

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1136 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 6. This article does not apply to the formulation,
6 issuance, or administrative review (but does apply to the judicial
7 review and civil enforcement) of any of the following:
8 (1) Except as provided in **IC 12-17.2-3.5-17**, IC 12-17.2-4-18.7,
9 and IC 12-17.2-5-18.7, determinations by the division of family
10 resources and the department of child services.
11 (2) Determinations by the alcohol and tobacco commission.
12 (3) Determinations by the office of Medicaid policy and planning
13 concerning recipients and applicants of Medicaid. However, this
14 article does apply to determinations by the office of Medicaid
15 policy and planning concerning providers.
16 SECTION 2. IC 12-7-2-149.1, AS AMENDED BY P.L.143-2011,
17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2012]: Sec. 149.1. "Provider" means the following:
19 (1) For purposes of IC 12-10-7, the meaning set forth in
20 IC 12-10-7-3.
21 (2) For purposes of the following statutes, an individual, a
22 partnership, a corporation, or a governmental entity that is
23 enrolled in the Medicaid program under rules adopted under
24 IC 4-22-2 by the office of Medicaid policy and planning:
25 (A) IC 12-14-1 through IC 12-14-9.5.
26 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
27 IC 12-15-34.
28 (C) IC 12-17.6.
29 (3) Except as provided in ~~subdivision~~ **subdivisions (4) and (6)**,
30 for purposes of IC 12-17.2, a person who operates a child care

1 center or child care home under IC 12-17.2.

2 (4) For purposes of IC 12-17.2-3.5, a person that:

3 (A) provides child care; and

4 (B) is directly paid for the provision of the child care under the
5 federal Child Care and Development Fund voucher program
6 administered under 45 CFR 98 and 45 CFR 99.

7 The term does not include an individual who provides services to
8 a person described in clauses (A) and (B), regardless of whether
9 the individual receives compensation.

10 (5) For purposes of IC 12-21-1 through IC 12-29-2, an
11 organization:

12 (A) that:

13 (i) provides mental health services, as defined under 42
14 U.S.C. 300x-2(c);

15 (ii) provides addiction services; or

16 (iii) provides children's mental health services;

17 (B) that has entered into a provider agreement with the
18 division of mental health and addiction under IC 12-21-2-7 to
19 provide services in the least restrictive, most appropriate
20 setting; and

21 (C) that is operated by one (1) of the following:

22 (i) A city, town, county, or other political subdivision of the
23 state.

24 (ii) An agency of the state or of the United States.

25 (iii) A political subdivision of another state.

26 (iv) A hospital owned or operated by a unit of government
27 or a building authority that is organized for the purpose of
28 constructing facilities to be leased to units of government.

29 (v) A corporation incorporated under IC 23-7-1.1 (before its
30 repeal August 1, 1991) or IC 23-17.

31 (vi) An organization that is exempt from federal income
32 taxation under Section 501(c)(3) of the Internal Revenue
33 Code.

34 (vii) A university or college.

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

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

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

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

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

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

45 (2) Ensure that a national criminal history background check of
46 the applicant is completed through the state police department

- 1 under IC 10-13-3-39 before issuing a license.
- 2 (3) Ensure that a criminal history background check of a child
3 care ministry applicant for registration is completed before
4 registering the child care ministry.
- 5 (4) Provide for the issuance, denial, suspension, and revocation of
6 licenses.
- 7 (5) Cooperate with governing bodies of child care centers and
8 child care homes and their staffs to improve standards of child
9 care.
- 10 (6) Prepare at least biannually a directory of licensees with a
11 description of the program capacity and type of children served
12 that will be distributed to the legislature, licensees, and other
13 interested parties as a public document.
- 14 (7) Deposit all license application fees collected under section 2
15 of this chapter in the division of family resources child care fund
16 established by IC 12-17.2-2-3.
- 17 (8) Require each child care center or child care home to record
18 proof of a child's date of birth before accepting the child. A child's
19 date of birth may be proven by the child's original birth certificate
20 or other reliable proof of the child's date of birth, including a duly
21 attested transcript of a birth certificate.
- 22 (9) Provide an Internet site through which members of the public
23 may obtain the following information:
- 24 (A) Information concerning violations of this article by a
25 licensed child care provider, including:
- 26 (i) the identity of the child care provider;
- 27 (ii) the date of the violation; and
- 28 (iii) action taken by the division in response to the violation.
- 29 (B) Current status of a child care provider's license.
- 30 (C) Other relevant information.
- 31 The Internet site may not contain the address of a child care home
32 or information identifying an individual child. However, the site
33 may include the county and ZIP code in which a child care home
34 is located.
- 35 (10) Provide or approve training concerning safe sleeping
36 practices for children to:
- 37 (A) a provider who operates a child care program ~~in the~~
38 ~~provider's home~~ as described in ~~IC 12-17.2-3.5-5.5(b);~~
39 **IC 12-17.2-3.5-5.5;** and
- 40 (B) a child care home licensed under IC 12-17.2-5;
41 including practices to reduce the risk of sudden infant death
42 syndrome.
- 43 SECTION 4. IC 12-17.2-2-10, AS AMENDED BY P.L.145-2006,
44 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2012]: Sec. 10. (a) The division may grant a variance or
46 waiver of a rule governing ~~child care centers; or child care homes:~~ a

