

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1107 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 12-18-8-6 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A county may
5 establish a county domestic violence fatality review team for the
6 purpose of reviewing a death resulting from **or in connection with**
7 domestic violence. The team shall review only those deaths in which:
8 **(1) the person who commits the act of domestic violence resulting**
9 **in death:**
10 ~~(1)~~ **(A)** is charged with a criminal offense that results in final
11 judgment; or
12 ~~(2)~~ **(B)** is deceased; **or**
13 **(2) the manner of death is suicide, and the deceased individual**
14 **was a victim of an act of domestic violence.**
15 (b) The legislative body (as defined in IC 36-1-2-9) of a county must
16 determine by majority vote if the county will establish a local domestic
17 violence fatality review team.
18 (c) If a county elects not to establish a county domestic violence
19 fatality review team, the county may join with one (1) or more other
20 counties that have not established a county domestic violence fatality
21 review team and form a regional domestic violence fatality review
22 team.
23 (d) To establish a regional domestic violence fatality review team
24 as described in subsection (c), the legislative body of each county
25 comprising the region must cast a majority of votes in favor of
26 establishing a regional domestic violence fatality review team.
27 SECTION 2. IC 29-3-5-1, AS AMENDED BY P.L.6-2010,
28 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2011]: Sec. 1. (a) Any person may file a petition for the
30 appointment of a person to serve as guardian for an incapacitated

1 person or minor under this chapter or to have a protective order issued
2 under IC 29-3-4. The petition must state the following:

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

6 (2) The nature of the incapacity.

7 (3) The approximate value and description of the property of the
8 incapacitated person or minor, including any compensation,
9 pension, insurance, or allowance to which the incapacitated
10 person or minor may be entitled.

11 (4) If a limited guardianship is sought, the particular limitations
12 requested.

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

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

19 (A) the proposed guardian; or

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

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

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

28 (9) The names and addresses of any other incapacitated persons
29 or minors for whom the proposed guardian or person to carry out
30 the protective order is acting if the proposed guardian or person
31 is an individual.

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

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

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

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

45 (c) After the filing of a petition, the court shall set a date for a
46 hearing on the issues raised by the petition. Unless an alleged

1 incapacitated person is already represented by counsel, the court may
2 appoint an attorney to represent the incapacitated person.

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

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

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

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

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

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

30 (f) Any person may apply for permission to participate in the
31 proceeding, and the court may grant the request with or without hearing
32 upon determining that the best interest of the alleged incapacitated
33 person or minor will be served by permitting the applicant's
34 participation. The court may attach appropriate conditions to the
35 permission to participate.

36 **(g) A court shall notify the department of child services of a**
37 **hearing regarding the guardianship of a minor under this section**
38 **if a:**

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

41 **(2) program of informal adjustment involving the minor is**
42 **pending.**

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

45 SECTION 3. IC 29-3-8-9 IS ADDED TO THE INDIANA CODE
46 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2011]: **Sec. 9. (a) A probate or juvenile court may include in its order creating a guardianship of a minor the following:**

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

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

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

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

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

8 **(c) If:**

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

10 **(2) the minor:**

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

12 **(B) is participating in a program of informal adjustment; the court shall refer the petition to the department of child services for the department of child services to determine the placement of the child in accordance with the best interests of the child.**

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

14 **(1) if:**

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

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

17 **(ii) is participating in a program of informal adjustment; and**

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

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

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

21 **(1) Consider the position of the department of child services.**

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

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

24 **(B) the fitness of the parent to provide for the care and**

- 1 **supervision of the minor at the time of the hearing;**
 2 **(C) the appropriate care and placement of the child; and**
 3 **(D) the best interests of the child."**

4 Page 1, delete lines 11 through 17, begin a new paragraph, and
 5 insert:

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

10 SECTION 5. IC 31-9-2-22.5, AS AMENDED BY P.L.138-2007,
 11 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2011]: Sec. 22.5. "Conduct a criminal history check", for
 13 purposes of IC 31-19, IC 31-26, IC 31-27, **IC 31-32-3**, IC 31-33,
 14 IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:

- 15 (1) request: ~~the state police department to:~~
- 16 (A) release or allow inspection of a limited criminal history (as
 17 defined in ~~IC 10-13-3-11~~) and juvenile history data (as defined
 18 in ~~IC 10-13-4-4~~) concerning a person who is at least fourteen
 19 ~~(14)~~ years of age and who is:
- 20 (i) for purposes of ~~IC 31-19~~, ~~IC 31-26~~, ~~IC 31-33~~, ~~IC 31-34~~,
 21 and ~~IC 31-37~~, currently residing in a location designated by
 22 the department of child services or by a juvenile court as the
 23 ~~out-of-home placement for a child at the time the child will~~
 24 ~~reside in the location; or~~
- 25 (ii) for purposes of ~~IC 31-27-4-5~~, a resident of the applicant's
 26 household who is at least fourteen ~~(14)~~ years of age; and
- 27 ~~(B)~~ **(A) the state police department to conduct a:**
- 28 (i) fingerprint based criminal history background check of
 29 both national and state records data bases concerning a
 30 person who is at least eighteen (18) years of age in
 31 accordance with IC 10-13-3-27 and IC 10-13-3-39; or
 32 (ii) national name based criminal history record check (as
 33 defined in IC 10-13-3-12.5) of a person who is at least
 34 eighteen (18) years of age as ~~described in clause (A)~~ as
 35 provided by IC 10-13-3-27.5; or
- 36 **(B) if an individual has:**
- 37 (i) a physical disability that prevents fingerprinting and
 38 a person approved by the department who is trained to
 39 take fingerprints or a qualified medical practitioner
 40 verifies that the individual has a disabling condition that
 41 prevents fingerprinting; or
 42 (ii) low quality fingerprints, as a result of age,
 43 occupation, or otherwise, that prevent fingerprint results
 44 from being obtained and the individual's fingerprints
 45 have been rejected the required number of times by
 46 automated fingerprint classification equipment or

- 1 **rejected by a person designated by the department to**
 2 **examine and classify fingerprints;**
 3 **the state police department to conduct a national name**
 4 **based criminal history record check (as defined in**
 5 **IC 10-13-3-12.5) or request the state police department to**
 6 **release or allow inspection of a limited criminal history (as**
 7 **defined in IC 10-13-3-11) and the state police in every state**
 8 **the individual has resided in the past five (5) years to**
 9 **release or allow inspection of the state's criminal history;**
 10 (2) collect each substantiated report of child abuse or neglect
 11 reported in a jurisdiction where a probation officer, a caseworker,
 12 or the department of child services has reason to believe that a
 13 person ~~described in subdivision (1)(A)~~, **who is at least fourteen**
 14 **(14) years of age**, or a person for whom a fingerprint based
 15 criminal history background check is required under IC 31,
 16 resided within the previous five (5) years; and
 17 (3) request information concerning any substantiated report of
 18 child abuse or neglect relating to a person ~~described in~~
 19 ~~subdivision (1)(A)~~ **who is at least fourteen (14) years of age** that
 20 is contained in a national registry of substantiated cases of child
 21 abuse or neglect that is established and maintained by the United
 22 States Department of Health and Human Services, to the extent
 23 that the information is accessible under 42 U.S.C. 16990 and any
 24 applicable regulations or policies of the Department of Health and
 25 Human Services.
- 26 SECTION 6. IC 31-9-2-10.9 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2011]: **Sec. 10.9. "Contact", for purposes of IC 31-33-18-1.5, has**
 29 **the meaning set forth in IC 31-33-18-1.5(d).**
- 30 SECTION 7. IC 31-9-2-31, AS AMENDED BY P.L.124-2007,
 31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2011]: Sec. 31. (a) "Custodian", for purposes of the juvenile
 33 law, means a person with whom a child resides.
- 34 (b) "Custodian", for purposes of IC 31-34-1, includes any person
 35 who is:
- 36 (1) a license applicant or licensee of:
- 37 (A) a foster home or residential child care facility that is
 38 required to be licensed or is licensed under IC 31-27;
 39 (B) a child care center that is required to be licensed or is
 40 licensed under IC 12-17.2-4; or
 41 (C) a child care home that is required to be licensed or is
 42 licensed under IC 12-17.2-5;
- 43 (2) a person who is responsible for care, supervision, or welfare
 44 of children while providing services as an owner, operator,
 45 director, manager, supervisor, employee, or volunteer at:
- 46 (A) a home, center, or facility described in subdivision (1);

- 1 (B) a child care ministry, as defined in IC 12-7-2-28.8, that is
 2 exempt from licensing requirements and is registered or
 3 required to be registered under IC 12-17.2-6;
 4 (C) a home, center, or facility of a child care provider, as
 5 defined in IC 12-7-2-149.1(4);
 6 (D) a home, center, or facility that is the location of a program
 7 that provides child care, as defined in section 16.3 of this
 8 chapter, to serve migrant children and that is exempt from
 9 licensing under IC 12-17.2-2-8(6), whether or not the program
 10 is certified as described in IC 12-17.2-2-9; or
 11 (E) a school, as defined in section 113.5 of this chapter;
 12 (3) a child caregiver, as defined in section 16.4 of this chapter;
 13 (4) a member of the household of the child's noncustodial parent;
 14 or
 15 (5) an individual who has **or intends to have** direct contact, on a
 16 regular and continuing basis, with a child for whom **the**
 17 **individual provides** care and supervision. **is provided as**
 18 **described in this subsection."**

19 Delete page 2.

20 Page 3, delete lines 1 through 13.

21 Page 3, between lines 19 and 20, begin a new paragraph and insert:
 22 "SECTION 10. IC 31-9-2-100.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2011]: **Sec. 100.5. "Qualified medical**
 25 **practitioner", for purposes of IC 31-9-2 means the following:**

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

32 SECTION 11. IC 31-9-2-129.5, AS AMENDED BY P.L.143-2008,
 33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]: Sec. 129.5. "Therapeutic foster family home", for
 35 purposes of IC 31-27, means a foster family home:

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

1 supported by qualified program staff from:

2 (A) the office of the secretary of family and social services;
3 **department of child services;**

4 (B) a managed care provider that contracts with the division of
5 mental health and addiction; or

6 (C) a licensed child placing agency; and

7 (3) that meets the additional requirements of IC 31-27-4-2.

