



Reprinted  
February 16, 2011

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## SENATE BILL No. 465

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DIGEST OF SB 465 (Updated February 15, 2011 3:59 pm - DI 106)

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

**Synopsis:** Department of child services. Makes changes to the laws concerning: (1) guardianship of a minor; (2) regulation of child caring institutions, foster family homes, including therapeutic and special needs foster family homes, group homes, and child placing agencies; (3) adoption; (4) incentive payments to counties for enforcing and collecting child support; (5) juvenile court jurisdiction; (6) child abuse and neglect reporting and investigation; (7) the child protection index; (8) placement of a child in need of services; (9) notification requirements regarding proceedings on motions for child testimony by closed circuit television; and (10) placement of a child that is a delinquent child. Provides that a county domestic violence fatality review team shall review cases in which a person who committed suicide was a victim of an act of domestic violence. Permits a court to require a noncustodial parent who has been convicted of certain crimes of domestic violence to require the parent to attend a batterer's intervention program certified by the Indiana coalition against domestic violence as a condition of receiving unsupervised visitation time. Requires that a batterer's intervention program to which a court may order a person to attend must be certified by the Indiana coalition against domestic violence.

**Effective:** July 1, 2011.

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

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January 13, 2011, read first time and referred to Committee on Judiciary.  
February 14, 2011, amended, reported favorably — Do Pass.  
February 15, 2011, read second time, amended, ordered engrossed.

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SB 465—LS 7221/DI 110+



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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 465

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

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

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



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

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

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

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

17 (2) The nature of the incapacity.

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

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

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

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

30 (A) the proposed guardian; or

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

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

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

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

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(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.

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

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

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

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

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

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

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

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

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

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

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

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

33 (c) **If:**

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

38 (2) **the minor:**

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

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

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

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

4 (1) if:

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

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

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

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

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

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

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

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

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

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

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

27 (D) the best interests of the child.

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

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

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

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

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

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1 and IC 31-37, currently residing in a location designated by  
 2 the department of child services or by a juvenile court as the  
 3 out-of-home placement for a child at the time the child will  
 4 reside in the location; or  
 5 (ii) for purposes of IC 31-27-4-5, a resident of the applicant's  
 6 household who is at least fourteen (14) years of age; and  
 7 ~~(B)~~ **(A) the state police department to conduct a:**  
 8 (i) fingerprint based criminal history background check of  
 9 both national and state records data bases concerning a  
 10 person who is at least eighteen (18) years of age in  
 11 accordance with IC 10-13-3-27 and IC 10-13-3-39; or  
 12 (ii) national name based criminal history record check (as  
 13 defined in IC 10-13-3-12.5) of a person who is at least  
 14 eighteen (18) years of age as described in clause (A) as  
 15 provided by IC 10-13-3-27.5; or  
 16 **(B) if an individual has:**  
 17 (i) a physical disability that prevents fingerprinting and  
 18 a person approved by the department who is trained to  
 19 take fingerprints or a qualified medical practitioner (as  
 20 defined in IC 10-13-3-16.5) verifies that the individual  
 21 has a disabling condition that prevents fingerprinting; or  
 22 (ii) low quality fingerprints, as a result of age,  
 23 occupation, or otherwise, that prevent fingerprint results  
 24 from being obtained and the individual's fingerprints  
 25 have been rejected the required number of times by  
 26 automated fingerprint classification equipment or  
 27 rejected by a person designated by the department to  
 28 examine and classify fingerprints;  
 29 the state police department to conduct a national name  
 30 based criminal history record check (as defined in  
 31 IC 10-13-3-12.5) or request the state police department to  
 32 release or allow inspection of a limited criminal history (as  
 33 defined in IC 10-13-3-11) and the state police in every state  
 34 the individual has resided in the past five (5) years to  
 35 release or allow inspection of the state's criminal history;  
 36 (2) collect each substantiated report of child abuse or neglect  
 37 reported in a jurisdiction where a probation officer, a caseworker,  
 38 or the department of child services has reason to believe that a  
 39 person described in subdivision ~~(1)(A)~~; who is fourteen (14)  
 40 years of age or older, or a person for whom a fingerprint based  
 41 criminal history background check is required under IC 31,  
 42 resided within the previous five (5) years; and

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

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

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

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

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

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

7 SECTION 8. IC 31-9-2-100.5 IS ADDED TO THE INDIANA  
 8 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2011]: **Sec. 100.5. "Qualified medical**  
 10 **practitioner"**, for purposes of IC 31-9-2 means the following:

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

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

- 21 (1) that provides care to:
  - 22 (A) a child; or
  - 23 (B) an individual at least eighteen (18) but less than
  - 24 twenty-one (21) years of age receiving foster care for older
  - 25 youth under IC 31-28-5.7-1;
  - 26 who is ~~seriously emotionally disturbed or developmentally~~
  - 27 ~~disabled;~~ **has serious emotional disturbances, significant**
  - 28 **behavioral health needs and functional impairments, or**
  - 29 **developmental or physical disabilities;**
  - 30 (2) in which the child or individual receives treatment in a family
  - 31 home through an integrated array of services supervised and
  - 32 supported by qualified program staff from:
    - 33 (A) ~~the office of the secretary of family and social services;~~
    - 34 **department of child services;**
    - 35 (B) a managed care provider that contracts with the division of
    - 36 mental health and addiction; or
    - 37 (C) a licensed child placing agency; and
    - 38 (3) that meets the additional requirements of IC 31-27-4-2.

39 SECTION 10. IC 31-14-14-5, AS AMENDED BY P.L.68-2005,  
 40 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2011]: **Sec. 5. (a)** This section applies if a court finds that a  
 42 noncustodial parent has been convicted of a crime involving domestic

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1 or family violence that was witnessed or heard by the noncustodial  
2 parent's child.

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

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

9 (2) until the child becomes emancipated;  
10 whichever occurs first.

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

15 SECTION 11. IC 31-17-2-8.3, AS AMENDED BY P.L.68-2005,  
16 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2011]: Sec. 8.3. (a) This section applies if a court finds that a  
18 noncustodial parent has been convicted of a crime involving domestic  
19 or family violence that was witnessed or heard by the noncustodial  
20 parent's child.