1 **provider.** A variance or waiver granted under this section must
 2 promote statewide practices and must protect the rights of persons
 3 affected by this article.

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

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

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

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

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

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

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

23 (3) Documents that the applicant for the waiver will be in
 24 substantial compliance with the rules adopted by the division after
 25 the waiver is granted, as determined by the division.

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

30 (e) Except for a variance or waiver of a rule governing child care
 31 homes, a variance or waiver of a rule under this section that conflicts
 32 with a building rule or fire safety rule adopted by the fire prevention
 33 and building safety commission is not effective until the variance or
 34 waiver is approved by the fire prevention and building safety
 35 commission."

36 Page 1, after line 7, begin a new paragraph and insert:

37 "SECTION 6. IC 12-17.2-3.5-1, AS AMENDED BY P.L. 124-2007,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2012]: Sec. 1. (a) This chapter applies to all child care
 40 providers regardless of whether a provider is required to be licensed or
 41 registered under this article. However, **except as provided in section**
 42 **4(b) of this chapter**, a child care provider that is licensed under
 43 IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with
 44 this chapter. ~~unless the child care provider is found to be in violation~~
 45 ~~of this chapter.~~

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

1 (1) described in IC 12-17.2-2-8(10); and
 2 (2) located in a school building;
 3 is determined to be in compliance with a requirement of this chapter by
 4 another state regulatory authority, the school age child care program is
 5 considered to be in compliance with the requirement under this
 6 chapter.

7 SECTION 7. IC 12-17.2-3.5-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A provider who:

9 (1) has been convicted of a:

10 (A) felony;

11 (B) misdemeanor related to:

12 (i) the health or safety of a child; or

13 (ii) **welfare fraud;**

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

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

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

20 (A) serve as a ~~caregiver to a child in an employee or~~
 21 **volunteer in the facility where the provider's care; provider**
 22 **operates a child care program; or**

23 (B) reside with the provider, if the provider operates a child
 24 care program in the provider's home; ~~or~~

25 **(3) has had a revocation of eligibility under this chapter**
 26 **during the immediately preceding two (2) years; or**

27 ~~(4) fails to meet the requirements set forth in sections 5~~
 28 ~~through 12.1 of this chapter;~~

29 is ineligible to receive a voucher payment.

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

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

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

33 **is subject to an enforcement action is ineligible to receive a voucher**
 34 **payment, regardless of whether the provider meets the**
 35 **requirements of this chapter, until the outcome of any**
 36 **administrative appeal under IC 4-21.5-5 reflects a final**
 37 **determination that the provider's license or eligibility is in good**
 38 **standing.**

39 SECTION 8. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.1. (a) This section
 41 applies to the following:

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

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

46 (3) An individual who:

- 1 (A) is employed; or
 2 (B) volunteers;
 3 as a caregiver at the facility where a provider operates a child care
 4 program.
- 5 (b) If information used by the division under ~~IC 31-33-17-6(7)~~
 6 **IC 31-33-26-16(a)(10) or obtained by the division under section 27**
 7 **of this chapter** indicates that an individual described in subsection (a)
 8 has been named as ~~an alleged~~ a perpetrator, the following are ineligible
 9 to receive a voucher payment:
- 10 (1) The individual.
 11 (2) A provider in whose home the individual resides if the
 12 provider operates a child care program in the provider's home.
 13 (3) A provider that:
 14 (A) employs the individual; or
 15 (B) allows the individual to volunteer;
 16 as a caregiver at the facility where the provider operates a child
 17 care program.
- 18 SECTION 9. IC 12-17.2-3.5-5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) A provider
 20 shall have
 21 ~~(1) working smoke detectors that meet the standards adopted by~~
 22 ~~rule for smoke detectors in licensed child care homes; and~~
 23 ~~(2) hot and cold running water~~
 24 in the area of the facility where the provider operates a child care
 25 program.
- 26 (b) **A provider shall maintain compliance with food, health,**
 27 **safety, and sanitation standards as determined by the division**
 28 **under rules adopted by the division under section 15 of this chapter**
 29 **or in accordance with a variance or waiver approved by the**
 30 **division under IC 12-17.2-2-10.**
- 31 (c) **The food, health, safety, and sanitation standards adopted**
 32 **under subsection (b) must include requirements for all of the**
 33 **following:**
- 34 (1) **Bathroom and handwashing.**
 35 (2) **Safe conditions in and on the grounds.**
 36 (3) **Maximum capacity limits for the number of children**
 37 **receiving care.**
 38 (4) **Nutrition.**
 39 (5) **Daily activities.**
 40 (6) **Safety of motor vehicles used to transport children.**
- 41 SECTION 10. IC 12-17.2-3.5-5.5, AS AMENDED BY
 42 P.L.162-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS
 43 [EFFECTIVE JULY 1, 2014]: Sec. 5.5. (a) A provider shall ensure that
 44 a child in the provider's care is continually supervised by a caregiver.
 45 (b) A provider who operates a child care program in the provider's
 46 home (including a child care home licensed under IC 12-17.2-5) and

1 who receives a voucher payment under this chapter that cares for
2 children who are less than twelve (12) months of age shall:

3 (1) complete the training course provided or approved by the
4 division under IC 12-17.2-2-1(10) concerning safe sleeping
5 practices; and

6 (2) ensure that all caregivers of children who are less than
7 twelve (12) months of age follow safe sleeping practices.

8 (c) A provider that cares for:

9 (1) sixteen (16) or fewer children at a facility where the
10 provider operates a child care program shall maintain a ratio
11 of children to caregivers in the same proportions as the child
12 to staff ratios that are required for a child care home under
13 IC 12-17.2-5; and

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

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

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

26 (†) is employed or

27 (‡) volunteers

28 as a caregiver at a facility where a provider operates a child care
29 program:

30 (1) **The individual** shall maintain current certification in first aid
31 applicable to all age groups of children cared for by the provider.

32 (2) **If the individual is:**

33 (A) **at least eighteen (18) years of age, the individual may**
34 **act as a caregiver without supervision of another**
35 **caregiver; or**

36 (B) **less than eighteen (18) years of age, the individual may**
37 **act as a caregiver only if:**

38 (i) **the individual is at least fourteen (14) years of age;**
39 **and**

40 (ii) **the individual is, at all times when child care is**
41 **provided, directly supervised by a caregiver who is at**
42 **least eighteen (18) years of age.**

43 (3) **Beginning July 1, 2014, unless the provider is related to all**
44 **children in the care of the provider, the individual shall**
45 **annually receive at least twelve (12) hours of continuing**
46 **education approved by the division and related to the**

1 development and care of children of the same age as the age
2 of children who receive care at the facility.

3 **(4) Beginning July 1, 2014, before beginning employment or**
4 **volunteer duties, the individual must receive a formal**
5 **orientation to the facility and the child care program.**

6 **(5) Beginning July 1, 2014, not more than three (3) months**
7 **after the individual begins employment or volunteer duties,**
8 **the individual must receive training approved by the division**
9 **concerning child abuse detection and prevention.**

10 **(6) Beginning July 1, 2014, not more than three (3) months**
11 **after beginning employment or volunteer duties caring for**
12 **children who do not yet attend first grade, the individual must**
13 **receive training approved by the division concerning the**
14 **department of education's early learning guidelines.**

15 **(c) Beginning July 1, 2014, a provider shall:**

16 **(1) maintain at the facility where the provider operates a child**
17 **care program documentation of all training required by this**
18 **section; and**

19 **(2) make the documentation available to the division upon**
20 **request.**

21 SECTION 12. IC 12-17.2-3.5-9 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. **(a)** A provider shall
23 have at least one (1) working telephone in each facility where the
24 provider operates a child care program.

