

# HOUSE BILL No. 1323

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Child care and development fund. Specifies requirements that must be met by a child care provider as a condition of eligibility to receive a federal Child Care and Development Fund voucher payment. Sets forth a disciplinary process for suspension or revocation of eligibility.

**Effective:** July 1, 2012.

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January 11, 2012, read first time and referred to Committee on Family, Children and Human Affairs.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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# HOUSE BILL No. 1323



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

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

1 SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 6. This article does not apply to the formulation,  
4 issuance, or administrative review (but does apply to the judicial  
5 review and civil enforcement) of any of the following:

6 (1) Except as provided in **IC 12-17.2-3.5-17**, IC 12-17.2-4-18.7,  
7 and IC 12-17.2-5-18.7, determinations by the division of family  
8 resources and the department of child services.

9 (2) Determinations by the alcohol and tobacco commission.

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

14 SECTION 2. IC 12-7-2-149.1, AS AMENDED BY P.L.143-2011,  
15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2012]: Sec. 149.1. "Provider" means the following:

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



- 1 IC 12-10-7-3.
- 2 (2) For purposes of the following statutes, an individual, a
- 3 partnership, a corporation, or a governmental entity that is
- 4 enrolled in the Medicaid program under rules adopted under
- 5 IC 4-22-2 by the office of Medicaid policy and planning:
- 6 (A) IC 12-14-1 through IC 12-14-9.5.
- 7 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
- 8 IC 12-15-34.
- 9 (C) IC 12-17.6.
- 10 (3) Except as provided in ~~subdivision~~ **subdivisions (4) and (6)**,
- 11 for purposes of IC 12-17.2, a person who operates a child care
- 12 center or child care home under IC 12-17.2.
- 13 (4) For purposes of IC 12-17.2-3.5, a person that:
- 14 (A) provides child care; and
- 15 (B) is directly paid for the provision of the child care under the
- 16 federal Child Care and Development Fund voucher program
- 17 administered under 45 CFR 98 and 45 CFR 99.
- 18 The term does not include an individual who provides services to
- 19 a person described in clauses (A) and (B), regardless of whether
- 20 the individual receives compensation.
- 21 (5) For purposes of IC 12-21-1 through IC 12-29-2, an
- 22 organization:
- 23 (A) that:
- 24 (i) provides mental health services, as defined under 42
- 25 U.S.C. 300x-2(c);
- 26 (ii) provides addiction services; or
- 27 (iii) provides children's mental health services;
- 28 (B) that has entered into a provider agreement with the
- 29 division of mental health and addiction under IC 12-21-2-7 to
- 30 provide services in the least restrictive, most appropriate
- 31 setting; and
- 32 (C) that is operated by one (1) of the following:
- 33 (i) A city, town, county, or other political subdivision of the
- 34 state.
- 35 (ii) An agency of the state or of the United States.
- 36 (iii) A political subdivision of another state.
- 37 (iv) A hospital owned or operated by a unit of government
- 38 or a building authority that is organized for the purpose of
- 39 constructing facilities to be leased to units of government.
- 40 (v) A corporation incorporated under IC 23-7-1.1 (before its
- 41 repeal August 1, 1991) or IC 23-17.
- 42 (vi) An organization that is exempt from federal income

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1           taxation under Section 501(c)(3) of the Internal Revenue  
2           Code.

3           (vii) A university or college.

4           **(6) For purposes of IC 12-17.2-2-10, the following:**

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

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

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

8           SECTION 3. IC 12-17.2-2-1, AS AMENDED BY P.L.1-2009,  
9           SECTION 105, IS AMENDED TO READ AS FOLLOWS  
10          [EFFECTIVE JULY 1, 2012]: Sec. 1. The division shall perform the  
11          following duties:

12          (1) Administer the licensing and monitoring of child care centers  
13          or child care homes in accordance with this article.

14          (2) Ensure that a national criminal history background check of  
15          the applicant is completed through the state police department  
16          under IC 10-13-3-39 before issuing a license.