8 SECTION 13. IC 31-14-14-5, AS AMENDED BY P.L.68-2005,
9 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 5. (a) This section applies if a court finds that a
11 noncustodial parent has been convicted of a crime involving domestic
12 or family violence that was witnessed or heard by the noncustodial
13 parent's child.

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

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

20 (2) until the child becomes emancipated;

21 whichever occurs first.

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

26 SECTION 14. IC 31-17-2-8.3, AS AMENDED BY P.L.68-2005,
27 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2011]: Sec. 8.3. (a) This section applies if a court finds that a
29 noncustodial parent has been convicted of a crime involving domestic
30 or family violence that was witnessed or heard by the noncustodial
31 parent's child.

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

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

38 (2) until the child becomes emancipated;

39 whichever occurs first.

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

44 SECTION 15. IC 31-19-2-12, AS AMENDED BY P.L.131-2009,
45 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
46 JULY 1, 2011]: Sec. 12. As soon as a petition for adoption is found to

1 be in proper form, the clerk of the court shall forward one (1) copy of
2 the petition for adoption to

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

6 ~~(2) the department.~~

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

11 (1) The former environment and antecedents of the child.

12 (2) The fitness of the child for adoption.

13 (3) The suitability of the proposed home for the child.

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

15 (1) Information concerning the financial condition of the
16 **prospective** adoptive parents.

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

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

22 SECTION 17. IC 31-19-9-2, AS AMENDED BY P.L.21-2010,
23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2011]: Sec. 2. (a) The consent to adoption may be executed at
25 any time after the birth of the child, either in the presence of:

26 (1) the court;

27 (2) a notary public or other person authorized to take
28 acknowledgments; or

29 (3) an authorized agent of:

30 (A) the department;

31 (B) a county office of family and children; or

32 (C) a licensed child placing agency.

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

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

37 (1) is in writing;

38 (2) is signed by the child's father in the presence of a notary
39 public; and

40 (3) contains an acknowledgment that:

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

42 (B) the child's father will not receive notice of the adoption
43 proceedings.

44 (d) A child's father who consents to the adoption of the child under
45 subsection (c) may not challenge or contest the child's adoption.

46 (e) **Except as provided in subsection (f) or (g),** a person who

1 executes a written consent to the adoption of a child may not execute
 2 a second or subsequent written consent to have another person adopt
 3 the child unless one (1) or more of the following apply:

4 (1) Each original petitioner provides a written statement that the
 5 petitioner is not adopting the child.

6 (2) The person consenting to the adoption has been permitted to
 7 withdraw the first consent to adoption under IC 31-19-10.

8 (3) The court dismisses the petition for adoption filed by the
 9 original petitioner or petitioners for adoption based upon a
 10 showing, by clear and convincing evidence, that it is not in the
 11 best interests of the child that the petition for adoption be granted.

12 (4) The court denies the petition to adopt the child filed by the
 13 original petitioner or petitioners for adoption.

14 **(f) The department may execute more than one (1) written**
 15 **consent to the adoption of a child if the department determines that**
 16 **the execution of more than one (1) written consent is in the best**
 17 **interests of the child.**

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

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

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

26 SECTION 18. IC 31-19-11-1, AS AMENDED BY P.L.21-2010,
 27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2011]: Sec. 1. (a) Whenever the court has heard the evidence
 29 and finds that:

30 (1) the adoption requested is in the best interest of the child;

31 (2) the petitioner or petitioners for adoption are of sufficient
 32 ability to rear the child and furnish suitable support and
 33 education;

34 (3) the report of the investigation and recommendation under
 35 IC 31-19-8-5 has been filed;

36 (4) the attorney or agency arranging an adoption has filed with the
 37 court an affidavit prepared by the state department of health under
 38 IC 31-19-5-16 indicating whether a man is entitled to notice of the
 39 adoption because the man has registered with the putative father
 40 registry in accordance with IC 31-19-5;

41 (5) proper notice arising under subdivision (4), if notice is
 42 necessary, of the adoption has been given;

43 (6) the attorney or agency has filed with the court an affidavit
 44 prepared by the state department of health under:

45 (A) IC 31-19-6 indicating whether a record of a paternity
 46 determination; or

1 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
 2 executed under IC 16-37-2-2.1;
 3 has been filed in relation to the child;
 4 (7) proper consent, if consent is necessary, to the adoption has
 5 been given;
 6 (8) the petitioner for adoption is not prohibited from adopting the
 7 child as the result of an inappropriate criminal history described
 8 in subsection (c) or (d); and
 9 (9) the person, licensed child placing agency, or county office of
 10 family and children that has placed the child for adoption has
 11 provided the documents and other information required under
 12 IC 31-19-17 to the prospective adoptive parents;
 13 the court shall grant the petition for adoption and enter an adoption
 14 decree.

15 (b) A court may not grant an adoption unless the state department
 16 of health's affidavit under IC 31-19-5-16 is filed with the court as
 17 provided under subsection (a)(4).

18 (c) ~~A conviction of a felony or a misdemeanor related to the health~~
 19 ~~and safety of a child~~ **juvenile adjudication for an act listed in**
 20 **subdivisions (1) through (20) that would be a felony if committed**
 21 **by an adult, a conviction of a misdemeanor related to the health**
 22 **and safety of a child, or a conviction of a felony not listed in**
 23 **subdivisions (1) through (20) by a petitioner for adoption is a**
 24 **permissible basis for the court to deny the petition for adoption. In**
 25 **addition, the court may not grant an adoption if a petitioner for**
 26 **adoption has been convicted of any of the felonies ~~or convicted of an~~**
 27 **~~attempt or conspiracy to commit any of the felonies,~~ described as**
 28 **follows:**

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

1 (18) A felony relating to controlled substances under IC 35-48-4.

2 (19) An offense relating to material or a performance that is
3 harmful to minors or obscene under IC 35-49-3.

4 (20) A felony under the laws of another jurisdiction, including a
5 military court, that is substantially equivalent to any of the
6 offenses listed in subdivisions (1) through (19).

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

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

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

26 (1) the **prospective** adoptive parents:

27 (A) at the time the home study or evaluation concerning the
28 suitability of the proposed home for the child is commenced;

29 (B) as soon as practical after the **prospective** adoptive parents
30 are matched with the birth mother; or

31 (C) with the consent of the **prospective** adoptive parents, not
32 more than thirty (30) days after the child is placed with the
33 **prospective** adoptive parents; and

34 (2) upon request and without information that would identify the
35 birth parents unless an adoptee already knows the identity of the
36 birth parents, an adoptee who:

37 (A) is at least twenty-one (21) years of age; and

38 (B) provides proof of identification.

39 SECTION 20. IC 31-19-17-3, AS AMENDED BY P.L.1-2010,
40 SECTION 124, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2011]: Sec. 3. The person, licensed child
42 placing agency, or county office shall:

43 (1) exclude information that would identify the birth parents
44 unless the **prospective** adoptive parent **or the adoptive parent**
45 under subdivision (2)(A) or an adoptee under subdivision (2)(B)
46 who requests the information knows the identity of the birth

- 1 parents; and
- 2 (2) release all available social, medical, psychological, and
- 3 educational records concerning the child to:
- 4 (A) the **prospective adoptive parent or the adoptive parent**;
- 5 and
- 6 (B) upon request, an adoptee who:
- 7 (i) is at least twenty-one (21) years of age; and
- 8 (ii) provides proof of identification.

9 SECTION 21. IC 31-19-17-4, AS AMENDED BY P.L.131-2009,
 10 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2011]: Sec. 4. The person, licensed child placing agency, or
 12 county office shall provide:

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

17 with a summary of other existing social, medical, psychological, and
 18 educational records concerning the child of which the person, agency,
 19 or county office has knowledge but does not have possession. If
 20 requested by ~~an~~ **a prospective adoptive parent, an adoptive parent**, or
 21 an adoptee, the person, agency, or county office shall attempt to
 22 provide the **prospective adoptive parent, the adoptive parent**, or the
 23 adoptee with a copy of any social, medical, psychological, or
 24 educational record that is not in the possession of the person, agency,
 25 or county office, after identifying information has been excluded.

