sec. 7. (a) A child fatality review consists of:  
16 determining:

- 17 (1) determining whether similar future deaths could be  
18 prevented; and
  - 19 (2) identifying:
    - 20 (A) agencies or resources and entities that should be involved;
    - 21 and
    - 22 (B) any other resources that should be used;
- 23 to adequately prevent future deaths of children.

24 (b) In conducting the child fatality review under subsection (a); the  
25 local child fatality review team shall review every record concerning  
26 the deceased child that is held by the department:

27 (c) If a local child fatality review team requests records from a  
28 hospital, physician, coroner, or mental health professional regarding a  
29 death that the local child fatality review team is investigating, the  
30 hospital, physician, coroner, or mental health professional shall provide  
31 the requested records, subject to IC 34-30-15, to the child fatality  
32 review team:

33 SECTION 52. IC 31-33-24-9, AS AMENDED BY P.L.225-2007,  
34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2011]: Sec. 9. (a) A local child fatality review team consists  
36 of the following members:

- 37 (1) A coroner or deputy coroner from the area served by the local  
38 child fatality review team.
- 39 (2) A representative from:
  - 40 (A) the health and hospital corporation of Marion County as  
41 set forth in IC 16-22-8;
  - 42 (B) (A) a local health department established under

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- 1 IC 16-20-2; or
- 2 ~~(C)~~ **(B)** a multiple county health department established under
- 3 IC 16-20-3;
- 4 from the area served by the local child fatality review team.
- 5 (3) A **pediatrician or family practice** physician residing or
- 6 practicing medicine in the area served by the local child fatality
- 7 review team.
- 8 (4) A representative of law enforcement from the area served by
- 9 the local child fatality review team.
- 10 (5) A representative from an emergency medical services provider
- 11 doing business in the area served by the local child fatality review
- 12 team.
- 13 (6) A ~~director or manager of a local or regional office~~ **regional**
- 14 **manager** of the department from the area served by the local
- 15 child fatality review team **or the regional manager's designee.**
- 16 (7) A representative of the prosecuting attorney from the area
- 17 served by the local child fatality review team.
- 18 (8) A pathologist with forensic experience who is licensed to
- 19 practice medicine in Indiana and who, if feasible, is certified by
- 20 the American Board of Pathology in forensic pathology.
- 21 (9) A representative from a fire department or volunteer fire
- 22 department (as defined in IC 36-8-12-2) from the area served by
- 23 the local child fatality review team.
- 24 **(10) A department attorney from the area served by the local**
- 25 **child fatality review team.**
- 26 **(11) A mental health provider providing services in the area**
- 27 **served by the local child fatality review team.**
- 28 **(12) A representative from a school district in the area served**
- 29 **by the local child fatality review team.**
- 30 (b) If a local child fatality review team is established in one (1)
- 31 county, the legislative body that voted to establish the local child
- 32 fatality review team under section 6 of this chapter shall:
- 33 (1) adopt an ordinance for the appointment and reappointment of
- 34 members of the local child fatality review team; and
- 35 (2) appoint members to the local child fatality review team under
- 36 the ordinance adopted.
- 37 (c) If a local child fatality review team is established in a region, the
- 38 county legislative bodies that voted to establish the local child fatality
- 39 review team under section 6 of this chapter shall:
- 40 (1) each adopt substantially similar ordinances for the
- 41 appointment and reappointment of members of the local child
- 42 fatality review team; and

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1           ~~(2)~~ appoint members to the local child fatality review team under  
2           the ordinances adopted:

3           **(b) Each county in the region shall submit to the department at**  
4           **least one (1) name of an individual for each member described in**  
5           **subsection (a)(1) through (a)(12) for the department's**  
6           **consideration.**

7           **(c) The director or the director's designee shall appoint**  
8           **individuals from the list or lists provided under subsection (b) to**  
9           **serve as members on the local child fatality review team.**