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

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

27 (2) until the child becomes emancipated;  
28 whichever occurs first.

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

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

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

41 ~~(2) the department.~~

42 SECTION 13. IC 31-19-8-6, AS AMENDED BY P.L.131-2009,

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1 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2011]: Sec. 6. (a) The report required by section 5 of this  
 3 chapter must, to the extent possible, include the following:  
 4 (1) The former environment and antecedents of the child.  
 5 (2) The fitness of the child for adoption.  
 6 (3) The suitability of the proposed home for the child.  
 7 (b) The report may not contain any of the following:  
 8 (1) Information concerning the financial condition of the  
 9 **prospective** adoptive parents.  
 10 (2) A recommendation that a request for a subsidy be denied in  
 11 whole or in part due to the financial condition of the **prospective**  
 12 adoptive parents.  
 13 (c) The criminal history information required under IC 31-19-2-7.5  
 14 must accompany the report.  
 15 SECTION 14. IC 31-19-9-2, AS AMENDED BY P.L.21-2010,  
 16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2011]: Sec. 2. (a) The consent to adoption may be executed at  
 18 any time after the birth of the child, either in the presence of:  
 19 (1) the court;  
 20 (2) a notary public or other person authorized to take  
 21 acknowledgments; or  
 22 (3) an authorized agent of:  
 23 (A) the department;  
 24 (B) a county office of family and children; or  
 25 (C) a licensed child placing agency.  
 26 (b) The child's mother may not execute a consent to adoption before  
 27 the birth of the child.  
 28 (c) The child's father may execute a consent to adoption before the  
 29 birth of the child if the consent to adoption:  
 30 (1) is in writing;  
 31 (2) is signed by the child's father in the presence of a notary  
 32 public; and  
 33 (3) contains an acknowledgment that:  
 34 (A) the consent to adoption is irrevocable; and  
 35 (B) the child's father will not receive notice of the adoption  
 36 proceedings.  
 37 (d) A child's father who consents to the adoption of the child under  
 38 subsection (c) may not challenge or contest the child's adoption.  
 39 (e) **Except as provided in subsection (f) or (g)**, a person who  
 40 executes a written consent to the adoption of a child may not execute  
 41 a second or subsequent written consent to have another person adopt  
 42 the child unless one (1) or more of the following apply:

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- 1 (1) Each original petitioner provides a written statement that the
- 2 petitioner is not adopting the child.
- 3 (2) The person consenting to the adoption has been permitted to
- 4 withdraw the first consent to adoption under IC 31-19-10.
- 5 (3) The court dismisses the petition for adoption filed by the
- 6 original petitioner or petitioners for adoption based upon a
- 7 showing, by clear and convincing evidence, that it is not in the
- 8 best interests of the child that the petition for adoption be granted.
- 9 (4) The court denies the petition to adopt the child filed by the
- 10 original petitioner or petitioners for adoption.

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

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

- 17 **(1) the court with jurisdiction over the child in need of**  
 18 **services determines that adoption by the person to whom**  
 19 **consents were originally signed is not in the child's best**  
 20 **interest; or**
- 21 **(2) if the child's placement with the person who has petitioned**  
 22 **or intends to petition to adopt the child is disrupted.**

23 SECTION 15. IC 31-19-11-1, AS AMENDED BY P.L.21-2010,  
 24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2011]: Sec. 1. (a) Whenever the court has heard the evidence  
 26 and finds that:

- 27 (1) the adoption requested is in the best interest of the child;
- 28 (2) the petitioner or petitioners for adoption are of sufficient
- 29 ability to rear the child and furnish suitable support and
- 30 education;
- 31 (3) the report of the investigation and recommendation under
- 32 IC 31-19-8-5 has been filed;
- 33 (4) the attorney or agency arranging an adoption has filed with the
- 34 court an affidavit prepared by the state department of health under
- 35 IC 31-19-5-16 indicating whether a man is entitled to notice of the
- 36 adoption because the man has registered with the putative father
- 37 registry in accordance with IC 31-19-5;
- 38 (5) proper notice arising under subdivision (4), if notice is
- 39 necessary, of the adoption has been given;
- 40 (6) the attorney or agency has filed with the court an affidavit
- 41 prepared by the state department of health under:
- 42 (A) IC 31-19-6 indicating whether a record of a paternity

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

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

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

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

- 30 (1) Murder (IC 35-42-1-1).
- 31 (2) Causing suicide (IC 35-42-1-2).
- 32 (3) Assisting suicide (IC 35-42-1-2.5).
- 33 (4) Voluntary manslaughter (IC 35-42-1-3).
- 34 (5) Reckless homicide (IC 35-42-1-5).
- 35 (6) Battery as a felony (IC 35-42-2-1).
- 36 (7) Domestic battery (IC 35-42-2-1.3).
- 37 (8) Aggravated battery (IC 35-42-2-1.5).
- 38 (9) Kidnapping (IC 35-42-3-2).
- 39 (10) Criminal confinement (IC 35-42-3-3).
- 40 (11) A felony sex offense under IC 35-42-4.
- 41 (12) Carjacking (IC 35-42-5-2).
- 42 (13) Arson (IC 35-43-1-1).

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

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

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

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

- 31 (1) the **prospective** adoptive parents:
  - 32 (A) at the time the home study or evaluation concerning the
  - 33 suitability of the proposed home for the child is commenced;
  - 34 (B) as soon as practical after the **prospective** adoptive parents
  - 35 are matched with the birth mother; or
  - 36 (C) with the consent of the **prospective** adoptive parents, not
  - 37 more than thirty (30) days after the child is placed with the
  - 38 **prospective** adoptive parents; and
- 39 (2) upon request and without information that would identify the
- 40 birth parents unless an adoptee already knows the identity of the
- 41 birth parents, an adoptee who:
  - 42 (A) is at least twenty-one (21) years of age; and

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(B) provides proof of identification.  
SECTION 17. 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 18. 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 19. 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:

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1 (1) Twenty-two and two-tenths percent (22.2%) of the incentive  
2 payments shall be distributed to ~~the county general fund.~~ **the Title**  
3 **IV-D incentive fund established in accordance with section**  
4 **23.5 of this chapter by each county that receives payments**  
5 **under this subdivision.**

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

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

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

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

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

25 SECTION 20. IC 31-25-4-23.5 IS ADDED TO THE INDIANA  
26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2011]: **Sec. 23.5. (a) Each county that**  
28 **receives payments under section 23(a)(1) of this chapter shall**  
29 **establish a Title IV-D incentive fund.**

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

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

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

35 SECTION 21. IC 31-27-2-4, AS AMENDED BY P.L.131-2009,  
36 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2011]: Sec. 4. (a) The department shall adopt rules under  
38 IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning  
39 the licensing and inspection of child caring institutions, foster family  
40 homes, group homes, and child placing agencies after consultation with  
41 the following:

42 (1) State department of health.