25 **(b) The telephone required by subsection (a) must be compatible**
26 **with an automated time and attendance tracking system approved**
27 **by the division.**

28 SECTION 13. IC 12-17.2-3.5-10 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. **(a)** A facility where
30 a provider operates a child care program must have two (2) exits that:

31 (1) do not require passage through a:

32 (A) garage; or

33 (B) storage area;

34 where hazardous materials are stored;

35 (2) are not windows;

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

37 (4) are not blocked; and

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

40 **(b) Beginning July 1, 2015, in addition to the requirements**
41 **specified in subsection (a), a room that is:**

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

44 **(2) located in a facility where a provider operates a child care**
45 **program;**

46 **must have at least one (1) exit that does not require the use of**

- 1 **stairs.**
- 2 ~~(b)~~ (c) A provider shall:
- 3 (1) conduct monthly documented fire drills:
- 4 (A) in accordance with the rules of the fire prevention and
- 5 building safety commission; and
- 6 (B) that include complete evacuation of all:
- 7 (i) children; and
- 8 (ii) adults who provide child care;
- 9 in the facility;
- 10 (2) maintain documentation of all fire drills conducted during the
- 11 immediately preceding twelve (12) month period, including:
- 12 (A) the date and time of the fire drill;
- 13 (B) the name of the individual who conducted the fire drill;
- 14 (C) the weather conditions at the time of the fire drill; and
- 15 (D) the amount of time required to fully evacuate the facility;
- 16 and
- 17 (3) maintain a two and one-half (2 1/2) pound or greater ABC
- 18 multiple purpose fire extinguisher:
- 19 (A) on each floor of the facility; and
- 20 (B) in the kitchen area of the facility;
- 21 in each facility where the provider operates a child care program.
- 22 **(d) A facility where a provider operates a child care program**
- 23 **must meet the following requirements:**
- 24 **(1) If sixteen (16) or fewer children are cared for at the**
- 25 **facility, have working smoke detectors and means of egress**
- 26 **that meet the requirements that apply to child care homes**
- 27 **under IC 12-17.2-5.**
- 28 **(2) If more than sixteen (16) children are cared for at the**
- 29 **facility, meet the requirements specified in the building rules**
- 30 **and fire safety rules adopted by the fire prevention and**
- 31 **building safety commission.**
- 32 SECTION 14. IC 12-17.2-3.5-11 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) A provider shall
- 34 provide for a safe environment by ensuring that the following items are
- 35 placed in areas that are inaccessible to the children in the provider's
- 36 care:
- 37 (1) Firearms and ammunition.
- 38 (2) Poisons, chemicals, bleach, and cleaning materials.
- 39 **(3) Medications.**
- 40 **(4) Other items determined by the division in rules adopted**
- 41 **under section 15 of this chapter to pose a danger to children.**
- 42 **(b) A provider shall do the following with respect to**
- 43 **transporting children away from the facility where the provider**
- 44 **operates a child care program:**
- 45 **(1) Obtain written permission from the child's parent to**
- 46 **transport the child.**

- 1 **(2) Ensure that the child is transported only by an employee**
- 2 **or a volunteer who:**
- 3 **(A) is at least eighteen (18) years of age;**
- 4 **(B) holds a valid driver's license; and**
- 5 **(C) transports the child in a properly licensed and insured**
- 6 **motor vehicle.**

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

- 13 (1) the provider, if the provider is an individual;
- 14 (2) if the provider operates a child care program in the provider's
 15 home, any individual who resides with the provider and who is:
 16 (A) at least eighteen (18) years of age; or
 17 (B) less than eighteen (18) years of age but has previously
 18 been waived from juvenile court to adult court; and
- 19 (3) any individual who:
 20 (A) is employed; or
 21 (B) volunteers;

22 ~~as a caregiver~~ at the facility where the provider operates a child
 23 care program.

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

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

- 29 (1) police investigations;
- 30 (2) arrests; and
- 31 (3) criminal convictions;

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

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

- 38 (1) the provider:
 39 (A) has applied for the limited criminal history required under
 40 subsection (a); and
 41 (B) obtains a local criminal history for the individuals
 42 described in subsection (a) from each individual's local law
 43 enforcement agency before the individual is employed or
 44 allowed to volunteer; ~~as a caregiver;~~ and
- 45 (2) the local criminal history does not reveal that an individual
 46 has been convicted of a:

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

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

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

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

19 (e) A provider shall maintain a written policy requiring an
 20 individual for whom a limited criminal history is required under this
 21 section to report any criminal convictions of the individual to the
 22 provider.