10           SECTION 53. IC 31-33-24-10, AS ADDED BY P.L.145-2006,  
11           SECTION 287, IS AMENDED TO READ AS FOLLOWS  
12           [EFFECTIVE JULY 1, 2011]: Sec. 10. **(a) A local child fatality review**  
13           **team may have additional members from the following categories:**

14           **(1) A representative of a hospital located in the ~~county~~ or region**  
15           **served by the local child fatality review team.**

16           ~~(2) A mental health provider providing services in the county or~~  
17           ~~region served by the local child fatality review team:~~

18           ~~(3) (2) A representative from a juvenile or probate court in the~~  
19           ~~county or region served by the local child fatality review team.~~

20           ~~(4) (3) Other representatives requested to serve by the members~~  
21           ~~of the local child fatality review team.~~

22           **(4) A representative from the department of natural resources**  
23           **who lives or works in the region served by the local child**  
24           **fatality review team.**

25           **(5) A representative from Prevent Child Abuse Indiana (an**  
26           **organization for the prevention of child abuse) who lives or**  
27           **works in the region served by the local child fatality review**  
28           **team.**

29           **(6) One (1) of the following:**

30           **(A) A court appointed special advocate who provides court**  
31           **appointed special advocate services in the region served by**  
32           **the local child fatality review team.**

33           **(B) A guardian ad litem who provides guardian ad litem**  
34           **services in the region served by the local child fatality**  
35           **review team.**

36           **(b) The director or the director's designee shall appoint an**  
37           **additional member of a local child fatality review team in the same**  
38           **manner that the director or the director's designee appoints a**  
39           **member under section 9 of this chapter.**

40           SECTION 54. IC 31-33-24-11, AS ADDED BY P.L.145-2006,  
41           SECTION 287, IS AMENDED TO READ AS FOLLOWS  
42           [EFFECTIVE JULY 1, 2011]: Sec. 11. ~~(a) Any member of a local child~~

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1 fatality review team may serve as chairperson. The chairperson shall be  
 2 elected by the members of the local child fatality review team at the  
 3 first meeting of the local child fatality review team. **The regional  
 4 manager for the region served by a local child fatality review team  
 5 shall be the chairperson of the local child fatality review team.**

6 (b) The local child fatality review team shall meet at the call of the  
 7 chairperson.

8 (c) The local child fatality review team chairperson shall determine  
 9 the agenda for each meeting.

10 SECTION 55. IC 31-33-24-15, AS AMENDED BY P.L.225-2007,  
 11 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2011]: Sec. 15. (a) The department shall collect and document  
 13 information surrounding the deaths of children reviewed by local child  
 14 fatality review teams. The department shall develop a data collection  
 15 form that includes:

- 16 (1) identifying and nonidentifying information;
- 17 (2) information regarding the circumstances surrounding a death;
- 18 (3) factors contributing to a death; and
- 19 (4) findings and recommendations **that include the following**  
 20 **information:**

21 (A) **Whether similar future deaths could be prevented.**

22 (B) **A list of:**

- 23 (i) **agencies and entities that should be involved; and**
- 24 (ii) **any other resources that should be used;**

25 **to adequately prevent future child deaths in the region.**

26 (C) **A regional strategy that should be implemented to**  
 27 **prevent future child deaths.**

28 (b) The data collection form developed under this section must ~~also~~  
 29 be provided to **the following:**

- 30 (1) The appropriate community child protection team.
- 31 ~~(2) as appropriate:~~
  - 32 (A) ~~the health and hospital corporation of Marion County as~~  
 33 ~~set forth in IC 16-22-8;~~
  - 34 (B) ~~the local health department established under IC 16-20-2;~~  
 35 ~~or~~
  - 36 (C) ~~the multiple county health department established under~~  
 37 ~~IC 16-20-3; and~~
- 38 ~~(3) the appropriate coroner and the pathologist who performed the~~  
 39 ~~autopsy on the child.~~
- 40 **(2) The chairperson of the statewide child fatality review**  
 41 **committee.**
- 42 **(3) The chairperson of a local child fatality review team.**

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1           (c) Each local child fatality review team shall, using the form  
2 established under this section, report to the department the  
3 findings for each fatality that the local child fatality review team  
4 reviews.