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- 1 (2) Fire prevention and building safety commission.
- 2 (b) The rules adopted under subsection (a) shall be applied by the
- 3 department and state fire marshal in the licensing and inspection of
- 4 applicants for a license and licensees under this article.
- 5 (c) The rules adopted under IC 4-22-2 must establish minimum
- 6 standards for the care and treatment of children in a secure private
- 7 facility.
- 8 (d) The rules described in subsection (c) must include standards
- 9 governing the following:
- 10 (1) Admission criteria.
- 11 (2) General physical and environmental conditions.
- 12 (3) Services and programs to be provided to confined children.
- 13 (4) Procedures for ongoing monitoring and discharge planning.
- 14 (5) Procedures for the care and control of confined persons that
- 15 are necessary to ensure the health, safety, and treatment of
- 16 confined children.
- 17 (e) The department shall license a facility as a ~~private~~ secure
- 18 **private** facility if the facility:
- 19 (1) meets the minimum standards required under subsection (c);
- 20 (2) provides a continuum of care and services; and
- 21 (3) is:
- 22 (A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or
- 23 (B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;
- 24 regardless of the facility's duration of or previous licensure as a child
- 25 caring institution.
- 26 (f) A waiver of the rules may not be granted for treatment and
- 27 reporting requirements.
- 28 SECTION 22. IC 31-27-3-3, AS AMENDED BY P.L.138-2007,
- 29 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2011]: Sec. 3. (a) An applicant must apply for a child caring
- 31 institution license on forms provided by the department.
- 32 (b) An applicant must submit the required information as part of the
- 33 application.
- 34 (c) The applicant must submit with the application a statement
- 35 attesting the following:
- 36 (1) That the applicant has not been convicted of:
- 37 (A) a felony; or
- 38 (B) a misdemeanor relating to the health and safety of
- 39 children.
- 40 (2) That the applicant has not been charged with:
- 41 (A) a felony; or
- 42 (B) a misdemeanor relating to the health and safety of

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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 that, if committed by an adult, would be a felony listed in IC 31-27-4-13(a)**;
- (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

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

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

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

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

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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 23. 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.

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

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

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

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

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

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

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

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

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

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

36           SECTION 24. IC 31-27-3-31, AS AMENDED BY P.L.138-2007,  
37           SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38           JULY 1, 2011]: Sec. 31. (a) The following constitute sufficient grounds  
39           for revocation of a license:

- 40           (1) A determination by the department of child abuse or neglect  
41           by:  
42           (A) the licensee; **or**

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

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

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

- 8           (1) The length of time that has passed since the disqualifying  
 9           conviction.  
 10          (2) The severity, nature, and circumstances of the offense.  
 11          (3) Evidence of rehabilitation.  
 12          (4) The duties and qualifications required for the proposed  
 13          employment positions or volunteer assignment.

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

- 15          (1) a license could be revoked due to a criminal conviction of, or  
 16          a determination of child abuse or neglect by, an employee or a  
 17          volunteer of the licensee; and  
 18          (2) the department determines that the employee or volunteer has  
 19          been dismissed by the licensee within a reasonable time after the  
 20          licensee became aware of the conviction or determination;

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

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

25          SECTION 25. IC 31-27-4-2, AS AMENDED BY P.L.131-2009,  
 26          SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27          JULY 1, 2011]: Sec. 2. (a) A person may not operate a therapeutic  
 28          foster family home without a license issued under this article.

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

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

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

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

- 38          (1) Be licensed as a foster parent under **this chapter and 465**  
 39          **IAC 2-1-1 et seq.**  
 40          (2) Participate in preservice training that includes:  
 41                  (A) preservice training to be licensed as a foster parent under  
 42                  465 IAC 2-1-1 et seq.; and

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- 1 (B) additional preservice training in therapeutic foster care.
- 2 (e) A person who is issued a license to operate a therapeutic foster  
3 family home shall, within one (1) year after meeting the training  
4 requirements of subsection (d)(2) and, annually thereafter, participate  
5 in training that includes:
- 6 (1) training as required in order to be licensed as a foster parent  
7 under 465 IAC 2-1-1 et seq.; and  
8 (2) additional training in order to be licensed as a therapeutic  
9 foster parent under this chapter.
- 10 (f) An operator of a therapeutic foster family home may not provide  
11 supervision and care in a therapeutic foster family home to more than  
12 ~~two (2)~~ **four (4)** children at the same time, ~~not~~ including the  
13 children for whom the applicant or operator is a parent, stepparent,  
14 guardian, custodian, or other relative, **and only two (2) of the children**  
15 **may be foster children.** The department may grant an exception to this  
16 subsection whenever the placement of siblings in the same therapeutic  
17 foster family home is desirable, ~~or in the best interests of the foster~~  
18 ~~children residing in the home.~~ **the foster child has an established,**  
19 **meaningful relationship with the therapeutic foster parent, or it is**  
20 **otherwise in the foster child's best interests.**
- 21 (g) ~~An operator of a therapeutic foster family home that has a~~  
22 ~~therapeutic foster child placed with the therapeutic foster family~~  
23 ~~home may not accept a placement of a child who is not a~~  
24 ~~therapeutic foster child unless the child who is not a therapeutic~~  
25 ~~foster child is a sibling of the therapeutic foster child who is placed~~  
26 ~~with the therapeutic foster family home unless it is in the best~~  
27 ~~interests of the child being placed.~~  
28 **(h)** A therapeutic foster family home may provide care for an  
29 individual receiving foster care for older youth under IC 31-28-5.7-1  
30 if the individual is no longer under the care and supervision of a  
31 juvenile court.
- 32 ~~(h)~~ **(i)** An individual who receives foster care for older youth under  
33 IC 31-28-5.7-1 in a therapeutic foster family home shall not be  
34 considered in determining whether the therapeutic foster family home  
35 meets or exceeds the limit set forth in subsection (f).
- 36 ~~(i)~~ **(j)** The department shall adopt rules under IC 4-22-2, including  
37 emergency rules under IC 4-22-2-37.1, necessary to carry out this  
38 section, including rules governing the number of hours of training  
39 required under subsections (d) and (e).
- 40 **(k)** ~~If a therapeutic foster family home does not meet the~~  
41 ~~requirements under subsections (f) or (g) on July 1, 2011, any~~  
42 ~~foster child placed in the home prior to July 1, 2011, may remain~~