26 SECTION 22. IC 31-25-4-23, AS AMENDED BY P.L.1-2007,
 27 SECTION 198, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) Subject to subsection (d),
 29 the Title IV-D agency shall provide incentive payments to counties for
 30 enforcing and collecting the support rights that have been assigned to
 31 the state. The incentive payments shall be made by the Title IV-D
 32 agency directly to the county and deposited in the county treasury for
 33 distribution on a quarterly basis and in the following manner:

- 34 (1) Twenty-two and two-tenths percent (22.2%) of the incentive
- 35 payments shall be distributed to the ~~county general fund~~. **Title**
- 36 **IV-D incentive fund established in accordance with section**
- 37 **23.5 of this chapter by each county that receives payments**
- 38 **under this subdivision.**
- 39 (2) Thirty-three and four-tenths percent (33.4%) of the incentive
- 40 payments shall be distributed to the operating budget of the
- 41 prosecuting attorney.
- 42 (3) Twenty-two and two-tenths percent (22.2%) of the incentive
- 43 payments shall be distributed to the operating budget of the circuit
- 44 court clerk.

45 (b) Notwithstanding IC 36-2-5-2(b), distribution from the county
 46 treasury under subsection (a) shall be made without the necessity of

1 first obtaining an appropriation from the county fiscal body.

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

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

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

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

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

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

22 SECTION 24. IC 31-27-2-4, AS AMENDED BY P.L.131-2009,
23 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2011]: Sec. 4. (a) The department shall adopt rules under
25 IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning
26 the licensing and inspection of child caring institutions, foster family
27 homes, group homes, and child placing agencies after consultation with
28 the following:

29 (1) State department of health.

30 (2) Fire prevention and building safety commission.

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

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

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

39 (1) Admission criteria.

40 (2) General physical and environmental conditions.

41 (3) Services and programs to be provided to confined children.

42 (4) Procedures for ongoing monitoring and discharge planning.

43 (5) Procedures for the care and control of confined persons that
44 are necessary to ensure the health, safety, and treatment of
45 confined children.

46 (e) The department shall license a facility as a ~~private~~ secure

- 1 **private** facility if the facility:
- 2 (1) meets the minimum standards required under subsection (c);
- 3 (2) provides a continuum of care and services; and
- 4 (3) is:
- 5 (A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or
- 6 (B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;
- 7 regardless of the facility's duration of or previous licensure as a child
- 8 caring institution.
- 9 (f) A waiver of the rules may not be granted for treatment and
- 10 reporting requirements.
- 11 SECTION 25. IC 31-27-3-3, AS AMENDED BY P.L.138-2007,
- 12 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2011]: Sec. 3. (a) An applicant must apply for a child caring
- 14 institution license on forms provided by the department.
- 15 (b) An applicant must submit the required information as part of the
- 16 application.
- 17 (c) The applicant must submit with the application a statement
- 18 attesting the following:
- 19 (1) That the applicant has not been convicted of:
- 20 (A) a felony; or
- 21 (B) a misdemeanor relating to the health and safety of
- 22 children.
- 23 (2) That the applicant has not been charged with:
- 24 (A) a felony; or
- 25 (B) a misdemeanor relating to the health and safety of
- 26 children;
- 27 during the pendency of the application.
- 28 (d) The department, on behalf of an applicant, or, at the discretion
- 29 of the department, an applicant, shall conduct a criminal history check
- 30 of the following:
- 31 (1) Each individual who is an applicant.
- 32 (2) The director or manager of a facility where children will be
- 33 placed.
- 34 (3) An employee or a volunteer of the applicant who has or will
- 35 have direct contact on a regular and continuing basis with a child
- 36 who is or will be placed in a facility operated by the applicant.
- 37 (e) If the applicant conducts a criminal history check under
- 38 subsection (d), the applicant shall:
- 39 (1) maintain records of the information it receives concerning
- 40 each individual who is the subject of a criminal history check; and
- 41 (2) submit to the department a copy of the information it receives
- 42 concerning each person described in subsection (d)(1) through
- 43 (d)(3).
- 44 (f) If the department conducts a criminal history check on behalf of
- 45 an applicant under subsection (d), the department shall:
- 46 (1) determine whether the subject of a national fingerprint based

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

1 or licensee who has been the subject of a completed and approved
 2 criminal history check. In determining whether to provisionally hire or
 3 assign as a volunteer an individual described in subsection (d)(3), the
 4 applicant or licensee shall consider the following:

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

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

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

24 SECTION 26. IC 31-27-3-5, AS AMENDED BY P.L.138-2007,
 25 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2011]: Sec. 5. (a) The following constitute sufficient grounds
 27 for a denial of a license application:

28 (1) A determination by the department of child abuse or neglect
 29 by:

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

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

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

37 (2) A criminal conviction of the applicant, or the director or
 38 manager of a facility where children will be placed by the
 39 applicant, of:

40 (A) a felony;

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

42 (C) a misdemeanor for operating a child caring institution,
 43 foster family home, group home, or child placing agency
 44 without a license under this article (or IC 12-17.4 before its
 45 repeal); or

46 (D) a misdemeanor for operating a child care center or child

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

1 by, the former employee or former volunteer does not constitute a
2 sufficient basis for the denial of a license application.

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

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

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

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

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

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

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

20 (A) A felony.

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

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

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

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

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

32 (5) A determination by the department that:

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

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

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

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

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

- 1 ~~convicted of had~~ any of the following:
- 2 (1) A **conviction of a** felony described in IC 31-27-4-13(a).
- 3 (2) A **conviction of** any other felony or a misdemeanor relating to
- 4 the health and safety of a child, unless the licensee is granted a
- 5 waiver by the department to employ or assign the person as a
- 6 volunteer in a position described in this subsection.
- 7 **(3) A juvenile adjudication for an act listed in**
- 8 **IC 31-27-4-13(a) that, if committed by an adult, would be a**
- 9 **felony, unless the licensee is granted a waiver by the**
- 10 **department to employ or assign the person as a volunteer in**
- 11 **a position described in this subsection.**
- 12 (c) In determining whether to grant a waiver under subsection (b),
- 13 the department shall consider the following factors:
- 14 (1) The length of time that has passed since the disqualifying
- 15 conviction.
- 16 (2) The severity, nature, and circumstances of the offense.
- 17 (3) Evidence of rehabilitation.
- 18 (4) The duties and qualifications required for the proposed
- 19 employment positions or volunteer assignment.
- 20 (d) Notwithstanding subsection (a) or (b), if:
- 21 (1) a license could be revoked due to a criminal conviction of, or
- 22 a determination of child abuse or neglect by, an employee or a
- 23 volunteer of the licensee; and
- 24 (2) the department determines that the employee or volunteer has
- 25 been dismissed by the licensee within a reasonable time after the
- 26 licensee became aware of the conviction or determination;
- 27 the criminal conviction of, or determination of child abuse or neglect
- 28 by, the former employee or former volunteer does not constitute a
- 29 sufficient basis for the revocation of a license.
- 30 (e) The department may adopt rules to implement this section.
- 31 SECTION 28. IC 31-27-4-2, AS AMENDED BY P.L.131-2009,
- 32 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2011]: Sec. 2. (a) A person may not operate a therapeutic
- 34 foster family home without a license issued under this article.
- 35 (b) The state or a political subdivision of the state may not operate
- 36 a therapeutic foster family home without a license issued under this
- 37 article.
- 38 (c) The department may issue a license only for a therapeutic foster
- 39 family home that meets:
- 40 (1) all the licensing requirements of a foster family home; and
- 41 (2) the additional requirements described in this section.
- 42 (d) An applicant for a therapeutic foster family home license must
- 43 do the following:
- 44 (1) Be licensed as a foster parent under **this chapter and 465**
- 45 **IAC 2-1-1 et seq.**
- 46 (2) Participate in preservice training that includes:

1 (A) preservice training to be licensed as a foster parent under
2 465 IAC 2-1-1 et seq.; and

3 (B) additional preservice training in therapeutic foster care.

4 (e) A person who is issued a license to operate a therapeutic foster
5 family home shall, within one (1) year after meeting the training
6 requirements of subsection (d)(2) and, annually thereafter, participate
7 in training that includes:

8 (1) training as required in order to be licensed as a foster parent
9 under 465 IAC 2-1-1 et seq.; and

10 (2) additional training in order to be licensed as a therapeutic
11 foster parent under this chapter.

