SENATE MOTION

MADAM PRESIDENT:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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

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

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

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

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

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

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

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

SECTION 2. IC 29-3-5-1, AS AMENDED BY P.L.6-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Any person may file a petition for the appointment of a person to serve as guardian for an incapacitated

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

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

(2) The nature of the incapacity.

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

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

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

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

(A) the proposed guardian; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. IC 29-3-8-9 IS ADDED TO THE INDIANA CODE 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:**

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

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

(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:

(1) complies with the terms and conditions; and

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

(c) If:

(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

(2) the minor:

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

(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.

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

(1) if:

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

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

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

(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

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

(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:

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

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

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

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

supervision of the minor at the time of the hearing;

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

(D) the best interests of the child.".

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

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

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

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

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

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

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

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

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

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

(B) if an individual has:

(i) a physical disability that prevents fingerprinting and a person approved by the department who is trained to take fingerprints or a qualified medical practitioner verifies that the individual has a disabling condition that prevents fingerprinting; or

(ii) low quality fingerprints, as a result of age, occupation, or otherwise, that prevent fingerprint results from being obtained and the individual's fingerprints have been rejected the required number of times by automated fingerprint classification equipment or

rejected by a person designated by the department to examine and classify fingerprints;

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

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

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

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

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

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

(1) a license applicant or licensee of:

(A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;

(B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or

(C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5;

(2) a person who is responsible for care, supervision, or welfare of children while providing services as an owner, operator, director, manager, supervisor, employee, or volunteer at:

(A) a home, center, or facility described in subdivision (1);

(B) a child care ministry, as defined in IC 12-7-2-28.8, that is exempt from licensing requirements and is registered or required to be registered under IC 12-17.2-6;

(C) a home, center, or facility of a child care provider, as defined in IC 12-7-2-149.1(4);

(D) a home, center, or facility that is the location of a program that provides child care, as defined in section 16.3 of this chapter, to serve migrant children and that is exempt from licensing under IC 12-17.2-2-8(6), whether or not the program is certified as described in IC 12-17.2-2-9; or

(E) a school, as defined in section 113.5 of this chapter;

(3) a child caregiver, as defined in section 16.4 of this chapter;

(4) a member of the household of the child's noncustodial parent; or

(5) an individual who has **or intends to have** direct contact, on a regular and continuing basis, with a child for whom **the individual provides** care and supervision. ~~is provided as described in this subsection.~~".

Delete page 2.

Page 3, delete lines 1 through 13.

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 10. IC 31-9-2-100.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 100.5. "Qualified medical practitioner", for purposes of IC 31-9-2 means the following:**

(1) A physician licensed under IC 25-22.5.

(2) A physician assistant licensed under IC 25-27.5.

(3) A physical therapist licensed under IC 25-27.

(4) An advanced practice nurse licensed under IC 25-23.

(5) A chiropractor licensed under IC 25-10.

(6) A psychologist licensed under IC 25-33.

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

(1) that provides care to:

(A) a child; or

(B) an individual at least eighteen (18) but less than twenty-one (21) years of age receiving foster care for older youth under IC 31-28-5.7-1;

who ~~is seriously emotionally disturbed or developmentally disabled;~~ **has serious emotional disturbances, significant behavioral health needs and functional impairments, or developmental or physical disabilities;**

(2) in which the child or individual receives treatment in a family home through an integrated array of services supervised and

supported by qualified program staff from:

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

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

(C) a licensed child placing agency; and

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

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

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

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

(2) until the child becomes emancipated;

whichever occurs first.

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

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

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

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

(2) until the child becomes emancipated;

whichever occurs first.

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

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

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

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

~~(2) the department.~~

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

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

(2) The fitness of the child for adoption.

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

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

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

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

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

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

(1) the court;

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

(3) an authorized agent of:

(A) the department;

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

(C) a licensed child placing agency.

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

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

(1) is in writing;

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

(3) contains an acknowledgment that:

(A) the consent to adoption is irrevocable; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

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

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

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

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

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

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

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

(6) Battery as a felony (IC 35-42-2-1).