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1 **placed. However, a new placement of a child may not be made in**  
 2 **violation of this section.**

3 SECTION 26. IC 31-27-4-3, AS AMENDED BY P.L.131-2009,  
 4 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2011]: Sec. 3. (a) A person may not operate a special needs  
 6 foster family home without a license issued under this article.

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

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

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

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

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

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

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

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

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

42 (g) An individual who receives foster care for older youth under

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1 IC 31-28-5.7-1 in a special needs foster family home shall not be  
2 considered in determining whether the special needs foster family  
3 home meets or exceeds the limit set forth in subsection (f)(1).

4 (h) The department shall consider the specific needs of each special  
5 needs foster child or individual whenever the department determines  
6 the appropriate number of children or individuals to place in the special  
7 needs foster home under subsection (f). The department may require a  
8 special needs foster family home to provide care and supervision to less  
9 than the maximum number of children or individuals allowed under  
10 subsection (f) upon consideration of the specific needs of a special  
11 needs foster child or individual.

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

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

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

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

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

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

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

34 (A) a felony; or

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

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

38 (A) a felony; or

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

41 during the pendency of the application.

42 (d) An applicant shall submit the necessary information, forms, or

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1 consents for the department to conduct a criminal history check for  
2 each individual who is an applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (i) With the exception of a fingerprint based criminal history  
40 background check under IC 31-9-2-22.5(1)(B) for a person described  
41 in subsection (e)(1), a criminal history check concerning a person  
42 described in subsection (e) must be completed on or before the date on

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

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

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

38 (k) The department shall, at the applicant's request, inform the  
 39 applicant whether the department has or does not have a record of the  
 40 person who is the subject of a criminal history background check and  
 41 if the department has identified the person as an alleged perpetrator of  
 42 abuse or neglect. The department may not provide to the applicant any

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1 details or personally identifying information contained in any child  
2 protective investigation report.

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

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

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

13 (A) the applicant;

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

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

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

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

23 (A) a felony;

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

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

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

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

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

34 (5) A determination by the department that:

35 (A) the applicant; ~~or~~

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

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

41 previously operated a

42 ~~(A)~~ child care center or child care home without a license

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1 under IC 12-17.2-5 or  
 2 ~~(B)~~ a foster family home without a license under this chapter  
 3 (or IC 12-17.4-4 before its repeal).

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

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

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

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

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

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

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

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

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

30 (3) Evidence of rehabilitation.

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

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

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

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

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

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

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

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

- 10 (1) ~~eight (8)~~ **five (5)** individuals, each of whom:
    - 11 (A) is less than eighteen (18) years of age; or
    - 12 (B) is at least eighteen (18) years of age and is receiving care  
13 and supervision under an order of a juvenile court; or
    - 14 (2) four (4) individuals less than six (6) years of age;
- 15 including the children or individuals for whom the provider is a parent,  
16 stepparent, guardian, custodian, or other relative, receive care and  
17 supervision at the facility at the same time.

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

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

- 22 (1) the placement of siblings in the same foster family home is  
23 desirable;
- 24 (2) **a foster child has an established, meaningful relationship  
25 with the foster parents; or**
- 26 (3) **it is otherwise in the foster child's best interests.**

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

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

35 SECTION 30. IC 31-27-4-13, AS AMENDED BY P.L.138-2007,  
36 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2011]: Sec. 13. (a) The department shall deny a license when  
38 an applicant fails to meet the requirements for a license. The  
39 department shall deny a license to an applicant who has been convicted  
40 of any of the following felonies:

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

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- 1 (3) Assisting suicide (IC 35-42-1-2.5).
- 2 (4) Voluntary manslaughter (IC 35-42-1-3).
- 3 (5) Reckless homicide (IC 35-42-1-5).
- 4 (6) Battery (IC 35-42-2-1) **within the past five (5) years.**
- 5 (7) Domestic battery (IC 35-42-2-1.3).
- 6 (8) Aggravated battery (IC 35-42-2-1.5).
- 7 (9) Kidnapping (IC 35-42-3-2).
- 8 (10) Criminal confinement (IC 35-42-3-3) **within the past five**
- 9 **(5) years.**
- 10 (11) A felony sex offense under IC 35-42-4.
- 11 (12) Carjacking (IC 35-42-5-2) **within the past five (5) years.**
- 12 (13) Arson (IC 35-43-1-1) **within the past five (5) years.**
- 13 (14) Incest (IC 35-46-1-3).
- 14 (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and
- 15 IC 35-46-1-4(a)(2)).
- 16 (16) Child selling (IC 35-46-1-4(d)).
- 17 (17) A felony involving a weapon under IC 35-47 or IC 35-47.5
- 18 **within the past five (5) years.**
- 19 (18) A felony relating to controlled substances under IC 35-48-4
- 20 **within the past five (5) years.**
- 21 (19) An offense relating to material or a performance that is
- 22 harmful to minors or obscene under IC 35-49-3.
- 23 (20) A felony that is substantially equivalent to a felony listed in
- 24 subdivisions (1) through (19) for which the conviction was
- 25 entered in another state.
- 26 **(b)** The department may deny a license to an applicant who:
- 27 **(1)** has been convicted of a felony that is not listed in ~~this~~
- 28 subsection **(a)**; **or**
- 29 **(2)** **has had a juvenile adjudication for an act that, if**
- 30 **committed by an adult, would be a felony that is listed in**
- 31 **subsection (a).**
- 32 ~~(b)~~ **(c)** The department shall send written notice by certified mail
- 33 that the application has been denied and give the reasons for the denial.
- 34 ~~(c)~~ **(d)** An administrative hearing concerning the denial of a license
- 35 shall be provided upon written request by the applicant. The request
- 36 must be made not more than thirty (30) days after receiving the written
- 37 notice under subsection ~~(b)~~: **(c)**.
- 38 ~~(d)~~ **(e)** An administrative hearing shall be held not more than sixty
- 39 (60) days after receiving a written request.
- 40 ~~(e)~~ **(f)** An administrative hearing shall be held in accordance with
- 41 IC 4-21.5-3.
- 42 ~~(f)~~ **(g)** The department shall issue a decision not more than sixty