17          (3) Ensure that a criminal history background check of a child  
18          care ministry applicant for registration is completed before  
19          registering the child care ministry.

20          (4) Provide for the issuance, denial, suspension, and revocation of  
21          licenses.

22          (5) Cooperate with governing bodies of child care centers and  
23          child care homes and their staffs to improve standards of child  
24          care.

25          (6) Prepare at least biannually a directory of licensees with a  
26          description of the program capacity and type of children served  
27          that will be distributed to the legislature, licensees, and other  
28          interested parties as a public document.

29          (7) Deposit all license application fees collected under section 2  
30          of this chapter in the division of family resources child care fund  
31          established by IC 12-17.2-2-3.

32          (8) Require each child care center or child care home to record  
33          proof of a child's date of birth before accepting the child. A child's  
34          date of birth may be proven by the child's original birth certificate  
35          or other reliable proof of the child's date of birth, including a duly  
36          attested transcript of a birth certificate.

37          (9) Provide an Internet site through which members of the public  
38          may obtain the following information:

39                  (A) Information concerning violations of this article by a  
40                  licensed child care provider, including:

41                          (i) the identity of the child care provider;

42                          (ii) the date of the violation; and

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1 (iii) action taken by the division in response to the violation.

2 (B) Current status of a child care provider's license.

3 (C) Other relevant information.

4 The Internet site may not contain the address of a child care home  
5 or information identifying an individual child. However, the site  
6 may include the county and ZIP code in which a child care home  
7 is located.

8 (10) Provide or approve training concerning safe sleeping  
9 practices for children to:

10 (A) a provider who operates a child care program ~~in the~~  
11 ~~provider's home~~ as described in ~~IC 12-17.2-3.5-5.5(b);~~  
12 **IC 12-17.2-3.5-5.5;** and

13 (B) a child care home licensed under IC 12-17.2-5;  
14 including practices to reduce the risk of sudden infant death  
15 syndrome.

16 SECTION 4. IC 12-17.2-2-10, AS AMENDED BY P.L.145-2006,  
17 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2012]: Sec. 10. (a) The division may grant a variance or  
19 waiver of a rule governing ~~child care centers, or child care homes:~~ **a**  
20 **provider.** A variance or waiver granted under this section must  
21 promote statewide practices and must protect the rights of persons  
22 affected by this article.

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

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

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

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

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

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

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

42 (3) Documents that the applicant for the waiver will be in

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1 substantial compliance with the rules adopted by the division after  
2 the waiver is granted, as determined by the division.

3 (4) Documents that noncompliance with the rule specified in the  
4 application for a waiver will not be adverse to the health, safety,  
5 or welfare of a child receiving services from the applicant for the  
6 waiver, as determined by the division.

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

13 SECTION 5. IC 12-17.2-3.5-1, AS AMENDED BY P.L.124-2007,  
14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2012]: Sec. 1. (a) This chapter applies to all child care  
16 providers regardless of whether a provider is required to be licensed or  
17 registered under this article. However, **except as provided in section**  
18 **4(b) of this chapter**, a child care provider that is licensed under  
19 IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with  
20 this chapter. ~~unless the child care provider is found to be in violation~~  
21 ~~of this chapter.~~

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

- 23 (1) described in IC 12-17.2-2-8(10); and  
24 (2) located in a school building;

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

29 SECTION 6. IC 12-17.2-3.5-4 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A provider who:

31 (1) has been convicted of a:

- 32 (A) felony;  
33 (B) misdemeanor related to:  
34 (i) the health or safety of a child; or  
35 (ii) **welfare fraud;**

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

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

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

- 42 (A) ~~serve as a caregiver to a child in an employee or~~

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1           **volunteer in the facility where the provider's care; provider**  
 2           **operates a child care program; or**  
 3           (B) reside with the provider, if the provider operates a child  
 4           care program in the provider's home; ~~or~~  
 5           **(3) has had a revocation of eligibility under this chapter**  
 6           **during the immediately preceding two (2) years; or**  
 7           ~~(3)~~ **(4) fails to meet the requirements set forth in sections 5**  
 8           ~~through 12.1~~ **of this chapter;**  
 9           is ineligible to receive a voucher payment.