12 (f) An operator of a therapeutic foster family home may not provide
13 supervision and care in a therapeutic foster family home to more than
14 ~~two (2)~~ **foster four (4)** children at the same time, ~~not~~ including the
15 children for whom the applicant or operator is a parent, stepparent,
16 guardian, custodian, or other relative, **and only two (2) of the children**
17 **may be foster children.** The department may grant an exception to this
18 subsection whenever the placement of siblings in the same therapeutic
19 foster family home is desirable, ~~or in the best interests of the foster~~
20 ~~children residing in the home:~~ **the foster child has an established,**
21 **meaningful relationship with the therapeutic foster parent, or it is**
22 **otherwise in the foster child's best interests.**

23 (g) **An operator of a therapeutic foster family home that has a**
24 **therapeutic foster child placed with the therapeutic foster family**
25 **home may not accept a placement of a child who is not a**
26 **therapeutic foster child unless the child who is not a therapeutic**
27 **foster child is a sibling of the therapeutic foster child who is placed**
28 **with the therapeutic foster family home or unless it is in the best**
29 **interests of the child being placed.**

30 ~~(g)~~ (h) A therapeutic 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 ~~(h)~~ (i) An individual who receives foster care for older youth under
35 IC 31-28-5.7-1 in a therapeutic foster family home shall not be
36 considered in determining whether the therapeutic foster family home
37 meets or exceeds the limit set forth in subsection (f).

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

42 (k) **If a therapeutic foster family home does not meet the**
43 **requirements under subsection (f) or (g) on July 1, 2011, any foster**
44 **child placed in the home before July 1, 2011, may remain placed.**
45 **However, a new placement of a child may not be made in violation**
46 **of this section.**

1 SECTION 29. IC 31-27-4-3, AS AMENDED BY P.L.131-2009,
 2 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2011]: Sec. 3. (a) A person may not operate a special needs
 4 foster family home without a license issued under this article.

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

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

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

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

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

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

23 (f) An operator of a special needs foster family home may not
 24 provide supervision and care as a special needs foster family home if
 25 more than:

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

31 including the children or individuals for whom the provider is a parent,
 32 stepparent, guardian, custodian, or other relative, receive care and
 33 supervision in the home at the same time. Not more than four (4) of the
 34 ~~eight (8)~~ **five (5)** individuals described in subdivision (1) may be less
 35 than six (6) years of age. The department may grant an exception to this
 36 section whenever the department determines that the placement of
 37 siblings in the same special needs foster home is desirable, **the foster**
 38 **child has an established, meaningful relationship with the foster**
 39 **parents, or it is otherwise in the foster child's best interests.**

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

44 (h) The department shall consider the specific needs of each special
 45 needs foster child or individual whenever the department determines
 46 the appropriate number of children or individuals to place in the special

1 needs foster home under subsection (f). The department may require a
 2 special needs foster family home to provide care and supervision to less
 3 than the maximum number of children or individuals allowed under
 4 subsection (f) upon consideration of the specific needs of a special
 5 needs foster child or individual.

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

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

14 **(k) If a special needs foster family home does not meet the**
 15 **requirements under subsection (f) on July 1, 2011, any foster child**
 16 **placed in the home before July 1, 2011 may remain placed.**
 17 **However, a new placement of a child may not be made in violation**
 18 **of this section.**

19 SECTION 30. IC 31-27-4-5, AS AMENDED BY P.L.138-2007,
 20 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2011]: Sec. 5. (a) An applicant must apply for a foster family
 22 home license on forms provided by the department.

23 (b) An applicant must submit the required information as part of the
 24 application.

25 (c) An applicant must submit with the application a statement
 26 attesting the following:

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

28 (A) a felony; or

29 (B) a misdemeanor relating to the health and safety of
 30 children.

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

32 (A) a felony; or

33 (B) a misdemeanor relating to the health and safety of
 34 children;

35 during the pendency of the application.

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

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

41 (1) the applicant's employees and volunteers who have or will
 42 have direct contact, on a regular and continuing basis, with
 43 children who are or will be under the direct supervision of the
 44 applicant; and

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

1 (f) If the applicant conducts criminal history checks under
 2 subsection (e), the applicant shall maintain records of the information
 3 received concerning each individual subject of a criminal history
 4 check.

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

7 (1) make a determination whether the subject of a national
 8 fingerprint based criminal history check has a record of: ~~a~~
 9 ~~conviction for:~~

10 (A) **a conviction for a felony; or**

11 (B) **a conviction for a misdemeanor relating to the health and**
 12 **safety of a child; or**

13 (C) **a juvenile adjudication for an act listed in section 13(a)**
 14 **of this chapter that, if committed by an adult, would be a**
 15 **felony;**

16 (2) notify the applicant of the determination under subdivision (1)
 17 without identifying a specific offense or other identifying
 18 information concerning a conviction **or juvenile adjudication**
 19 contained in the national criminal history record information;

20 (3) submit to the applicant a copy of any state limited criminal
 21 history report that the department receives on behalf of any person
 22 described in subsection (e); and

23 (4) maintain a record of every report and all information the
 24 department receives concerning a person described in subsection
 25 (e).

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

29 (i) With the exception of a fingerprint based criminal history
 30 background check under IC 31-9-2-22.5(1)(B) for a person described
 31 in subsection (e)(1), a criminal history check concerning a person
 32 described in subsection (e) must be completed on or before the date on
 33 which the subject of the check is first employed or assigned as a
 34 volunteer in a position described in subsection (e)(1) or first becomes
 35 a resident of the applicant's household as described in subsection
 36 (e)(2). A fingerprint based criminal history background check under
 37 IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must
 38 be completed not later than the conclusion of the first ninety (90) days
 39 of employment in or assignment of a volunteer. However, if a person
 40 described in this subsection has been the subject of a criminal history
 41 check that was conducted not more than one (1) year before the date
 42 the license application is submitted to the department, a new criminal
 43 history check of that person is not required.

44 (j) An applicant or a licensee described in subsection (e)(1) may
 45 provisionally employ an individual or assign a volunteer for whom a
 46 criminal history check is required during the period after the process of

1 requesting fingerprint based criminal history background check
 2 information has been initiated by or on behalf of the applicant or
 3 licensee but before the determination is obtained by or communicated
 4 to the applicant or licensee. If the determination is not received by not
 5 later than ninety (90) days after the effective date of hire or volunteer
 6 assignment, the employee or volunteer relationship must be terminated
 7 or suspended until a determination is received. An employee or
 8 volunteer whose determination has not yet been received may not have
 9 direct contact with a child who is or will be placed at a facility operated
 10 by the applicant or licensee unless the direct contact occurs only in the
 11 presence of a volunteer or employee of the applicant or licensee who
 12 has been the subject of a completed and approved criminal history
 13 check. In determining whether to provisionally hire or assign as a
 14 volunteer an individual described in subsection (e)(1), the applicant or
 15 licensee shall consider the following:

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

24 (k) The department shall, at the applicant's request, inform the
 25 applicant whether the department has or does not have a record of the
 26 person who is the subject of a criminal history background check and
 27 if the department has identified the person as an alleged perpetrator of
 28 abuse or neglect. The department may not provide to the applicant any
 29 details or personally identifying information contained in any child
 30 protective investigation report.

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

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

- 39 (1) A determination by the department of child abuse or neglect
- 40 by:
 - 41 (A) the applicant;
 - 42 (B) an employee **or a volunteer** of the applicant who has
 - 43 direct contact, on a regular and continuous basis, with children
 - 44 who are under the direct supervision of the applicant; **or**
 - 45 ~~(C) a volunteer of the applicant who has direct contact, on a~~
 - 46 ~~regular and continuous basis, with children who are under the~~

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

1 **(B) permit the individual to reside in the applicant's**
 2 **residence.**

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

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

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

8 (3) Evidence of rehabilitation.

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

11 (5) The nature and extent of unsupervised contact with children
 12 residing in the home.

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

14 (1) a license application could be denied due to a criminal
 15 conviction of, or a determination of child abuse or neglect by, an
 16 employee, a volunteer, or a person residing in the residence of the
 17 applicant; and

18 (2) the department determines that the employee or volunteer has
 19 been dismissed by the applicant or that the person residing in the
 20 residence no longer resides there;

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

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

26 SECTION 32. IC 31-27-4-8, AS AMENDED BY P.L.143-2008,
 27 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2011]: Sec. 8. (a) An applicant may not provide supervision
 29 and care as a foster family home if more than:

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

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

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

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

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

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

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

42 (1) the placement of siblings in the same foster family home is
 43 desirable;

44 (2) **a foster child has an established, meaningful relationship**
 45 **with the foster parents; or**

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

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

5 **(e) If a foster family home does not meet the requirements**
 6 **under subsection (a) on July 1, 2011, any foster child placed in the**
 7 **home prior to July 1, 2011, may remain placed. However, a new**
 8 **placement of a child may not be made in violation of this section.**

9 SECTION 33. IC 31-27-4-13, AS AMENDED BY P.L.138-2007,
 10 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2011]: Sec. 13. (a) The department shall deny a license when
 12 an applicant fails to meet the requirements for a license. The
 13 department shall deny a license to an applicant who has been convicted
 14 of any of the following felonies:

15 (1) Murder (IC 35-42-1-1).

16 (2) Causing suicide (IC 35-42-1-2).

17 (3) Assisting suicide (IC 35-42-1-2.5).

18 (4) Voluntary manslaughter (IC 35-42-1-3).

19 (5) Reckless homicide (IC 35-42-1-5).

20 (6) Battery (IC 35-42-2-1) **within the past five (5) years.**

21 (7) Domestic battery (IC 35-42-2-1.3).

22 (8) Aggravated battery (IC 35-42-2-1.5).