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1 (60) days after the conclusion of a hearing.

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

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

8 (A) the licensee;

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

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

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

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

18 (A) A felony.

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

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

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

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

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

28 (5) A determination by the department that:

29 (A) the licensee;

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

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

35 previously operated a

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

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

40 **(6) A juvenile adjudication of the licensee for an act that, if**  
41 **committed by an adult, would be a felony listed in section**  
42 **13(a) of this chapter.**

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

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

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

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

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

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

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

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

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

25 (3) Evidence of rehabilitation.

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

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

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

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

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

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

42 SECTION 32. IC 31-27-4-33, AS ADDED BY P.L.146-2006,

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

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

16 SECTION 33. IC 31-27-5-4, AS AMENDED BY P.L.138-2007,  
17 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2011]: Sec. 4. (a) An applicant must apply for a group home  
19 license on forms provided by the department.

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

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

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

25 (A) a felony; or

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

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

29 (A) a felony; or

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

32 during the pendency of the application.

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

36 (1) Each individual who is an applicant.

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

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

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

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

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

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

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

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

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

- 40 (1) A determination by the department of child abuse or neglect  
 41 by:  
 42 (A) the applicant; **or**

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

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

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

- 8           (1) The length of time that has passed since the disqualifying  
9           conviction.
- 10          (2) The severity, nature, and circumstances of the offense.
- 11          (3) Evidence of rehabilitation.
- 12          (4) The duties and qualifications required for the proposed  
13          employment positions or volunteer assignment.

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

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

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

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

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

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

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

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

- 40           (A) A felony.
- 41           (B) A misdemeanor related to the health or safety of a child.
- 42           (C) A misdemeanor for operating a child caring institution,

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

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

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

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

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

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

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

32 SECTION 37. IC 31-27-6-3, AS AMENDED BY P.L.138-2007,  
 33 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2011]: Sec. 3. (a) The following constitute sufficient grounds  
 35 for denial of a license application:

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

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

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

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

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(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 31-27-6-28, 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

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

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1 volunteer of the licensee; and

2 (2) the department determines that the employee or volunteer has  
3 been dismissed by the licensee within a reasonable time after the  
4 licensee became aware of the conviction or determination;  
5 the criminal conviction of, or determination of child abuse or neglect  
6 by, the former employee or former volunteer does not constitute a  
7 sufficient basis for the revocation of a license.

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

9 SECTION 39. IC 31-30-1-6, AS AMENDED BY P.L.145-2006,  
10 SECTION 275, IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Subject to subsections (b) and  
12 (c), this article does not prohibit a probate court from exercising its  
13 jurisdiction over guardianship of a person who is less than eighteen  
14 (18) years of age.

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

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

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

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

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

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

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

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

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

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

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1 IC 31-14 in a paternity proceeding modifies child custody as provided  
2 by this section, the modification is effective only when the juvenile  
3 court with jurisdiction over the child in need of services proceeding or  
4 juvenile delinquency proceeding:

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

8 **(c) If a juvenile court:**  
 9 **(1) establishes or modifies paternity of a child; and**  
 10 **(2) terminates a child in need of services proceeding or a**  
 11 **juvenile delinquency proceeding regarding the child;**  
 12 **the court having concurrent original jurisdiction under subsection**  
 13 **(a) shall assume or reassume primary jurisdiction of the case to**  
 14 **address all other issues.**

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

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

- 22 ~~(1) shall provide diagnostic and prognostic services for the~~  
 23 ~~department or the juvenile court; and~~
- 24 ~~(2) may recommend to the department that a petition be filed in~~  
 25 ~~the juvenile court on behalf of the subject child if the team~~  
 26 ~~believes this would best serve the interests of the child.~~

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

- 31 (1) a hospital;
- 32 (2) a community mental health center;
- 33 (3) a managed care provider (as defined in IC 12-7-2-127(b));
- 34 (4) a referring physician;
- 35 (5) a dentist;
- 36 (6) a licensed psychologist; ~~or~~
- 37 (7) a school;
- 38 **(8) a child caring institution licensed under IC 31-27;**
- 39 **(9) a group home licensed under IC 31-27 or IC 12-28-4;**
- 40 **(10) a secure private facility; or**
- 41 **(11) a child placing agency (as defined in IC 31-9-2-17.5).**
- 42 (b) Not later than thirty (30) days after the date the department

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1 ~~receives~~ **initiates an assessment or investigation of** a report of  
 2 suspected child abuse or neglect from a person described in subsection

3 (a), the department shall send a report to:

- 4 (1) the administrator of the hospital;  
 5 (2) the community mental health center;  
 6 (3) the managed care provider;  
 7 (4) the referring physician;  
 8 (5) the dentist; ~~or~~  
 9 (6) the principal of the school;  
 10 **(7) a licensed psychologist;**  
 11 **(8) a child caring institution licensed under IC 31-27;**  
 12 **(9) a group home licensed under IC 31-27 or IC 12-28-4;**  
 13 **(10) a secure private facility; or**  
 14 **(11) a child placing agency (as defined in IC 31-9-2-17.5).**