5           SECTION 56. IC 31-33-25-6, AS AMENDED BY  
6 P.L.182-2009(ss), SECTION 381, IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The statewide  
8 child fatality review committee is established to review a child's death  
9 that is:

- 10           (1) sudden;  
11           (2) unexpected; or  
12           (3) unexplained;

13 if the county where the child died does not have a local child fatality  
14 review team or if the local child fatality review team requests a review  
15 of the child's death by the statewide committee.

16           (b) The statewide child fatality review committee may also review  
17 the death of a child upon request by ~~an individual~~ or the department of  
18 child services ombudsman established by IC 4-13-19-3.

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

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

26           SECTION 57. IC 31-33-25-7, AS AMENDED BY P.L.225-2007,  
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2011]: Sec. 7. (a) A child fatality review conducted by the  
29 statewide child fatality review committee under this chapter must  
30 consist of: ~~determining:~~

- 31           (1) **determining** whether similar future deaths could be  
32 prevented; and  
33           (2) **identifying:**  
34           (A) agencies ~~or resources~~ **and entities** that should be involved;  
35           **and**  
36           (B) **any other resources that should be used;**  
37           to adequately prevent future deaths of children.

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

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

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1 (c) **Subject to IC 34-30-15**, if the statewide child fatality review  
 2 committee requests records from a hospital, physician, coroner, **law**  
 3 **enforcement officer**, or mental health professional regarding a death  
 4 that the statewide child fatality review committee is investigating, the  
 5 hospital, physician, coroner, **law enforcement officer**, or mental health  
 6 professional shall provide the requested records ~~subject to IC 34-30-15~~;  
 7 to the statewide child fatality review committee.

8 SECTION 58. IC 31-33-26-5, AS AMENDED BY  
 9 P.L.182-2009(ss), SECTION 383, IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) ~~Subject to the~~  
 11 ~~accessibility to files provided in subsection (b); at least ten (10) levels~~  
 12 ~~of security for confidentiality in the index must be maintained.~~

13 (b) The index must have a comprehensive system of limited access  
 14 to information as follows:

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

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

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

19 (B) other cases or investigations that involve:

20 (i) a family member of a child; or

21 (ii) a child;

22 who is the subject of a case described in clause (A):

23 (3) A child welfare supervisor may access only the following:

24 (A) Cases assigned to the supervisor:

25 (B) Cases assigned to a caseworker who reports to the  
 26 supervisor:

27 (C) Other cases or investigations that involve:

28 (i) a family member of a child; or

29 (ii) a child;

30 who is the subject of a case described in clause (A) or (B):

31 (D) Cases that are unassigned:

32 (4) To preserve confidentiality in the workplace, child welfare  
 33 managers, as designated by the department, may access any case;  
 34 except restricted cases involving:

35 (A) a state employee; or

36 (B) the immediate family member of a state employee;

37 who has access to the index. Access to restricted information  
 38 under this subdivision may be obtained only if an additional level  
 39 of security is implemented:

40 (5) Access to records of authorized users, including passwords, is  
 41 restricted to:

42 (A) users designated by the department as administrators; and

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- 1           ~~(B)~~ the administrator's level of access as determined by the
- 2           department.
- 3           ~~(6)~~ Ancillary programs that may be designed for the index may
- 4           not be executed in a manner that would circumvent the index's
- 5           log-on security measures.
- 6           ~~(7)~~ Certain index functions must be accessible only to index
- 7           operators with specified levels of authorization as determined by
- 8           the department.
- 9           ~~(8)~~ Files containing passwords must be encrypted.
- 10          ~~(9)~~ There must be two ~~(2)~~ additional levels of security for
- 11          confidentiality as determined by the department.
- 12          ~~(10)~~

13           **(a) The department shall establish access restrictions in order**  
 14           **to maintain the security and confidentiality of the index as required**  
 15           **by this chapter.**

16           **(b)** The department of child services ombudsman established by  
 17           IC 4-13-19-3 shall have read only access to the index concerning:

- 18           ~~(A)~~ **(1)** children who are the subject of complaints filed with;
- 19           or
- 20           ~~(B)~~ **(2)** cases being investigated by;
- 21           the department of child services ombudsman. The office of the
- 22           department of child services ombudsman shall not have access to
- 23           any information related to cases or information that involves the
- 24           ombudsman or any member of the ombudsman's immediate
- 25           family.