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

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

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

(10) Criminal confinement (IC 35-42-3-3).

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

(12) Carjacking (IC 35-42-5-2).

(13) Arson (IC 35-43-1-1).

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

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

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

(17) A felony involving a weapon under IC 35-47 or IC 35-47.5.

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

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

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

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

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

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

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

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

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

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

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

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

(B) provides proof of identification.

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

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

parents; and

(2) release all available social, medical, psychological, and educational records concerning the child to:

(A) the **prospective** adoptive **parent or the adoptive** parent; and

(B) upon request, an adoptee who:

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

(ii) provides proof of identification.

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

(1) the **prospective** adoptive **parent or the adoptive** parent; and

(2) upon request, an adoptee who:

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

(B) provides proof of identification;

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

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

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

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

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

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

first obtaining an appropriation from the county fiscal body.

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

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

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

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

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

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

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

(1) State department of health.

(2) Fire prevention and building safety commission.

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

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

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

(1) Admission criteria.

(2) General physical and environmental conditions.

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

(4) Procedures for ongoing monitoring and discharge planning.

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

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

private facility if the facility:

(1) meets the minimum standards required under subsection (c);

(2) provides a continuum of care and services; and

(3) is:

(A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or

(B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;

regardless of the facility's duration of or previous licensure as a child caring institution.

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

SECTION 25. IC 31-27-3-3, AS AMENDED BY P.L.138-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

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

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

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

(A) a felony; or

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

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

(A) a felony; or

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

during the pendency of the application.

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

(1) Each individual who is an applicant.

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

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

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

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

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

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

(1) determine whether the subject of a national fingerprint based

criminal history check has a record of: ~~a conviction for:~~

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

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

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

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

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

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

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

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

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

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

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

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

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

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

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

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

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

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

(A) the applicant; **or**

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

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

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

(A) a felony;

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

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

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

care home without a license under IC 12-17.2.

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

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

(5) A determination by the department that:

(A) the applicant; **or**

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

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

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

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

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

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

(A) the licensee; **or**

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

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

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

(A) A felony.

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

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

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

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

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

(5) A determination by the department that:

(A) the licensee; **or**

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

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

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

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

SECTION 28. IC 31-27-4-2, AS AMENDED BY P.L.131-2009, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

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

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

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

(1) Be licensed as a foster parent under **this chapter and** 465 IAC 2-1-1 et seq.

(2) Participate in preservice training that includes:

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

(B) additional preservice training in therapeutic foster care.

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

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

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

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

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

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

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

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

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

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

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

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

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

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

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

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

(2) additional training that includes specialized training to meet the child's or individual's specific needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) a felony; or

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

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

(A) a felony; or

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

during the pendency of the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

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

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

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

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

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

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

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

(A) the applicant;

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

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

~~direct supervision of the applicant; or~~

~~(D)~~ **(C)** a person residing in the applicant's residence. ~~who is at least eighteen (18) years of age.~~

(2) A criminal conviction of the applicant of any of the following:

(A) a felony;

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

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

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

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

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

(5) A determination by the department that:

(A) the applicant;

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

(C) a person residing in the applicant's residence;

previously operated a

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

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

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

felony.

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

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

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

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

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

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

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

(A) the licensee;

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

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

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

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

(A) A felony.

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

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

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

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

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

(5) A determination by the department that:

(A) the licensee;

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

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

previously operated a

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

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

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

(d) Notwithstanding subsection (b), if:

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

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

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

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

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

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

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

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

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

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

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

(A) a felony; or

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

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

(A) a felony; or

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

during the pendency of the application.

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

(1) Each individual who is an applicant.

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

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

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

subsection (d), the applicant shall:

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

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

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

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

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

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

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

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

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

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

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

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

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated

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

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

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

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

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

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

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

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

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

(A) the applicant; **or**

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

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

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

applicant, for any of the following:

(A) A felony.

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

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

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

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

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

(5) A determination by the department that:

(A) the applicant; **or**

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed

employment positions or volunteer assignment.

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

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

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

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

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

SECTION 38. IC 31-27-5-31, AS AMENDED BY P.L.138-2007, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) The following constitute sufficient grounds for revocation of a license:

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

(A) the licensee; **or**

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

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

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

(A) A felony.