23 (9) Kidnapping (IC 35-42-3-2).

24 (10) Criminal confinement (IC 35-42-3-3) **within the past five**
 25 **(5) years.**

26 (11) A felony sex offense under IC 35-42-4.

27 (12) Carjacking (IC 35-42-5-2) **within the past five (5) years.**

28 (13) Arson (IC 35-43-1-1) **within the past five (5) years.**

29 (14) Incest (IC 35-46-1-3).

30 (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and
 31 IC 35-46-1-4(a)(2)).

32 (16) Child selling (IC 35-46-1-4(d)).

33 (17) A felony involving a weapon under IC 35-47 or IC 35-47.5
 34 **within the past five (5) years.**

35 (18) A felony relating to controlled substances under IC 35-48-4
 36 **within the past five (5) years.**

37 (19) An offense relating to material or a performance that is
 38 harmful to minors or obscene under IC 35-49-3.

39 (20) A felony that is substantially equivalent to a felony listed in
 40 subdivisions (1) through (19) for which the conviction was
 41 entered in another state.

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

43 **(1) has been convicted of a felony that is not listed in this**
 44 **subsection (a); or**

45 **(2) has had a juvenile adjudication for an act that is listed in**
 46 **subsection (a) that, if committed by an adult, would be a**

1 **felony.**

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

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

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

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

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

14 SECTION 34. IC 31-27-4-32, AS AMENDED BY P.L.138-2007,
15 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2011]: Sec. 32. (a) The following constitute sufficient grounds
17 for revocation of a license:

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

20 (A) the licensee;

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

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

27 ~~(D)~~ (C) a person at least eighteen (18) years of age who is
28 residing in the home of the licensee.

29 (2) A criminal conviction of the licensee for any of the following:
30 (A) A felony.

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

32 (C) A misdemeanor for operating a child care center or child
33 care home without a license under IC 12-17.2-5.

34 (D) A misdemeanor for operating a foster family home without
35 a license under this chapter (or IC 12-17.4-4 before its repeal).

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

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

40 (5) A determination by the department that:

41 (A) the licensee;

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

46 (C) **a person residing in the licensee's residence;**

1 previously operated a

2 ~~(A)~~ child care center or child care home without a license
3 under IC 12-17.2-5 or

4 ~~(B)~~ a foster family home without a license under this chapter
5 (or IC 12-17.4-4 before its repeal).

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

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

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

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

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

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

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

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

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

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

33 (3) Evidence of rehabilitation.

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

36 (d) Notwithstanding subsection (b), if:

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

41 (2) the department determines that the employee or volunteer has
42 been dismissed by the licensee within a reasonable time after the
43 licensee became aware of the conviction or that the individual no
44 longer resides in the licensee's residence;

45 the criminal conviction of, or determination of child abuse or neglect
46 by, the former employee, former volunteer, or former household

1 resident does not constitute a sufficient basis for the revocation of a
2 license.

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

4 SECTION 35. IC 31-27-4-33, AS ADDED BY P.L.146-2006,
5 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2011]: Sec. 33. (a) A licensee shall operate a foster family
7 home in compliance with the rules established under this article and is
8 subject to the disciplinary sanctions under subsection (b) if the
9 department finds that the licensee has violated this article or a rule
10 adopted under this article.

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

20 SECTION 36. IC 31-27-5-4, AS AMENDED BY P.L.138-2007,
21 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2011]: Sec. 4. (a) An applicant must apply for a group home
23 license on forms provided by the department.

24 (b) An applicant must submit the required information as part of the
25 application.

26 (c) An applicant must submit with the application a statement
27 attesting the following:

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

29 (A) a felony; or

30 (B) a misdemeanor relating to the health and safety of
31 children.

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

33 (A) a felony; or

34 (B) a misdemeanor relating to the health and safety of
35 children;

36 during the pendency of the application.

37 (d) The department on behalf of an applicant, or, at the discretion of
38 the department, an applicant, shall conduct a criminal history check of
39 the following:

40 (1) Each individual who is an applicant.

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

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

46 (e) If the applicant conducts a criminal history check under

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

1 to the applicant or licensee. If the determination is not received within
 2 ninety (90) days after the effective date of hire or volunteer assignment,
 3 the employee or volunteer relationship must be terminated or
 4 suspended until a determination is received. An employee or volunteer
 5 whose determination has not yet been received may not have direct
 6 contact with a child who is or will be placed at a facility operated by
 7 the applicant or licensee unless the direct contact occurs only in the
 8 presence of a volunteer or employee of the applicant or licensee who
 9 has been the subject of a completed and approved criminal history
 10 check. In determining whether to provisionally hire or assign as a
 11 volunteer an individual described in subsection (d)(3), the applicant or
 12 licensee shall consider the following:

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

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

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

32 SECTION 37. IC 31-27-5-6, AS AMENDED BY P.L.138-2007,
 33 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]: Sec. 6. (a) The following constitute sufficient grounds
 35 for a denial of a license application:

- 36 (1) A determination by the department of child abuse or neglect
 37 by:
 - 38 (A) the applicant; **or**
 - 39 (B) an employee **or a volunteer** of the applicant who has
 40 direct contact, on a regular and continuous basis, with children
 41 who are under the direct supervision of the applicant. **or**
 - 42 ~~(C) a volunteer of the applicant who has direct contact, on a~~
 43 ~~regular and continuous basis, with children who are under the~~
 44 ~~direct supervision of the applicant.~~
- 45 (2) A criminal conviction of the applicant, or the director or
 46 manager of a facility where children will be placed by the

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

- 1 employment positions or volunteer assignment.
- 2 (d) Notwithstanding subsection (a) or (b), if:
- 3 (1) a license application could be denied due to a criminal
- 4 conviction of, or a determination of child abuse or neglect by, an
- 5 employee or a volunteer of the applicant; and
- 6 (2) the department determines that the employee or volunteer has
- 7 been dismissed by the applicant;
- 8 the criminal conviction of, or determination of child abuse or neglect
- 9 by, the former employee or former volunteer does not constitute a
- 10 sufficient basis for the denial of a license application.
- 11 (e) The department may adopt rules to implement this section.
- 12 SECTION 38. IC 31-27-5-31, AS AMENDED BY P.L.138-2007,
- 13 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2011]: Sec. 31. (a) The following constitute sufficient grounds
- 15 for revocation of a license:
- 16 (1) A determination by the department of child abuse or neglect
- 17 by:
- 18 (A) the licensee; **or**
- 19 (B) an employee **or a volunteer** of the licensee who has direct
- 20 contact, on a regular and continuous basis, with children who
- 21 are under the direct supervision of the licensee. **or**
- 22 ~~(C) a volunteer of the licensee who has direct contact, on a~~
- 23 ~~regular and continuous basis, with children who are under the~~
- 24 ~~direct supervision of the licensee.~~
- 25 (2) A criminal conviction of the licensee, or the director or
- 26 manager of a facility where children will be placed by the
- 27 licensee, for any of the following:
- 28 (A) A felony.
- 29 (B) A misdemeanor related to the health or 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).
- 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 licensee made
- 37 false statements in the licensee's application for licensure.
- 38 (4) A determination by the department that the licensee made
- 39 false statements in the records required by the department.
- 40 (5) A determination by the department that:
- 41 **(A) the licensee; or**
- 42 **(B) an employee or volunteer of the licensee who has direct**
- 43 **contact, on a regular and continuous basis, with children**
- 44 **who are under the direct supervision of the licensee;**
- 45 previously operated a home or facility without a license required
- 46 under any applicable provision of this article (or IC 12-17.4

1 before its repeal) or IC 12-17.2.

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

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

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

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

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

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

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

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

24 (3) Evidence of rehabilitation.

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

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

28 (1) a license could be revoked due to a criminal conviction of, or
 29 a determination of child abuse or neglect by, an employee or a
 30 volunteer of the licensee; and

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

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

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

38 SECTION 39. IC 31-27-6-2, AS AMENDED BY P.L.138-2007,
 39 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2011]: Sec. 2. (a) An applicant must apply for a child placing
 41 agency license on forms provided by the department.

42 (b) An applicant must submit the required information as part of the
 43 application.