26           SECTION 59. IC 31-33-26-9, AS ADDED BY P.L.138-2007,  
 27           SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28           JULY 1, 2011]: Sec. 9. (a) Except as provided in sections 11 and 12 of  
 29           this chapter, the department shall conduct an administrative hearing  
 30           upon a request made under section 8 of this chapter.

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

34           (c) During an administrative hearing under this section, the  
 35           administrative hearing officer shall consider hearsay evidence to be  
 36           competent evidence and may not exclude hearsay based on the  
 37           technical rules of evidence. ~~However, a determination may not be~~  
 38           ~~based solely on evidence that is hearsay. If not objected to, the~~  
 39           **hearsay evidence may form the basis for an order. However, if the**  
 40           **evidence is properly objected to and does not fall within a**  
 41           **recognized exception to the hearsay rule, the resulting order may**  
 42           **not be based solely upon the hearsay evidence.**

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

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

7 (f) The administrative hearing shall be closed.

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

10 SECTION 60. IC 31-34-4-2, AS AMENDED BY P.L.146-2008,  
11 SECTION 578, IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) If a child alleged to be a child  
13 in need of services is taken into custody under an order of the court  
14 under this chapter and the court orders out-of-home placement, the  
15 department is responsible for that placement and care and must  
16 consider placing the child with a:

17 (1) suitable and willing blood or an adoptive relative caretaker,  
18 including a grandparent, an aunt, an uncle, or an adult sibling;

19 (2) de facto custodian; or

20 (3) stepparent;

21 before considering any other out-of-home placement.

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

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

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

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

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

40 (e) The department is not required to conduct a criminal history  
41 check under subsection (c) if the department makes an out-of-home  
42 placement to an entity or a facility that is not a residence (as defined in

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1 IC 3-5-2-42.5) or that is licensed by the state.

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

4 (1) a person described in subsection (c) has:

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

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

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

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

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

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

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

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

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

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

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

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

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

31 However, a court or the department may not make an out-of-home  
32 placement if the person has been convicted of a felony listed in  
33 IC 31-27-4-13 that is not specifically excluded under subdivision  
34 (1)(B). ~~or 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 that is not specifically~~  
36 ~~excluded under subdivision (1)(B).~~

37 (g) In making its written finding **considering the placement** under  
38 subsection (f), the court **or the department** shall consider the  
39 following:

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

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

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

SECTION 61. IC 31-34-20-1.5, AS AMENDED BY P.L.146-2008, SECTION 603, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving or ordering placement of a child in another home under section 1(a)(3) of this chapter or awarding wardship to the department that will place the child in another home under section 1(a)(4) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3) or 1(a)(4) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The department or caseworker who prepared the predispositional report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department or caseworker is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in ~~IC 31-27-4-13~~ **IC 31-27-4-13(a)** if committed by an adult, or has a conviction for a felony listed in ~~IC 31-27-4-13~~. **IC 31-27-4-13(a).**

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

- (1) the department or caseworker is considering only an out-of-home placement to an entity or a facility that:
  - (A) is not a residence (as defined in IC 3-5-2-42.5); or
  - (B) is licensed by the state; or
- (2) placement under this section is undetermined at the time the predispositional report is prepared.