10           **(b) A provider whose:**

11           **(1) license under IC 12-17.2-4 or IC 12-17.2-5; or**

12           **(2) compliance with this chapter;**

13           **is subject to an enforcement action is ineligible to receive a voucher**  
 14           **payment, regardless of whether the provider meets the**  
 15           **requirements of this chapter, until the outcome of any**  
 16           **administrative appeal under IC 4-21.5-5 reflects a final**  
 17           **determination that the provider's license or eligibility is in good**  
 18           **standing.**

19           SECTION 7. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS  
 20           FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.1. (a) This section  
 21           applies to the following:

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

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

26           (3) An individual who:

27           (A) is employed; or

28           (B) volunteers;

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

31           (b) If information used by the division under ~~IC 31-33-17-6(7)~~  
 32           **IC 31-33-26-16(a)(10) or obtained by the division under section 27**  
 33           **of this chapter** indicates that an individual described in subsection (a)  
 34           has been named as ~~an alleged~~ **a perpetrator**, the following are ineligible  
 35           to receive a voucher payment:

36           (1) The individual.

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

39           (3) A provider that:

40           (A) employs the individual; or

41           (B) allows the individual to volunteer;

42           **as a caregiver at the facility where the provider operates a child**

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1 care program.  
 2 SECTION 8. IC 12-17.2-3.5-5 IS AMENDED TO READ AS  
 3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) A provider shall  
 4 have

5 (1) working smoke detectors that meet the standards adopted by  
 6 rule for smoke detectors in licensed child care homes; and  
 7 (2) hot and cold running water  
 8 in the area of the facility where the provider operates a child care  
 9 program.

10 (b) A provider shall maintain compliance with food, health,  
 11 safety, and sanitation standards as determined by the division  
 12 under rules adopted by the division under section 15 of this chapter  
 13 or in accordance with a variance or waiver approved by the  
 14 division under IC 12-17.2-2-10.

15 (c) The food, health, safety, and sanitation standards adopted  
 16 under subsection (b) must include all of the following  
 17 requirements:

- 18 (1) Bathroom and handwashing.  
 19 (2) Safe conditions in and on the grounds.  
 20 (3) Maximum capacity limits for the number of children  
 21 receiving care.  
 22 (4) Nutrition.  
 23 (5) Daily activities.  
 24 (6) Safety of motor vehicles used to transport children.

25 SECTION 9. IC 12-17.2-3.5-5.5, AS AMENDED BY P.L.162-2005,  
 26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2012]: Sec. 5.5. (a) A provider shall ensure that a child in the  
 28 provider's care is continually supervised by a caregiver.

29 (b) A provider who operates a child care program in the provider's  
 30 home (including a child care home licensed under IC 12-17.2-5) and  
 31 who receives a voucher payment under this chapter that cares for  
 32 children who are less than twelve (12) months of age shall:

- 33 (1) complete the training course provided or approved by the  
 34 division under IC 12-17.2-2-1(10) concerning safe sleeping  
 35 practices; and  
 36 (2) ensure that all caregivers of children who are less than  
 37 twelve (12) months of age follow safe sleeping practices.