44 (c) The applicant must submit with the application a statement
 45 attesting the following:

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

- 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 of
 10 the department, an applicant, shall conduct a criminal history check of
 11 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) **conviction for** a felony; ~~or~~
 30 (B) **conviction for** a misdemeanor relating to the health and
 31 safety of a child; ~~or~~
 32 (C) **juvenile adjudication for an act listed in**
 33 **IC 31-27-4-13(a) that, if committed by an adult, would be**
 34 **a felony;**
 35 (2) notify the applicant of the determination under subdivision (1)
 36 without identifying a specific offense or other identifying
 37 information concerning a conviction **or juvenile adjudication**
 38 contained in the national criminal history record information;
 39 (3) submit to the applicant a copy of any state limited criminal
 40 history report that the department receives on behalf of any person
 41 described in subsection (d); and
 42 (4) maintain a record of every report and all information the
 43 department receives concerning a person described in subsection
 44 (d).
 45 (g) Except as provided in subsection (h), a criminal history check
 46 described in subsection (d) is required only at the time an application

- 1 for a new license or the renewal of an existing license is submitted.
- 2 (h) A criminal history background check of a person described in
3 subsection (d)(2) or (d)(3) must be completed on or before the date on
4 which the subject of the check is employed or assigned as a volunteer.
5 However, a fingerprint based criminal history background check under
6 IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must
7 be completed not later than the conclusion of the first ninety (90) days
8 of employment in or assignment of a volunteer to a position described
9 in subsection (d)(3). If a person described in this subsection has been
10 the subject of a criminal history background check (as described in
11 IC 31-9-2-22.5) that was conducted not more than one (1) year before
12 the date the license application is submitted to the department, a new
13 criminal history check of that person is not required.
- 14 (i) An applicant or a licensee may provisionally employ an
15 individual or assign a volunteer described in subsection (d)(3) for
16 whom a criminal history background check is required during the
17 period after the process of requesting fingerprint based criminal history
18 background check information has been initiated by or on behalf of the
19 applicant or licensee but before the determination is obtained by or
20 communicated to the applicant or licensee. If the determination is not
21 received within ninety (90) days after the effective date of hire or
22 volunteer assignment, the employee or volunteer relationship must be
23 terminated or suspended until a determination is received. An
24 employee or a volunteer whose determination has not yet been received
25 may not have direct contact with a child who is or will be placed at a
26 facility operated by the applicant or licensee unless the direct contact
27 occurs only in the presence of a volunteer or an employee of the
28 applicant or licensee who has been the subject of a completed and
29 approved criminal history background check. In determining whether
30 to provisionally hire or assign as a volunteer an individual described in
31 subsection (d)(3), the applicant or licensee shall consider the following:
- 32 (1) The training time required by an employee or a volunteer.
 - 33 (2) The safety and security of the children under the supervision
34 of the applicant or licensee.
 - 35 (3) The safety and security of the other staff and volunteers
36 working under the supervision of the applicant or licensee.
 - 37 (4) The staffing concerns of the applicant or licensee.
 - 38 (5) Any other factor relating to the safety and security of the
39 applicant's or licensee's operations.
- 40 (j) The department shall, at the applicant's request, inform the
41 applicant whether the department has or does not have a record of the
42 person who is the subject of a criminal history background check and
43 if the department has identified the person as an alleged perpetrator of
44 abuse or neglect. The department may not provide to the applicant any
45 details or personally identifying information contained in any child
46 protective investigation report.

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

5 SECTION 40. IC 31-27-6-3, AS AMENDED BY P.L.138-2007,
 6 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2011]: Sec. 3. (a) The following constitute sufficient grounds
 8 for denial of a license application:

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

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

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

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

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

21 (A) A felony.

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

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

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

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

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

33 (5) A determination by the department that:

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

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

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

45 (b) An application for a license may also be denied if an employee
 46 or volunteer of the applicant who has direct contact on a regular and

1 continuous basis with children who are under the direct supervision of
2 the applicant has ~~been convicted of~~ **had** any of the following:

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

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

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

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

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

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

18 (3) Evidence of rehabilitation.

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

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

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

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

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

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

31 SECTION 41. IC 31-27-6-28, AS AMENDED BY P.L.138-2007,
32 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2011]: Sec. 28. (a) The following constitute sufficient grounds
34 for revocation of a license:

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

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

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

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

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

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

1 (d) Notwithstanding subsection (a) or (b), if:
 2 (1) a license could be revoked due to a criminal conviction of, or
 3 a determination of child abuse or neglect by, an employee or a
 4 volunteer of the licensee; and
 5 (2) the department determines that the employee or volunteer has
 6 been dismissed by the licensee within a reasonable time after the
 7 licensee became aware of the conviction or determination;
 8 the criminal conviction of, or determination of child abuse or neglect
 9 by, the former employee or former volunteer does not constitute a
 10 sufficient basis for the revocation of a license.

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

12 SECTION 42. IC 31-30-1-6, AS AMENDED BY P.L.145-2006,
 13 SECTION 275, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Subject to subsections (b) and
 15 (c), this article does not prohibit a probate court from exercising its
 16 jurisdiction over guardianship of a person who is less than eighteen
 17 (18) years of age.

18 (b) If allegations in the petition for guardianship or allegations
 19 produced at guardianship proceedings indicate that the person for
 20 whom the guardianship is requested meets the definition of a child in
 21 need of services under IC 31-34-1, the probate court on its own motion
 22 or at the request of a party shall:

23 (1) send the petition for guardianship or the record of
 24 guardianship ~~proceedings, or both, to the prosecuting attorney or~~
 25 ~~the attorney for the department of child services; and~~
 26 (2) direct ~~the prosecuting attorney or the attorney for the~~
 27 ~~department of child services to initiate an investigation and~~
 28 ~~proceedings in the juvenile court assessment~~ to determine
 29 whether the person for whom the guardianship is requested is a
 30 child in need of services.

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

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

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

36 **(2) requests additional proceedings regarding the**
 37 **guardianship of the minor;**

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

40 SECTION 43. IC 31-30-1-12 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Subject to
 42 subsection (b), a court having jurisdiction under IC 31-17-2 of a child
 43 custody, **parenting time, or child support** proceeding in a marriage
 44 dissolution has concurrent original jurisdiction with the juvenile court
 45 for the purpose of modifying custody of a child who is under the
 46 jurisdiction of the juvenile court because:

- 1 (1) the child is the subject of a child in need of services
 2 proceeding;
- 3 (2) the child is the subject of a juvenile delinquency proceeding
 4 that does not involve an act described under IC 31-37-1-2; or
 5 (3) the child is the subject of a paternity proceeding.
- 6 (b) Whenever the court having child custody jurisdiction under
 7 IC 31-17-2 in a marriage dissolution modifies child custody as
 8 provided by this section, the modification is effective only when the
 9 juvenile court:
- 10 (1) enters an order approving the child custody modification; or
 11 (2) terminates the child in need of services proceeding, the
 12 juvenile delinquency proceeding, or the paternity proceeding.
- 13 **(c) If a juvenile court:**
- 14 **(1) modifies child custody, child support, or parenting time;**
 15 **and**
 16 **(2) terminates a child in need of services proceeding or a**
 17 **juvenile delinquency proceeding regarding the child;**
 18 **the court having concurrent original jurisdiction under subsection**
 19 **(a) shall assume or reassume primary jurisdiction of the case to**
 20 **address all issues.**
- 21 **(d) A court that assumes or reassumes jurisdiction of a case**
 22 **under subsection (c) may modify child custody, child support, or**
 23 **parenting time in accordance with applicable modification statutes.**
- 24 **(e) An order modifying child custody, child support, or**
 25 **parenting time issued under this section survives the termination**
 26 **of the child in need of services proceeding or the juvenile**
 27 **delinquency proceeding until the court having concurrent or**
 28 **original jurisdiction assumes primary jurisdiction and modifies the**
 29 **order.**
- 30 SECTION 44. IC 31-30-1-13 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Subject to
 32 subsection (b), a court having jurisdiction under IC 31-14 of a child
 33 custody proceeding in a paternity proceeding has concurrent original
 34 jurisdiction with another juvenile court for the purpose of modifying
 35 custody of a child who is under the jurisdiction of the other juvenile
 36 court because:
- 37 (1) the child is the subject of a child in need of services
 38 proceeding; or
 39 (2) the child is the subject of a juvenile delinquency proceeding
 40 that does not involve an act described under IC 31-37-1-2.
- 41 (b) Whenever the court having child custody jurisdiction under
 42 IC 31-14 in a paternity proceeding modifies child custody as provided
 43 by this section, the modification is effective only when the juvenile
 44 court with jurisdiction over the child in need of services proceeding or
 45 juvenile delinquency proceeding:
- 46 (1) enters an order approving the child custody modification; or

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

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

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

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

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

10 **(d) An order establishing or modifying paternity of a child by a**
11 **juvenile court survives the termination of the child in need of**
12 **services proceeding or the juvenile delinquency proceeding."**

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

14 "SECTION 42. IC 31-33-3-5, AS AMENDED BY P.L.234-2005,
15 SECTION 104, IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2011]: Sec. 5. The community child protection
17 team

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

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

23 SECTION 43. IC 31-33-7-8, AS AMENDED BY P.L.131-2009,
24 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2011]: Sec. 8. (a) This section applies if the department
26 receives a report of suspected child abuse or neglect from:

27 (1) a hospital;

28 (2) a community mental health center;

29 (3) a managed care provider (as defined in IC 12-7-2-127(b));

30 (4) a referring physician;

31 (5) a dentist;

32 (6) a licensed psychologist; ~~or~~

33 (7) a school;

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

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

36 **(10) a secure private facility; or**

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

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

42 (1) the administrator of the hospital;

43 (2) the community mental health center;

44 (3) the managed care provider;

45 (4) the referring physician;

46 (5) the dentist; ~~or~~

- 1 (6) the principal of the school;
 2 (7) a licensed psychologist;
 3 (8) a child caring institution licensed under IC 31-27;
 4 (9) a group home licensed under IC 31-27 or IC 12-28-4;
 5 (10) a secure private facility; or
 6 (11) a child placing agency (as defined in IC 31-9-2-17.5).