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

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

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

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

41 (b) A provider shall immediately notify the division and the
 42 parent or guardian of a child in the care of the provider
 43 concerning:

- 44 (1) an injury of the child that requires medical attention;
- 45 (2) the death of the child; or
- 46 (3) an emergency event involving the child.

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

7 **(b) If an employee or agent of the division determines that a**
 8 **violation described in subsection (a) exists, the division shall:**

9 **(1) immediately suspend the provider's eligibility to receive a**
 10 **voucher under this chapter;**

11 **(2) issue an emergency or another temporary order under**
 12 **IC 4-21.5-4 requiring the provider to immediately cease**
 13 **operation of the child care program; and**

14 **(3) contact the parent or guardian of each child enrolled in the**
 15 **child care program to inform the parent or guardian:**

16 **(A) that the division has issued an order to require the**
 17 **provider to cease operation of the child care program; and**

18 **(B) of the reason for the order to cease operation;**

19 **pending the outcome of proceedings conducted under sections 20**
 20 **and 22 of this chapter.**

21 **(c) An emergency or another temporary order issued by an**
 22 **employee or agent of the division must be approved by the**
 23 **director.**

24 **(d) An approval under subsection (c) may be communicated**
 25 **orally to the employee or agent issuing the order. However, the**
 26 **division shall maintain a written record of the approval.**

27 SECTION 19. IC 12-17.2-3.5-18 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2012]: **Sec. 18. The division may suspend a**
 30 **provider's eligibility to receive a voucher payment under this**
 31 **chapter for any of the following reasons:**

32 **(1) The provider fails to comply with this chapter.**

33 **(2) The provider refuses to allow, during normal business**
 34 **hours, the division or an agent of the division to inspect the**
 35 **facility where the provider operates a child care program.**

36 **(3) The provider is determined by the division to have made**
 37 **false statements in the provider's:**

38 **(A) application for eligibility to receive a voucher**
 39 **payment; or**

40 **(B) records required by the division;**

41 **under this chapter.**

42 **(4) The provider fails to correct a problem identified by the**
 43 **division within the period required by the division.**

44 **(5) Three (3) or more problems occurring within a twelve (12)**
 45 **month period are identified by the division, regardless of**
 46 **whether the provider corrects the problems within the period**

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- required by the division.
- (6) Credible allegations of fraud have been made against the provider, as determined by the division.**
- (7) Criminal charges of welfare fraud have been filed against the provider.**

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

- (1) Any of the reasons for suspension described in section 18(1) through 18(5) of this chapter.**
- (2) Allegations of welfare fraud committed by the provider have been substantiated by the division.**

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

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

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

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

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

- (1) The provider must, within thirty (30) days after receiving**

1 notice of the suspension, submit a plan of corrective action to
2 the division for approval.
3 (2) The plan must outline the steps and timetable for
4 immediate correction of the violations that caused the division
5 to suspend the eligibility.
6 (3) The division must approve the plan.

7 SECTION 25. IC 12-17.2-3.5-24 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2012]: **Sec. 24. Following the suspension of**
10 **a provider's eligibility to receive a voucher payment under this**
11 **chapter, the division shall do one (1) of the following:**
12 (1) Reinstatement the eligibility.
13 (2) Except as provided in subdivision (3), extend the
14 suspension for not more than six (6) months.
15 (3) If criminal charges for welfare fraud are pending against
16 the provider, extend the suspension until the criminal matter
17 is resolved.
18 (4) Revoke the eligibility.

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

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

35 SECTION 28. IC 12-17.2-3.5-27 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2012]: **Sec. 27. (a) Upon receiving notice of**
38 **a claim of abuse or neglect in a facility where a provider operates**
39 **a child care program described in this chapter, the department of**
40 **child services shall:**
41 (1) forward a copy of the notice to the division; and
42 (2) conduct an investigation of the claim.
43 (b) After an investigation under subsection (a), the department
44 of child services shall make a determination of whether abuse or
45 neglect occurred at the facility.
46 (c) If the department of child services makes a determination

1 **under IC 31-33-8-12 that abuse or neglect at the facility is**
2 **substantiated, the department shall send a copy of the**
3 **department's report to the appropriate office of the division."**

4 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1136 as printed February 17, 2012.)

Senator GARD