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

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

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

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

- 26 (1) The name of the alleged victim of child abuse or neglect.  
 27 (2) The name of the alleged perpetrator and the alleged  
 28 perpetrator's relationship to the alleged victim.  
 29 (3) Whether the ~~case~~ **assessment** is closed.  
 30 ~~(4) Whether information concerning the case has been expunged.~~  
 31 ~~(5) The name of any agency to which the alleged victim has been~~  
 32 ~~referred.~~  
 33 ~~(6)~~ (4) Whether the department has made an assessment of the  
 34 case and has not taken any further action.  
 35 ~~(7) Whether a substantiated case of child abuse or neglect was~~  
 36 ~~informally adjusted.~~  
 37 ~~(8) Whether the alleged victim was referred to the juvenile court~~  
 38 ~~as a child in need of services.~~  
 39 ~~(9) Whether the alleged victim was returned to the victim's home.~~  
 40 ~~(10) Whether the alleged victim was placed in residential care~~  
 41 ~~outside the victim's home.~~  
 42 ~~(11) Whether a wardship was established for the alleged victim.~~

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- 1           ~~(12)~~ Whether criminal action is pending or has been brought
- 2           against the alleged perpetrator.
- 3           ~~(13)~~ A brief description of any casework plan that has been
- 4           developed by the department.
- 5           ~~(14)~~ (5) The caseworker's name and telephone number.
- 6           ~~(15)~~ (6) The date the report is prepared.
- 7           ~~(16)~~ (7) Other information that the department may prescribe.
- 8           ~~(f)~~ (e) A report made under this section:
- 9               (1) is confidential; and
- 10              (2) may be made available only to:
- 11                  (A) the agencies named in this section; and
- 12                  (B) the persons and agencies listed in IC 31-33-18-2.
- 13           SECTION 44. IC 31-33-8-7, AS AMENDED BY P.L.131-2009,
- 14           SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15           JULY 1, 2011]: Sec. 7. (a) The department's assessment, to the extent
- 16           that is reasonably possible, must include the following:
- 17               (1) The nature, extent, and cause of the known or suspected child
- 18               abuse or neglect.
- 19               (2) The identity of the person allegedly responsible for the child
- 20               abuse or neglect.
- 21               (3) The names and conditions of other children in the home.
- 22               (4) An evaluation of the parent, guardian, custodian or person
- 23               responsible for the care of the child.
- 24               (5) The home environment and the relationship of the child to the
- 25               parent, guardian, or custodian or other persons responsible for the
- 26               child's care.
- 27               (6) All other data considered pertinent.
- 28           (b) The assessment may include the following:
- 29               (1) A visit to the child's home.
- 30               (2) An interview with the subject child.
- 31               (3) A physical, psychological, or psychiatric examination of any
- 32               child in the home.
- 33           (c) If:
- 34               (1) admission to the home, the school, or any other place that the
- 35               child may be; or
- 36               (2) permission of the parent, guardian, custodian, or other persons
- 37               responsible for the child for the physical, psychological, or
- 38               psychiatric examination;
- 39           under subsection (b) cannot be obtained, the juvenile court, upon good
- 40           cause shown, shall follow the procedures under IC 31-32-12.
- 41           **(d) If a custodial parent, a guardian, or a custodian of a child**
- 42           **refuses to allow the department to interview the child after the**

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1 **caseworker has attempted to obtain the consent of the custodial**  
2 **parent, guardian, or custodian to interview the child, the**  
3 **department may petition a court to order the custodial parent,**  
4 **guardian, or custodian to make the child available to be**  
5 **interviewed by the caseworker.**

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

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

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

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

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

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

23 ~~(2) (1) a county office;~~

24 ~~(3) (2) the department;~~

25 ~~(4) (3) a local child fatality review team established under~~  
26 ~~IC 31-33-24;~~

27 ~~(5) (4) the statewide child fatality review committee established~~  
28 ~~under IC 31-33-25; or~~

29 ~~(6) (5) the department of child services ombudsman established~~  
30 ~~by IC 4-13-19-3;~~

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

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

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

38 (2) a prosecuting attorney files:

39 (A) an indictment or information; or

40 (B) a complaint alleging the commission of a delinquent act;  
41 that, if proven, would cause a reasonable person to believe that  
42 the child's death or near fatality may have been the result of

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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;**

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1 (E) telecommunication identifying information; or  
 2 (F) telecommunication access device, including a card, a plate,  
 3 a code, an account number, a personal identification number,  
 4 an electronic serial number, a mobile identification number, or  
 5 another telecommunications service or device or means of  
 6 account access; and

7 ~~(2)~~ (4) "near fatality" has the meaning set forth in 42 U.S.C.  
 8 5106a.

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

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

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

- 23 (1) identifying information described in subsection ~~(c)(1)(B)~~  
 24 ~~(d)(3)(B)~~ through ~~(c)(1)(F)~~ ~~(d)(3)(F)~~ of a person; and
- 25 (2) all identifying information of a child less than eighteen (18)  
 26 years of age.

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

- 30 (1) to the entity having control of the record, the reasonable  
 31 expenses of copying under IC 5-14-3-8; and
- 32 (2) to the court, the reasonable expenses of copying the record.

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

- 35 (1) A summary of the report of abuse or neglect and a factual  
 36 description of the contents of the report.
- 37 (2) The date of birth and gender of the child.
- 38 (3) The cause of the fatality or near fatality, if the cause has been  
 39 determined.
- 40 (4) Whether the department or the office of the secretary of family  
 41 and social services had any contact with the child or a member of  
 42 the child's family or household the perpetrator before the fatality

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1 or near fatality, and, if the department ~~or the office of the~~  
 2 ~~secretary of family and social services~~ had contact, the following:

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

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

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

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

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

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

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

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

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

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

32 (B) other cases or investigations that involve:

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

34 (ii) a child;

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

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

37 (A) Cases assigned to the supervisor.