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

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

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

16 ~~(e)~~ (d) A report made by the department under this section must
 17 contain the following information:

- 18 (1) The name of the alleged victim of child abuse or neglect.
 19 (2) The name of the alleged perpetrator and the alleged
 20 perpetrator's relationship to the alleged victim.
 21 (3) Whether the case **assessment** is closed.
 22 ~~(4) Whether information concerning the case has been expunged.~~
 23 ~~(5) The name of any agency to which the alleged victim has been~~
 24 ~~referred.~~
 25 ~~(6)~~ (4) Whether the department has made an assessment of the
 26 case and has not taken any further action.
 27 ~~(7) Whether a substantiated case of child abuse or neglect was~~
 28 ~~informally adjusted.~~
 29 ~~(8) Whether the alleged victim was referred to the juvenile court~~
 30 ~~as a child in need of services.~~
 31 ~~(9) Whether the alleged victim was returned to the victim's home.~~
 32 ~~(10) Whether the alleged victim was placed in residential care~~
 33 ~~outside the victim's home.~~
 34 ~~(11) Whether a wardship was established for the alleged victim.~~
 35 ~~(12) Whether criminal action is pending or has been brought~~
 36 ~~against the alleged perpetrator.~~
 37 ~~(13) A brief description of any casework plan that has been~~
 38 ~~developed by the department.~~
 39 ~~(14)~~ (5) The caseworker's name and telephone number.
 40 ~~(15)~~ (6) The date the report is prepared.
 41 ~~(16)~~ (7) Other information that the department may prescribe.
 42 ~~(f)~~ (e) A report made under this section:
 43 (1) is confidential; and
 44 (2) may be made available only to:
 45 (A) the agencies named in this section; and
 46 (B) the persons and agencies listed in IC 31-33-18-2.

1 SECTION 44. IC 31-33-8-7, AS AMENDED BY P.L.131-2009,
 2 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2011]: Sec. 7. (a) The department's assessment, to the extent
 4 that is reasonably possible, must include the following:

- 5 (1) The nature, extent, and cause of the known or suspected child
 6 abuse or neglect.
- 7 (2) The identity of the person allegedly responsible for the child
 8 abuse or neglect.
- 9 (3) The names and conditions of other children in the home.
- 10 (4) An evaluation of the parent, guardian, custodian or person
 11 responsible for the care of the child.
- 12 (5) The home environment and the relationship of the child to the
 13 parent, guardian, or custodian or other persons responsible for the
 14 child's care.
- 15 (6) All other data considered pertinent.

16 (b) The assessment may include the following:

- 17 (1) A visit to the child's home.
- 18 (2) An interview with the subject child.
- 19 (3) A physical, psychological, or psychiatric examination of any
 20 child in the home.

21 (c) If:

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

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

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

36 **(e) If the court finds that:**

- 37 **(1) a custodial parent, a guardian, or a custodian has been**
 38 **informed of the hearing on a petition described under**
 39 **subsection (d); and**
- 40 **(2) the department has made reasonable and unsuccessful**
 41 **efforts to obtain the consent of the custodial parent, guardian,**
 42 **or custodian to interview the child;**

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

- 1 **present.**
2 SECTION 45. IC 31-33-18-1.5, AS AMENDED BY
3 P.L.182-2009(ss), SECTION 379, IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) This section
5 applies to records held by:
6 ~~(1)~~ ~~the division of family resources;~~
7 ~~(2)~~ **(1)** a county office;
8 ~~(3)~~ **(2)** the department;
9 ~~(4)~~ **(3)** a local child fatality review team established under
10 IC 31-33-24;
11 ~~(5)~~ **(4)** the statewide child fatality review committee established
12 under IC 31-33-25; or
13 ~~(6)~~ **(5)** the department of child services ombudsman established
14 by IC 4-13-19-3;
15 regarding a child whose death or near fatality may have been the result
16 of abuse, abandonment, or neglect.
17 (b) For purposes of subsection (a), a child's death or near fatality
18 may have been the result of abuse, abandonment, or neglect if:
19 (1) an entity described in subsection (a) determines that the child's
20 death or near fatality is the result of abuse, abandonment, or
21 neglect; or
22 (2) a prosecuting attorney files:
23 (A) an indictment or information; or
24 (B) a complaint alleging the commission of a delinquent act;
25 that, if proven, would cause a reasonable person to believe that
26 the child's death or near fatality may have been the result of
27 abuse, abandonment, or neglect.
28 Upon the request of any person, or upon its own motion, the court
29 exercising juvenile jurisdiction in the county in which the child's death
30 or near fatality occurred shall determine whether the allegations
31 contained in the indictment, information, or complaint described in
32 subdivision (2), if proven, would cause a reasonable person to believe
33 that the child's death or near fatality may have been the result of abuse,
34 abandonment, or neglect.
35 **(c) If the juvenile court finds that the child's death or near**
36 **fatality was the result of abuse, abandonment, or neglect, the court**
37 **shall make written findings and provide a copy of the findings and**
38 **the indictment, information, or complaint described under**
39 **subsection (b)(2) to the department.**
40 ~~(c)~~ **(d)** As used in this section:
41 **(1) "case" means:**
42 **(A) any intake report generated by the department;**
43 **(B) any investigation or assessment conducted by the**
44 **department; or**
45 **(C) ongoing involvement between the department and a**
46 **child or family that is the result of:**

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

- 1 (2) all identifying information of a child less than eighteen (18)
 2 years of age.
- 3 ~~(g)~~ **(h)** The court shall disclose the record redacted in accordance
 4 with subsection ~~(f)~~ **(g)** to any person who requests the record, if the
 5 person has paid:
- 6 (1) to the entity having control of the record, the reasonable
 7 expenses of copying under IC 5-14-3-8; and
 8 (2) to the court, the reasonable expenses of copying the record.
- 9 ~~(h)~~ **(i)** The data and information in a record disclosed under this
 10 section must include the following:
- 11 (1) A summary of the report of abuse or neglect and a factual
 12 description of the contents of the report.
 13 (2) The date of birth and gender of the child.
 14 (3) The cause of the fatality or near fatality, if the cause has been
 15 determined.
 16 (4) Whether the department ~~or the office of the secretary of family~~
 17 ~~and social services~~ had any contact with the child or ~~a member of~~
 18 ~~the child's family or household~~ **the perpetrator** before the fatality
 19 or near fatality, and, if the department ~~or the office of the~~
 20 ~~secretary of family and social services~~ had contact, the following:
- 21 (A) The frequency of the contact ~~or communication~~ with the
 22 child or ~~a member of the child's family or household~~ **the**
 23 **perpetrator** before the fatality or near fatality and the date on
 24 which the last contact ~~or communication~~ occurred before the
 25 fatality or near fatality.
 26 (B) A summary of the status of the child's case at the time of
 27 the fatality or near fatality, including:
- 28 (i) whether the child's case was closed by the department ~~or~~
 29 ~~the office of the secretary of family and social services~~
 30 before the fatality or near fatality; and
 31 (ii) if the child's case was closed as described under item (i),
 32 the **date of closure and the** reasons that the case was
 33 closed.
- 34 ~~(i)~~ **(j)** The court's determination under subsection ~~(f)~~ **(g)** that certain
 35 identifying information or other information is not relevant to
 36 establishing the facts and circumstances leading to the death or near
 37 fatality of a child is not admissible in a criminal proceeding or civil
 38 action.
- 39 SECTION 46. IC 31-33-26-5, AS AMENDED BY
 40 P.L.182-2009(ss), SECTION 383, IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. ~~(a)~~ **Subject to the**
 42 **accessibility to files provided in subsection (b); at least ten (10) levels**
 43 **of security for confidentiality in the index must be maintained.**
 44 ~~(b)~~ **The index must have a comprehensive system of limited access**
 45 **to information as follows:**
 46 ~~(1)~~ **The index must be accessed only by the entry of an operator**

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

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

5 SECTION 47. IC 31-33-26-9, AS ADDED BY P.L.138-2007,
 6 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2011]: Sec. 9. (a) Except as provided in sections 11 and 12 of
 8 this chapter, the department shall conduct an administrative hearing
 9 upon a request made under section 8 of this chapter.

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

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

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

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

28 (f) The administrative hearing shall be closed.

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

31 SECTION 48. IC 31-34-4-2, AS AMENDED BY P.L.146-2008,
 32 SECTION 578, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) If a child alleged to be a child
 34 in need of services is taken into custody under an order of the court
 35 under this chapter and the court orders out-of-home placement, the
 36 department is responsible for that placement and care and must
 37 consider placing the child with a:

- 38 (1) suitable and willing blood or an adoptive relative caretaker,
 39 including a grandparent, an aunt, an uncle, or an adult sibling;
- 40 (2) de facto custodian; or
- 41 (3) stepparent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the child.

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

8 (g) ~~In making its written finding considering the placement~~ under
9 subsection (f), the court **or the department** shall consider the
10 following:

- 11 (1) The length of time since the person committed the offense,
12 delinquent act, or abuse or neglect.
13 (2) The severity of the offense, delinquent act, or abuse or neglect.
14 (3) Evidence of the person's rehabilitation, including the person's
15 cooperation with a treatment plan, if applicable.