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

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- 1 (1) the person described in subsection (a) has:  
 2 (A) committed an act resulting in a substantiated report of  
 3 child abuse or neglect; ~~or~~  
 4 (B) been convicted ~~or had a juvenile adjudication for~~ of:  
 5 (i) ~~reckless homicide (IC 35-42-1-5);~~  
 6 (ii) (i) battery (IC 35-42-2-1) as a ~~Class C or D~~ felony;  
 7 (iii) (ii) criminal confinement (IC 35-42-3-3) as a ~~Class C or~~  
 8 ~~D~~ felony;  
 9 (iii) **carjacking (IC 35-42-5-2) as a felony;**  
 10 (iv) arson (IC 35-43-1-1) as a ~~Class C or D~~ felony;  
 11 (v) a felony involving a weapon under IC 35-47 or  
 12 IC 35-47.5; ~~as a Class C or D felony;~~  
 13 (vi) a felony relating to controlled substances under  
 14 IC 35-48-4; ~~as a Class C or D felony;~~ or  
 15 (vii) a felony that is substantially equivalent to a felony  
 16 listed in items (i) through (vi) for which the conviction was  
 17 entered in another state; ~~and~~  
 18 **if the conviction did not occur within the past five (5)**  
 19 **years; or**  
 20 (C) **had a juvenile adjudication for an act that, if**  
 21 **committed by an adult, would be a felony listed in**  
 22 **IC 31-27-4-13(a); and**  
 23 (2) ~~the court makes a written finding that the person's commission~~  
 24 ~~of the offense, delinquent act, or act of abuse or neglect described~~  
 25 ~~in subdivision (1) is not relevant to the person's present ability to~~  
 26 ~~care for a child, and that the dispositional decree placing a child~~  
 27 ~~in another home or awarding wardship to a county office the~~  
 28 ~~department is in the best interest of the child.~~  
 29 However, a court may not enter a dispositional decree that approves  
 30 placement of a child in another home or awards wardship to the  
 31 department if the person has been convicted of a felony listed in  
 32 ~~IC 31-27-4-13~~ **IC 31-27-4-13(a)** that is not specifically excluded under  
 33 subdivision (1)(B). ~~or has a juvenile adjudication for an act that would~~  
 34 ~~be a felony listed in IC 31-27-4-13 if committed by an adult that is not~~  
 35 ~~specifically excluded under subdivision (1)(B).~~  
 36 (e) In making its written finding **considering the placement** under  
 37 subsection (d), the court shall consider the following:  
 38 (1) The length of time since the person committed the offense,  
 39 delinquent act, or act that resulted in the substantiated report of  
 40 abuse or neglect.  
 41 (2) The severity of the offense, delinquent act, or abuse or neglect.  
 42 (3) Evidence of the person's rehabilitation, including the person's

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cooperation with a treatment plan, if applicable.  
SECTION 62. 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 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 63. 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**

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1 **after creating a guardianship, the probate court may assume or**  
2 **reassume jurisdiction of the guardianship and take further action**  
3 **as necessary.**

4 SECTION 64. IC 31-35-2-6.5, AS AMENDED BY P.L.145-2006,  
5 SECTION 328, IS AMENDED TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) This section applies to  
7 hearings under this chapter relating to a child in need of services.

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

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

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

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

- 20 (1) The child's parent, guardian, or custodian.
- 21 (2) An attorney who has entered an appearance on behalf of the
- 22 child's parent, guardian, or custodian.
- 23 (3) A prospective adoptive parent named in a petition for adoption
- 24 of the child filed under IC 31-19-2 if:
  - 25 (A) each consent to adoption of the child that is required under
  - 26 IC 31-19-9-1 has been executed in the form and manner
  - 27 required by IC 31-19-9 and filed with the county office or the
  - 28 department;
  - 29 (B) the court having jurisdiction in the adoption case has
  - 30 determined under an applicable provision of IC 31-19-9 that
  - 31 consent to adoption is not required from a parent, guardian, or
  - 32 custodian; or
  - 33 (C) a petition to terminate the parent-child relationship
  - 34 between the child and any parent who has not executed a
  - 35 written consent to adoption under IC 31-19-9-2, has been filed
  - 36 under IC 31-35 and is pending.
- 37 (4) Any other person who:
  - 38 (A) the department has knowledge is currently providing care
  - 39 for the child; and
  - 40 (B) is not required to be licensed under IC 12-17.2 or IC 31-27
  - 41 to provide care for the child.
- 42 (5) Any other suitable relative or person who the department