38 (c) A provider that cares for:

- 39 (1) sixteen (16) or fewer children at a facility where the  
 40 provider operates a child care program shall maintain a ratio  
 41 of children to caregivers in the same proportions as the child  
 42 to staff ratios that are required for a child care home under

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1           **IC 12-17.2-5; and**

2           **(2) more than sixteen (16) children at a facility where the**  
 3           **provider operates a child care program shall maintain a ratio**  
 4           **of children to caregivers in the same proportions as the child**  
 5           **to staff ratios that are required for a child care center under**  
 6           **IC 12-17.2-4.**

7           SECTION 10. IC 12-17.2-3.5-7 IS AMENDED TO READ AS  
 8           FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. **(a)** A provider shall  
 9           have written plans for notifying parents regarding the following:

- 10           (1) Illness, serious injury, or death of the provider.  
 11           (2) Care in an emergency.  
 12           (3) Emergency evacuation.

13           The plan required under subdivision (3) must be posted in a  
 14           conspicuous location in the facility where the provider operates a child  
 15           care program.

16           **(b) A provider shall:**

- 17           **(1) maintain a written child discipline policy;**  
 18           **(2) ensure that all employees and volunteers follow the child**  
 19           **discipline policy;**  
 20           **(3) provide the parent or legal guardian of each child cared**  
 21           **for by the provider a written copy of the child discipline**  
 22           **policy; and**  
 23           **(4) maintain in each child's file a copy of the child discipline**  
 24           **policy that has been signed by the parent or legal guardian**  
 25           **described in subdivision (3).**

26           **(c) A provider shall allow unscheduled visits by a parent or legal**  
 27           **guardian to a facility where the provider operates a child care**  
 28           **program during the hours the child care program is in operation.**

29           SECTION 11. IC 12-17.2-3.5-8 IS AMENDED TO READ AS  
 30           FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) At least one (1)  
 31           adult individual who maintains annual certification in a course of  
 32           cardiopulmonary resuscitation applicable to all age groups of children  
 33           cared for by a provider shall be present at all times when a child is in  
 34           the care of the provider.

35           **(b) The following apply to an individual who**

- 36           ~~(1)~~ is employed or  
 37           ~~(2)~~ volunteers

38           as a caregiver at a facility where a provider operates a child care  
 39           program:

- 40           **(1) The individual** shall maintain current certification in first aid  
 41           applicable to all age groups of children cared for by the provider.  
 42           **(2) If the individual is:**

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- 1           **(A) at least eighteen (18) years of age, the individual may**
- 2           **act as a caregiver without supervision of another**
- 3           **caregiver; or**
- 4           **(B) less than eighteen (18) years of age, the individual may**
- 5           **act as a caregiver only if:**
- 6               **(i) the individual is at least fourteen (14) years of age;**
- 7               **and**
- 8               **(ii) is, at all times when child care is provided, directly**
- 9               **supervised by a caregiver who is at least eighteen (18)**
- 10              **years of age.**
- 11           **(3) Unless the provider is related to all children in the care of**
- 12           **the provider, the individual shall annually receive at least**
- 13           **twelve (12) hours of continuing education approved by the**
- 14           **division and related to the development and care of children**
- 15           **of the same age as the age of children who receive care at the**
- 16           **facility.**
- 17           **(4) Before beginning employment or volunteer duties, the**
- 18           **individual must receive a formal orientation to the facility and**
- 19           **the child care program.**
- 20           **(5) Not more than three (3) months after the individual begins**
- 21           **employment or volunteer duties, the individual must receive**
- 22           **training approved by the division concerning child abuse**
- 23           **detection and prevention.**
- 24           **(6) Not more than three (3) months after beginning**
- 25           **employment or volunteer duties caring for children who do**
- 26           **not yet attend first grade, the individual must receive training**
- 27           **approved by the division concerning the department of**
- 28           **education's early learning guidelines.**
- 29           **(c) A provider shall:**
- 30               **(1) maintain at the facility where the provider operates a child**
- 31               **care program documentation of all training required by this**
- 32               **section; and**
- 33               **(2) make the documentation available to the division upon**
- 34               **request.**
- 35           **SECTION 12. IC 12-17.2-3.5-9 IS AMENDED TO READ AS**
- 36           **FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) A provider shall**
- 37           **have at least one (1) working telephone in each facility where the**
- 38           **provider operates a child care program.**
- 39               **(b) The telephone required by subsection (a) must be compatible**
- 40               **with an automated time and attendance tracking system approved**
- 41               **by the division.**
- 42           **SECTION 13. IC 12-17.2-3.5-10 IS AMENDED TO READ AS**