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

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

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

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

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

(5) A determination by the department that:

(A) the licensee; **or**

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

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4

before its repeal) or IC 12-17.2.

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

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

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

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

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

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

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

(A) a felony; or
(B) a misdemeanor relating to the health and safety of children.
(2) That the applicant has not been charged with:
(A) a felony; or
(B) a misdemeanor relating to the health and safety of children;
during the pendency of the application.

(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:
(1) Each individual who is an applicant.
(2) The director or manager of a facility where children will be placed.
(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall:
(1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and
(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:
(1) determine whether the subject of a national fingerprint based criminal history check has a record of a: ~~conviction for:~~
(A) **conviction for** a felony; ~~or~~
(B) **conviction for** a misdemeanor relating to the health and safety of a child; **or**
(C) juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony;
(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction **or juvenile adjudication** contained in the national criminal history record information;
(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and
(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application

for a new license or the renewal of an existing license is submitted.

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

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

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

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

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

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

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

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

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

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

(A) the applicant; **or**

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

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

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

(A) A felony.

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

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

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

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

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

(5) A determination by the department that:

(A) the applicant; **or**

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

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

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

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

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

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

(A) the licensee; **or**

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

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

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

(A) A felony.
(B) A misdemeanor related to the health or safety of a child.
(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).
(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

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

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

(5) A determination by the department that:

(A) the licensee; **or**

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

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

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

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

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

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

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

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

(d) If a juvenile court:

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

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

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

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

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

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

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

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

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

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

(c) If a juvenile court:

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

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

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

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

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

SECTION 44. IC 31-30-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Subject to subsection (b), a court having jurisdiction under IC 31-14 of a child custody proceeding in a paternity proceeding has concurrent original jurisdiction with another juvenile court for the purpose of modifying custody of a child who is under the jurisdiction of the other juvenile court because:

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

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

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

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

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

(c) If a juvenile court:

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

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

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

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

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

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

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

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

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

(1) a hospital;

(2) a community mental health center;

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

(4) a referring physician;

(5) a dentist;

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

(7) a school;

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

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

(10) a secure private facility; or

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

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

(1) the administrator of the hospital;

(2) the community mental health center;

(3) the managed care provider;

(4) the referring physician;

(5) the dentist; ~~or~~

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

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

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

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

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

(1) The name of the alleged victim of child abuse or neglect.
(2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.
(3) Whether the ~~case~~ **assessment** is closed.
~~(4) Whether information concerning the case has been expunged.~~
~~(5) The name of any agency to which the alleged victim has been referred.~~
~~(6)~~ **(4)** Whether the department has made an assessment of the case and has not taken any further action.
~~(7) Whether a substantiated case of child abuse or neglect was informally adjusted.~~
~~(8) Whether the alleged victim was referred to the juvenile court as a child in need of services.~~
~~(9) Whether the alleged victim was returned to the victim's home.~~
~~(10) Whether the alleged victim was placed in residential care outside the victim's home.~~
~~(11) Whether a wardship was established for the alleged victim.~~
~~(12) Whether criminal action is pending or has been brought against the alleged perpetrator.~~
~~(13) A brief description of any casework plan that has been developed by the department.~~
~~(14)~~ **(5)** The caseworker's name and telephone number.
~~(15)~~ **(6)** The date the report is prepared.
~~(16)~~ **(7)** Other information that the department may prescribe.

~~(f)~~ **(e)** A report made under this section:

(1) is confidential; and
(2) may be made available only to:
(A) the agencies named in this section; and
(B) the persons and agencies listed in IC 31-33-18-2.

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

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

(4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The assessment may include the following:

(1) A visit to the child's home.

(2) An interview with the subject child.

(3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or

(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

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

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

(e) If the court finds that:

(1) a custodial parent, a guardian, or a custodian has been informed of the hearing on a petition described under subsection (d); and

(2) the department has made reasonable and unsuccessful efforts to obtain the consent of the custodial parent, guardian, or custodian to interview the child;

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

present.