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- 1 knows has had a significant or caretaking relationship to the child.  
 2 (6) Any other party to the child in need of services proceeding.  
 3 (d) At least ten (10) days before a hearing on a petition or motion  
 4 under this chapter, the department shall provide notice of the hearing  
 5 to the child's foster parent by:  
 6 (1) certified mail; or  
 7 (2) face to face contact by the department caseworker.  
 8 (e) The court shall provide to a person described in subsection (c)  
 9 or (d) an opportunity to be heard and make recommendations to the  
 10 court at the hearing. The right to be heard and to make  
 11 recommendations under this subsection includes the right of a person  
 12 described in subsection (c) or (d) to submit a written statement to the  
 13 court that, if served upon all parties to the child in need of services  
 14 proceeding and the persons described in subsections (c) and (d), may  
 15 be made a part of the court record.  
 16 (f) The court shall continue the hearing if, at the time of the hearing,  
 17 the department has not provided the court with signed verification from  
 18 the foster parent, as obtained through subsection (d), that the foster  
 19 parent has been notified of the hearing at least five (5) business days  
 20 before the hearing. However, the court is not required to continue the  
 21 hearing if the child's foster parent appears for the hearing.  
 22 (g) A person described in subsection (c)(2) through ~~(c)(4)~~ (c)(5) or  
 23 subsection (d) does not become a party to a proceeding under this  
 24 chapter as the result of the person's right to notice and the opportunity  
 25 to be heard under this section.  
 26 (h) If the parent of an abandoned child does not disclose the parent's  
 27 name as allowed by IC 31-34-2.5-1(c), the parent is not required to be  
 28 notified of a hearing described in subsection (c).  
 29 SECTION 65. IC 31-35-5-4, AS AMENDED BY P.L.145-2006,  
 30 SECTION 334, IS AMENDED TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2011]: Sec. 4. The court may not make an order  
 32 under section 2 or 3 of this chapter unless:  
 33 (1) the testimony to be taken is the testimony of a child who at the  
 34 time of the trial is:  
 35 (A) less than fourteen (14) years of age; or  
 36 (B) at least fourteen (14) years of age but less than eighteen  
 37 (18) years of age and has a disability attributable to an  
 38 impairment of general intellectual functioning or adaptive  
 39 behavior that:  
 40 (i) is likely to continue indefinitely;  
 41 (ii) constitutes a substantial impairment of the child's ability  
 42 to function normally in society; and

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1 (iii) reflects the child's need for a combination and sequence  
 2 of special, interdisciplinary, or generic care, treatment, or  
 3 other services that are of lifelong or extended duration and  
 4 are individually planned and coordinated; and  
 5 (C) found by the court to be a child who should be permitted  
 6 to testify outside the courtroom because:  
 7 (i) a psychiatrist, physician, or psychologist has certified that  
 8 the child's testifying in the courtroom creates a substantial  
 9 likelihood of emotional or mental harm to the child;  
 10 (ii) a physician has certified that the child cannot be present  
 11 in the courtroom for medical reasons; or  
 12 (iii) evidence has been introduced concerning the effect of  
 13 the child's testifying in the courtroom and the court finds  
 14 that it is more likely than not that the child's testifying in the  
 15 courtroom creates a substantial likelihood of emotional or  
 16 mental harm to the child;  
 17 (2) the prosecuting attorney or the attorney for the department has  
 18 informed the parties and their attorneys by written notice of the  
 19 intention to have the child testify outside the courtroom; and  
 20 (3) the prosecuting attorney or the attorney for the department  
 21 informed the parties and their attorneys under subdivision (2) at  
 22 least ~~twenty (20)~~ **seven (7)** days before the proceedings to give  
 23 the parties and their attorneys a fair opportunity to prepare a  
 24 response before the proceedings to the motion of the prosecuting  
 25 attorney or the motion of the attorney for the department to permit  
 26 the child to testify outside the courtroom.  
 27 SECTION 66. IC 31-37-19-6.5, AS AMENDED BY P.L.146-2008,  
 28 SECTION 652, IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) Except as provided in  
 30 subsection (d), the juvenile court may not enter a dispositional decree  
 31 approving placement of a child in another home under section 1(3) or  
 32 6(b)(2)(D) of this chapter or awarding wardship to a person or facility  
 33 that results in a placement with a person under section 1(4) or  
 34 6(b)(2)(E) of this chapter if a person who is currently residing in the  
 35 home in which the child would be placed under section 1(3), 1(4),  
 36 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting  
 37 in a substantiated report of child abuse or neglect, has a juvenile  
 38 adjudication for an act that would be a felony listed in IC 31-27-4-13  
 39 if committed by an adult, or has a conviction for a felony listed in  
 40 IC 31-27-4-13.  
 41 (b) The juvenile probation officer who prepared the predispositional  
 42 report shall conduct a criminal history check (as defined in