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A facility where  
2 a provider operates a child care program must have two (2) exits that:

3 (1) do not require passage through a:

4 (A) garage; or

5 (B) storage area;

6 where hazardous materials are stored;

7 (2) are not windows;

8 (3) are on different sides of the facility;

9 (4) are not blocked; and

10 (5) are operable from the inside without the use of a key or any  
11 special knowledge.

12 **(b) In addition to the requirements specified in subsection (a),**  
13 **a room that is:**

14 **(1) where children who are not more than twenty-four (24)**  
15 **months of age receive care; and**

16 **(2) located in a facility where a provider operates a child care**  
17 **program;**

18 **must have at least one (1) exit that does not require the use of**  
19 **stairs.**

20 ~~(b)~~ (c) A provider shall:

21 (1) conduct monthly documented fire drills:

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

24 (B) that include complete evacuation of all:

25 (i) children; and

26 (ii) adults who provide child care;

27 in the facility;

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

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

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

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

33 (D) the amount of time required to fully evacuate the facility;  
34 and

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

37 (A) on each floor of the facility; and

38 (B) in the kitchen area of the facility;

39 in each facility where the provider operates a child care program.

40 **(d) A facility where a provider operates a child care program**  
41 **must meet the following requirements:**

42 **(1) If sixteen (16) or fewer children are cared for at the**

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facility, have working smoke detectors and means of egress that meet the requirements that apply to child care homes under IC 12-17.2-5.

(2) If more than sixteen (16) children are cared for at the facility, meet the requirements specified in the building rules and fire safety rules adopted by the fire prevention and building safety commission.

(3) If more than one (1) facility where a provider operates a child care program is located in a single structure, each facility must:

(A) be separated from each other facility by walls and doors with a two (2) hour fire resistance rating; and

(B) individually meet all requirements of this section.

SECTION 14. IC 12-17.2-3.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) A provider shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the provider's care:

- (1) Firearms and ammunition.
- (2) Poisons, chemicals, bleach, and cleaning materials.
- (3) Medications.
- (4) Other items determined by the division in rules adopted under section 15 of this chapter to pose a danger to children.

(b) A provider shall do the following with respect to transporting children away from the facility where the provider operates a child care program:

- (1) Obtain written permission from the child's parent to transport the child.
- (2) Ensure that the child is transported only by an employee or a volunteer who:
  - (A) is at least eighteen (18) years of age;
  - (B) holds a valid driver's license; and
  - (C) transports the child in a properly licensed and insured motor vehicle.

SECTION 15. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) Except as provided in subsection (f), a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a limited criminal history for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's

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1 home, any individual who resides with the provider and who is:

2 (A) at least eighteen (18) years of age; or

3 (B) less than eighteen (18) years of age but has previously  
4 been waived from juvenile court to adult court; and

5 (3) any individual who:

6 (A) is employed; or

7 (B) volunteers;

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

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

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

15 (1) police investigations;

16 (2) arrests; and

17 (3) criminal convictions;

18 not listed on a limited criminal history obtained under subsection (a)  
19 regarding any of the persons listed in subsection (a).