SECTION 45. IC 31-33-18-1.5, AS AMENDED BY P.L.182-2009(ss), SECTION 379, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) This section applies to records held by:

~~(1) the division of family resources;~~

~~(2)~~ **(1)** a county office;

~~(3)~~ **(2)** the department;

~~(4)~~ **(3)** a local child fatality review team established under IC 31-33-24;

~~(5)~~ **(4)** the statewide child fatality review committee established under IC 31-33-25; or

~~(6)~~ **(5)** the department of child services ombudsman established by IC 4-13-19-3;

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

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

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

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

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

~~(c)~~ **(d)** As used in this section:

(1) "case" means:

(A) any intake report generated by the department;

(B) any investigation or assessment conducted by the department; or

(C) ongoing involvement between the department and a child or family that is the result of:

(i) a program of informal adjustment; or

(ii) a child in need of services action;

for which related records and documents have not been expunged as required by law or by a court at the time the department is notified of a fatality or near fatality;

(2) "contact" means in person communication about a case in which:

(A) the child who is the victim of a fatality or near fatality is alleged to be a victim; or

(B) the perpetrator of the fatality or near fatality is alleged to be the perpetrator;

~~(1)~~ **(3)** "identifying information" means information that identifies an individual, including an individual's:

(A) name, address, date of birth, occupation, place of employment, and telephone number;

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(D) unique electronic identification number, address, or routing code;

(E) telecommunication identifying information; or

(F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and

~~(2)~~ **(4)** "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

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

~~(e)~~ **(f)** When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

~~(f)~~ **(g)** Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information described in subsection ~~(c)(1)(B)~~ **(d)(3)(B)** through ~~(c)(1)(F)~~ **(d)(3)(F)** of a person; and

(2) all identifying information of a child less than eighteen (18) years of age.

~~(g)~~ **(h)** The court shall disclose the record redacted in accordance with subsection ~~(f)~~ **(g)** to any person who requests the record, if the person has paid:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 46. IC 31-33-26-5, AS AMENDED BY P.L.182-2009(ss), SECTION 383, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. ~~(a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.~~

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

~~(1) The index must be accessed only by the entry of an operator~~

~~identification number and a password.~~

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

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

~~(B) other cases or investigations that involve:~~

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

~~(ii) a child;~~

~~who is the subject of a case described in clause (A).~~

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

~~(A) Cases assigned to the supervisor.~~

~~(B) Cases assigned to a caseworker who reports to the supervisor.~~

~~(C) Other cases or investigations that involve:~~

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

~~(ii) a child;~~

~~who is the subject of a case described in clause (A) or (B).~~

~~(D) Cases that are unassigned.~~

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

~~(A) a state employee; or~~

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

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

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

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

~~(B) the administrator's level of access as determined by the department.~~

~~(6) Ancillary programs that may be designed for the index may not be executed in a manner that would circumvent the index's log-on security measures.~~

~~(7) Certain index functions must be accessible only to index operators with specified levels of authorization as determined by the department.~~

~~(8) Files containing passwords must be encrypted.~~

~~(9) There must be two (2) additional levels of security for confidentiality as determined by the department.~~

~~(10)~~

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

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

~~(A)~~ **(1)** children who are the subject of complaints filed with; or

~~(B)~~ **(2)** cases being investigated by;

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

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

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

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

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

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

(f) The administrative hearing shall be closed.

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

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

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

(2) de facto custodian; or

(3) stepparent;

before considering any other out-of-home placement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the child.

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

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

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

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

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

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

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

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

(1) the department or caseworker is considering only an

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

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

(B) is licensed by the state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Any other person who:

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

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

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

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

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

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

(1) certified mail; or

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

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

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

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

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

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

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

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

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

(i) is likely to continue indefinitely;

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

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

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

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

the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the child's testifying in the courtroom and the court finds that it is more likely than not that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

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

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

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

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

listed in IC 31-27-4-13.

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

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

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

(B) is licensed by the state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the court.

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

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

Renumber all SECTIONS consecutively.

(Reference is to EHB 1107 as printed April 1, 2011.)

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Senator LAWSON C