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1 IC 31-9-2-22.5) to determine if a person described in subsection (a) has  
 2 committed an act resulting in a substantiated report of child abuse or  
 3 neglect, has a juvenile adjudication for an act that would be a felony  
 4 listed in IC 31-27-4-13 if committed by an adult, or has a conviction for  
 5 a felony listed in IC 31-27-4-13. However, the probation officer is not  
 6 required to conduct a criminal history check under this section if  
 7 criminal history information obtained under IC 31-37-17-6.1  
 8 establishes whether a person described in subsection (a) has committed  
 9 an act resulting in a substantiated report of child abuse or neglect, has  
 10 a juvenile adjudication for an act that would be a felony listed in  
 11 IC 31-27-4-13 if committed by an adult, or has a conviction for a felony  
 12 listed in IC 31-27-4-13.

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

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

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

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

21 (d) The juvenile court may enter a dispositional decree approving  
 22 placement of a child in another home under section 1(3) or 6(b)(2)(D)  
 23 of this chapter or awarding wardship to a person or facility that results  
 24 in a placement with a person under section 1(4) or 6(b)(2)(E) of this  
 25 chapter if:

26 (1) a person described in subsection (a) has:

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

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

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

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

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

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

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

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

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

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

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1           **if the conviction did not occur within the past five (5)**  
 2           **years; or**  
 3           **(C) had a juvenile adjudication for an act that, if**  
 4           **committed by an adult, would be a felony listed in**  
 5           **IC 31-27-4-13(a); and**  
 6           (2) ~~the court makes a written finding that~~ the person's commission  
 7           of the offense, delinquent act, or act of abuse or neglect described  
 8           in subdivision (1) is not relevant to the person's present ability to  
 9           care for a child, and ~~that entry of a dispositional decree~~ placing  
 10          the child in another home is in the best interest of the child.  
 11          However, a court may not enter a dispositional decree placing a child  
 12          in another home under section 1(3) or 6(b)(2)(D) of this chapter or  
 13          awarding wardship to a person or facility under this subsection if a  
 14          person with whom the child is or will be placed has been convicted of  
 15          a felony listed in IC 31-27-4-13 that is not specifically excluded under  
 16          subdivision (1)(B). ~~or has a juvenile adjudication for an act that would~~  
 17          ~~be a felony listed in IC 31-27-4-13 if committed by an adult that is not~~  
 18          ~~specifically excluded under subdivision (1)(B).~~  
 19          (e) In ~~making its written finding~~ **considering the placement** under  
 20          subsection (d), the court shall consider the following:  
 21                  (1) The length of time since the person committed the offense,  
 22                  delinquent act, or act that resulted in the substantiated report of  
 23                  abuse or neglect.  
 24                  (2) The severity of the offense, delinquent act, or abuse or neglect.  
 25                  (3) Evidence of the person's rehabilitation, including the person's  
 26                  cooperation with a treatment plan, if applicable.  
 27          SECTION 67. IC 31-33-25-13 IS REPEALED [EFFECTIVE JULY  
 28          1, 2011].

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