16 SECTION 49. IC 31-34-20-1.5, AS AMENDED BY P.L.146-2008,
17 SECTION 603, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) Except as provided in
19 subsection (d), the juvenile court may not enter a dispositional decree
20 approving or ordering placement of a child in another home under
21 section 1(a)(3) of this chapter or awarding wardship to the department
22 that will place the child in another home under section 1(a)(4) of this
23 chapter if a person who is currently residing in the home in which the
24 child would be placed under section 1(a)(3) or 1(a)(4) of this chapter
25 has committed an act resulting in a substantiated report of child abuse
26 or neglect, has a juvenile adjudication for an act that would be a felony
27 listed in IC 31-27-4-13 if committed by an adult, or has a conviction for
28 a felony listed in IC 31-27-4-13.

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

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

- 46 (1) the department or caseworker is considering only an

1 out-of-home placement to an entity or a facility that:

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

3 (B) is licensed by the state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 SECTION 50. IC 31-34-21-5.8, AS AMENDED BY P.L.145-2006,
8 SECTION 321, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2011]: Sec. 5.8. (a) This section applies only if
10 a court has approved a permanency plan for a child under section
11 ~~7(b)(4)~~ **7(b)(5)** of this chapter.

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

16 (1) with court approval place the child in an out-of-home
17 placement in accordance with the permanency plan; and

18 (2) complete whatever steps are necessary to finalize the
19 permanent placement of the child in a timely manner.

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

26 (1) Whether reasonable efforts have been made to eliminate the
27 need for removal of the child from the child's home or to make it
28 possible for the child to safely return to the child's home.

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

31 SECTION 51. IC 31-34-21-7.7 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.7. (a) If the juvenile
33 court approves a permanency plan under section 7 of this chapter that
34 provides for the appointment of a guardian for a child, the juvenile
35 court may appoint a guardian of the person and administer a
36 guardianship for the child under IC 29-3.

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

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

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

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

5 SECTION 52. IC 31-35-2-6.5, AS AMENDED BY P.L.145-2006,
 6 SECTION 328, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) This section applies to
 8 hearings under this chapter relating to a child in need of services.

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

11 (1) the person or entity who filed the petition to terminate the
 12 parent-child relationship under section 4 of this chapter; or

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

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

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

21 (1) The child's parent, guardian, or custodian.

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

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

26 (A) each consent to adoption of the child that is required under
 27 IC 31-19-9-1 has been executed in the form and manner
 28 required by IC 31-19-9 and filed with the county office or the
 29 department;

30 (B) the court having jurisdiction in the adoption case has
 31 determined under an applicable provision of IC 31-19-9 that
 32 consent to adoption is not required from a parent, guardian, or
 33 custodian; or

34 (C) a petition to terminate the parent-child relationship
 35 between the child and any parent who has not executed a
 36 written consent to adoption under IC 31-19-9-2, has been filed
 37 under IC 31-35 and is pending.

38 (4) Any other person who:

39 (A) the department has knowledge is currently providing care
 40 for the child; and

41 (B) is not required to be licensed under IC 12-17.2 or IC 31-27
 42 to provide care for the child.

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

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

46 (d) At least ten (10) days before a hearing on a petition or motion

1 under this chapter, the department shall provide notice of the hearing
2 to the child's foster parent by:

3 (1) certified mail; or

4 (2) face to face contact by the department caseworker.

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

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

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

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

26 SECTION 53. IC 31-35-5-4, AS AMENDED BY P.L.145-2006,
27 SECTION 334, IS AMENDED TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2011]: Sec. 4. The court may not make an order
29 under section 2 or 3 of this chapter unless:

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

32 (A) less than fourteen (14) years of age; or

33 (B) at least fourteen (14) years of age but less than eighteen
34 (18) years of age and has a disability attributable to an
35 impairment of general intellectual functioning or adaptive
36 behavior that:

37 (i) is likely to continue indefinitely;

38 (ii) constitutes a substantial impairment of the child's ability
39 to function normally in society; and

40 (iii) reflects the child's need for a combination and sequence
41 of special, interdisciplinary, or generic care, treatment, or
42 other services that are of lifelong or extended duration and
43 are individually planned and coordinated; and

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

46 (i) a psychiatrist, physician, or psychologist has certified that

1 the child's testifying in the courtroom creates a substantial
 2 likelihood of emotional or mental harm to the child;
 3 (ii) a physician has certified that the child cannot be present
 4 in the courtroom for medical reasons; or
 5 (iii) evidence has been introduced concerning the effect of
 6 the child's testifying in the courtroom and the court finds
 7 that it is more likely than not that the child's testifying in the
 8 courtroom creates a substantial likelihood of emotional or
 9 mental harm to the child;

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

13 (3) the prosecuting attorney or the attorney for the department
 14 informed the parties and their attorneys under subdivision (2) at
 15 least ~~twenty (20)~~ **seven (7)** days before the proceedings to give
 16 the parties and their attorneys a fair opportunity to prepare a
 17 response before the proceedings to the motion of the prosecuting
 18 attorney or the motion of the attorney for the department to permit
 19 the child to testify outside the courtroom.

20 SECTION 54. IC 31-37-19-6.5, AS AMENDED BY P.L.146-2008,
 21 SECTION 652, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) Except as provided in
 23 subsection (d), the juvenile court may not enter a dispositional decree
 24 approving placement of a child in another home under section 1(3) or
 25 6(b)(2)(D) of this chapter or awarding wardship to a person or facility
 26 that results in a placement with a person under section 1(4) or
 27 6(b)(2)(E) of this chapter if a person who is currently residing in the
 28 home in which the child would be placed under section 1(3), 1(4),
 29 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting
 30 in a substantiated report of child abuse or neglect, has a juvenile
 31 adjudication for an act that would be a felony listed in IC 31-27-4-13
 32 if committed by an adult, or has a conviction for a felony listed in
 33 IC 31-27-4-13.

34 (b) The juvenile probation officer who prepared the predispositional
 35 report shall conduct a criminal history check (as defined in
 36 IC 31-9-2-22.5) to determine if a person described in subsection (a) has
 37 committed an act resulting in a substantiated report of child abuse or
 38 neglect, has a juvenile adjudication for an act that would be a felony
 39 listed in IC 31-27-4-13 if committed by an adult, or has a conviction for
 40 a felony listed in IC 31-27-4-13. However, the probation officer is not
 41 required to conduct a criminal history check under this section if
 42 criminal history information obtained under IC 31-37-17-6.1
 43 establishes whether a person described in subsection (a) has committed
 44 an act resulting in a substantiated report of child abuse or neglect, has
 45 a juvenile adjudication for an act that would be a felony listed in
 46 IC 31-27-4-13 if committed by an adult, or has a conviction for a felony

1 listed in IC 31-27-4-13.

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

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

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

7 (B) is licensed by the state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 However, a court may not enter a dispositional decree placing a child
43 in another home under section 1(3) or 6(b)(2)(D) of this chapter or
44 awarding wardship to a person or facility under this subsection if a
45 person with whom the child is or will be placed has been convicted of
46 a felony listed in IC 31-27-4-13 that is not specifically excluded under

1 subdivision (1)(B). ~~or has a juvenile adjudication for an act that would~~
 2 ~~be a felony listed in IC 31-27-4-13 if committed by an adult that is not~~
 3 ~~specifically excluded under subdivision (1)(B):~~

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

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

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

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

12 Page 6, after line 15, begin a new paragraph and insert:

13 "SECTION 63. IC 35-40-7-2 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Upon request of a
 15 victim, the office of the prosecuting attorney having jurisdiction or a
 16 law enforcement agency having custody of a person accused of a crime
 17 against the victim shall notify the victim of the scheduling of a bond
 18 hearing, the escape or death of a person accused of committing a crime
 19 against the victim, release of a person convicted of a crime against the
 20 victim to a work release program, or any other type of postarrest release
 21 of a person convicted of a crime **or charged with a crime** against the
 22 victim.

23 SECTION 64. IC 35-40-10-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A victim shall
 25 provide to and maintain with the agency that is responsible for
 26 providing notice to the victim a request for notice on a form that is
 27 provided by that agency. The form must include a telephone number,
 28 **electronic mail address**, and **mailing** address for the victim. If the
 29 victim fails to keep the victim's telephone number and address current,
 30 the agency may withdraw the victim's request for notice.

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

35 SECTION 65. IC 35-40-12-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section
 37 applies if the victim is an entity other than an individual.

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

41 SECTION 66. IC 35-50-9-1, AS ADDED BY P.L.94-2010,
 42 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 43 JULY 1, 2011]: Sec. 1. (a) At the time of sentencing for a person
 44 convicted of domestic battery under IC 35-42-2-1.3 or a crime that
 45 involved domestic abuse, neglect, or violence, the court may require
 46 the person to complete a batterer's intervention program approved by

1 the court.

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

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

8 Renumber all SECTIONS consecutively.
(Reference is to EHB 1107 as printed April 1, 2011.)

Senator LAWSON C