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

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

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

42 (ii) a child;

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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

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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

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1 each person who is currently residing in the location designated as the  
2 out-of-home placement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**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 that, if committed by an adult, would be a felony listed in IC 31-27-4-13(a); 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

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1 placement of a child in another home or awards wardship to the  
 2 department if the person has been convicted of a felony listed in  
 3 ~~IC 31-27-4-13~~ **IC 31-27-4-13(a)** that is not specifically excluded under  
 4 subdivision (1)(B). ~~or has a juvenile adjudication for an act that would~~  
 5 ~~be a felony listed in IC 31-27-4-13 if committed by an adult that is not~~  
 6 ~~specifically excluded under subdivision (1)(B).~~

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

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

15 SECTION 50. IC 31-34-21-5.8, AS AMENDED BY P.L.145-2006,  
 16 SECTION 321, IS AMENDED TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2011]: Sec. 5.8. (a) This section applies only if  
 18 a court has approved a permanency plan for a child under section  
 19 ~~7(b)(4)~~ **7(b)(5)** of this chapter.

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

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

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

- 34 (1) Whether reasonable efforts have been made to eliminate the  
 35 need for removal of the child from the child's home or to make it  
 36 possible for the child to safely return to the child's home.
- 37 (2) Whether the child is placed in close proximity to the home of  
 38 the child's parent, guardian, or custodian.

39 SECTION 51. IC 31-34-21-7.7 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.7. **(a)** If the juvenile  
 41 court approves a permanency plan under section 7 of this chapter that  
 42 provides for the appointment of a guardian for a child, the juvenile

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1 court may appoint a guardian of the person and administer a  
2 guardianship for the child under IC 29-3.

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

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

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

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

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

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

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

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

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

- 33 (1) The child's parent, guardian, or custodian.
- 34 (2) An attorney who has entered an appearance on behalf of the
- 35 child's parent, guardian, or custodian.
- 36 (3) A prospective adoptive parent named in a petition for adoption
- 37 of the child filed under IC 31-19-2 if:
  - 38 (A) each consent to adoption of the child that is required under
  - 39 IC 31-19-9-1 has been executed in the form and manner
  - 40 required by IC 31-19-9 and filed with the county office or the
  - 41 department;
  - 42 (B) the court having jurisdiction in the adoption case has

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1 determined under an applicable provision of IC 31-19-9 that  
 2 consent to adoption is not required from a parent, guardian, or  
 3 custodian; or  
 4 (C) a petition to terminate the parent-child relationship  
 5 between the child and any parent who has not executed a  
 6 written consent to adoption under IC 31-19-9-2, has been filed  
 7 under IC 31-35 and is pending.  
 8 (4) Any other person who:  
 9 (A) the department has knowledge is currently providing care  
 10 for the child; and  
 11 (B) is not required to be licensed under IC 12-17.2 or IC 31-27  
 12 to provide care for the child.  
 13 (5) Any other suitable relative or person who the department  
 14 knows has had a significant or caretaking relationship to the child.  
 15 (6) Any other party to the child in need of services proceeding.  
 16 (d) At least ten (10) days before a hearing on a petition or motion  
 17 under this chapter, the department shall provide notice of the hearing  
 18 to the child's foster parent by:  
 19 (1) certified mail; or  
 20 (2) face to face contact by the department caseworker.  
 21 (e) The court shall provide to a person described in subsection (c)  
 22 or (d) an opportunity to be heard and make recommendations to the  
 23 court at the hearing. The right to be heard and to make  
 24 recommendations under this subsection includes the right of a person  
 25 described in subsection (c) or (d) to submit a written statement to the  
 26 court that, if served upon all parties to the child in need of services  
 27 proceeding and the persons described in subsections (c) and (d), may  
 28 be made a part of the court record.  
 29 (f) The court shall continue the hearing if, at the time of the hearing,  
 30 the department has not provided the court with signed verification from  
 31 the foster parent, as obtained through subsection (d), that the foster  
 32 parent has been notified of the hearing at least five (5) business days  
 33 before the hearing. However, the court is not required to continue the  
 34 hearing if the child's foster parent appears for the hearing.  
 35 (g) A person described in subsection (c)(2) through ~~(c)(4)~~ **(c)(5)** or  
 36 subsection (d) does not become a party to a proceeding under this  
 37 chapter as the result of the person's right to notice and the opportunity  
 38 to be heard under this section.  
 39 (h) If the parent of an abandoned child does not disclose the parent's  
 40 name as allowed by IC 31-34-2.5-1(c), the parent is not required to be  
 41 notified of a hearing described in subsection (c).

42 SECTION 53. IC 31-35-5-4, AS AMENDED BY P.L.145-2006,

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1 SECTION 334, IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2011]: Sec. 4. The court may not make an order  
 3 under section 2 or 3 of this chapter unless:  
 4 (1) the testimony to be taken is the testimony of a child who at the  
 5 time of the trial is:  
 6 (A) less than fourteen (14) years of age; or  
 7 (B) at least fourteen (14) years of age but less than eighteen  
 8 (18) years of age and has a disability attributable to an  
 9 impairment of general intellectual functioning or adaptive  
 10 behavior that:  
 11 (i) is likely to continue indefinitely;  
 12 (ii) constitutes a substantial impairment of the child's ability  
 13 to function normally in society; and  
 14 (iii) reflects the child's need for a combination and sequence  
 15 of special, interdisciplinary, or generic care, treatment, or  
 16 other services that are of lifelong or extended duration and  
 17 are individually planned and coordinated; and  
 18 (C) found by the court to be a child who should be permitted  
 19 to testify outside the courtroom because:  
 20 (i) a psychiatrist, physician, or psychologist has certified that  
 21 the child's testifying in the courtroom creates a substantial  
 22 likelihood of emotional or mental harm to the child;  
 23 (ii) a physician has certified that the child cannot be present  
 24 in the courtroom for medical reasons; or  
 25 (iii) evidence has been introduced concerning the effect of  
 26 the child's testifying in the courtroom and the court finds  
 27 that it is more likely than not that the child's testifying in the  
 28 courtroom creates a substantial likelihood of emotional or  
 29 mental harm to the child;  
 30 (2) the prosecuting attorney or the attorney for the department has  
 31 informed the parties and their attorneys by written notice of the  
 32 intention to have the child testify outside the courtroom; and  
 33 (3) the prosecuting attorney or the attorney for the department  
 34 informed the parties and their attorneys under subdivision (2) at  
 35 least ~~twenty (20)~~ **seven (7)** days before the proceedings to give  
 36 the parties and their attorneys a fair opportunity to prepare a  
 37 response before the proceedings to the motion of the prosecuting  
 38 attorney or the motion of the attorney for the department to permit  
 39 the child to testify outside the courtroom.  
 40 SECTION 54. IC 31-37-19-6.5, AS AMENDED BY P.L.146-2008,  
 41 SECTION 652, IS AMENDED TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) Except as provided in