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

24 (1) the provider:

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

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

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

33 (A) felony;

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

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

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

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

42 (1) felony;

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- 1 (2) misdemeanor related to the health or safety of a child;
- 2 (3) misdemeanor for operating a child care center without a
- 3 license under IC 12-17.2-4-35; or
- 4 (4) misdemeanor for operating a child care home without a
- 5 license under IC 12-17.2-5-35;

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

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

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

19 SECTION 16. IC 12-17.2-3.5-14 IS REPEALED [EFFECTIVE  
 20 JULY 1, 2012]: ~~Sec. 14. (a) Notice of a determination made under this~~  
 21 ~~chapter must be provided under IC 4-21.5-3-6.~~

22 ~~(b) A person affected by a determination made under this chapter~~  
 23 ~~may seek administrative review under IC 4-21.5-3-7.~~

24 SECTION 17. IC 12-17.2-3.5-16 IS ADDED TO THE INDIANA  
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2012]: **Sec. 16. (a) An employee or a**  
 27 **volunteer shall immediately report to child protective services, the**  
 28 **division, and local law enforcement authorities the employee's or**  
 29 **volunteer's suspicion of physical abuse, sexual abuse, child neglect,**  
 30 **or child exploitation of a child in the provider's care.**

31 (b) A provider shall immediately notify the division and the  
 32 parent or guardian of a child in the care of the provider  
 33 concerning:

- 34 (1) an injury of the child that requires medical attention;
- 35 (2) the death of the child; or
- 36 (3) an emergency event involving the child.

37 SECTION 18. IC 12-17.2-3.5-17 IS ADDED TO THE INDIANA  
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 39 [EFFECTIVE JULY 1, 2012]: **Sec. 17. (a) The division shall adopt**  
 40 **rules under IC 4-22-2 to establish a list of violations of this article**  
 41 **that would pose an immediate threat to the life or well-being of a**  
 42 **child in the care of a provider.**

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- 1       **(b) If an employee or agent of the division determines that a**
- 2 **violation described in subsection (a) exists, the division shall:**
- 3       **(1) immediately suspend the provider's eligibility to receive a**
- 4 **voucher under this chapter;**
- 5       **(2) issue an emergency or another temporary order under**
- 6 **IC 4-21.5-4 requiring the provider to immediately cease**
- 7 **operation of the child care program; and**
- 8       **(3) contact the parent or guardian of each child enrolled in the**
- 9 **child care program to inform the parent or guardian:**
- 10       **(A) that the division has issued an order to require the**
- 11 **provider to cease operation of the child care program; and**
- 12       **(B) of the reason for the order to cease operation;**
- 13 **pending the outcome of proceedings conducted under sections 20**
- 14 **and 22 of this chapter.**
- 15       **(c) An emergency or another temporary order issued by an**
- 16 **employee or agent of the division must be approved by the**
- 17 **director.**
- 18       **(d) An approval under subsection (c) may be communicated**
- 19 **orally to the employee or agent issuing the order. However, the**
- 20 **division shall maintain a written record of the approval.**
- 21       SECTION 19. IC 12-17.2-3.5-18 IS ADDED TO THE INDIANA
- 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 23 [EFFECTIVE JULY 1, 2012]: **Sec. 18. The division may suspend a**
- 24 **provider's eligibility to receive a voucher payment under this**
- 25 **chapter for any of the following reasons:**
- 26       **(1) The provider fails to comply with this chapter.**
- 27       **(2) The provider refuses to allow, during normal business**
- 28 **hours, the division or an agent of the division to inspect the**
- 29 **facility where the provider operates a child care program.**
- 30       **(3) The provider is determined by the division to have made**
- 31 **false statements in the provider's:**
- 32       **(A) application for eligibility to receive a voucher**
- 33 **payment; or**
- 34       **(B) records required by the division;**
- 35 **under this chapter.**
- 36       **(4) The provider fails to correct a problem identified by the**
- 37 **division within the period required by the division.**
- 38       **(5) Three (3) or more problems occurring within a twelve (12)**
- 39 **month period are identified by the division, regardless of**
- 40 **whether the provider corrects the problems within the period**
- 41 **required by the division.**
- 42       **(6) Credible allegations of fraud have been made against the**

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1 provider, as determined by the division.

2 (7) Criminal charges of welfare fraud have been filed against  
3 the provider.

4 SECTION 20. IC 12-17.2-3.5-19 IS ADDED TO THE INDIANA  
5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2012]: **Sec. 19. The division may revoke a  
7 provider's eligibility to receive a voucher payment under this  
8 chapter for any of the following reasons:**

9 (1) Any of the reasons for suspension described in section  
10 18(1) through 18(5) of this chapter.

11 (2) Allegations of welfare fraud committed by the provider  
12 have been substantiated by the division.

13 SECTION 21. IC 12-17.2-3.5-20 IS ADDED TO THE INDIANA  
14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2012]: **Sec. 20. Except as provided in section  
16 17 of this chapter, the division shall give a provider thirty (30)  
17 calendar days written notice by certified mail of an enforcement  
18 action against the provider. The provider shall also be provided an  
19 opportunity for an informal meeting with the division. The  
20 provider must request the informal meeting within ten (10)  
21 working days after receipt of the certified notice.**

22 SECTION 22. IC 12-17.2-3.5-21 IS ADDED TO THE INDIANA  
23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2012]: **Sec. 21. (a) An administrative hearing  
25 concerning the decision of the division to impose a sanction under  
26 this chapter shall be provided upon a written request by the  
27 provider. The request must be made within thirty (30) calendar  
28 days after the provider receives an order under section 17 of this  
29 chapter or a notice under section 20 of this chapter. The written  
30 request must be made separately from an informal meeting request  
31 made under section 20 of this chapter.**

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

34 SECTION 23. IC 12-17.2-3.5-22 IS ADDED TO THE INDIANA  
35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
36 [EFFECTIVE JULY 1, 2012]: **Sec. 22. The division shall issue a  
37 decision within sixty (60) calendar days after the conclusion of a  
38 hearing held under section 21 of this chapter.**

39 SECTION 24. IC 12-17.2-3.5-23 IS ADDED TO THE INDIANA  
40 CODE AS A NEW SECTION TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2012]: **Sec. 23. To reinstate a provider's  
42 eligibility to receive a voucher payment under this chapter after**

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suspension, the following must occur:

- (1) The provider must, within thirty (30) days after receiving notice of the suspension, submit a plan of corrective action to the division for approval.
- (2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the eligibility.
- (3) The division must approve the plan.

SECTION 25. IC 12-17.2-3.5-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 24. Following the suspension of a provider's eligibility to receive a voucher payment under this chapter, the division shall do one (1) of the following:**

- (1) Reinstate the eligibility.
- (2) Except as provided in subdivision (3), extend the suspension for not more than six (6) months.
- (3) If criminal charges for welfare fraud are pending against the provider, extend the suspension until the criminal matter is resolved.
- (4) Revoke the eligibility.

SECTION 26. IC 12-17.2-3.5-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 25. (a) After a provider's eligibility to receive a voucher payment under this chapter is revoked or suspended, the division shall publish notice of the revocation or suspension under IC 5-3-1 and notify in writing each person responsible for a child in the care of the provider that the eligibility has been revoked or suspended, including the reason for the revocation or suspension.**

**(b) The written notice shall be sent to the last known address of each person responsible for a child in the care of the provider.**

SECTION 27. IC 12-17.2-3.5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 26. An administrative review and a hearing conducted under this chapter must be conducted under rules adopted by the division under IC 4-22-2.**

SECTION 28. IC 12-17.2-6-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 27. (a) Upon receiving notice of a claim of abuse or neglect in a facility where a provider operates a child care program described in IC 12-17.2-3.5, the department of child services shall:**

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- 1           **(1) forward a copy of the notice to the division; and**
- 2           **(2) conduct an investigation of the claim.**
- 3           **(b) After an investigation under subsection (a), the department**
- 4 **of child services shall make a determination of whether abuse or**
- 5 **neglect occurred at the facility.**
- 6           **(c) If the department of child services makes a determination**
- 7 **under IC 31-33-8-12 that abuse or neglect at the facility is**
- 8 **substantiated, the department shall send a copy of the**
- 9 **department's report to the appropriate office of the division.**

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