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1 subsection (d), the juvenile court may not enter a dispositional decree  
 2 approving placement of a child in another home under section 1(3) or  
 3 6(b)(2)(D) of this chapter or awarding wardship to a person or facility  
 4 that results in a placement with a person under section 1(4) or  
 5 6(b)(2)(E) of this chapter if a person who is currently residing in the  
 6 home in which the child would be placed under section 1(3), 1(4),  
 7 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting  
 8 in a substantiated report of child abuse or neglect, has a juvenile  
 9 adjudication for an act that would be a felony listed in IC 31-27-4-13  
 10 if committed by an adult, or has a conviction for a felony listed in  
 11 IC 31-27-4-13.

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

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

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

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

31 (B) is licensed by the state; or

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

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

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

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

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

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- 1 (i) ~~reckless homicide (IC 35-42-1-5);~~
- 2 (ii) (i) battery (IC 35-42-2-1) as a ~~Class C or D~~ felony;
- 3 (iii) (ii) criminal confinement (IC 35-42-3-3) as a ~~Class C or~~
- 4 ~~D~~ felony;
- 5 (iii) **carjacking (IC 35-42-5-2) as a felony;**
- 6 (iv) arson (IC 35-43-1-1) as a ~~Class C or D~~ felony;
- 7 (v) a felony involving a weapon under IC 35-47 or
- 8 IC 35-47.5; ~~as a Class C or D felony;~~
- 9 (vi) a felony relating to controlled substances under
- 10 IC 35-48-4; ~~as a Class C or D felony;~~ or
- 11 (vii) a felony that is substantially equivalent to a felony
- 12 listed in items (i) through (vi) for which the conviction was
- 13 entered in another state; ~~and~~

14 **if the conviction did not occur within the past five (5)**

15 **years; or**

16 **(C) had a juvenile adjudication for an act that, if**

17 **committed by an adult, would be a felony listed in**

18 **IC 31-27-4-13(a); and**

19 (2) ~~the court makes a written finding that the person's commission~~

20 ~~of the offense, delinquent act, or act of abuse or neglect described~~

21 ~~in subdivision (1) is not relevant to the person's present ability to~~

22 ~~care for a child, and that entry of a dispositional decree placing~~

23 ~~the child in another home is in the best interest of the child.~~

24 However, a court may not enter a dispositional decree placing a child

25 in another home under section 1(3) or 6(b)(2)(D) of this chapter or

26 awarding wardship to a person or facility under this subsection if a

27 person with whom the child is or will be placed has been convicted of

28 a felony listed in IC 31-27-4-13 that is not specifically excluded under

29 subdivision (1)(B). ~~or has a juvenile adjudication for an act that would~~

30 ~~be a felony listed in IC 31-27-4-13 if committed by an adult that is not~~

31 ~~specifically excluded under subdivision (1)(B).~~

32 (e) In making its written finding **considering the placement** under

33 subsection (d), the court shall consider the following:

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

40 SECTION 55. IC 35-40-7-2 IS AMENDED TO READ AS

41 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Upon request of a

42 victim, the office of the prosecuting attorney having jurisdiction or a

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1 law enforcement agency having custody of a person accused of a crime  
2 against the victim shall notify the victim of the scheduling of a bond  
3 hearing, the escape or death of a person accused of committing a crime  
4 against the victim, release of a person convicted of a crime against the  
5 victim to a work release program, or any other type of postarrest release  
6 of a person convicted of a crime **or charged with a crime** against the  
7 victim.

8 SECTION 56. IC 35-40-10-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A victim shall  
10 provide to and maintain with the agency that is responsible for  
11 providing notice to the victim a request for notice on a form that is  
12 provided by that agency. The form must include a telephone number,  
13 **electronic mail address**, and **mailing** address for the victim. If the  
14 victim fails to keep the victim's telephone number and address current,  
15 the agency may withdraw the victim's request for notice.

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

20 SECTION 57. IC 35-40-12-4 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section  
22 applies if the victim is an entity other than an individual.

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

26 SECTION 58. IC 35-50-9-1, AS ADDED BY P.L.94-2010,  
27 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2011]: Sec. 1. (a) At the time of sentencing for a person  
29 convicted of domestic battery under IC 35-42-2-1.3 or a crime that  
30 involved domestic abuse, neglect, or violence, the court may require  
31 the person to complete a batterer's intervention program approved by  
32 the court.

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

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

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## COMMITTEE REPORT

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

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

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

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

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

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

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

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

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

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

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

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

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

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

Page 10, delete line 39.

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

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

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

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

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

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

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

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

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

whichever occurs first.

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

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

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

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be supervised:

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

whichever occurs first.

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

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

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

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

- (1) the court with jurisdiction over the child in need of services determines that adoption by the person to whom consents were originally signed is not in the child's best interest; or**
- (2) if the child's placement with the person who has petitioned or intends to petition to adopt the child is disrupted."**

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

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

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

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

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

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

Page 26, delete lines 8 through 17.

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

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

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

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

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

Page 26, line 33, strike "or".

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

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

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

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

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

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

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

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

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

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

Page 27, delete lines 13 through 18.

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

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

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

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

Page 28, delete lines 38 through 42.

Page 29, delete line 1.

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

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

Page 34, line 2, delete "or".

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

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

Page 34, delete lines 9 through 13.

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

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

Page 52, line 32, strike "or".

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

**(7) a licensed psychologist;**

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

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

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

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

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

Page 53, strike lines 7 through 9.

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

Page 53, strike lines 12 through 23.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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IC 16-20-3; and

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

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

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

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

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

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

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

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

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

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

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

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

(Reference is to SB 465 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

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SENATE MOTION

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

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

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

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